

NIPOMO COMMUNITY SERVICES DISTRICT
Serving the Community Since 1965
REGULAR MINUTES OF THE BOARD OF DIRECTORS
AND
MINUTES OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY
SERVICES DISTRICT PUBLIC FACILITIES CORPORATION
MAY 23, 2012, AT 9:00 A.M.

BOARD ROOM 148 SOUTH WILSON STREET, NIPOMO, CA

BOARD of DIRECTORS

JAMES HARRISON, **PRESIDENT**
LARRY VIERHEILIG, **VICE PRESIDENT**
MICHAEL WINN, **DIRECTOR**
ED EBY, **DIRECTOR**
DAN A. GADDIS, **DIRECTOR**

PRINCIPAL STAFF

MICHAEL S. LEBRUN, **GENERAL MANAGER**
LISA BOGNUDA, **ASSISTANT GENERAL MANAGER**
MERRIE WALLRAVIN, **SECRETARY/CLERK**
JON SEITZ, **GENERAL COUNSEL**
PETER SEVCIK, **DISTRICT ENGINEER**

Mission Statement: The Nipomo Community Services District's mission is to provide its customers with reliable, quality, and cost-effective services now and in the future.

00:00:00

A. CALL TO ORDER AND FLAG SALUTE

President Harrison called the Regular Meeting of May 23, 2012, to order at 9:00 a.m. and led the flag salute.

00:01:35

B. ROLL CALL AND PUBLIC COMMENT ON ITEMS NOT ON AGENDA

At Roll Call, Directors Gaddis, Eby, Winn, Vierheilg, and Harrison were present.

Pete Davison, District employee, stated he is on paid administrative leave from the District and will present a letter to the Board by June 1 to state why he is leaving the District.

Michael Vitaz, NCS D customer, stated he is happy election failed and said a desal plant should be built.

District Legal Counsel Jon Seitz stated the District does not respond to personnel matters at public meetings. The District's Personnel Policies and Procedures are followed.

00:08:51

C. PRESENTATIONS AND REPORTS

C-1) NCS D SUPERINTENDENT TINA GRIETENS
Update Report re: Utility Division Activities

Tina Grietens, NCS D Utility Superintendent, introduced the newest District employee, Derek Calleja. Ms. Grietens reviewed the report as presented in the Board packet. Ms. Grietens answered questions from the Board. The Board welcomed Mr. Calleja and thanked Ms. Grietens for her report.

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C-2) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST AND REPORTS ON ATTENDANCE AT PUBLIC MEETINGS, TRAINING PROGRAMS, CONFERENCES, AND SEMINARS.

Receive Announcements and Reports from Directors

Director Gaddis

- May 21 – SCAC met and Supervisor Teixeira and Brian Pedrotti were in attendance. Code enforcement is involved in a case at Viva Way and Camino Caballo. Laetita Winery is proposing 102 single-family residences and a 70-room hotel. Next SCAC meeting is June 25.

Director Eby

- June 7 – Wastewater Recycling Forum at the South County Regional Center.
- June 9 – Art for Animals Benefit to be held at Edwards Barn, tickets \$40.

Director Winn

- May 18 –SLO Chapter of CSDA bi-monthly meeting. Cambria CSD gave a demo on a wastewater treatment system.
- May 22 – Board of Supervisors removed Cayucos' emergency water designation and the Growth Management Ordinance was discussed.
- June 6 – Ethics Training course at Templeton Community Services District.
- June 6 – WRAC will meet at 1:30 p.m. to discuss Resource Management System, Levels of Severity and Laetita proposal.
- June 22 – Fracking Forum has been postponed until October due to DOGGR symposium in Long Beach on July 24.
- July 9 – WRAC may have a special meeting.

Director Harrison

- May 16 – Attended CSDA Legislative Days and reported to the Board.
- September 24-27 – CSDA Annual Conference will be held in San Diego.

