

# NIPOMO COMMUNITY SERVICES DISTRICT

*Serving the Community Since 1965*

## REGULAR MINUTES

**MAY 28, 2014 AT 9:00 A.M.**

BOARD ROOM 148 SOUTH WILSON STREET, NIPOMO, CA

### BOARD of DIRECTORS

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

### PRINCIPAL STAFF

MICHAEL S. LEBRUN, **GENERAL MANAGER**  
LISA BOGNUDA, **FINANCE DIRECTOR**  
MICHAEL W. SEITZ, **GENERAL COUNSEL**  
PETER SEVCIK, **DIRECTOR OF ENG. & OPS.**

Mission Statement: To provide its customers with reliable, quality, and cost-effective services now and in the future.
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**00:00** A. CALL TO ORDER AND FLAG SALUTE

*President Armstrong called the Regular Meeting of May 28, 2014 to order at 9:00 a.m. and led the flag salute.*

**00:02** B. ROLL CALL AND PUBLIC COMMENT FOR ITEMS NOT ON AGENDA

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

*There was no public comment.*

**02:22** *The Board considered Item D next.*

D. CONSENT AGENDA

*President Armstrong asked if any Director desired to pull items from the Consent Agenda or had any questions. Director Harrison requested that Item D-4 and D-6 be pulled for discussion.*

D-4) ADOPT RESOLUTION APPROVING A 1.87% DECREASE IN DISTRICT SOLID WASTE FRANCHISE FEE

*Director Harrison stated he preferred a buy-down versus a reduction in the franchise fee. Michael Seitz, District Legal Counsel, stated it could be done either way, but the end result was the same.*

*There was no public comment.*

*Upon the motion of Director Vierheilig and seconded by Director Gaddis, the Board voted to approve Item D-4. Vote 3-1.*

YES VOTES	NO VOTES	ABSENT
<i>Directors Vierheilig, Gaddis, and Armstrong</i>	<i>Director Harrison</i>	<i>Director Blair</i>

**RESOLUTION 2014-1343**  
**A RESOLUTION OF THE BOARD OF DIRECTORS OF**  
**THE NIPOMO COMMUNITY SERVICES DISTRICT**  
**REDUCING THE FRANCHISE FEE FROM SOUTH**  
**COUNTY SANITARY FROM 10% TO 8.13%**

**Nipomo Community Services District  
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**D. CONSENT AGENDA (Continued)**

D-6) ADOPT RESOLUTION APPROVING UPDATED EMPLOYEE HANDBOOK

*Director Harrison asked for clarification on sections of the Employee Handbook.*

*There was no public comment.*

*Upon the motion of Director Vierheilig and seconded by Director Gaddis, the Board voted to approve Item D-6. Vote 3-1.*

YES VOTES	NO VOTES	ABSENT
Directors Vierheilig, Gaddis, and Armstrong	Director Harrison	Director Blair

**RESOLUTION 2014-1344  
A RESOLUTION OF THE BOARD OF DIRECTORS OF  
THE NIPOMO COMMUNITY SERVICES DISTRICT  
APPROVING EMPLOYEE HANDBOOK**

- D-1) WARRANTS
- D-2) APPROVE MAY 14, 2014 REGULAR BOARD MEETING MINUTES
- D-3) APPROVE BUDGET AMENDMENT FOR CONSTRUCTION MANAGEMENT SERVICES WITH CANNON RELATED TO BLACKLAKE WELL #4 REPLACEMENT PROJECT
- D-5) ADOPT RESOLUTION RECOGNIZING JON S. SEITZ POSTHUMOUSLY FOR EXEMPLARY SERVICE TO THE DISTRICT

*The Board discussed Item D-3. Michael LeBrun, General Manager, and Peter Sevcik, Director of Engineering and Operations, answered questions from the Board. Director Vierheilig noted corrections to Item D-5 Resolution.*

*The following member of the public spoke:*

Mark Westfall, NCSD Customer, stated Blacklake Well #4 project does not look complete.

