

Alton Wright
Director
Division 1

Steve Ronneburg
Director
Division 2

Gary Hawthorne
Director
Division 3



Marieke Furnee
President
Division 4

Ann Plumb
Vice President
Division 5

Leona Harris
General Manager
(Interim)

AGENDA

REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE NORTH YUBA WATER DISTRICT

5:30 PM ♦ THURSDAY ♦ JANUARY 26, 2023

NOTICE: THIS MEETING WILL BE PHYSICALLY OPEN TO THE PUBLIC AT THE DISTRICT OFFICE LOCATED AT 8691 LA PORTE RD, BROWNSVILLE, CA 95919. HOWEVER, THE MEETING WILL ALSO TAKE PLACE VIA ZOOM. MEMBERS OF THE PUBLIC MAY ATTEND AND PARTICIPATE IN THE MEETING VIA VIDEOCONFERENCE AT:

Join Zoom Meeting

Time: Jan 26, 2023 05:30 PM Pacific Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/83914715328?pwd=ck9PejVLS2xWWEZwMEZ5V2hgR0UwZz09>

Meeting ID: 839 1471 5328

Passcode: 481636

One tap mobile

+16694449171,,83914715328#,,,,*481636# US

+16699009128,,83914715328#,,,,*481636# US (San Jose)

Dial by your location

+1 669 444 9171 US

+1 669 900 9128 US (San Jose)

+1 253 205 0468 US

Meeting ID: 839 1471 5328

Passcode: 481636

Find your local number: <https://us02web.zoom.us/j/83914715328?pwd=ck9PejVLS2xWWEZwMEZ5V2hgR0UwZz09>

COMMENCEMENT OF MEETING

In compliance with the Americans with Disabilities Act, if you are a disabled person and you need a disability-related modification or accommodation to participate in this meeting, please contact North Yuba Water District office staff at 530-675-2567 or fax 530-675-0462. Requests must be made as early as possible and at least one-full business day before the start of the meeting.

A. CALL TO ORDER/ROLL CALL

B. PLEDGE OF ALLEGIANCE

C. OPPORTUNITY FOR PUBLIC COMMENT – Topics Not on the Agenda:

At the beginning of a regular meetings, the public has the opportunities to address the District Board of Directors about matters not on the agenda that are within the jurisdiction of the Board of Directors. Public comment is limited to no more than four (4) minutes per person, twenty (20) minutes total for all speakers.

DISCUSSION/OPEN SESSION ACTION CALENDAR
--

D. OPPORTUNITY FOR PUBLIC COMMENT – Topics on the Agenda:

The public has the opportunities to address the District Board of Directors about matters on the agenda. Public comment is limited to no more than four (4) minutes per person, twenty (20) minutes total for all speakers for each agendized item.

The Board of Directors shall provide at least twice the allotted time to a member of the public who utilizes a translator to ensure that non-English speakers receive the same opportunity to directly address the Board. legislative body.

E. CONSENT ITEMS

1. Approval of **Minutes for Regular Board Meeting of October 27, 2022**
2. Approval of **Minutes for Special Board Meeting of November 18, 2022**
3. Approval of **Minutes for Special Board Meeting of November 29, 2022**
4. Approval of **Minutes for Special Board Meeting of December 6, 2022**
5. Approval of **Minutes for Special Board Meeting of December 8, 2022**
6. Approval of **Minutes for Special Board Meeting of December 20, 2022**
7. Approval of **Payroll for the Month of October 2022:** **\$ 39,678.60**
8. Approval of **Payroll for the Month of November 2022:** **\$ 361,974.47**
9. Approval of **Payroll for the Month of December 2022:** **\$ 56,487.95**
10. Approval of **Bills for the Month of October 2022:** **\$ 343,199.75**
11. Approval of **Bills for the Month of November 2022:** **\$ 843,801.54**
12. Approval of **Bills for the Month of December 2022:** **\$ 302,705.01**

F. FINANCIAL MANAGER’S REPORT

G. STAFF REPORTS AND RECOMMENDATION

The Board will possibly hear reports by District staff and receive their recommendations for future Board action.

The Board will discuss and may take action on staff recommendations on an information technology upgrade and recommendations for improvements to the District website, and the actions the Board takes may include authority to spend the funds necessary to upgrade the District’s information technology and improve the District’s webpage.

H. DIRECTORS REPORTS

CLOSED SESSION

I. The Board will be meeting in closed session to consider and possibly act upon the appointment/employment of a public official/employee for the position of a temporary administrative assistant.

