

**REGULAR MEETING MINUTES OF THE BOARD OF DIRECTORS OF THE  
NORTH YUBA WATER DISTRICT  
Held at the District Office and Zoom  
8691 LaPorte Road, Brownsville  
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. 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*

<https://us02web.zoom.us/j/83914715328?pwd=ck9PejVLS2xWWEZwMEZ5V2hgROUwZz09>

*Meeting ID: 839 1471 5328*

*Passcode: 481636*

*One tap mobile*

*+166994449171,,83914715328# US*

*+16699009128,,83914715328,,, \* US (San Jose)*

*Dial by your location*

*+1 669 444 9471 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=ck9PejVLS2xWWEZwMEZ5V2hgROUwZz09>*

**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 the meeting, please contact North Yuba Water district office staff at 530-675-9462 or fax 530-675-0462. Requests must be made as early as possible and at least one-full day before the start of the meeting.

**A. CALL TO ORDER/ROLL CALL**

The meeting was called to order at 5:33 PM, at the District Office in Brownsville, CA.

<i>NAME</i>	<i>PRESENT</i>	<i>ABSENT</i>	<i>VISITORS INCLUDING:</i>
<i>PRESIDENT</i>	Marieke Furnee		Dr. Flohr, Charles Sharp,
<i>VICE PRESIDENT</i>	Ann Plumb		Karen Legit, Albert
<i>DIRECTORS:</i>	Steve Ronneberg	Gary Hawthorne	Moulder, Donna Corson,
			Jesse Gilmore, John
			Messick
<i>INTERIM GENERAL MANAGER</i>	Alton Wright Leona Harris		
<i>ATTORNEY</i>	Paul Boylan		

**B. PLEDGE OF ALLEGIANCE:**

The Pledge of Allegiance was led by Director Wright.

**C. OPPORTUNITY FOR PUBLIC COMMENT ON NON AGENDIZED ITEMS:**

The public has the opportunity to address the District Board of Directors about matters not on the agenda. Public comment is limited to no more than four (4) minutes per person, twenty (20) minutes total for all speakers. **NOTE: ALL PUBLIC PARTICIPANTS WILL BE MUTED UPON ENTRY INTO THE MEETING AND WILL ONLY BE UNMUTED TO ALLOW THEIR COMMENT. TO PROVIDE PUBLIC COMMENT BY TELECONFERENCE PRESS \*9.**

**PUBLIC COMMENT:**

Charles Sharp complimented the Board, asked them to explore questing water for Winter, poor lighting in the parking lot, looking forward to an irrigation season, taking an ethics course and the previous meeting minutes. A

member of the public spoke on the 2005 agreement from South Feather and using money by previous boards that was meant for ditch maintenance. Members of the public commented on, illegal pot grows, board corruption, concerns about approving the minutes, and thanked the Board for their dedication.

#### **DISCUSSION/OPEN SESSION ACTION CALENDAR**

##### **OPPRUNITY FOR PUBLIC COMMENT – Topics on the Agenda:**

Members of the public may address the Board concerning any item on the agenda. No other comments will be allowed. Any member of the public wishing to make comment shall identify the agenda item they intend to address, and they will be provided an opportunity to make comment on that item only. Public comment is limited to no more than two (4) minutes per person, twenty (20) minutes total for all speakers.

**NOTE: ALL PUBLIC PARTICIPANTS WILL BE MUTED UPON ENTRY INTO THE MEETING AND WILL ONLY BE UNMUTED TO ALLOW THEIR COMMENT. TO PROVIDE PUBLIC COMMENT BY TELECONFERENCE PRESS \*9.**

##### **PUBLIC COMMENT:**

Members of the public thanked the board for their dedication and asked them not to validate the past minutes, there were concerns on the previous minutes because it would validate the actions of the previous board.

#### **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

**President Furnee made a motion to approve consent times 1-12. Director Ronneberg seconded the motion.**

The Board had a full discussion regarding approving consent items. Concerns were expressed regarding approving items when you were not at that particular meeting, validating a violation of the Brown Act during a meeting and does that mean you are in agreement. Mr. Boylan, District Counsel, explained that approving consent items acknowledges the items and what was accomplished. You are agreeing that the meeting took place. Anything can be separated from the group and approved separately if there are questions or concerns. Questions regarding if it is ethical were raised by Director Wright. Mr. Boylan explained that there is nothing unethical. You are saying is that these events occurred. The impact of those events and the legal consequences is separate. The minutes are a historical record. Separating the financials and approving them after the Finance Managers report was also discussed.

**President Furnee modified the current motion to approve consent items 1-9 and table consent items 10-12. Director Ronneberg seconded the motion. The motion passed with a unanimous vote.**

#### **F. FINANCIAL MANAGERS REPORT**

1. Review of Cash on Hand and Income Statements for the period ending

Financial Manager Heidi Naether reviewed Cash on Hand and Income Statements for the period ending December 31, 2022. Total cash on hand in all accounts including reserves was \$5,307,449.20. Total income for the fiscal year to date (July 01, 2021 – December 31, 2022) was \$4,212,702.70. Total expenses were \$1,503,509.67, leaving a net revenue over expenses of \$2,709,193.03. Expenses out of Reserves/Savings year to date totaled \$1,058,920.09

Director Wright commented that he would like to see P&L for each month instead of a lump sum and a quarterly projection of revenue. Also better descriptions of check items and listings would be helpful. Also discussed was NorthStar and payments made regarding the Forbestown ditch. Interim General Manager Harris will check into the payment and report back to the Board. Vice President Plumb asked about expenses for radios, rental cars, meals and also about public outreach which will be tabled for now.

