

NEWBERRY COMMUNITY SERVICES DISTRICT

Established 1958

REGULAR BOARD MEETING MINUTES

April 25, 2023

Call the meeting to order at 6:11 p.m. after invocation by President Unger

Pledge of Allegiance: Director Roberts

Roll Call

Present:

President Unger
Vice President Deel
Director Matson
Director Roberts

Absent:

Director Springer

Also Present: General Manager Howard, District Secretary Paulsen, Treasurer Beaty, Fire Chief Lanier, members of the public.

1. Approval of Agenda

Motion: Director Roberts

Second: Director Matson

Vote: Unanimous Aye

2. Public Comments

a. Public Comments

Several members of the public requested that some items toward the end of agenda be moved to the front so the public doesn't have to sit through housekeeping chores. Director Unger: No objection by the Board.

V. Shaw: Asked the audience to get a haircut from Tamera VanGinkle.

C. Jones: Read document about the separation of powers of Board and General Manager. He also commented on the ballfield completion. (A full copy is at the end of Minutes.)

b. Community Reports

(1) County Supervisor – not present.

(2) Sheriff Capt. Markegard gave a verbal report. Some systems had been compromised so a written report was not available. The Sheriffs are still taking down illegal cannabis grows; there will be more now that the weather is warmer.

(3) CHP officer Adam Carmichael reported on behalf of Capt. Meeker. The CHP covers the freeways, mostly and noted that the good public is frustrated with bad drivers.

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3. Approval of Minutes

A. Minutes of 3-28-23

Move to Approve: Director Roberts.

Second: Director Deel.

Vote: Aye, unanimous.

B. Minutes of 3-30-23

Correction: Roll Call, Director Roberts present; Director Springer absent.

Move to Approve as Corrected: Director Deel

Second: Director Roberts

Vote: Aye, unanimous.

C. Minutes 4-10-23

Correction: "Unger" misspelled.

Move to Approve as Corrected: Director Roberts

Second: Director Matson

Vote: Aye, unanimous.

3. Reports

A. General Manager.

Upgraded the way the public can pay for things in the office by using credit cards.

Rose Love Electric now has a work schedule for the Fire Department.

Got 85% of the grant money to pay for the exercise equipment. After we put up a sign thanking the State, the rest will come.

The Budget meeting started that process; amounts need to be locked in at another meeting.

The GM is working with the auditor and treasurer; they are starting on the 2021-22 audit.

C. Jones helped with RFP and met with two directors and GM about the scoreboard. Terms need to be worked out so that isn't on tonight's agenda.

Discussion followed. The scoreboard is housed in Director Matson's container and he wants it removed. It is operated by Bluetooth controller. The GM will contact contractors for installing scoreboard and set a meeting date.

B. Fire Department: Report is in Supporting Documents

C. Financial Reports.

The Treasurer reported that the Budget column in the Budget v. Actual Report was missing because of printer glitches. It will be added onto the Supporting Documents on the website.

D. Air Quality Monitor. All monitors are 100%.

4. Agenda Items- Discussion/Possible Action

A. Status of Required Directors' Ethics Training as Required by California Law AB-1234.

Directors Deel, Roberts, Matson have completed it; Director Unger is 30% done.

B. Status of Required Directors' Sexual Harassment Training as Required by California Laws AB-1825 and AB-1661.

Director Matson completed it.

C. Support the Transformative Climate Communities Program for the Newberry CSD Building and Park for Planning or Project Development Funds.

R. Beardshear recommended the CSD and Community apply for a planning grant to look at the facilities. A Standing Committee of two directors from the CSD could work with representatives from the school district, NSEDA, the Family Center, etc. to further investigate what could be done and to begin work on the grant.

Move: Director Matson moved to form a Newberry CSD Standing Committee to support the Transformative Climate Communities Program grant.

Second: Director Roberts.

Vote: Aye, unanimous.

THERE WAS A SHORT BREAK AT 7:51. THE MEETING RESUMED AT 8:01.

Comment: R. Shaw: Directors forbidden to be involved in day to day CSD operation. Putting these items before the public can comment on them is rude.

D. Revision of Policy 2115 – Volunteer Personnel – Workers Compensation Insurance.

After an intense discussion, Director Unger said that an attorney's opinion was warranted before action is taken unless the item was tabled to another meeting.

When the discussion continued, Director Unger adjourned the meeting because of unruly behavior by meeting participants.

MEETING ADJOURNED AT 8:21 P.M



District Secretary

Board President

Newberry CSD Public Comment

By Casey Jones

Date: 4/25/2023

Greeting Directors,

I come before you today in a respectful and constructive manner. I am here to speak to you about the powers invested to the "Board" by the State of California and then I'd like to bring thoughts about the baseball field to the attention of the board.

Powers of a CSD Board

This BOD is constantly seeking powers not afforded to boards by law. I'd like to bring to the attention of the BOD Section 61000 of the California Government Code.

