

# NIPOMO COMMUNITY SERVICES DISTRICT

*Serving the Community Since 1965*

## REGULAR MINUTES

**MARCH 13, 2013, AT 9:00 A.M.**

BOARD ROOM 148 SOUTH WILSON STREET, NIPOMO, CA

### BOARD of DIRECTORS

JAMES HARRISON, PRESIDENT  
LARRY VIERHEILIG, VICE PRESIDENT  
DAN GADDIS, DIRECTOR  
BOB BLAIR, DIRECTOR  
CRAIG ARMSTRONG, DIRECTOR

### PRINCIPAL STAFF

MICHAEL S. LEBRUN, GENERAL MANAGER  
LISA BOGNUDA, FINANCE DIRECTOR  
JON SEITZ, GENERAL COUNSEL  
PETER SEVCIK, DIRECTOR OF ENG. & OPS.  
MERRIE WALLRAVIN, CLERK

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

*Vice President Vierheilig called the Regular Meeting of March 13, 2013, to order at 9:00 a.m. and led the flag salute.*

00:00:51

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

*At Roll Call, Directors Armstrong, Blair, Gaddis, and Vierheilig were present.*

*Michael LeBrun, General Manager, announced that President Harrison had an unexpected injury therefore he's not in attendance.*

*Mr. LeBrun announced that staff would like to pull item E-4.*

*There was no public comment.*

00:02:13

#### C. PRESENTATIONS AND PUBLIC COMMENT

##### C-1) REPORT ON FEBRUARY 27, 2013 REGULAR MEETING CLOSED SESSION

*Mike Seitz, District Deputy Legal Counsel, announced that the Board heard a report from the General Manager for Item One (Conference with District Legal Counsel re: pending litigation pursuant to GC §54956.9 SMVWCD VS. NCSD) in closed session, but took no reportable action.*

*The Board heard an update from Legal Counsel for Item Two (Conference with District Legal Counsel re: pending litigation pursuant to GC §54956.9, Whitlow/NCSD) in closed session, but took no reportable action.*

*The Board heard an update from Legal Counsel for Item Three (Conference with Legal Counsel pursuant to GC §54956.9, Anticipated litigation) in closed session, but took no reportable action.*

*The Board heard an update from Legal Counsel and provided direction for staff for Item 4 (Conference with Legal Counsel re: pending litigation pursuant to GC Section 54956.9; NCSD vs. County SLO, ET AL) in closed session, but there was no reportable action.*

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C-2) DIRECTOR OF ENGINEERING & OPERATIONS  
RE: Summary of recent activities.

*Peter Sevcik, Director of Engineering and Operations, 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.*

*Vice President Vierheilig announced that Sheriff Commander James Taylor was in attendance.*

*Sheriff Commander Taylor reported on two recent burglaries in Nipomo, disbanding of the homeless camp (behind Vons), and announced a Sheriff K-9 BBQ/Silent Auction on April 6, 2013 at The Moose Lodge in Pismo Beach from 3 to 6 p.m. Tickets will be \$25.00 and the proceeds will go to take care of the K-9's. Call Renee Samaniego-Lundy at 550-8464 for tickets or information.*

*The following member of the public spoke:  
Kathy Kubiak, Olde Towne Nipomo Association President, questioned where the homeless will go after the disbanding.*

*Sheriff Commander Taylor answered Ms. Kubiak's question.*

C-3) 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

- ◇ *March 4, Attended the SCAC Town Hall meeting. Due to no opposition there will be no SCAC Election.*
- ◇ *March 24, Dixieland Jazz Band will perform at the Pismo Beach Vets Hall at 1:00 p.m. and 3:45 p.m.*
- ◇ *March 25, SCAC meeting at 6:30 p.m. at NCSD.*

Director Vierheilig

- ◇ *March 6, Attended the Water Resources Advisory Council Meeting.*
- ◇ *March 12, Attended the Supplemental Water Alternatives Evaluation Committee meeting.*
- ◇ *March 26, SWAEC will meet at 1:00 p.m. (tentatively)*

