

NIPOMO COMMUNITY SERVICES DISTRICT

Serving the Community Since 1965

REGULAR MINUTES

JUNE 27, 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 27, 2012, to order at 9:00 a.m. and led the flag salute.

00:00:46 B. ROLL CALL AND PUBLIC COMMENT ON ITEMS NOT ON AGENDA

At Roll Call, all Board members were present.

The Board considered Item C-1 next.

C-1) PRESENT RESOLUTION OF APPRECIATION TO RETIRED UNDERSHERIFF MARTIN BASTI

President Harrison presented a Resolution of Appreciation to retired Undersheriff Martin Basti and thanked him for his years of service.

There was no public comment.

00:04:05 C. PRESENTATIONS AND PUBLIC COMMENT

C-2) NCSO SUPERINTENDENT TINA GRIETENS
Update Report re: Utility Division Activities

Tina Grietens, Utility Superintendent, reviewed the report as presented in the Board packet. Ms. Grietens answered questions from the Board. The Board thanked Ms. Grietens for her report.

C-3) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST
Receive Announcements from Directors Items of District & Community Interest

Director Winn

- ◇ June 19, 2012 – The San Luis Obispo County Board of Supervisors met and approved a sub-division on the south edge of the Mesa, but failed to notice the District and mention the eventual need to assess a Supplemental Water in-lieu fee when a building permit is pulled.
- ◇ July 9, 2012 – WRAC will meet at 1:30 p.m. This is a special meeting due to the Fourth of July holiday.

Nipomo Community Services District
REGULAR MEETING
MINUTES

DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST (Continued)

Director Eby

- ◇ June 25, 2012 – SCAC met and discussed a nursery located on Viva Way at Camino Cabillo and heavy truck traffic associated with that operation.
- ◇ June 29, 2012 – NMMA TG will meet at 10:00 a.m. at NCSD.

Director Vierheilig

- ◇ Added his comments to Director Eby's comments on the nursery's heavy truck traffic.

Director Gaddis

- ◇ June 25, 2012 – SCAC met and discussed the reported daily high level of 18 wheeler truck traffic through adjoining residential streets from and to a nursery which neighbors believe has now turned into a distribution center on Viva Way in Nipomo.

Director Harrison

- ◇ June 14, 2012 – Attended a Gyro meeting along with the General Manager, where they answered questions about NCSD and what the District does. It was a well received presentation.
- ◇ June 20, 2012 – Nipomo Olde Towne Association met and discussed moving the proposed Jim O. Miller Park to the south side of Tefft Street.
- ◇ June 25, 2012 – Attended the Water Resource Policy Committee Meeting and observed.
- ◇ July 12, 2012 – Fire Safe Council will meet and discuss funding for the next year's chipping event.

C-4) 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 Vierheilig 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 Vierheilig, Eby, Winn, Gaddis, and Harrison	None	None

D. CONSENT AGENDA

- D-1) APPROVE WARRANTS
- D-2) APPROVE JUNE 13, 2012 REGULAR BOARD MEETING MINUTES
- D-3) ACCEPT EASEMENTS 751 WIDOW LANE
- D-4) APPROVE APPLICATION OF SAINT JOSEPH'S CHURCH FOR SEWER SERVICE UNDER AN EXISTING OUTSIDE USER AGREEMENT

President Harrison pulled Items D-3 and D-4 for separate consideration.

00:35:14

**Nipomo Community Services District
REGULAR MEETING
MINUTES**

Item D (Continued)

- D-1) APPROVE WARRANTS
- D-2) APPROVE JUNE 13, 2012 REGULAR BOARD MEETING MINUTES
- D-3) ACCEPT EASEMENTS 751 WIDOW LANE
- D-4) APPROVE APPLICATION OF SAINT JOSEPHS CHURCH FOR SEWER SERVICE UNDER AN EXISTING OUTSIDE USER AGREEMENT

There was no public comment.

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

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

Item D-3

Michael LeBrun, General Manager, reviewed the report as presented in the Board packet. Peter Sevcik, District Engineer, and Jon Seitz, District Legal Counsel, answered questions from the Board. The Board asked for an update on this situation in the near future.

There was no public comment.

Upon the motion of Director Winn and seconded by Director Vierheilg, the Board unanimously adopted Resolution No. 2012-1269, 2012-1270, 2012-1271, 2012-1272, and 2012-1273 (Widow Lane easements).
Vote 5-0.

