

**NIPOMO COMMUNITY SERVICES DISTRICT**  
*Serving the Community Since 1965*  
**REGULAR MINUTES OF THE BOARD OF DIRECTORS**  
**JUNE 13, 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 June 13, 2012, to order at 9:03 a.m. and led the flag salute.

President Harrison announced that Item E-6 would be taken before Item E-5 and Item G would be taken before Item E-7.

00:01:54

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

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

John Snyder, Nipomo Resident, handed out a chart he had prepared about water shortage and water demand.

00:04:37

**C. PRESENTATIONS AND REPORTS**

**C-1) RECEIVE SPRING 2012 GROUNDWATER INDEX PRESENTATION BY BRAD NEWTON, Ph.D., P.G. OF WAGNER & BONSIGNORE CONSULTING CIVIL ENGINEERS**

Brad Newton, PhD., P.G. presented the Spring 2012 Groundwater Index Technical Memorandum and answered questions from the Board.

John Snyder, Nipomo Resident, stated he was disappointed in data.

District Legal Counsel, Jon Seitz, stated Mr. Newton is a PhD and his information is consistent with the NMMA and Northern Cities Technical Groups. Mr. Seitz stated that he has not seen a report that states we can pump our groundwater basin in perpetuity without causing damage.

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01:13:33

C-2) NCSD DISTRICT ENGINEER PETER SEVCIK  
Update Report re: Recent Activities

Peter Sevcik, District Engineer, reviewed the report as presented in the Board packet. Michael LeBrun, General Manager, and Mr. Sevcik answered questions from the Board. The Board thanked Mr. Sevcik for his report.

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

- June 25 – SCAC will meet at 6:30 p.m. in NCSD Board Room.

Director Eby

- June 7 – Wastewater Recycling Forum was held at South County Regional Center.
- June 21 – No LAFCO meeting that day.
- June 29 – NMMA TG will meet at 10:00 a.m. in NCSD Board Room.

Director Winn

- June 6 – WRAC met to discuss Resource Management System, Levels of Severity and Laetita proposal.
- June 6 – He also attended the Water Recycling Forum in AG, noting that all of the projects cost much more per acre-foot for recycled water than people expected and and that they all took 15-20 years, some longer.
- July 9 – WRAC will have a special meeting.

Director Harrison

- June 6 – Ethics Training course was held at Templeton Community Services District attended by Myself and Michael LeBrun.
- June 14 – Santa Maria River Nutrients and Pesticide Meeting in Santa Maria
- June 14 – He will give a speech at Gyros meeting.

*The Board took a break from 10:40 a.m. to 10:50 a.m.*

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

There was no public comment.

Upon the motion of Director Vierheilg and seconded by Director Eby, the Board unanimously approved to receive and file the presentations and reports.  
Vote 5-0.

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

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00:50:50

D. CONSENT AGENDA

D-1) WARRANTS

D-2) APPROVE THE FOLLOWING MEETING MINUTES:

MAY 23, 2012 REGULAR BOARD MEETING MINUTES

D-3) RESOLUTION COMMENDING RETIRED UNDERSHERIFF MARTIN BASTI

Director Vierheilg requested Item D-3 be pulled.

There was no public comment.

Upon the motion of Director Vierheilg and seconded by Director Eby, the Board approved the Consent Agenda Items D-1 and D-2. Vote 5-0.

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

Upon the motion of Director Vierheilg and seconded by Director Winn, the Board approved the Consent Agenda D-3 as amended. Vote 5-0.

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

RESOLUTION NO. 2012-1260  
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
COMMENDING MARTIN BASIE FOR HIS  
DEDICATED SERVICE TO THE SOUTH COUNTY

01:49:40

E. ADMINISTRATIVE ITEMS

E-1) PUBLIC HEARING – AUTHORIZE RECORDATION OF TAX LIENS FOR PROPERTIES IN ARREARS IN PAYMENT OF SOLID WASTE FEES

Michael Cook, NCS D resident, provided testimony that he has received garbage service since 2008 and is paying for service received. The on-going liens are an issue and he plans to take the garbage company to small claims court.

Brett Faulkner, Assistant District Manager of South County Sanitary, stated he will resolve the issue with Mr. Cook if possible and report back to the Board.

