

CAMBRIA COMMUNITY SERVICES DISTRICT
POLICY COMMITTEE SPECIAL MEETING MINUTES
Thursday, August 29, 2019 3:00 PM

A. CALL TO ORDER

Chairman Howell called the meeting to order at 2:07 p.m.

B. ESTABLISH QUORUM

A quorum was established.

Committee Members present:

Chairman Howell, Vice Chair-Gordon Heinrichs, Ted Key, John

Rohrbaugh Absent: John Nixon

Vacant-1

Staff present: Monique Madrid, Administrative Department Manager

3. CHAIRMAN'S REPORT

Chairman Howell welcomed the community members, and the members of the public and thanked the members for their participation in the committee.

He also advised that he would rely on the Rosenberg Rules of Order to assist with maintaining structure and order at the committee meetings.

1. PUBLIC COMMENT

There was no public comment.

2. CONSENT AGENDA

A. Consideration to Approve May 30, 2019 Regular Meeting Minutes

No public comment

Title: Motion to adopt the minutes

Moved by: John Rohrbaugh

Seconded by: Ted Key

Ayes: Key, Heinrichs, Rohrbaugh

Absent: Nixon

Vacant: 1

Chairman Howell not voting

3. REGULAR BUSINESS

- A. Discussion Regarding Ad Hoc Committee Recommendations for CSDA**
Sample Policy Handbook Sections 1015: Overview of the District Clerk's Role,
1020: Board/Staff Communication and 1025: Claims Against the District

The Chairman introduced the item and turned the item over to sub-committee member Jack Rohrbaugh who presented the sub-committee's report.. See attachment A.

Public Comment:

Leslie Richards

Karen Dean

Jim Bahringer

Title: Motion to accept the sub-committees recommendations regarding policies 1015, 1020 and 1025 Board for consideration.

Moved by: John Rohrbaugh

Seconded by: Ted Key

Friendly amendment: Gordon Heinrichs

Ayes: Key, Rohrbaugh, Heinrichs

Absent: Nixon

Vacant: 1

Chairman Howell not voting

B. Discussion and Appointment of Committee Secretary

Chairman Howell presented the item. He thanked the District Clerk for attending and taking minutes for the committee. He asked that this item come back for consideration in September when committee member Nixon would be back from vacation.

He asked the District Clerk if she would take the minutes at the next meeting until they could appoint a secretary. She agreed.

C. Discussion Regarding Future CSDA Policies for Review and Creating Subcommittees to Review the Policies

Chairman Howell introduced the item. He asked for volunteers to create a sub-committee to review the next set of policies. The next set will include 1030 Ethics, 1035 Conflict of Interest, and 1040 Correspondence to the Board. The committee members who volunteered to be on the sub-committee are:
Ted Key, Jack Rohrbaugh, and Gordon Heinrichs.

Public Comment:

Leslie Richards

3. ADJOURN

Chairman Howell adjourned the meeting at 3:45 p.m.

POLICY 1015 Overview of the District Clerk

Notes: As the Board of Directors has no established position of Secretary, the District Clerk performs many of the duties and responsibilities pursuant to this role. These are listed above as extracted from CSDA Policy 1015 and the CCSD position description for “Administrative Services Officer/District Clerk” (July 1, 2018).

Recommendations: The Committee recommends that the Board consider adopting Policy 1015 with any revisions that might be advised following review by the General Manager and District Clerk.

Policy 1015 Overview of the District Clerk’s Role

1015.1 Duties of the **District Clerk**

District Clerk shall have the following duties:

- a) Certify or attest to actions taken by the Board when required;
- b) Sign the minutes of the Board meeting following their approval;
- c) Sign the documents as directed by the Board;
- d) **Prepare or supervise the preparation and filing of a variety of legal notices and reports as required by law or as requested by the Board.** [Note. Extracted from the position description for “Administrative Services Officer/District Clerk” (July 1, 2018).]
- e) Perform any other duties assigned by the Board and the General Manager; and
- f) Perform any other duties required under law.

1015.2 Responsibilities of the **District Clerk**

The duties of the **District Clerk**, with assistance of the General Manager, are:

- a) Respond to routine correspondence;
- b) Prepare for Board meetings, including preparing the agenda with the advice of the General Manager and providing public notice of Board meetings in accordance with state law;
- c) Attend all Board meetings and ensure minutes of the Board of Directors meetings are recorded;
- d) Ensure accurate minutes of each Board meeting are prepared and maintained;
- e) Maintain Board records and other documents and reports as required by law;
- f) Disseminate correspondence to Board officers addressed to them; **and**
- g) **Prepare and present reports to the Board, including confidential and sensitive issues.** [Note. Extracted from the position description for “Administrative Services Officer/District Clerk” (July 1, 2018).]