C-3) RECEIVE PUBLIC COMMENT ON PRESENTATIONS AND REPORTS PRESENTED UNDER ITEM C AND BY MOTION RECEIVE AND FILE PRESENTATIONS AND REPORTS

Michael Vitaz, NCSD customer, stated NCSD should not serve Laetitia development.

Upon the motion of Director Vierheilig and seconded by Director Winn, the Board unanimously approved to receive and file the presentations and reports.

Vote 5-0.

YES VOTES	NO VOTES	ABSENT
Directors Vierheilig, Winn, Eby, Gaddis and Harrison	None	None

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00:50:50

D. CONSENT AGENDA

D-1) WARRANTS [RECOMMEND APPROVAL]

D-2) APPROVE THE FOLLOWING MEETING MINUTES:

MAY 9, 2012 REGULAR BOARD MEETING MINUTES

MAY 10, 2012 SPECIAL MEETING MINUTES (BALLOT INITIATIVE RESULTS)

MAY 14, 2012 SPECIAL MEETING MINUTES (2012-2013 BUDGET WORKSHOP
[RECOMMEND APPROVE])

Michael LeBrun, General Manager, answered questions from the Board.

John Snyder, Nipomo resident, asked about Nipomo Well #4.

Upon the motion of Director Vierheilg and seconded by Director Eby, the Board approved the Consent Agenda.

Vote 5-0 and Items D-1 and D-2, May 9, 2012 and May 10, 2012 Meeting Minutes.

YES VOTES	NO VOTES	ABSENT
Directors Vierheilg, Eby, Gaddis and Harrison	None	None

Item D-2, May 14, 2012 - Director Winn abstained due to lack of attendance.

The Board took a break from 9:58 to 10:15 a.m.

00:57:18

E. ADMINISTRATIVE ITEMS

E-1) AUTHORIZATION OF THE NIPOMO COMMUNITY SERVICES DISTRICT REVENUE CERTIFICATES OF PARTICIPATION (SOUTHLAND WASTEWATER PROJECT) SERIES 2012:

- AUTHORIZE SALE OF UP TO \$10,000,000 IN REVENUE CERTIFICATES AND APPROVE THE FOLLOWING SALE DOCUMENTS:
 - A TRUST AGREEMENT
 - AN INSTALLMENT SALE AGREEMENT
 - AN AGENCY AGREEMENT
 - A CONTINUING DISCLOSURE AGREEMENT
 - A PRELIMINARY OFFICIAL STATEMENT
 - NOTICE OF SALE

Michael LeBrun, General Manager, reviewed the report as presented in the Board Packet and was pleased to announce that the Town Wastewater Enterprise received an "AA" rating from Standard and Poor'. Maryann Goodkind, Bond Counsel, and Curt de Crinis, Financial Advisor, answered questions from the Board.

John Snyder, Nipomo resident, wanted to know what this project fixes and if it allocates money for effluent disposal on Mesa Road.

Upon the motion of Director Eby and seconded by Director Vierheilg, the Board unanimously adopted the Resolution 2012-1258. Vote 5-0.

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E-1) (Continued)

YES VOTES	NO VOTES	ABSENT
Directors Eby, Vierheilig, Winn, Gaddis and Harrison	None	None

RESOLUTION NO. 2012-1258

RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT AUTHORIZING THE SALE, EXECUTION AND DELIVERY OF NOT TO EXCEED \$10,000,000 REVENUE CERTIFICATES OF PARTICIPATION (SOUTHLAND WASTEWATER PROJECT) SERIES 2012 AND APPROVING SALE DOCUMENTS, A TRUST AGREEMENT, AN INSTALLMENT SALE AGREEMENT, AN AGENCY AGREEMENT, A CONTINUING DISCLOSURE AGREEMENT, AND PRELIMINARY OFFICIAL STATEMENT IN CONNECTION THEREWITH AND AUTHORIZING THE TAKING OF CERTAIN ACTIONS IN CONNECTION THEREWITH

01:17:56

ADJOURN TO PUBLIC FACILITIES CORPORATION

A) ROLL CALL

At Roll Call, Directors Gaddis, Eby, Winn, Vierheilig, and Harrison were present.