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 Armstrong and seconded by Director Gaddis, the Board unanimously approved to receive and file the presentations and reports as submitted. Vote 4-0.*

YES VOTES	NO VOTES	ABSENT
Directors Armstrong, Gaddis, Blair, and Vierheilig	None	Director Harrison

00:28:30

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00:29:10

D. CONSENT AGENDA

D-1) WARRANTS

D-2) APPROVE FEBRUARY 27, 2013 REGULAR BOARD MEETING MINUTES

D-3) ADOPT RESOLUTION ACCEPTING DEDICATION OF IMPROVEMENTS, MARIA VISTA ESTATES

*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.*

*Upon the motion of Director Armstrong and seconded by Director Blair, the Board unanimously approved the Consent Agenda as submitted.  
Vote 4-0.*

YES VOTES	NO VOTES	ABSENT
Directors Armstrong, Blair, Gaddis, and Vierheilig	None	Director Harrison

RESOLUTION NO. 2013-1296

A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
ACCEPTING DEVELOPER BUILT IMPROVEMENTS FOR  
MARIA VISTA ESTATES DEVELOPEMENT

E. ADMINISTRATIVE ITEMS

00:31:34

E-1) CONDUCT A HEARING TO ADOPT ORDINANCE 2013-118 REVISING DISTRICT WATER CODE ALLOWING FOR GENERAL MANAGER TO GRANT CUSTOMER RELIEF FROM HIGH WATER BILLS UNDER LIMITED CIRCUMSTANCES

*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.*

*Upon the motion of Director Armstrong and seconded by Director Gaddis, the Board unanimously adopted Ordinance 2013-118.  
Vote 4-0.*

YES VOTES	NO VOTES	ABSENT
Directors Armstrong, Gaddis, Blair, and Vierheilig	None	Director Harrison

ORDINANCE NO. 2013-118

A ORDINANCE OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING NIPOMO DISTRICT CODE SECTION 3.03.110  
AND ADDING SECTION 3.03.120 TO ALLOW CONSIDERATION  
OF RELIEF FROM WATER LEAK RELATED HIGH WATER BILLS

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00:35:29

E-2) CONDUCT A HEARING TO ADOPT ORDINANCE 2013-119 SUSPENDING ORDINANCE 2012-117 AND ALLOWING FOR RENEWED PROCESSING OF APPLICATIONS FOR NEW DISTRICT WATER SERVICE

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

The following members of the public spoke:

Kathy Kubiak, Olde Towne Nipomo Association President, spoke in support of allowing the processing of new applications for District water service.

Jim Tefft, Nipomo resident, spoke in support of allowing the processing of new applications for District water service.

Ruth Brackett, NCS D customer, spoke in support of allowing the processing of new applications for District water service.

Upon the motion of Director Armstrong and seconded by Director Blair, the Board unanimously adopted Ordinance 2013-119.

Vote 4-0.

YES VOTES	NO VOTES	ABSENT
Directors Armstrong, Blair, Gaddis, and Vierheilig	None	Director Harrison

ORDINANCE NO. 2013-119

A ORDINANCE OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
SUSPENDING ENFORCEMENT OF ORDINANCE NO. 2012-117

The following member of the public spoke:

Kathy Kubiak, Olde Towne Nipomo Association President, stated that Director Vierheilig came up with the Park Plan years ago and thanked the Board.

00:49:30

E-3) CONSIDER PROPOSAL BY NIPOMO CHAMBER OF COMMERCE FOR SOLID WASTE SERVICES GRANT

Michael LeBrun, General Manager, reviewed the report as presented in the board packet. Rudy Stowell, Nipomo Chamber of Commerce President, and Mr. LeBrun answered questions from the board.

The following member of the public spoke:

Ruth Brackett, NCS D customer, spoke in support of Nipomo Chamber of Commerce grant request and commented on public information on trash removal.

Kathy Kubiak, Olde Towne Nipomo Association President, spoke in support of Nipomo Chamber of Commerce grant request.

Upon the motion of Director Armstrong and seconded by Director Gaddis, the Board unanimously directed staff to execute a grant agreement with Nipomo Chamber of Commerce for a not to exceed amount of \$4,010.