POLICY 1020 Board/Staff Communication

Notes: CCSD Board Bylaw 7. only minimally covers the more detailed Policy 1020 in the CSDA manual.

Recommendations: The Committee recommends that the Board consider adopting CSDA Policy 1020. Policy 1020 amplifies, but in no way contradicts, CCSD Board Bylaw 7.

CSDA Policy 1020: Board/Staff Communication

Objectives: Effective governance of the District relies on the cooperative efforts of the agency's elected Board, who set policy and priorities, and the District's staff members, who analyze problems and issues, to make appropriate recommendations, and implement and administer Board policies. It is the responsibility of District staff to ensure Board members have access to information and to ensure such information is communicated completely and with candor to those making the request. However, Board members should avoid intrusion into those areas that are the responsibility of District staff. Individual Board members must avoid intervening in staff decision making, the development of staff recommendations, scheduling of work, and executing department priorities without the prior knowledge and approval of the General Manager and Board as a whole. This is necessary to protect District staff from undue influence and pressure from individual Board members and to allow staff to execute priorities given by management and the Board without fear of reprisal.

Role of the Board: As the legislative body for the agency, the Board is responsible for approving the District's budget, setting policy goals and objectives and adopting strategic plans. The primary functions of the District staff members are to execute Board policy and other Board actions and to keep the Board well informed. Individual members of the Board should not make attempts to pressure or influence staff decisions, recommendations, workloads, schedules, and department priorities, without the prior knowledge and approval of the Board as a whole. If a Board member wishes to influence the actions, decisions, recommendations, workloads, work schedule, and priorities of staff, that member must prevail upon the Board to do so as a matter of Board policy. Board members also have a responsibility of information flow. It is critical that they make extensive use of staff and agency reports and Board meeting minutes. Board members should come to meetings prepared; having read the agenda packet materials and supporting documents, as well as any additional information or memoranda provided on agency projects or evolving issues. Additional information may be requested from staff, if necessary. Individual Board members, as well as the Board as a whole, are permitted complete freedom of access to any information requested of staff and shall receive the full cooperation and candor of staff in being provided with any requested information. The General Manager or Legal Counsel will pass critical information to all Board members. There are limited restrictions when information cannot be provided. Draft documents (e.g. staff reports in progress, etc.) are under review and not available for release until complete and after review by District staff. In addition, there are legal restrictions on the agency's ability to release certain personnel information even to members of the Board. Any concerns Board members may have regarding the release of information or the refusal of staff to release information, should be discussed with Legal Counsel for clarification.

Policies: There shall be mutual respect from both staff and Board members of their respective roles and responsibilities at all times. There is a need for access to staff by Directors and at the same time, unlimited access could result in work priority conflicts for staff.

Purpose: The purpose of the policies listed below is to facilitate Board/staff communications consistent with these principles.

1020.1 All requests for information or questions by the Board to staff outside of a Board or Committee meeting, shall be directed to the General Manager, Legal Counsel, or the Clerk of the Board as appropriate and shall include the desired time and date for receiving the information. Staff will confirm the date they can provide the information. So that all Board members are equally informed, all written informational material requested by any Director shall be submitted by staff to all Board members with the notation indicating which Board member requested the information. If a Board member requests

information from any other member of the staff, staff may either direct the matter to the General Manager or may ask the Board member to contact the General Manager directly.

1020.2 Individual Directors cannot directly assign work to staff members. Board initiated projects will follow organizational channels, through the General Manager, unless there is an emergency. As no formal procedure will answer all cases, the following should be considered as a guide and used with restraint and judgment:

- a) Directors should clear all short-term requests of Staff with the General Manager prior to contacting individual members of the staff and, in most cases, the General Manager should direct and handle the request for the Director.
- b) For long-term, involved studies or where the matter includes confidential material, the General Manager should be contacted and the subject matter discussed with the full Board at a Board meeting prior to staff working on the assignments.
- c) In the event that staff is a participant or representative of a Committee or Work Group of the Board, the Board may contact the staff member directly to request or provide information or confer regarding matters of the Committee or Work Group.

1020.3 At Board meetings and other public meetings, respectful communication is expected. Staff is encouraged to give their professional recommendations, and the Board should recognize that staff may make recommendations that could be viewed as unpopular with the public and with individual Board members. Board members may request clarification and ask questions of staff at public meetings, and Directors are encouraged to participate in healthy discussions amongst each other regarding items under discussion on the Agenda. However, Directors should refrain from debate with staff at Board meetings about staff recommendations or other items being discussed. Staff must recognize that the Board, as the decision maker, is free to reject or modify a staff recommendation and that the Board's wishes will be implemented by staff even if it was contrary to a staff recommendation.

