

**MINUTES**

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

**Held at the District Office**  
**8691 LaPorte Road, Brownsville**

Thursday, July 25, 2019

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**A. ROLL CALL**

President Eric Hansard called the meeting to order at 5:01 PM at the District Office in Brownsville, CA. The Recording Secretary called the roll.

	<i>PRESENT</i>	<i>ABSENT</i>	<i>VISITORS</i>
<i>PRESIDENT</i>	Eric Hansard		Visitor's Including:
<i>VICE PRESIDENT</i>	Terry Brown		Donna Corson
<i>DIRECTORS</i>	Doug Neilson		Melinda Johnson
	Gary Hawthorne		
	Gretchen Flohr		
<i>GENERAL MANAGER</i>	Jeff Maupin		
<i>ATTORNEY</i>	Barbara Brenner		

**B. PLEDGE OF ALLEGIANCE:** The Pledge of Allegiance was led by President Hansard.

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**ACTION ITEMS**

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**C. PUBLIC INPUT:**

**President Hansard read the rules for public comment.**

Members of the Public addressed the Board regarding:

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1. The animosity between Board members and Presidents Hansard's letter to Yuba Water Agency regarding \$5,000,000 loan.
2. Congratulated the Board on controlling the board meeting, requested that the podium be brought back to help aid those with disabilities and to help control the public. Recognized Maggie Campbell, Union Representative for outstanding job.
3. Encouraged the Board to be civil and transparent to each other.

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#### **ACTION ITEMS**

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#### **D. CONSENT ITEMS:**

1. Approval of **Minutes for regular Board Meeting of June 27, 2019**
2. Approval of **Payroll for the Month of June 2019 - \$42,441.22**
3. Approval of **Bills for the Month of June 2019 – \$136,624.50**
4. Approval of **Warrant #52-37236, fund #637, payable to North Yuba Water District, in the amount of \$150,000.00, for bills and payroll.**

**Director Hawthorne made a motion that the Board approve Consent Items 1, 2, 3, 4. Director Neilson seconded the motion.**

Director Flohr asked for additional information regarding the bills for June, which included the payment to Smart Marketing, the NorthStar payment and a breakdown of the \$17,000 legal fees. The Finance Manager replied that the payment to NorthStar included a payment for paperwork that was still needed after the grant was approved. For the answers not immediately available, Director Flohr stated that she will email the Finance Director with the questions and will report the answers obtained to the public during the next meeting. She is still currently waiting on responses to her previous emails. In regards to the legal fees, the District Attorney replied that there is a breakdown of the fees but not all can be disclosed and will have to be redacted.

Director Brown stated that he had inquired about the public records requests and if they were tracked by who they originated from. The public needs to know who and where the requests are originating from due to the costs to the District. The District's Attorney commented that it is separated by requests not by individual, but the majority of the requests originate from Mr. Sharp and Mr. Wright. All of Director Flohr's requests have been filled at this time. Director Flohr discussed the use and additional cost of using attorneys to process the public requests. The District's Attorney responded that they are supplementing the staff due to the amount of requests by making sure all requests are done in a timely manner, keeping a record of the receipt and response date. President Hansard and Director Flohr continued the discussion.

#### **Public Comment:**

Comments from the Public included:

1. More transparency and clarity is needed from the Board.
2. Transparency and clarity has been lacking which is why there is multiply requests for PRA's. Also requested that the public be respected while speaking.PR
3. PRA's are a fact of life, this public member has submitted PRA request to inquire who is costing the district and the residential customers money by the frivolous requests.

**The motion passed with a unanimous vote.**

**E. FINANCIAL MANAGER'S REPORT**

Financial Manager, Heidi Naether, reviewed Cash on Hand and Income Statements for the period ending June 30, 2019.

As of June 30, 2019, total cash in all accounts including reserves was \$5,042,785.86.

Total income to date was \$3,169,707.97. Total expenses were \$155,539.09, leaving a net profit of \$1,614,168.88. Heidi reported that as in previous years there will be additional income from Yuba County Property tax. There will one more updated financial report for this fiscal year.

Director Flohr asked the Financial Manager when the power revenue is received. The Financial Manager stated that if there is any it is in July.

**Vice President Brown made a motion that the Board approve the Financial Manager's report as presented. Director Hawthorne seconded the motion.**

**Public Input:**

1. Comments regarding PGE maintenance to reduce power revenue.

**The motion passed with a unanimous vote.**

**F. ANNUAL AUDIT REPORT: By John Blomberg of Blomberg & Griffin presented the Financial Statements and Independent Auditors' report for 2017/2018.**

Mr. John Blomberg of Bloomberg & Griffin Accountancy Corporation presented the North Yuba Water District Financial Statements and Independent Auditor's Report to the Board. He stated that the report was filed late but did not anticipate any problems. Mr. Blomberg discussed a call from Director Flohr regarding questions she had of the financials. Mr. Blomberg's report stated that the results of the tests disclosed no instances of noncompliance or other matter that is required to be reported under Government Auditing Standards and that this report is intended solely for the information and use of management, Board of Directors, others within the entity, County/State auditor/controller and is not intended to be and should not be used by anyone other than these specified parties. Mr. Blomberg recommended that the 2018/2019 audit be completed by the due date of June 30<sup>th</sup>. Mr. Blomberg also stated that the district office had done a fantastic job. A lot of good progress had been made which

included debt being paid off and operating expenses less than last year. The District continues to operate in the black.

