

**MINUTES**  
**SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE**  
**NORTH YUBA WATER DISTRICT**  
**Held at the District Office – Through Zoom**  
**8691 LaPorte Road, Brownsville**  
**Tuesday, December 20, 2022**

NOTICE: THIS MEETING WILL BE HELD IN ACCORDANCE WITH EXECUTIVE ORDER N-29-20, ISSUED BY CALIFORNIA GOVERNOR GAVIN NEWSOM ON MARCH 17, 2020, THE RALPH M. BROWN ACT (CALIFORNIA GOVERNMENT CODE SECTION 54950, ET SEQ.), AND THE FEDERAL AMERICANS WITH DISABILITIES ACT. THIS MEETING WILL NOT BE PHYSICALLY OPEN TO THE PUBLIC. ALL MEMBERS OF THE PUBLIC MAY PARTICIPATE IN THE MEETING VIA VIDEO CONFERENCE AT

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AND WILL BE GIVEN THE OPPORTUNITY TO PROVIDE PUBLIC COMMENT

**COMMENCEMENT OF MEETING**

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

The meeting was called to order at 5:35 PM, at the District Office in Brownsville, CA. There were audio difficulties.

<i>NAME</i>	<i>PRESENT</i>	<i>ABSENT</i>	<i>VISITORS INCLUDING:</i>
<i>PRESIDENT</i>	Marieke Furnee		Dr. Flohr, John B, Kim Hawthorne, John
<i>VICE PRESIDENT</i>	Ann Plumb		Messick, Charles Sharp, Karen Legit, Ted Langdell, Albert Moulder,
<i>DIRECTORS:</i>	Gary Hawthorne Steve Ronneberg Alton Wright		
<i>GENERAL MANAGER</i>			
<i>ATTORNEY</i>	Paul Boylan		

**B. PLEDGE OF ALLEGIANCE:**

The Pledge of Allegiance was led by all.

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

As provided under Government Code section 54954.3, subdivision (a), during a Special/ Meeting any member 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 commented on Item F.1 and asked that the website be taken down and marked with under construction due to the content, voting yes on the agenda items and corruption. Charles Sharp commented on the violation of the Brown Act during the November 18, 2022, board meeting, referencing the letter he wrote to the district.

**DISCUSSION/OPEN SESSION/ACTION CALENDAR**

- D. Board Meetings: An existing Board Resolution requires meetings to take place at 10:30 AM and requires a regular meeting to take place the last Thursday of December. The Board will meet and possibly act upon a resolution allowing more flexibility in meeting scheduling and postponing December's regular meeting during the pending holiday season (see attached proposed resolution). (Resolution No. 22-775)**

President Furnee read Resolution No 22-775. Vice President Plumb felt it was good for the working public. Director Wright asked about the resolution numbering system. Director Wright expressed concern about not having a December meeting. Interim District Counsel, Paul Boylan stated that he was in favor of the change. One, the old resolution (No. 22-771) was confusing. The Water Board requires a meeting be held once a month and the Board has already held three. The only substantial difference a regular meeting and a special meeting is the amount of notice. This resolution fixes the possibility of not being in compliance with the Water Act.

**President Furnee made a motion to approve Resolution No. 220775. Vice President Plumb seconded the motion.**

**PUBLIC COMMENT:** There was no public comment.

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

Director Hawthorne spoke about the past order of the meetings and following Roberts Rule of Order. Interim District Counsel, Mr. Boylan commented that the meeting can be held in any order but would not recommend following Robert's Rule of Order. The Brown Act, Water Code and Government Code has what is needed. Director Hawthorne's point is well taken and use whatever order you wish to give the public an opportunity to be apart of the discussion and process.

- E. Special Meeting Agenda Preamble: The Board will meet to discuss, and possibly act to add a preamble to special meeting agendas explaining to the public why a special meeting is required in lieu of noticing a regular meeting.**

Director Wright discussed the reasons special meetings have been held. An actual resolution had to be forced to happen before the board could move forward and have general meetings. Director Wright expressed that it was important to be up front and let the public know the reason why. They are spending money wisely. In the process of making a new resolution regarding the agenda, they are trying to make it easierr and have more items to discuss, making it the best use of rate payer/taxpayer time.

**Director Wright made a motion to accept the Special Meeting Preamble. President Furnee seconded the motion.**

**PUBLIC COMMENT:**

December 20, 2022, Special Board Meeting Minutes

It was commented that the idea was fantastic, there is a lot the board will have to work to overcome. Being transparent will alleviate the fears of the public. It was also stated that, the board has a lot to catch up on and pay attention to.

The motion passed with a unanimous vote.

<b>STAFF REPORTS/RECOMMENDATIONS</b>
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**F. STAFF REPORTS/RECOMMENDATIONS**

1. **Capital Outlay:** The Board will meet to receive information, discuss, and possibly act to obtain: Information technology infrastructure; water metering equipment; and professional services needed to retrieve inaccessible information.