1020.4 Directors shall not attempt to coerce or influence staff, included in the making of recommendations, the awarding of contracts, the selection of consultants, the processing of any projects or applications, or the granting of permits. Directors shall not attempt to change or interfere with the operating policies and practices of any district department through interaction with staff. Individual Directors may discuss these items with the General Manager to get clarification or raise concerns.

1020.5 Board members should not make public comments critical of the performance of a District staff member. Any concerns by a Director over the behavior or work of a district employee during a Board meeting should be directed to the General Manager privately to ensure the concern is resolved. All complaints about employees from Directors should be submitted privately to the General Manager or, if a complaint concerns the General Manager, to Legal Counsel.

1020.6 Staff will respect the right of Directors to refuse to provide information or answers to staff and recognize that Directors may be bound by other rules of law or procedure that do not permit the Director to speak about the subject matter presented. If a Director violates any of the policies regarding communications as stated in this policy, any member of staff has the right to request that the Director speak directly with the General Manager about the subject matter presented without any fear of reprisal.

CCSD Board Bylaw 7: Director Guidelines

7.1 Board Members, by making a request of the General Manager, shall have access to information relative to the operation of the CCSD. If the General Manager cannot provide the requested information in a timely manner the General Manager shall inform the individual Board Member why the information is not or cannot be made available.

7.2. Individual Board Members should not involve themselves in the day-to-day operations of the District. Their principle role is to participate in the process of establishing the District's policies and goals. Individual Board Members should also not involve themselves or interfere in personnel matters. This is especially true if there is any potential that a personnel matter could subsequently be heard by the Board as an appeal of discipline. Therefore, personnel matters and other operational issues that may be of concern to individual Board Members should be addressed through the General Manager. Individual Board Members should also refrain from giving orders or instructions to the General Manager or any subordinates of the General Manager. The General Manager shall take directions and instructions from the Board of Directors, as a body, when it is sitting in a duly convened meeting. When presented with questions of complaints from citizens or staff related to operational

or personnel matters, Board Members should listen to the concerns expressed and either: (1) confer with the General Manager or District Counsel, as appropriate; or (2) refer the individual to the General Manager for resolution of their concerns.

POLICY 1025 Claims Against the District

Notes: CCSD does not have a policy regarding claims against the District, but staff members follow state statutes with regard to the review and response to claims.

Recommendations: The Committee recommends that the Board consider adopting CSDA Policy 1025 with any revisions that might be advised following review by legal counsel. We suggest that having a clearly stated set of procedures for the review and response to claims would be a useful policy to include in the Director Handbook, even if these strictly parallel existing state statutes.

CSDA Policy 1025: Claims against the District

Purpose: The purpose of this policy is to provide direction to District staff for processing and resolving (if possible) account adjustment requests and property damage claims against the District. Inherent in this policy is the recognition that every adjustment request or claim will be unique, and that guidelines cannot be written to accommodate every case. Therefore, staff must use discretion and good sense in handling each claim.

1025.1 Property (Land and Improvements) Damage Claims

In the course of the District's operations – [list several examples of routine district operations or services] – damage to land and improvements thereon occasionally occurs due to the proximity of the District's facilities to private property. When District employees are aware that property has been damaged in the course of their work, restorative measures are to be taken to return the property as close to its original condition as possible.

When a property owner informs a District employee of damage to their property (by telephone or in person), the employee receiving the claim will document in writing the time and date and a description of the stated circumstances and allegations. Employees should respond to questions, be cordial and respectful, but refrain from commenting on liability questions.

As soon as possible after information about the damage has been received, it shall be given to the appropriate division manager [replace position title with appropriate position title for your district]. The division manager, or his/her designee, shall investigate the property owner's allegations.

If the owner of damaged property informs a member of the Board, the information will be given to the General Manager. Directors should not independently investigate claims or make any representations to the property owner, but may go with staff to observe.

Investigations shall be done in a timely fashion and documented with a written report, including photographs and/or interviews, when appropriate. A copy of the report shall be submitted to the General Manager.

If the investigating staff person is convinced that the damage was caused by District personnel, equipment, or infrastructure, he/she shall prepare a work order to have the damage repaired, subject to the following conditions:

- a) General Manager approves the work order;
- b) Property owner agrees that the proposed repairs are appropriate and adequate;
- c) Property owner agrees to allow District personnel access to their property to perform the repair work;
- d) District personnel have the necessary tools, equipment, and expertise to perform the necessary work;

e) Repair work can be accomplished within a reasonable amount of time; and
Cost of material for the repairs will not exceed five hundred dollars (\$500).

If the cost of material for repairs is stated by claimant or estimated by staff to exceed five hundred dollars (\$500), the owner will be asked to submit their claim in writing on a District claim form.