Director Flohr inquired if there was a single number in the audit that identified revenue separate from South Feather. The auditor stated that the Statement of revenue does have a breakdown.

Director Nielson asked a question regarding the adding of percentages on page 2. The auditor will check it.

**Director Neilson made a motion that the Board approve the 2017/2018 Audit Report as submitted. Vice President Brown seconded the motion.**

**Public Input:**

Members of the public commented on:

1. The 17-18 power revenue was a positive benefit of the 2005 contract.
2. The difficulty of the last five years of not having irrigation water.
3. Water is the most important asset the District has and protecting it should be the main objective.

**The motion passed with a majority vote with Director Flohr abstaining.**

## **DISCUSSION/REPORTS**

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### **G. MARKETING & PUBLIC AFFAIRS CONTRACT:**

General Manager Maupin presented the contract for Smart Marketing for the Boards approval. Director Flohr made several comments and asked several questions regarding the contract such as: was there a public bid process, what are the deliverables, scope of services, fixed or project price, no start and stop date or cap on cost, and more. General Manager Maupin stated that there was no formal bid, they have used Smart Marketing for smaller projects and because of the relationship that has been established was comfortable going forward with the contract. Director Flohr strongly objected to accepting the contract for multiple reasons including no public bid process, and **move that the contract be tabled and come back to it after a public process.** The District's Lawyer stated that for this special district a public bid is not necessary for this type of contract. Director Flohr requested a copy of the language be sent to her. Vice President Brown commented that he did not disagree that a policy is needed regarding contracts and should be one of the things that the Board discuss. President Hansard discussed the importance of having someone capable of good public relations such as Chrystal. It is important to have someone who can have the back of the District and tell of the progress that has been made. The discussion continued regarding the contract and Director Flohr referred to the budget that was passed at the last meeting, noting again that there is no cap on spending limit. Vice President Brown asked the District's Attorney if the contract had been reviewed. The answer was yes, it came

from their office and is a standard contract. She did agree with Director Flohr that a start and end date, a cap to expenditures and a detail of scope should be added to the contract. After further discussion by Director Neilson, Director Hawthorne and Director Flohr, **President Hansard asked for a second to Director Flohr's motion, the motion failed due to lack of a second.**

**Director Hawthorne made a motion to approve the contract with the addition of a date, an expense cap and a scope of service be added and brought back to the next Board meeting for review. Vice President Brown seconded.**

**Public Input:**

Members of the public commented:

1. Had reviewed the contract and stated that it needed to be re-scoped.
2. 2005 power revenues were 80.00. Today the ISO's are 24.00. The District does not need Smart Marketing for that amount of money.
3. The need for Smart Marketing is due to the actions of the Board.
4. Just want water
5. Discussed the information that is being sent out without a name. The services of Smart Marketing is needed to counter the negativity.
6. Friends and neighbors are afraid to attend meeting due to retaliation of the members of the public.

Director Flohr asked for clarification of the scope of the motion from the attorney. The attorney replied that the motion as she understood it, was to take the contract back to the consultant and modify it slightly so there is a term, a cap and the scope of the work is better defined. Director Flohr stated that was exactly what she stated, the District Lawyer replied that she had asked to table it for a public bid process. Director Flohr replied that she had asked to table it to do these things that we are talking about right now. **The motion passed with a unanimous vote.**

**H. CONSTRUCTION SERVICES CONTRACT:**

General Manager Maupin reported on the mold in the office. Testing was completed and the process of putting the ceilings and walls back along with some repairs on the outside are ready to be completed. Director Flohr asked if a public bid was completed. The answer was no. With the Paradise fires they were fortunate to find a contractor at this time and the cost was quite low.

**Director Hawthorne made a motion to accept the contract as submitted. Director Neilson seconded the motion.**

## **Public Input:**

1. Maggie Campbell representing the employees of the District thanked the District for their effort in dealing with the mold. The Union totally understand the lack of public bid on this job, CA Uniform Construction Cost of Accounting Act, governing small amounts, small districts do not have to go through the bid process.

**The motion passed with a unanimous vote.**

## **GENERAL MANAGERS REPORT:**

### **1. Operations Memorandum Provided by General Manager Maupin.**

General Manager Maupin added to his report that they are monitoring the irrigation water which is about 10.5 cfs. He stated they are forecasting that between the first or second week of August we might have trouble making deliveries. General Manager Maupin explained that the policies for all cutbacks that can be done to keep delivery going to finish up the year is being reviewed.