B) APPROVAL OF DOCUMENTS IN CONNECTION WITH THE SALE, EXECUTION AND DELIVERY BY NIPOMO COMMUNITY SERVICES DISTRICT REVENUE CERTIFICATES OF PARTICIPATION (SOUTHLAND WASTEWATER PROJECT) SERIES 2012.

ADOPT A RESOLUTION APPROVING

- o AN INSTALLMENT SALE AGREEMENT
- o AN AGENCY AGREEMENT
- o A TRUST AGREEMENT
- o AN ASSIGNMENT AGREEMENT
- o A PRELIMINARY OFFICIAL STATEMENT
- o NOTICE OF SALE

There was no public comment.

Upon the motion of Director Eby and seconded by Director Vierheilig, the Board unanimously adopted the Resolution 2012-05. Vote 5-0.

YES VOTES	NO VOTES	ABSENT
Directors Eby, Vierheilig, Winn, Gaddis and Harrison	None	None

RESOLUTION NO. 2012-05

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT PUBLIC FACILITIES CORPORATION APPROVING CERTAIN DOCUMENTS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF NOT TO EXCEED \$10,000,000 NIPOMO COMMUNITY SERVICES DISTRICT REVENUE CERTIFICATES OF PARTICIPATION (SOUTHLAND WASTEWATER PROJECT) SERIES 2012.

ADJOURN TO NCSD REGULAR MEETING

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01:24:00

- E-2) WATER RESOURCES RELIABILITY REVIEW AND DISCUSSION/REVIEW DISTRICT OPTIONS TO ADDRESS WATER RESOURCE CONSTRAINTS [CONSIDER INFORMATION AND DIRECT STAFF AND/OR APPOINT DIRECTORS TO STANDING COMMITTEE TO DEVELOP AND MAKE RECOMMENDATIONS FOR CHANGING DISTRICT POLICY TO ADDRESS WATER RESOURCE CONCERNS.]

Michael LeBrun, General Manager, reviewed the report as presented in the Board packet.

Director Eby requested the Board take a straw poll vote to see if the Board is willing to lead the effort and is committed to bringing in supplemental water.

A brief summary of comments and concerns by Directors:

Director Gaddis

- Residents and neighbors need to work together.
- Communities North of the Mesa and South of the Mesa have supplemental water.
- Can we continue to pretend we can survive on rain water?
- We are in a LOS III and NMMA states we are in overdraft.
- We need to combine our efforts and protect our community.

Director Vierheilig

- We need to propose various options.
- We need to hear from the Community.
- We need to get the Community involved.
- Utilize the Adobe Press for communications.
- Place members of the public on a committee.

Director Eby

A Committee should be formed to study the following, including but not limited to:

- Possible ways to preserve \$2.3M grant designate for supplemental water.
- Alternate pipeline configurations.
- Financing options that do not require an assessment vote.
- Possible phasing of construction of pipeline.
- Build on a pay-as-you-go basis.
- Review NCS D funds that are available for a project.
- Review NCS D capital improvement plan.
- Review studies conducted on alternative supplemental water supplies.
- Update our knowledge on supplemental water.
- Legal means of protecting our water-explore court options.
- Review conservation efforts.
- Review water rights
- Review water rates.

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E-2) (Continued)

Director Winn

The following should be agendized for Board consideration and possible action:

- A Committee should be formed quickly.
- Consider a budget amendment to add a water conservation position.
- Meet with Water Counsel to review water rights.
- Change policy to discontinue selling water outside NCSD boundaries.
- Remove inter-tie with Golden State.
- Cancel current Intent-To-Serve Letters, and resume only if and when we have supplemental water.
- Suspend Will-Serve Letters not completed, until we have supplemental water.
- Declare a moratorium and have County declare a moratorium on the entire Mesa with the exception of Woodlands.
- Activate the Water Conservation Committee.
- Revise project and partner with Woodlands.
- Work with County Public Works to retain \$2.3M grant.