1. *Section 61002(b) - "Board of directors" means the board of directors of a district that establishes policies for the operation of the district.*
Comment: This law empowers the BOD to make "policies". Board members are not empowered to execute policy that the BOD approves.
2. *Section 61002(f) - "General manager" means the highest-level management appointee who is directly responsible to the board of directors for the implementation of the policies established by the board of directors.*
Comment: The "General manager" (GM) has the authority to execute the policies established by the BOD. By law, BOD is not empowered to implement their policy.
3. *Section 61002(i) - "President" or "chair" means the presiding officer of the board of directors.*
Comment: The CSD "President" is not the "Commander in Chief" of the district like the President of the United States is. The CSD's President is not an Executive, he is a policy maker. He cannot make any decisions on his own.
4. *Section 61040 (a)- Except as provided in Section 61040.1, a legislative body of five members known as the board of directors shall govern each district. The board of directors shall establish policies for the operation of the district. The board of directors shall provide for the implementation of those policies which is the responsibility of the district's general manager.*
Comment: Once again, the law empowers the GM to run the district within the legal policies of the BOD. The BOD members have no authority to execute policy.
5. *Section 61045 (a) - A majority of the total membership of the board of directors shall constitute a quorum for the transaction of business.*
(b) The board of directors shall act only by ordinance, resolution, or motion.
(c) Except as otherwise specifically provided by law, a majority vote of the total membership of the board of directors is required for the board of directors to take action.
(g) The board of directors shall adopt policies for the operation of the district, including, but not limited to, administrative policies, fiscal policies, personnel policies, and the purchasing policies required by this division.

Comment: This section outlines the powers and authority of the BOD. It does not give the BOD powers to hire, supervise, or terminate an employee or volunteer. The BOD is authorized by law to hire, supervise, and terminate a GM, that is it. Any policy contrary is illegal.

This section does not provide for a BOD member to manage any aspects of the district nor to execute a policy.

6. *Section 61050 (a) - The board of directors shall appoint a general manager.*

Comment: A GM is required by law to operate the district.

7. *Section 61051 - The general manager shall be responsible for all of the following:*

(a) The implementation of the policies established by the board of directors for the operation of the district.

(b) The appointment, supervision, discipline, and dismissal of the district's employees, consistent with the employee relations system established by the board of directors.

(c) The supervision of the district's facilities and services.

(d) The supervision of the district's finances.

Comment: By law, the GM appoints, supervises, disciplines, and dismisses an employee, not the BOD or an individual director. The GM also supervises the district's facilities and services, not the BOD or a director.

This board needs to understand their limited roles and stay within the powers authorized by law. I cannot find anywhere in law that the BOD can hire or fire anyone other than the GM. There is current policy and proposed policy that allows the BOD to hire and fire.

I cannot find where a BOD president or BOD member can act on his own and enforce or execute policy. The BOD and its members are not managers and members of this board need to stop adding policies that allow the BOD to directly manage the district. All existing policies need to be reviewed and modified to comply with the authority of the BOD provided by law.

Per the Community College League of California when creating policy, less is more, and policy should clearly state intent and the direction of the BOD but not be overly descriptive or detailed. These principles should be followed by this board. In other words, don't micro-manage.

My Thoughts and Concerns About the Baseball Field

As not to blindsides the BOD with my thoughts, questions, and concerns, I sent the following email below to the directors on March 30, 2023. This email has caused "heat" and now the President of the Board has written a policy to effectively stop me from helping the district as a volunteer. I will speak more on that when the agenda item comes up, but I believe my email prompted the retaliation from the President.

My email:

"Greetings Directors,

The ballfield project completion is very cloudy for me and others. I have been trying to figure out a productive way to help the Board think the project through. I'm starting with this email containing my thoughts of what will need to be accomplished. I am sure there is something missing that needs to be done so we all need to work together to develop a project charter and scope.

The point of this email is to foster thoughts about what needs to be done, not to create strife. Please think about what the end looks like. What is wanted and needed to maintain the field and to what level of upkeep? How will the project and maintenance be funded?

Please consider being prepared to discuss this in public as I intend to discuss this email at the next meeting and have it entered into the minutes for the record.

Below contains a list to consider:

Project completion (What are the needs, wants, timelines, and costs), examples:

-Irrigation system? (Electronic controller, wind shutdown, water conservation plan, backflow?)

-Will new soil need to be purchased and spread out?

-What kind of grass and how much seed?

-Has artificial grass instead of real grass been discussed with stakeholders?

-Electrical/lighting?

-Bleachers, are they safe?

-Dugout improvements?

-Batting cage needs?

-ADA compliance? (Gate, dugout, bleachers, walkways?)

Maintenance (Need to understand frequency and cost for each item), examples:

-Annual water requirements? (Most likely the CSD will need to purchase replenishment water or carryover water.)

-Well Pump electric? (Based on the water requirements, the pump will need to run more)

-Mowing and edge maintenance of the grass? (Any special equipment needed? Shroud be mowed 1 to 3 times a week per Little League)

-Weeding and weed control? (To what expectations?)

-Fertilizer?

-Bare spot repair and se-seeding?

-Aeration and soil nourishment?

-Infield maintenance and replenishment?

-Infield watering? (How much water?)

-Pest and vermin control? (Ants, ground rodents, sheep?)

-Electric for lights?

-If artificial grass is used, what labor and equipment is need to maintain it?

-Backflow testing and repair

-Sprinkler repair

Below you can learn about the Little League's recommendations for maintaining a ballfield:

<https://www.littleleague.org/university/articles/maintaining-your-local-fields-7-tips/>

<https://www.littleleague.org/university/articles/checklist-for-getting-your-fields-ready-for-the-season/>

<https://www.littleleague.org/university/articles/dont-let-this-happen-failure-to-make-facility-repairs-leads-to-injury/>

Sports Artificial Grass Maintenance:

<https://arturf.com/maintenance/sports-artificial-grass-maintenance/>

I look forward to helping our where I can.

Respectfully,

Casey Jones"

My question to the board is what needs to be done to complete the baseball field and how much is it going to cost? It appears that the project is on course for an endless scope and un-limited budget.