

# NIPOMO COMMUNITY SERVICES DISTRICT

*Serving the Community Since 1965*

## REGULAR MINUTES

**MAY 22, 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 BOGNUA, **FINANCE DIRECTOR**  
MIKE SEITZ, **GENERAL COUNSEL**  
PETER SEVCIK, **DIRECTOR OF ENG. & OPS.**  
MERRIE WALLRAVIN, **BOARD 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

*President Harrison called the Regular Meeting of May 22, 2013, to order at 9:00 a.m. and led the flag salute.*

00:00:42

#### B. ROLL CALL

*At roll call, all Board members were present.*

*Director Blair announced a moment of silence in memory of Howard Mankins for his work in the San Luis Obispo County Community.*

*Michael LeBrun, General Manager, announced added items for Item E-1 were distributed to Directors and placed at the back of the room.*

#### C. PRESENTATIONS AND PUBLIC COMMENT

##### C-1) DIRECTOR OF ENGINEERING AND OPERATIONS Receive Update Report regarding 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.*

##### 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

- ◇ *Commented on attending the CSDA Legislative Days in Sacramento.*

##### Director Vierheilig

- ◇ *June 5, Water Resources Advisory Council meeting at the SLO Library at 1:30 p.m.*
- ◇ *Commented on missing the June 12, Regular Board Meeting.*

##### Director Blair

- ◇ *Commented on attending the CSDA Legislative Days in Sacramento.*
- ◇ *Commented on attending the San Luis Obispo County Board of Supervisors Meeting on May 21.*

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ITEM C-2 (Continued)

Director Harrison

- ◇ *May 17, Attended the CSDA Chapter Meeting.*
- ◇ *Commented on attending the CSDA Legislative Days in Sacramento.*

00:17:27

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 Vierheilig and seconded by Director Blair, the Board unanimously approved to receive and file the presentations and reports as submitted. Vote 5-0.*

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

00:26:40

D. CONSENT AGENDA

D-1) WARRANTS

D-2) APPROVE MAY 8, 2013 REGULAR BOARD MEETING MINUTES

D-3) APPROVE MAY 10, 2013 SPECIAL BOARD MEETING MINUTES

D-4) APPROVE VARIANCE TO DISTRICT REQUIREMENT FOR 627 STORY STREET, APN 092-153-021, TO CONNECT DISTRICT SEWER

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

*President Harrison pulled Item D-3 to consider separately.*

*There was no public comment.*

*Upon the motion of Director Armstrong and seconded by Director Gaddis, the Board unanimously approved Items D-1, D-2, and D-4. Vote 5-0.*

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

**RESOLUTION NO. 2013-1306**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
 OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
 GRANTING A VARIANCE FOR CONNECTION OF 627 STORY  
 ROAD (APN 092-153-021) TO DISTRICT'S SEWER SYSTEM  
 LOCATED WITHIN THE REGIONAL WATER QUALITY CONTROL  
 BOARD'S PROHIBITION ZONE**

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**ITEM D-3**

*There was no public comment.*

*Upon the motion of Director Gaddis and seconded by Director Vierheilig, the Board unanimously approved Item D-3.*

*Vote 4-0. (Director Blair was not qualified to vote.)*

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

**E. ADMINISTRATIVE ITEMS**

E-1) AUTHORIZATION OF THE NIPOMO COMMUNITY SERVICES DISTRICT WATER REVENUE REFUNDING BONDS, SERIES 2013A:

- AUTHORIZE SALE OF UP TO \$3,700,000 IN WATER REVENUE REFUNDING BONDS AND APPROVE THE FOLLOWING SALE DOCUMENTS:
  - AN INDENTURE OF TRUST
  - AN ESCROW DEPOSIT AND TRUST AGREEMENT
  - A CONTINUING DISCLOSURE AGREEMENT
  - A PRELIMINARY OFFICIAL STATEMENT
  - A BOND PURCHASE AGREEMENT

*Michael LeBrun, General Manager introduced the item. Maryann Goodkind Esq., Fulbright & Jaworski, reviewed the report as presented in the Board packet. Lisa Bognuda, Finance Director, Michael LeBrun, General Manager, Paul McDonald, C.M. de Crinis & Co., Inc., and Ms. Goodkind answered questions from the Board.*

*The following member of the public spoke:*

*Bill Petrick, NCS D customer, had concerns about the amount of bonds that would be paid off and questioned the quantity.*

*Ms. Bognuda and Mr. McDonald, answered questions from the Board.*

*Upon the motion of Director Armstrong and seconded by Director Gaddis, the Board unanimously adopted Resolution 2013-1307 approving:*

- AN INDENTURE OF TRUST
- AN ESCROW DEPOSIT AND TRUST AGREEMENT
- A CONTINUING DISCLOSURE AGREEMENT
- A PRELIMINARY OFFICIAL STATEMENT
- A BOND PURCHASE AGREEMENT