Director Harrison

- We have a water problem we pump more than is being recharged.
- Voters voted twice against State Water.
- Review alternatives that cost less or are more effective.
- Hire public relations and conservation staff.
- Review reconfiguration of project that includes Woodlands.

John Sonksen, Nipomo resident, read from newspaper article and stated bad press and lack of support led to failure of vote.

Sam Scarborough, NCSD resident, supports the Board going forward with supplemental water and stated uninformed people are irrational.

Mary Scarborough, NCSD resident, supports the Board going forward and stated homes will have no value with no water and other options will cost more.

John Snyder, Nipomo resident, said project is not good in current configuration, 1,934 voters voted no and that could be enough votes to defeat a Prop 218 rate increase. He commented on NMMA TG and delay in releasing Groundwater Indices and said water alternative studies were biased.

Greg Nester, NCSD resident and developer, it was a hard sell to ask for property owners to vote for tax assessments when supplemental water was not for new development; review viable options and invite the public and consider private sector involvement and annexation incentives.

District Legal Counsel Jon Seitz stated terms of City of Santa Maria agreement were approved at a public meeting, NMMA reporting requirements were set by the court, and the assessment district financing provided mechanism that both developed and undeveloped properties would participate to make it more equitable.

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E-2) (Continued)

President Harrison formed a new committee and appointed Ed Eby as Chairperson and Mike Winn as member.

Upon the motion of Director Eby and seconded by Director Winn, the Board unanimously approved the appointments. Vote 5-0.

YES VOTES	NO VOTES	ABSENT
Directors Eby, Winn, Gaddis, Vierheilg, and Harrison	None	None

The new committee will be named the Water Resources Policy Committee and are directed to examine and explore the following, including but not limited to:

- Examine alternative configurations.
- Alternate funding.
- Review and possible update to 2007 Alternatives Studies.
- Review legal actions to protect Mesa water.
- Consider public relations issues.
- Other such policies to protect water resources.

02:44:49

I. ADJOURN TO CLOSED SESSION

President Harrison adjourned to closed session at 12:10 p.m. and announced that Item E-3 would be considered at 1:15 p.m.

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

There was no public comment.

K. ADJOURN TO CLOSED SESSION

1. CONFERENCE WITH DISTRICT LEGAL COUNSEL RE: PENDING LITIGATION PURSUANT TO GC §54956.9 SMVWCD VS. NCSD (SANTA CLARA COUNTY CASE NO. CV 770214, SIXTH APPELLATE COURT CASE NO. H032750 AND ALL CONSOLIDATED CASES).
2. CONFERENCE WITH LEGAL COUNSEL RE: PENDING LITIGATION PURSUANT TO GC SECTION 54956.9; NCSD VS. COUNTY SLO, ET AL. (CASE #CV090010)
3. CONFERENCE WITH LEGAL COUNSEL RE: PENDING LITIGATION PURSUANT TO GC SECTION 54956.9, WHITLOW/NCSD (CASE # E20112E1116-00-APS FILED WITH THE DEPARTMENT OF FAIR HOUSING AND EMPLOYMENT)
4. ANNUAL PERFORMANCE REVIEW OF DISTRICT LEGAL COUNSEL PURSUANT TO GOVERNMENT CODE SECTION 54957
5. ANNUAL PERFORMANCE REVIEW OF DISTRICT GENERAL MANAGER PURSUANT TO GOVERNMENT CODE SECTION 54957

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02:46:20

L. OPEN SESSION
ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

The Board came back into Open Session at 1:18 p.m.

Jon Seitz, District Legal Counsel, announced that the Board discussed items 1, 2, and 3 listed above for closed session, but took no reportable action. The Board continued Items 4 and 5 listed above for closed session.