Upon the motion of Director Vierheilg and seconded by Director Winn, the Board adopted the Resolution 2012-1261, as amended. Vote 4-1, with Director Gaddis abstaining. (Director Gaddis abstained, pursuant to section 2.9 of the NCS D's by-laws; an abstained vote is counted as a no vote.)

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

RESOLUTION NO. 2012-1261  
A RESOLUTION OF THE BOARD OF DIRECTORS OF  
THE NIPOMO COMMUNITY SERVICES DISTRICT  
CONFIRMING REPORT OF DISTRICT GENERAL MANAGER FOR  
UNPAID SOLID WASTE COLLECTION CHARGES

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02:30:37

E-2) PUBLIC/PROTEST HEARING – AUTHORIZE COLLECTION OF FY 2012-13 BLACKLAKE STREET LIGHT DISTRICT ASSESSMENTS

There was no public comment.

Upon the motion of Director Winn and seconded by Director Vierheilg, the Board unanimously adopted the Resolution 2012-1262. Vote 5-0.

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

**RESOLUTION NO. 2012-1262**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT PROVIDING FOR THE COLLECTION OF STREET LIGHT CHARGES ON THE SAN LUIS OBISPO COUNTY TAX ROLLS FOR MAINTENANCE AND OPERATION OF EXISTING PUBLIC STREET LIGHTS IN THE BLACKLAKE VILLAGE**

At 12:05 p.m. the Board adjourned to Closed Session and announced that Open Session would resume at 2:00 p.m.

There was no public comment.

02:53:33

F. CLOSED SESSION ANNOUNCEMENTS

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

District Legal Counsel, Jon Seitz, left at the end of closed session due to previously scheduled appointment.

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02:54:04 L. OPEN SESSION  
ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

Deputy District Legal Counsel, Mike Seitz, announced that the Board discussed only Items 1 and 2 above, but took no reportable action.

02:55:00 E-3) PUBLIC/PROTEST HEARING – AUTHORIZE COLLECTION OF FY 2012-13  
LANDSCAPE MAINTENANCE ZONE #1 ASSESSMENTS

There was no public comment.

Director Winn suggested wording be added to the Engineer's Report stating SLO County required landscaping be planted and sustained as a condition of County approval of the subdivision. District Engineer, Peter Sevcik, stated he would have to research issue prior to including new language in the report.

Upon the motion of Director Vierheilig and seconded by Director Gaddis, the Board adopted Resolution, with grammatical errors corrected. Vote 4-1.

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

RESOLUTION NO. 2012-1263  
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS FOR THE  
NIPOMO COMMUNITY SERVICES DISTRICT STREET LANDSCAPE MAINTENANCE DISTRICT NO. 1  
FOR FISCAL YEAR 2012-2013

03:09:35 Item E-6 was taken next.

E-6) SERVICE REQUEST – TRACT 2906 17 LOT RESIDENTIAL DEVELOPMENT

On May 23, 2012, Terry Orton testified that he was denied filing an application for an Intent-To-Serve Application the previous week. Pursuant to the adopted Minutes of May 23, 2012, Director Winn asked staff to confirm if such an effort was made and asked the application be "grandfathered in" with whatever action was taken by the Board on May 23, 2012.

On May 24, 2012, Terry Orton submitted an Intent-To-Serve application for Tract 2906. Mr. Orton answered questions from the Board.

There was no public comment.

Upon motion of Director Winn and seconded by Director Vierheilig, the Board approved issuing the Intent-To-Serve Letter with minor corrections. Vote 3-2.

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

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03:33:03

E-5) INTRODUCE, EDIT AND READ BY TITLE AN ORDINANCE AFFIRMING RESOLUTION 2012-1259 SUSPENDING APPLICATIONS FOR NEW WATER SERVICE AND INTENT TO SERVE LETTERS, REPEALING CHAPTER 3.05 OF DISTRICT CODE AND ORDINANCE 2009-114 RELATED TO WATER SERVICE LIMITATIONS, REPEALING DISTRICT CODE SECTION 3.04.052 AND DISTRICT ORDINANCE 2009-112 RELATED TO ESTABLISHING PAYMENT OF CAPACITY CHARGES FOR CERTAIN COMMERCIAL PROJECTS AND DECLARING DISTRICT CODE SECTION 3.04.053 AND SECTION 3 OF DISTRICT ORDINANCE 2010-115 RELATED TO PAYMENT OF CAPACITY CHARGES FOR CERTAIN RESIDENTIAL AND MIXED USE PROJECTS AS REPEALED PURSUANT TO THE TERMS OF SAID ORDINANCE

Director Harrison stated that this action will be perceived as a punishment for not voting for supplemental water funding. Director Eby stated that this is not a punishment but a reward to our existing customers that rely on a depleting source of groundwater.