The General Manager shared a letter for information only from LAFCO, the local agency formation committee requesting the District to handle the overlap from Browns Valley. General Manager Maupin will spend some time on the item and will be bring back when complete.

Director Flohr asked why we would not have a full irrigation season, the ISO number is 24 projected to 19. She stated that North Yuba would make more money selling water to irrigation customers than selling to power generation. General Manger Maupin explained that it is a combination of things. Right now Forbestown Ditch is at capacity, all of the available water we are taking. South Feather is taking 8cfs, the treatment plant is taking 1 cfs, leaving 5 cfs available and the balance is in losses. Forbestown Ditch is running 37% efficient. 5 cfs is supplementing Dry Creek which is continually dropping enough to see the change every few days. When we lose the 5 that we are utilizing right now Dry Creek will be out of water. The water coming from Forbestown will be insufficient to meet the demand. The policy will go into effect which includes voluntary cutbacks, secondary cutbacks, and ultimately cutting everyone to 1" of service to try and extend the season. I am informing the public that we are going to take those steps, monitor what we have and I am letting you know that we are getting to that point where it is going to become a challenge to continue to deliver, but we will deliver until the water is exhausted or we can't reach all our customers.

Director Flohr continued the discussion regarding the 15,500 acre feed that is available, to utilize it and continue to provide to the irrigation customers for better profit. General Manager Maupin continued to explain it is not an issue of having water available, he stated that we are at capacity and there is no more water that can be put into the ditch in Forbestown, 5 is the max. If South Feather calls for their 11, then we are immediately done. It is not an issue of if we have water available, it is a capacity issue. The pipeline will fix that.

**Director Hawthorne made a motion to accept the General Manager's report. Vice President Brown seconded the motion.**

**Public Input:**

1. Discussed South Feather, PGE and negotiation of contract.
2. Limitations due to the 2005 agreement, General Manager Maupin commented that Rath Moseley stopped in the office and made it clear that in none of his writing or emails did he say he would renegotiate the contract
3. Commented on the General Manager's report and would have difficulty with the water being discontinued.
4. The possibility of extending or adjusting the start date due to the delay in beginning the season.
5. Comment regarding the response to Rath Moseley regarding the 2005 agreement.

General Manager commented again about capacity vs availability. Once the ditch is piped, the District believes that we can provide you service throughout the season. That has always been our goal. In regards to movable dates on Dry Creek, the dates are not movable. BVID has rights to the water, when we end they start and when they end we start.

**The motion passed with a unanimous vote.**

**J. DIRECTORS INPUT:**

President Hansard read the rules for Director Input.

Director Flohr asked if there was actually two closed sessions and if so if they could be switched to allow her to attend Item L without waiting. The items were changed per her request.

Director Flohr discussed the budget passed last meeting and the importance of basing the budget on actual income, not predicted income, which is approximately 1.1 million dollars. The budget was approved for 1.7 million. Director Flohr stated that South Feather has asked to meet with the District and no one has responded. The District needs to sit down with South Feather, the 2005 contract is renegotiable. If South Feather took over the Forbestown Ditch, they would be responsible and we would not have to worry about piping it, it would not cost us any money and we would not have to make up water losses. Director Flohr also implied that there were multiple Brown Act violations and included a statement on video by Maggie Campbell. Director Flohr also referenced a letter to the Yuba Water Agency signed by President Hansard regarding a loan of 10 million dollars and asked for an explanation.



Vice President Brown expressed his appreciation of Maggie Campbell and congratulated her on her promotion.

President Hansard also thanked Maggie for service and her dedication to the employees. President Hansard made a comment to Director Flohr regarding Maggie's promotion.

**Public Comment:**

1. A comment was made regarding the rudeness of the President to Director Flohr.
2. The question was raised on how a letter was written and sent to the Yuba Water Agency without the Boards knowledge.

**K. CLOSED SESSION: Conference with Legal Counsel – Anticipated Litigation Initiation of Litigation pursuant to Government Code Section 54956.9© (1Case).**

**L. CLOSED SESSION: Conference with Legal Counsel – Existing Litigation (Government Code Section 54956.9) Name of Case: Gretchen Flohr v. North Yuba Water District, Case No. CVPT 19-00503**

Director Flohr asked if Item L and K could be switched for convenience due to the fact that she will not be present for K. The items were switched. There is no information given due to closed session.

**Public Input:**

1. Unable to transcribe
2. Requested that the public best interest be represented.

**THE BOARD ENTERED CLOSED SESSION TO DISCUSS ITEM K AND ITEM L AT 6:57 PM**

**BACK IN SESSION AT 8:01 PM**

**No reportable action taken.**

**M. ADJOURNMENT**

**There being no further business to discuss, Vice President Brown made a motion that the Board adjourn. Director Hawthorne seconded the motion. The motion passed with a unanimous vote. Director Flohr was not in attendance.**

The meeting was adjourned at 8:02 p.m.

Respectfully Submitted,



  
Catherine L. Fonseca, Recording Secretary