**Director Wright made a motion to revisit and approved consent items 10, 11 and 12. President Furnee seconded the motion. The motion passed with a unanimous vote.**

**G. STAFF REPORTS AND RECOMMENDATIONS**

**The Board will possibly hear reports by District staff and receive their recommendations for future Board action. Actions may include authority to spend the funds necessary to upgrade the District Information Technology and improve the districts webpage.**

Memorandum. Leona reported that the website has been cleaned up and made more user friendly. Director Wright has helped on the website along with meeting with Jesse Gilmore of Gilmore Computer Services to see if the district's needs are being met, outbound communications, launch of social media and setting up secure email were also discussed. Jesse explained to the board about the use of Office 365 and Outlook which is an industry standard and also the upgrade of the server. An estimate was included in the board packet.

1. Information Technology Upgrade
2. Improvements to the District Website

**Director Wright made a motion to continue to employ Gilmore Computer Services based on the current contract in place, as well as, accept the estimate for the server services. Director Ronneberg seconded the motion. The motion passed with a unanimous vote.**

Interim General Manager Leona Harris gave an update on the meter replacement project. SUSP will finish the draft sometime in March. The water storage improvement project which is out to bid, and the parking lot light is ordered. Director Wright suggested that pictures be take of the redwood tanks and be repurposed in the community. Leona also reported that the insurance certificate has been provided to South Feather and the same is needed from them. President Furnee asked if there were meetings scheduled on the books with South Feather and Interim General Manager replied yes. The Interim General Manager also asked the board to return the regular board meeting to Thursdays due to getting board packets out in a timely manner if there is a Monday holiday. This matter will be brought back to the board in the form of a resolution.

**H. DIRECTORS REPORTS**

President Furnee reported to the board that she has been reviewing contracts and if any of the directors would like further information to contact her and she will guide them to the information. There were no other comments.

<b>CLOSED SESSION</b>
-----------------------

The Board entered closed session at 6:40 P.M

**I. APPOINTMNET/EMPLOYMENT OF A PUBLIC OFFICAL/EMPLOYEE: 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 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).**

The Board returned from closed session at 8:34 P.M.

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

President Furnee reported that Patty Galloway was hired as temporary office assistant. In all other closed session items, the board gave legal counsel instructions.

**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) total per person, ten (10) minutes total for all speakers.

John Messick commented on the need for the board to have a more secure room for closed session.

**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.

Vice President Plumb made a motion to have Mr. Boylan, District Counsel issue a Waiver of Conflict-of-Interest waiver to John Bailey for employment with Boutin Jones. Director Wright seconded the motion. The motion passed with a unanimous vote.

- 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 if the Fellowship wins the lawsuit in court.

Mr. Boylan, District Counsel reported that Fellowship of Friends has made an offer to settle for \$39,000 in attorney’s fees and recommends the Board to allow him to settle on these term.

**President Furnee made a motion to allow Mr. Boylan to go forward with this settlement agreement. Director Ronneberg seconded the motion. The motion passed with a unanimous vote.**

**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

Mr. Boylan, District Counsel, reported that the Brown Act requires that actions to effect executive officers compensation and their terms of employment only take place in open session. These actions were taken during a closed and special meeting. Actions taken during these board meetings were unlawful and a violation of the Brown Act. Mr. Boylan explained that the only way to avoid a lawsuit with Mr. Sharp and South Feather is to resend all actions taken during the meetings on November 18<sup>th</sup> and November 29<sup>th</sup>.

**Vice President Plumb made a motion to rescind all actions taken during the meeting held on November 18<sup>th</sup> and November 29<sup>th</sup>, 2022. President Furnee seconded the motion. The motion passed with a unanimous vote.**

**Q. TERMINATION OF FORMER GENERAL MANAGER:** If the District Board of Directors rescind the actions the former Board took on Nov. 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.

Mr. Boylan reported that the only action taken on November 29, 2022 was the termination of then General Manager Jeff Maupin. Mr. Boylan recommended the Board to terminate Mr. Maupin retroactive November 29, 2022.

**Vice President Plumb made a motion to terminate General Manager Jeff Maupin effective today, January 26, 2023, retroactive to November 29, 2022. Director Wright seconded the motion. The motion passed with a unanimous vote.**

**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 Ss 54960. 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 Ss 54960.2

Mr. Boylan requested the Board give him the authority to send South Feather a letter that is in the form within the government code Ss 54960.2, on behalf of the Board to provide South Feather with assurance regarding the brown act Cease and Desist assurance

**Vice President Plumb made a motion for Mr. Boylan to provide South Feather with a letter of action of cease and desist action assurance by not violating the ‘Brown Act by making unlawful decisions of an executive officer in closed session and special meetings. Director Ronneberg seconded the motion. The motion passed with a unanimous vote.**

**PUBLIC COMMENT:**

John Messick asked the district when they are checking the Oregon House/Dobbins ditch to secure the weir just above the Prince Albert Syphon.

**ADJOURNMENT**

**The meeting was adjourned at 8:42 PM.**

Respectfully Submitted,



---

Catherine L. Fonseca, Recording Secretary