Note: At 3:10 p.m. the recording device stopped working.

Bill Kengel, NCSO customer, provided the Board with handouts.

Upon motion of Director Winn and seconded by Director Eby, the Board approved reading the Ordinance in Title only. Vote 4-1. Director Harrison subsequently changed his vote from no to yes. Vote 5-0.

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

Upon motion of Director Winn and seconded by Director Eby, the Board approved the introduction of the Ordinance and set June 27 for adoption. Vote 4-1.

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

ORDINANCE NO. 2012- 117

AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT REAFFIRMING RESOLUTION 2012-1259 SUSPENDING APPLICATIONS FOR INTENT-TO-SERVE LETTERS, SUSPENDING CHAPTER 3.05 OF THE DISTRICT CODE AND DISTRICT ORDINANCE 2009-114 RELATED TO WATER SERVICE LIMITATIONS, REPEALING DISTRICT CODE SECTION 3.04.052 AS ESTABLISHED BY DISTRICT ORDINANCE 2009-112 RELATED TO ESTABLISHING PAYMENT OF CAPACITY CHARGES FOR CERTAIN COMMERCIAL PROJECTS AND DECLARING DISTRICT CODE SECTION 3.04.053 AND SECTION 3 OF DISTRICT ORDINANCE 2010-115 RELATED TO PAYMENT OF CAPACITY CHARGES FOR CERTAIN RESIDENTIAL AND MIXED USE PROJECTS AS REPEALED PURSUANT TO THE TERMS OF SAID ORDINANCE

00:00:00

The recording device failed.

The Board took a break from 3:23 p.m. to 3:30 p.m.

Recording of meeting resumed.



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E-4) PUBLIC HEARING – ADOPT FISCAL YEAR 2012-13 BUDGET

There was no public comment.

Director Winn suggested that future budgets explain Enterprise Fund Accounting and that CSD's do not have a General Fund.

Upon motion of Director Vierheilig and seconded by Director Gaddis, the Board unanimously adopted Resolution No. 1264. Vote 5-0.

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

RESOLUTION 2012-1264

A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
ADOPTING THE 2012-2013 FISCAL YEAR BUDGET

Upon motion of Director Vierheilig and seconded by Director Gaddis, the Board unanimously adopted Resolution No. 1265. Vote 5-0.

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

RESOLUTION NO. 2012-1265

A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
DETERMINING THE APPROPRIATION LIMITATION FOR THE 2012-2013 FISCAL YEAR

00:41:00

G. COMMITTEE REPORT  
MINUTES OF MAY 29, 2012 WATER RESOURCES POLICY COMMITTEE

Water Resource Policy Committee members reported on their first two meetings. Director Eby handed out a flow chart and discussed the formation of a "citizen committee". The next Committee Meeting will be June 25.

There was no public comment.

33:53:00

E-7) CONSIDER TASK ORDER IN AMOUNT OF \$7,150 WITH AECOM FOR SUPPLEMENTAL WATER PROJECT PHASING TECHNICAL FEASIBILITY STUDY

A revised proposal in the amount of \$7,517 was presented to the Board.

There was no public comment.

Upon motion of Director Winn and seconded by Director Eby, the Board unanimously approved the Task Order, as amended, in the amount of \$7,517. Vote 5-0.

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

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E-8) CONSIDER LETTER TO COUNTY BOARD OF SUPERVISORS REGARDING SUPPLEMENTAL WATER

The Board suggested changes to the letter.

There was no public comment.

Upon motion by Director Winn and seconded by Director Eby, the Board unanimously approved the draft letter, as amended. Vote 5-0.