J. **Conference with Legal Counsel — existing litigation (4 Cases) – pursuant to Government Code section 54956.9, subdivision (d), paragraph (1):**

1. *Fellowship of Friends, Inc. v. North Yuba Water District, et al.*, Yuba County Superior Court Case No. CVPT22-00246;
2. *Charles Sharp v. North Yuba Water District, et al.*, Yuba County Superior Court Case No. CVPT20-00386.
3. *South Feather Water & Power Agency v. North Yuba Water District*, Sutter County Superior Court Case No. CVCS21-0002073
4. *North Yuba Water District v. South Feather Water and Power District*, Yuba County Superior Court Case No. Case No. CVCS21-0001857

K. **Conference with Legal Counsel — pending litigation (2 cases) – pursuant to Government Code section 54956.9, subdivision (e), paragraph (3):**

1. Letter from Dustin Cooper, representing South Feather Water and Power District, demanding the Board cure and correct alleged Brown Act violations.
2. Letter from John Kinsey, representing Charles Sharp, demanding the Board cure and correct alleged Brown Act violations.

L. **Conference with Legal Counsel — Anticipated litigation – pursuant to Government Code section 54956.9, subdivision (d), paragraph (3) the Board has determined that there is significant exposure to litigation (6 potential cases).**

M. **PUBLIC REPORT OF ACTIONS TAKEN IN CLOSED SESSION.**

**PUBLIC COMMENT ON
MATTERS DISCUSSED IN
CLOSED SESSION**

Any member of the public wishing to make comments on matters discussed during the meeting will be provided an opportunity to make comments, limited to no more than two (2) minutes total per person, ten (10) minutes total for all speakers.

**CONTINUED
DISCUSSION/OPEN SESSION
ACTION CALENDAR**

N. **Waiver of Conflict of Interest – Josh Bailey:**

Josh Bailey is an attorney who previously worked for the law firm representing Charles Sharp in his litigation against the District. Mr. Bailey and his wife have moved to Sacramento, and have applied for employment with Boutin and Jones – a law firm representing NYWD. The District’s Interim General Counsel believes Mr. Bailey’s employment with Boutin Jones will not disadvantage the District, and recommends the District execute the conflict of interest waiver required for Boutin Jones to employ Mr. Bailey as an attorney.

The Board will discuss and possibly act upon Interim General Counsel’s recommendation.

O. *Fellowship of Friends, Inc. v. North Yuba Water District, et al.*, Yuba County Superior Court Case No. CVPT22-00246.

On March 4, 2022, the District Board of Directors approved Resolution No. 22-767 enacting the revised Irrigation Water Policy, Rules and Regulations Governing the Distribution of Water. The Fellowship of Friends filed a lawsuit to invalidate Resolution No. 22-767 for a number of reasons, including the argument that the Resolution violates the 4th Amendment to Constitution of the United States because the resolution authorizes the District to conduct warrantless searches of private property within the District, forcing landowners and lessees to submit to inspections/searchers of their private property without any basis or probable cause to suspect any wrongdoing.

The District Board of Directors will discuss and possibly act upon the District’s Interim General Counsel’s recommendation to settle the lawsuit by rescinding Resolution No. 22-767 and agreeing to reimburse The Fellowship for a negotiated amount of the attorney fees and costs the Fellowship incurred prosecuting the lawsuit thus far – fees and costs the District would be required to pay if the Fellowship wins the lawsuit in court.

P. *Brown Act Cure and Correct:*

Charles Sharp and the South Feather Water & Power Agency v. North Yuba Water District have formally complained about actions taken pertaining to former General Manager Jeff Maupin during two special meetings held on November 18, 2022, November 29, 2022, after the last election but before the four newly elected directors were sworn in to their new public positions. Mr. Sharp and South feather argue that, because the two meetings violated the Brown Act, the District Board of Directors must rescind all action taken during those two unlawful board meetings. If not, Mr. Sharp and South Feather could bring a lawsuit to invalidate the actions they argue were unlawful, and, if they win those lawsuits, the District would be obligated to reimburse both Mr. Sharp and South Feather for their attorney fees and court costs.

The Board will discuss and possibly act to cure and correct alleged Brown Act violations by voting to rescind all actions the former Board of Directors took - both in open and closed sessions - on November 18, 2022, November 29, 2022.

Q. *Termination of Former General Manager:*

If the District Board of Directors rescind the actions the former Board took on November 29, 2022 – which would include the former Board’s termination of Jeff Maupin’s employment with the District - then the Board will discuss and possibly act to ratify the termination of Mr. Maupin’s termination on November 29, 2022.

R. *Brown Act Cease and Desist:*

In addition to South Feather’s cure and correct demand, South Feather also demanded the District provide a promise to cease and desist holding unlawful special meetings to discuss and act upon the employment/compensation of the District’s executive officer. The process to issue a cease and desist promise is different from the steps needed to cure and correct a Brown Act violation, requiring an open session discussion and motion to provide a letter described in Government Code § 54960.2.

The District Board of Directors will discuss and possibly act to provide South Feather with the unconditional cease and desist assurance described in Government Code § 54960.2.

ADJOURNMENT