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

RESOLUTION NO. 2012-1269

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT ACCEPTING A WATER PIPELINE AND SEWER PIPELINE EASEMENT FROM FANNIE MAE APN 092-351-033

RESOLUTION NO. 2012-1270

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT ACCEPTING A WATER PIPELINE AND SEWER PIPELINE EASEMENT FROM JOSEPH AND JOSEPHINE KELLEY APN 092-351-017

RESOLUTION NO. 2012-1271

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT ACCEPTING A WATER PIPELINE AND SEWER PIPELINE EASEMENT FROM JOHN PERKINS AND JEREMY PERKINS APN 092-351-007

RESOLUTION NO. 2012-1272

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT ACCEPTING A WATER PIPELINE AND SEWER PIPELINE EASEMENT FROM RAQUEL CASTELLANOS APN 092-351-010

**Nipomo Community Services District
REGULAR MEETING
MINUTES**

Item D-3 (Continued)

RESOLUTION NO. 2012-1273

A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
ACCEPTING A WATER PIPELINE AND SEWER PIPELINE
EASEMENT FROM ARMADO AND LYDIA MANRIQUEZ
APN 092-351-004

Item D-4

Michael LeBrun, General Manager, Peter Sevcik, District Engineer, and Jon Seitz, District Legal Counsel, answered question from the Board.

There was no public comment.

Upon the motion Director Winn and seconded by Director Vierheilig, the Board unanimously approved the outside user sewer service application, subject to LAFCO review.

Vote 5-0.

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

The Board took a break from 10:10 to 10:25 a.m.

E. ADMINISTRATIVE ITEMS

- E-1) CONDUCT A HEARING TO ADOPT ORDINANCE 2012-117 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

Michael LeBrun, General Manager, reviewed the report as presented in the Board packet. Jon Seitz, District Legal Counsel, and Mr. LeBrun answered questions from the Board.

The following member of the public spoke:

Greg Nester, NCSD customer and developer, commented on not understanding the relationship between supplemental water funding measure failure and repealing fee phasing Ordinance.

Nipomo Community Services District
**REGULAR MEETING
 MINUTES**

01:08:19

Item E-1 (Continued)

Upon the motion of Director Eby and seconded by Director Winn, the Board unanimously approved to read Ordinance 2012-117 by title only.
 Vote 5-0.

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

Upon the motion of Director Eby and seconded by Director Winn, the Board adopted Ordinance 2012-117.
 Vote 4-1.

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

ORDINANCE NO. 2012-117

A 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 3.04.52 AS ESTABLISHED BY DISTRICT ORDINANCE 2009-112 RELATED TO ESTABLISHING PAYMENT OF CAPACITY CHARGES FOR CERTAIN COMMERCIAL PROJECTS AND DECLARING DISTRICT CODE SECTION 3.04.53 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

01:28:01

E-2) REVIEW CURRENT INTENT-TO-SERVE POLICY FOR WATER SERVICE AND ASSOCIATED WATER ALLOCATION

Michael LeBrun, General Manager, reviewed the report as presented in the Board packet. Jon Seitz, District Legal Counsel, and Peter Sevcik, District Engineer, answered questions from the Board.

The following member of the public spoke:

Greg Nester, NCSO customer and developer, commented on a developer's investment in a project increasing significantly over the life of an Intent-to-Serve letter.

Upon the motion of Director Winn and seconded by Director Eby, the Board unanimously directed staff to do the following:

- Give notice to the three Intent-to-Serve applicants with up-coming expiration dates.
- Revisit this Item on the 2nd meeting in October 2012.
- Bring back an action plan for the three applicants in the "other category" on the active development project summary.
- Clarify how the action effects outside user agreements.

Vote 5-0.

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

Nipomo Community Services District
REGULAR MEETING
MINUTES

Item E-2 (Continued)

President Harrison re-opened public comment on this item.

There following member of the public spoke:

Bill Kengel, NCSD customer, had concerns with paying the fees in these hard economic times.

President Harrison closed public comment on this item.

Director Winn commented on Mr. Kengel's comments.

E-3) REVIEW CURRENT WILL-SERVE POLICY FOR WATER SERVICE AND ASSOCIATED WATER CAPACITY RESERVATION

Michael LeBrun, General Manager, reviewed the report as presented in the Board packet. Jon Seitz, District Legal Counsel, Peter Sevcik, District Engineer, and Mr. LeBrun answered questions from the Board.

The following member of the public spoke:

Greg Nester, NCSD customer and developer, commented that NCSD would be crossing the line taking water rights away from already issued Will-Serve letters.