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

53:54:00

E-9) AWARD CONTRACT FOR CONSTRUCTION OF SOUTHLAND WASTEWATER TREATMENT FACILITY PHASE 1 IMPROVEMENT PROJECT

Director Winn requested additional language be added to the Resolution regarding the General Manager reporting change orders to the Board at the next regular meeting.

There was no public comment.

Upon motion of Director Harrison and seconded by Director Winn, the Board unanimously adopted Resolution No. 2012-1266, as amended. Vote 5-0.

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

RESOLUTION NO. 2012-1266

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT AWARDED THE BID FOR THE SOUTHLAND WASTEWATER TREATMENT FACILITY PHASE 1 IMPROVEMENT PROJECT TO CUSHMAN CONTRACTING CORPORATION IN THE AMOUNT OF \$10,224,900 AND AUTHORIZING A CONSTRUCTION CONTINGENCY OF \$500,000

1:03:53

E-10) AUTHORIZE TASK ORDER WITH MNS ENGINEERS INC. FOR CONSTRUCTION MANAGEMENT SERVICES FOR SOUTHLAND WASTEWATER TREATMENT FACILITY PHASE 1 IMPROVEMENT PROJECT

There was no public comment.

Upon motion of Director Harrison and seconded by Director Winn, the Board unanimously adopted Resolution No. 2012-1267. Vote 5-0.

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

RESOLUTION NO. 2012-1267

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT AUTHORIZING TASK ORDER FOR SOUTHLAND WASTEWATER TREATMENT FACILITY PHASE 1 IMPROVEMENT PROJECT CONSTRUCTION MANAGEMENT SERVICES WITH MNS ENGINEERS, INC. IN THE AMOUNT OF \$1,276,556 AND AUTHORIZING CONTINGENCY OF \$65,000



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1:11:15

**E-11) AECOM SCOPE AMENDMENT # 7 FOR THE SOUTHLAND WASTEWATER TREATMENT FACILITY PHASE 1 IMPROVEMENT PROJECT**

There was no public comment.

Upon motion of Director Harrison and seconded by Director Winn, the Board unanimously adopted Resolution No. 2012-1268. Vote 5-0.

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

RESOLUTION NO. 2012-1268

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT AUTHORIZING TASK ORDER WITH AECOM FOR SCOPE AMENDMENT #7 FOR ENGINEERING SERVICES FOR SOUTHLAND WASTEWATER TREATMENT FACILITY PHASE 1 IMPROVEMENT PROJECT IN THE AMOUNT OF \$152,744

01:17:00

**E. MANAGER'S REPORT**

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

District email accounts have been set up for the Board Members, if they choose to use them. Passwords need to be submitted to the General Manager.

There was no public comment.

Deputy District Legal Counsel, Mike Seitz, stated he will be serving the District during Jon Seitz's absences and is current on District issues.

01:23:00

**G. DIRECTOR'S REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS**

Director Eby

- ◇ The next Water Resources Policy Committee will meet on June 25 and he will prepare a list of agenda topics including suspending Will-Serve Letters and Outside User Agreements.

Director Winn

- ◇ Does Golden State service area have mandatory trash pickup?
- ◇ Explore NMMA TG requesting well production data from non-stipulating parties.
- ◇ Encourage South County Sanitary to develop a Spanish version of mailers.
- ◇ Encourage South County Sanitary not to remove cans as a method of motivating customers to pay their bills.
- ◇ Consider discontinuing selling water to users outside the District.
- ◇ Agendize suspending all current Intent-To-Serve Letters.
- ◇ Agendize suspending all Will-Serve Letters where service has not been initiated until supplemental water is available
- ◇ Schedule a Water Conservation Committee meeting.
- ◇ Copies of WRAC reports on Paso Robles groundwater management plan and the proposed Laetita ag cluster subdivision are available.

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Director Vierheilig

- ◇ The Park and Ride project on Tefft Street is progressing.

Director Gaddis

- ◇ Would like a report on the resolution of the Michael Cook issue from South County Sanitary.

**ADJOURN**

President Harrison adjourned the meeting at 5:09 p.m.

MEETING SUMMARY	HOURS
Regular Meeting	6.00
Closed Session	2:15
<b>TOTAL HOURS</b>	<b>8.15</b>