*Peter Sevcik, Director of Engineering and Operations, stated Blacklake Well #4 Replacement Project is complete. The current construction work at the well site is for a new project related to the Supplemental Water Project.*

*Upon the motion of Director Harrison and seconded by Director Gaddis, the Board unanimously approved Items D-1, D-2, D-3, and D-5, with corrections. Vote 4-0.*

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

**RESOLUTION 2014-1345  
A RESOLUTION EXPRESSING APPRECIATION AND  
GRATITUDE TO JON S. SEITZ FOR HIS CONTRIBUTIONS  
TO NIPOMO COMMUNITY SERVICES DISTRICT AND  
DEDICATING THE DISTRICT BOARD ROOM IN HIS HONOR**

**SUBJECT TO APPROVAL**

**38:33** C. PRESENTATIONS AND REPORTS

C-1) DIRECTOR OF ENGINEERING AND OPERATIONS  
Report on recent activities.

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

*There was no public comment.*

**53:28** C-2) REPORT ON MAY 14, 2014 REGULAR MEETING CLOSED SESSION  
Announcement of actions, if any, taken in Closed Session

*Michael Seitz, District Legal Counsel, announced that the Board discussed Item 1(a) (Conference with District Legal Counsel re: pending litigation pursuant to GC §54956.9 SMVWCD VS NCSD) in closed session, but took no reportable action.*

*Mr. Seitz reported that the Board did not discuss Item 1(b) (NCSD v. Troesh, et al.) or Item 1(c) in closed session.*

*Mr. Seitz reported that the Board discussed Item 2 (Conference with Legal Counsel pursuant to Govt. Code §54956.95), in closed session, and unanimously agreed to pay \$148,000 to resolve Specialty Construction, Inc. claim.*

*Mr. Seitz reported that the Board discussed Item 3 (Annual Performance Review of District Legal Counsel) pursuant to Govt. Code §54957, in closed session, but took no reportable action.*

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

- ◇ *Attended Special District Association Legislative Days May 19-21 and met with various legislators and attended workshops*
- ◇ *Attended the SCAC Meeting on May 27*

Director Harrison

- ◇ *Attended Special District Association Legislative Days May 19-21 and met with various legislators and attended workshops*
- ◇ *Attended the Fire Safe Council meeting on May 22*
- ◇ *Attended Voter Precinct Worker Training on May 27*

Director Vierheilig

- ◇ *Attended the NMMA meeting on May 19*

SUBJECT TO APPROVAL

**C. PRESENTATIONS AND REPORTS (continued)**

- C-4) RECEIVE PUBLIC COMMENT ON PRESENTATIONS AND REPORTS PRESENTED UNDER ITEM C AND BY MOTION RECEIVE AND FILE PRESENTATIONS AND REPORTS

*The following member of the public spoke:*

*Mark Westfall, NCSD Customer, stated Blacklake residents are waiting for the results of Spring well readings and asked when they will be released.*

*Upon the motion of Director Vierheilig and seconded by Director Harrison, the Board unanimously voted to receive and file the presentations and reports as submitted. Vote 4-0.*

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

**E. ADMINISTRATIVE ITEMS**

1:05:36

- E-1) REVIEW DRAFT FISCAL YEAR 2014-2015 BUDGET

*Michael LeBrun, General Manager, and Lisa Bognuda, Finance Director, reviewed the draft Fiscal Year 2014-2105 Budget and answered questions from the Board.*

*There was no public comment.*

*Upon the motion of Director Gaddis and seconded by Director Harrison, the Board unanimously voted to set the Public Hearing for the adoption of the Fiscal 2014-2015 Budget on June 11, 2014. Vote 4-0.*

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

*The Board took a break from 10:18 a.m. to 10:30 a.m.*

1:17:48

- E-2) CONSIDER OFFER OF WATER AND SEWER IMPROVEMENTS FOR 697 WEST TEFPT, APN 092-577-008

*Michael LeBrun, General Manager, and Peter Sevcik, Director of Engineering and Operations, answered questions from the Board. A draft Resolution was presented to the Board for review and consideration.*