The General Manager shall review the damage claim and the proposed repair work within a reasonable amount of time. If he/she determines that the damage is the District's responsibility and that the proposed repair work is appropriate, he/she may authorize the work if the cost of material for the repairs will not exceed one thousand five hundred dollars (\$1,500). A report shall be submitted to the Claims Committee [standing board committee assigned to review claims of this nature] describing the damage claim, including a description of the manner in which it was resolved. The claimant shall be notified of any action by the Committee regarding their claim.

If the cost of material for repairs is stated by claimant or estimated to exceed one thousand five hundred dollars (\$1,500), the claim will be submitted to the Claims Committee. The Claims Committee shall review the claim and receive input from staff in closed session [qualifies as "anticipated litigation" under the Brown Act]. After reviewing the damage claim, the Committee may authorize the work if the cost of material for the repairs will not exceed three thousand dollars (\$3,000) or may make a recommendation to the Board of Directors. A report shall be submitted to the Board describing the damage claim, including a description of the manner in which it was resolved, or a recommendation for Board action. The claimant shall be notified of any action by the Committee regarding their claim.

If the cost of material for repairs is stated by claimant or estimated to exceed three thousand dollars (\$3,000), the claim will be submitted to the Board of Directors for its consideration. The Board will consider the claim during a closed session ["anticipated litigation"] of a regular or special meeting. Action to accept or reject the claim may be taken in open or closed session. The claimant shall be notified of the Board's action regarding their claim. Notification that a claim has been rejected shall be accompanied by proof of service.

The Board will not consider a claim of an amount in excess of the [insurance deductible] 00), including the cost of investigation, without prior written approval of the District's insurance company.

Claims in excess of the District's insurance deductible shall be forwarded to the insurance company, and the claimant shall be advised of this action.

Claims for personal injury/wrongful death shall not be investigated by District staff or directors but shall be immediately forwarded to the District's insurance company.

1025.2 Property (Vehicles and Unsecured Property) Damage Claims

All claims of damage to vehicles, or other unsecured property, shall be submitted to the General Manager. He/she shall review the damage claim and the requested restitution. If he/she determines that the damage is the District's responsibility, he/she may authorize repairs or reimbursement of expenses to an amount not to exceed one thousand five hundred dollars (\$1,500). A report shall be submitted to the Claims Committee describing the damage claim, including a description of the manner in which it was resolved.

The claim will be processed as described above if the cost of material for repairs is estimated to exceed the applicable thresholds.

1025.3 Property Damage Claims on District Form

Except for damage to land and improvements estimated to cost less than five hundred dollars (\$500), all damage claims must be submitted in writing on a District claim form. This will ensure that a claim is valid and protect important rights of the District.

If an individual does not wish to file a claim on the District form, he/she may present the claim by letter if it conforms to Section 910 and Section 910.2, of the California Government Code. Section 910 specifies that a claim needs to show all of the following:

- a) The name and post office address of the claimant;
- b) The post office address to which the person presenting the claim desires notices to be sent;
- c) The date, place, and other circumstances of the occurrence or transaction which gave rise to the claim asserted;
- d) A general description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known as the time of presentation of the claim;
- e) The name or names of the public employee or employees causing the injury, damage, or loss, if known; and
- f) The amount claimed if it totals less than ten thousand dollars (\$10,000) as of the date of presentation of the claim, including the estimated amount of any prospective injury, damage, or loss, insofar as it may be known at the time of the presentation of the claim, together with the basis of computation of the amount claimed. If the amount claimed exceeds ten thousand dollars (\$10,000), no dollar amount shall be included in the claim. However, it shall indicate whether the claim would be a limited civil case.

Section 910.2 of the California Government Code specifies the following:

The claim shall be signed by the claimant or by some person on his behalf. Claims against local public entities for supplies, materials, equipment or services need not be signed by the claimant or on his behalf if presented on a billhead or invoice regularly used in the conduct of the business of the claimant.

If the filed letter/claim does not meet the requirements of the California Government Code Section 910 and Section 910.2, then a letter shall be sent to the claimant informing them of this fact.

District staff shall provide no assistance to the claimant in filling out the claim form. Claimant must fill out the claim form in its entirety and submit it via mail, fax or personal delivery to the District office. Upon receipt, office staff shall date-stamp the document.

1025.4 Account Adjustment Requests (Appropriate for Utility-Type Districts).

The General Manager or the Finance Division Manager [Business Manager, Chief Financial Officer, Treasurer or other appropriate position title], in his/her absence, is authorized to adjust a customer's water service [sewer, garbage, electricity, etc.] account when their bill reflects usage that is significantly greater than normal, due to accidental loss of water through broken pipes or when faucets are turned on in the owner's absence, etc. [or other type of abnormal account cost], subject to the following conditions:

- a) The customer requests the account adjustment in writing;
- b) A similar request has not been made within the past 12 months; and
- c) The account shows no record of being delinquent for more than 60 days during the past 24 months.