Vote 4-0.

YES VOTES	NO VOTES	ABSENT
Directors Armstrong, Gaddis, Blair, and Vierheilig	None	Director Harrison

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E-4) CONSIDER FORMATION OF A SOLIDWASTE COMMITTEE

*Vice President Vierheilig announced that this item will be pulled.*

*Mike Seitz, District Deputy Legal Counsel, announced that the Board will need to take public comment then make a motion to continue this item to the March 27, 2013, Regular Board meeting.*

*There was no public comment.*

*Upon the motion of Director Gaddis and seconded by Director Blair, the Board unanimously approved continuing this item at the March 27, 2013, Regular Board meeting.*

*Vote 4-0.*

YES VOTES	NO VOTES	ABSENT
<i>Directors Gaddis, Blair, Armstrong, and Vierheilig</i>	<i>None</i>	<i>Director Harrison</i>

**The Board took a break from 10:05 to 10:15 a.m.**

01:05:14

E-5) CONSIDER SAN LUIS OBISPO COUNTY LOCAL AREA FORMATION COMMISSION REQUEST FOR NOMINATIONS

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

*There was no public comment.*

*The Board took no action.*

01:10:08

E-6) CONSIDER CALIFORNIA SPECIAL DISTRICT ASSOCIATION REQUEST FOR NOMINATIONS

*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.*

*Upon the motion of Director Armstrong and seconded by Director Gaddis, the Board unanimously nominated Bob Blair for the California Special District Association Board of Directors Seat B and directed staff to file the paper work.*

YES VOTES	NO VOTES	ABSENT
<i>Directors Armstrong, Gaddis, Blair, and Vierheilig</i>	<i>None</i>	<i>Director Harrison</i>

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01:14:23

E-7) CONSIDER SPECIAL DISTRICT RISK MANAGEMENT AUTHORITY REQUEST FOR NOMINATIONS

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

*There was no public comment.*

*The Board took no action.*

01:18:02

E-8) CONSIDER FISCAL YEAR 2013-14 EMPLOYEE COST OF LIVING ADJUSTMENT

*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.*

*Upon the motion of Director Armstrong and seconded by Director Vierheilg, the Board unanimously approved a 2.48% cost of living adjustment for 2013-2014 Fiscal Year. Vote 4-0.*

YES VOTES	NO VOTES	ABSENT
Directors Armstrong, Vierheilg, Blair, and Gaddis	None	Director Harrison

01:33:16

F. GENERAL 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.*

02:01:37

G. COMMITTEE REPORT

*The committee reports were as presented. There was no public comment.*

H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

Director Blair

- ◇ *Address customer concerns regarding connection to the sewer.*

02:09:09

I. 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, WHITLOW/NCSD (CASE # E20112E1116-00-APS FILED WITH THE DEPARTMENT OF FAIR HOUSING AND EMPLOYMENT)



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- 3. CONFERENCE WITH LEGAL COUNSEL PURSUANT TO GOVT. CODE §54956.9(b):  
Anticipated litigation - 1 case
- 4. CONFERENCE WITH LEGAL COUNSEL RE: PENDING LITIGATION PURSUANT TO GC SECTION 54956.9; NCSD VS. COUNTY SLO, ET AL. (CASE #CV090010)

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

*There was no public comment.*

K. ADJOURN TO CLOSED SESSION

*Vice President Vierheilig adjourned to closed session at 11:25 a.m.*

L. OPEN SESSION

ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

*The Board came back into Open Session at 11:45 a.m.*

*Mike Seitz, District Deputy Legal Counsel, announced that the Board heard an update from Legal Counsel and the General Manager for item one, listed above for closed session but took no reportable action.*

*The Board discussed Items two, three, and four listed above for closed session, but took no reportable action.*

ADJOURN

*Vice President Vierheilig adjourned the meeting at 11:46 a.m.*

MEETING SUMMARY	HOURS
Regular Meeting	2.25
Closed Session	.20
TOTAL HOURS	2.45