*The following member of the public spoke:*

*Bill Kengel, NCSD Customer, stated the improvements were installed 4.5 years ago and could not be accepted because the title is clouded.*

SUBJECT TO APPROVAL

**E. ADMINISTRATIVE ITEMS (Continued)**

ITEM E-2 (CONTINUED)

*Upon the motion of Director Harrison and seconded by Director Vierheilig, the Board unanimously adopted the Resolution, as presented, conditionally accepting the water and sewer improvements and directed Staff to ensure that all conditions are met and report back to the Board. Vote 4-0.*

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

**RESOLUTION 2014-1346**  
**A RESOLUTION OF THE BOARD OF DIRECTORS**  
**OF THE NIPOMO COMMUNITY SERVICES DISTRICT**  
**ACCEPTING WATER AND SEWER IMPROVEMENTS FOR**  
**697 WEST TEFFT STREET, APN 092-577-008**

1:29:52

E-3) CONSIDER OFFER OF WATER AND SEWER IMPROVEMENTS FOR COUNTY PARCEL MAP 06-0225

*Michael LeBrun, General Manager, stated a draft resolution would not be presented to the Board because additional capacity charges are due prior to acceptance. Peter Sevcik, Director of Engineering and Operations, and Mr. LeBrun answered questions from the Board.*

*The following member of the public spoke:*

*Bill Kenigel, developer, requested the Board transfer funds from his capacity charge deposit to pay the additional capacity charges due or defer the payment of the additional fees.*

*Upon the motion of President Harrison and seconded by Director Armstrong, the Board directed Staff to research options for payment and come back on June 11. In addition, the Board directed Staff to report back on the status of Item E-2. Vote 4-0.*

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

1:40:39

The Board considered item I - L next.

**I. CLOSED SESSION ANNOUNCEMENTS**

**1. CONFERENCE WITH DISTRICT LEGAL COUNSEL RE: PENDING LITIGATION PURSUANT TO GC §54956.9**

- a) SMVWCD VS. NCSD (SANTA CLARA COUNTY CASE NO. CV 770214, SIXTH APPELLATE COURT CASE NO. H032750 AND ALL CONSOLIDATED CASES).
- b) NCSD v Troesh, et al. SLOCSC# CV130175

**SUBJECT TO APPROVAL**

c) Bening v NCSD SLOCSC #14CV-0069

**I. CLOSED SESSION ANNOUNCEMENTS (Continued)**

- 2. CONFERENCE WITH LEGAL COUNSEL: LIABILITY CLAIM PURSUANT TO SECTION 54956.95:  
Claimant: Specialty Construction  
Agency: NCSD
- 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.*

01:50

**K. ADJOURN TO CLOSED SESSION**

*President Armstrong adjourned to closed session at 11:02 a.m.*

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

*The Board came back into Open Session at 11:36 a.m.*

*Michael Seitz, District Legal Counsel, announced that the Board discussed Items 1(a), 1(b), and 2 listed above under closed session announcements, but took no reportable action. Item 1 (c) was not discussed.*

*Michael LeBrun, General Manager, reported the Board discussed Item 3 and unanimously expressed confidence in Mr. Seitz, commended his performance, and look forward to years of his continued service to the District.*

*There was no public comment.*

**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. The Board thanked Mr. LeBrun for his report.*

**G. COMMITTEE REPORTS**

*None to report.*

*President Armstrong left the meeting at 11:45 a.m.*

**SUBJECT TO APPROVAL**

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H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

*None.*

*There was no public comment.*

ADJOURN

*Vice President Harrison adjourned the meeting at 11:52 a.m.*

MEETING SUMMARY	HOURS & MINUTES
Regular Meeting	2 hours 02 minutes
Closed Session	16 minutes
TOTAL HOURS	2 hours 18 minutes