Upon the motion of Director Winn and seconded by Director Eby, the Board unanimously directed staff to revisit this item in February 2013 and review the Will-Serve policy with District Legal Counsel, for possible limitations on previous issued Will-Serve letters. Vote 5-0.

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

I. CLOSED SESSION ANNOUNCEMENTS

1. CONFERENCE WITH DISTRICT LEGAL COUNSEL RE: PENDING LITIGATION PURSUANT TO GC §54956.9 SMWCD 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 GENERAL MANAGER PURSUANT TO GOVERNMENT CODE SECTION 54957

Nipomo Community Services District
REGULAR MEETING
MINUTES

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

The following member of the public spoke:

Greg Nester, NCSD customer, requested an application for the citizen's sub-committee to evaluate Supplemental Water alternatives.

K. ADJOURN TO CLOSED SESSION

President Harrison adjourned to closed session at 11:55 a.m.

02:39:56

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

The Board came back into Open Session at 1:30 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 discussed Item 4 listed above for closed session and will continue this item at the next Regular Board meeting.

02:40:58

E-4) AUTHORIZATION FOR THE SUPPLEMENTAL WATER POLICY COMMITTEE TO FORM A CITIZENS SUB-COMMITTEE TO REVIEW SUPPLEMENTAL WATER PROJECT ALTERNATIVES

Michael LeBrun, General Manager, reviewed the report as presented in the Board packet. Jon Seitz, District Legal Counsel, and Mr. LeBrun answered questions from the Board.

There was no public comment.

Upon the motion of Director Harrison and seconded by Director Vierheilig the Board unanimously approved the Bylaws for Supplemental Water Alternatives Evaluation Committee (SWAEC), as amended.
Vote 5-0.

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

03:33:39

E-5) CONSIDER CA SPECIAL DISTRICT ASSOCIATION BOARD OF DIRECTORS BALLOT

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

There was no public comment.

Upon the motion of Director Harrison and seconded by Director Vierheilig, the Board unanimously approved to nominate Steve Esselman for the CSDA Board of Directors, Region Four.
Vote 5-0.

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

The Board took a break from 2:25 to 2:30 p.m.

03:37:06

E-6) CONSIDER POLICY FOR PUBLISHING PUBLIC NOTICES IN NEWSPAPERS

Michael LeBrun, General Manager, reviewed the report as presented in the Board packet. Jon Seitz, District Legal Counsel, and Mr. LeBrun answered questions from the Board.

There was no public comment.

Upon the motion of Director Winn and seconded by Director Gaddis, the Board adopted Resolution No. 2012-1274.
 Vote 4-1.

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

RESOLUTION NO. 2012-1274

A RESOLUTION OF THE BOARD OF DIRECTORS
 OF THE NIPOMO COMMUNITY SERVICES DISTRICT
 DESIGNATING A NEWSPAPER OF GENERAL CIRCULATION
 FOR PUBLICATION OF DISTRICT BUSINESS

03:42:30

F. 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.

G. COMMITTEE REPORT

MINUTES OF JUNE 11, 2012 WATER RESOURCES POLICY COMMITTEE

The report was as presented. There was no public comment.

04:10:40

H. DIRECTOR'S REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

Director Eby

- ◇ Requested staff to request the organizations appointing the Nominate Committee to identify their selections.
- ◇ Requested staff make contact with the potential Chair.
- ◇ Confirmed who was attending the NMMA TG meeting on June 29, 2012.

Director Winn

- ◇ Questioned when the next County CSDA chapter meeting is.
- ◇ Questioned if Deputy District Legal Counsel will attend the next County CSDA chapter meeting.
- ◇ Requested staff to revisit the in-lieu fee for County Ordinance §3090.
- ◇ Requested staff to schedule a Water Conservation Committee meeting before July 5, 2012.
- ◇ Requested a list of NCS D's outside users.

Nipomo Community Services District
REGULAR MEETING
MINUTES

Item H (Continued)

- ◇ Requested staff to post the County year-to-date precipitation and production data graphs along with District data on the District website.
- ◇ Consider not selling water to outside users (except for those properties with outside user agreements).
- ◇ Requested staff to explore ways to receive and post pumping logs from private well owners on the Mesa.

Director Harrison

- ◇ Discussed the availability of web ethics training for the Board members who needed this training and did not attend the training in Templeton.

ADJOURN

President Harrison adjourned the meeting at 3:15 p.m.

MEETING SUMMARY	HOURS
Regular Meeting	4.45
Closed Session	1.30
TOTAL HOURS	6.15