*Vote 5-0.*

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

**RESOLUTION NO. 2013-1307**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT AUTHORIZING THE ISSUANCE AND SALE OF NOT TO EXCEED \$3,700,000 WATER REVENUE REFUNDING BONDS, SERIES 2013A AND APPROVING AN INDENTURE, AN ESCROW AGREEMENT, A CONTINUING DISCLOSURE AGREEMENT, A BOND PURCHASE AGREEMENT AND PRELIMINARY OFFICIAL STATEMENT IN CONNECTION THEREWITH AND AUTHORIZING THE TAKING OF CERTAIN ACTIONS IN CONNECTION THEREWITH**

00:32:18

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ADJOURN TO PUBLIC FACILITIES CORPORATION

ITEM B

A) ROLL CALL

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

B) APPROVAL OF DOCUMENTS IN CONNECTION WITH THE ISSUANCE BY NIPOMO COMMUNITY SERVICES DISTRICT OF WATER REVENUE REFUNDING BONDS, SERIES 2013A

ADOPT A RESOLUTION APPROVING

- AN ESCROW DEPOSIT AND TRUST AGREEMENT

*Maryann Goodkind Esq., Fulbright & Jaworski, reviewed the process and answered questions from the Board.*

*There was no public comment.*

*Upon the motion of Director Armstrong and seconded by Director Blair, the Board unanimously adopted the Resolution 2013-06. A Resolution approving an escrow agreement in connection with the issuance by the Nipomo Community Services District of its not to exceed \$3,700,000 Nipomo Community Services District water revenue refunding bonds, series 2013A.*

*Vote 5-0.*

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

RESOLUTION NO. 2013-06

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT PUBLIC FACILITIES CORPORATION APPROVING AN ESCROW AGREEMENT IN CONNECTION WITH THE ISSUANCE BY THE NIPOMO COMMUNITY SERVICES DISTRICT OF ITS NOT TO EXCEED \$3,700,000 NIPOMO COMMUNITY SERVICES DISTRICT WATER REVENUE REFUNDING BONDS, SERIES 2013A**

ADJOURN TO NCSD REGULAR MEETING

The Board took a break from 10:13 to 10:23 a.m.

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01:10:10

- E-2) AUTHORIZE CONTRACT FOR VIA CONCHA WELL REPAIR TO FISHER PUMP AND WELL SERVICE INC. IN THE AMOUNT OF \$72,428

*Peter Sevcik, Director of Engineering and Operations, reviewed the report as presented in the Board packet. Mr. Sevcik 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 Resolution 2013-1308, A Resolution authorizing a contract for Via Concha Well repair with Fisher Pump and Well Service Inc. Vote 5-0.*

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

RESOLUTION NO. 2013-1308

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT AUTHORIZING A CONTRACT FOR VIA CONCHA WELL REPAIR WITH FISHER PUMP AND WELL SERVICE INC.

01:22:50

- E-3) CONSIDER APPROVAL OF SCOPE AMENDMENT #8 WITH AECOM FOR ENGINEERING SERVICES IN THE AMOUNT OF \$105,918 FOR CONSTRUCTION PHASE DESIGN SERVICES FOR SOUTHLAND WASTEWATER FACILITY PHASE 1 IMPROVEMENT PROJECT

*Peter Sevcik, Director of Engineering and Operations, reviewed the report as presented in the Board packet. Mr. Sevcik answered questions from the Board.*

*There was no public comment.*

*Upon the motion of Director Armstrong and seconded by Director Vierheilig, the Board approved Resolution 2013-1309, A Resolution authorizing task order with AECOM for scope amendment #8 for engineering services for Southland Wastewater Treatment Facility Phase I Improvement Project in the amount of \$105,918. Vote 3-2.*

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

RESOLUTION NO. 2013-1309

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT AUTHORIZING TASK ORDER WITH AECOM FOR SCOPE AMENDMENT #8 FOR ENGINEERING SERVICES FOR SOUTHLAND WASTEWATER TREATMENT FACILITY PHASE I IMPROVEMENT PROJECT IN THE AMOUNT OF \$105,918.

01:38:33

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.*

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01:48:24

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 PURSUANT TO GOVT. CODE §54956.9(a):  
Existing litigation - 1 case: Mesa Community Alliance Vs. District, Case No. CV 130222
- 3. ANNUAL PERFORMANCE REVIEW OF DISTRICT LEGAL COUNSEL PURSUANT TO GOVERNMENT CODE SECTION 54957

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

*There was no public comment.*

K. ADJOURN TO CLOSED SESSION

*President Harrison adjourned to closed session at 11:00 a.m.*

L. OPEN SESSION

ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

*The Board came back into Open Session at 12:15 p.m.*

*Mike Seitz, District Legal Counsel, announced that the Board discussed Items One and Two listed above under closed session announcements, but took no reportable action.*

*Michael LeBrun, General Manager, announced that the Board completed Item Three listed above under closed session announcements, and announced "The District has high expectations for its General Counsel and the Board finds, unanimously, that Shipsey & Seitz and Mike Seitz exceed those expectations."*

G. COMMITTEE REPORT

*There were no committee reports.*

H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

Director Blair

- ◇ *Questioned staff about District development procedure.*

ADJOURN

*President Harrison adjourned the meeting at 12:35 p.m.*

MEETING SUMMARY	HOURS & MINUTES
Regular Meeting	2 hours 20 minutes
Closed Session	1 hour 15 minutes
TOTAL HOURS	3 hours 35 minutes