02:48:03

E-3) CONSIDER FOR ADOPTION RESOLUTION 2012-XXX SUSPENDING PROCESSING OF APPLICATIONS FOR INTENT-TO-SERVE LETTERS FOR DISTRICT WATER SERVICE [RECOMMENDATION – ADOPT RESOLUTION 2012-XXX SUSPENDING PROCESSING OF APPLICATIONS FOR INTENT-TO-SERVE LETTERS FOR DISTRICT WATER SERVICES AND PROVIDE FURTHER DIRECTION TO STAFF]

District Legal Counsel Jon Seitz stated the Board has approved suspension of Intent-To-Serve (ITS) Letters in the past. Resolution will suspend the processing of new applications and direct Staff to return to the Board with further actions, pursuant to Section 4 of the Resolution. Suspension will be reviewed every six months in May and October. Resolution would become effective date of adoption (today) based on finding that excess water does not exist. Future applications submitted to the District will be received and filed, and will not be processed and without priority (tracking purposes only).

Bill Kengel, NCSD resident and developer, spoke in opposition of suspending applications for ITS.

George Newman, developer, spoke in opposition of suspending applications for ITS and suggested the Board consider a category of projects that already had approved ITS that previously expired.

Terry Orton, Engineer, represents many development interests and spoke in opposition of suspending applications for ITS. Mr. Orton also reported being denied to file applications for some Intent-to-Serve letters last week.

Director Winn asked staff to confirm if such an effort was made and asked that they be "grandfathered in" with whatever action the Board takes today.

Upon motion of Director Eby and seconded by Director Vierheilig, the Board adopted Resolution 2012-1259. Vote 4-1.

YES VOTES	NO VOTES	ABSENT
Directors Eby, Vierheilig, Gaddis and Winn	Harrison	None

RESOLUTION NO. 2012-1259

A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
SUSPENDING APPLICATIONS FOR
INTENT-TO-SERVE LETTERS FOR WATER SERVICE

The Board took a break at 2:25 p.m.

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03:52:38

E-4) REVIEW DRAFT FISCAL YEAR 2012-2013 BUDGET [REVIEW BUDGET DIRECT STAFF TO PREPARE FINAL DRAFT 2012-2013 BUDGET AND SCHEDULE PUBLIC HEARING]

The Board reviewed the draft budget and asked questions of Staff.

There was no public comment.

Upon motion of Director Vierheilg and seconded by Director Gaddis, the Board unanimously approved setting the Public Hearing for the Fiscal Year 2012-2013 Budget for June 13, 2012. Vote 5-0.

YES VOTES	NO VOTES	ABSENT
Directors Vierheilg, Gaddis, Winn, Eby and Harrison	None	None

04:24:30

E. MANAGER'S REPORT

Michael LeBrun, General Manager, reviewed the report as presented in the Board packet. Mr. LeBrun answered questions from the Board.

There was no public comment.

F. COMMITTEE REPORT

There was no public comment.

04:35:00

G. DIRECTOR'S REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

Director Eby

- ◇ Don't spend reserves on capital improvements until a legal opinion is obtained and economic implications are considered.
- ◇ What additional measures can be taken to stop connections, Will-Serve letters and outside user agreements.

Director Winn

- ◇ Complete pipeline design (only 2% remaining).
- ◇ Obtain legal opinion from District Special Counsel Jim Markman about where we stand on court ruling.
- ◇ Review policy on selling water to others outside District boundary.
- ◇ Consider full moratorium and process for adopting a moratorium.
- ◇ Consider stopping all ITS processing.
- ◇ Consider steps to suspend Will-Serve letters not yet served.
- ◇ Review possible consequences and range of responses RWQCB can impose for discharge violations at Blacklake WWTF.
- ◇ Volunteered to write user-friendly summaries of water reports posted on the web site.

ADJOURN

President Harrison adjourned the meeting at 3:35 p.m.

MEETING SUMMARY	HOURS
Regular Meeting	5.25
Closed Session	1.25
TOTAL HOURS	6.50