Leona Harris was asked by employees to request a flow meter for measuring which runs approximately \$15,000. Mr. Boylan, Interim District Counsel commented on information technology infrastructure which is an email dedicated server which the district does not have. Go Daddy is currently being used and is not suitable for a public agency, especially when it comes to their duties to maintain securities of their own records and availability. Mr. Boylan explained that every public agency he is aware of has their own dedicated email server, archive and process itself. This was put on the agenda to let the public and board know that the administration is looking into acquiring such a system. A proposal will be brought to the board when the information is complete. Mr. Boylan also stated that water metering equipment which is essential for the water district to accurately measure the inflow and outflow of water is important. Staff is currently using sticks with lines on them for measuring. Mr. Boylan also commented on information technology, which includes desk computers that do not have current documentation of the measurements which were taken, they are unsure why. They could have been accidentally or intentionally deleted. He explained that they can recover the information but will have to use professional services to get it done.

**The board requested further information on the above three subjects be brought to the next meeting including at least two estimates for the flow meter.**

2. **Forbestown Ditch and Drinking Water Treatment Plant Repair:** The Board will discuss and possibly act to invoke the mutual aid agreement between the North Yuba Water District and the South Feather Water and Power Agency - including obtaining necessary insurance coverage - to begin repairs on the Forbestown Ditch and the District's drinking water treatment plant as soon as possible.

Leona Harris reported that the water treatment plant had several upgrades which were included in the report. There was a quote from Aqua Sierra for a PLC which is the brain of the plant for \$135,000. Leona spoke about some of the motors that have been rebuilt and going through the plant to replace needed items. In a year or so the plant will be like new. Leona reported that the filters that were replaced were original. The board asked about scheduled maintenance on the treatment plant and would like to see something in writing to be able to add to it. President Furnee stated that she had taken a tour of the plant that helped in the understanding of the operation of the plant. Mr. Boylan spoke to the board regarding the Mutual Aid Agreement with South Feather extends to the treatment plant. The district has them as a recourse if they need or want them.

Director Wright asked about the fee for obtaining necessary insurance coverage that is needed for the agreement. Mr. Boylan explained that the Mutual Aid Agreement requires both the North Yuba and South Feather to have sufficient level of insurance. To invoke the act itself or agreement you must be properly insured. This information is included so when you invoke the agreement, you also give authority or instructions to the staff to make sure we are up to snuff regarding insurance. When that happens, we have a better chance of starting repairs sooner

than later. Director Wright asked if South Feather had already started the process on their end. Mr. Boylan stated we are not sure. It doesn't matter because the moment the district invokes it they are obligated to come to our assistance. Leona added that before South Feather can come and help they also need to add the district to their insurance certificate. The office called the insurance today for a quote on increasing the amount to 2 million which what is required by larger businesses in our area and where we should be.

**President Furnee made a motion to invoke the Mutual Aid Agreement and start the process of getting everything in place. Director Ronneberg seconded the motion.**

**PUBLIC COMMENT:**

There was comment on the 2005 agreement which North Yuba would have gone under without. It was also suggested that the district take care of the cost of the flow meter themselves and start investing the money into the agency and community. The 2021 Budget was also referenced.

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

Mr. Boylan mentioned that when the district is back from the holiday, the second week in January will be scheduling the meeting between the three districts with the purpose of looking at these repairs and putting a plan in place to get the repairs done quickly so we can be prepared for the Irrigation system but with long term planning to make sure that the ditch continues to get repaired and the water treatment plant gets the repairs that it needs.

3. **Interim General Counsel:** The District's Interim General Legal Counsel will report on legal issues involving the district.

Mr. Boylan reported to the board and answered the question that has been asked regarding what has been spent on legal fees. With Heidi's help it was determined that over the last 12 months between two different law firms dealing with a mountain of litigation, the district has spent out of hand a little over \$1,220,00.00. That is part of the reason that we are trying to resolve the lawsuits against the district. We are negotiating all of them. One Brown Act action has been dismissed voluntarily and another lawsuit settled completely. There are four more that we are working on and is very optimistic that they can come to resolutions that are within the districts interest. Mr. Boylan spoke about the amount of work that was done by the prior law firm regarding the Brown Act that the staff can do themselves. As we go forward with the business of the district he is slowly training staff and board members approach him with these questions about the operation of the Brown Act so legal counsel is not needed to answer these questions. The same with the Public Records Act as well. There will be a schedule and protocol for being able to deal with public records put in place, so it minimizes the need for legal supervision and maximizes the opportunity for public disclosure of information that is within public interest.

Prior to entering Closed Session, Director Wright thanked Charles Sharp and others for getting the information of the meetings to the public on social media and encouraged all to post their own reports. It keeps the board honest and transparent and lets the board know what you are feeling.

**CLOSED SESSION**

- G. **The Board will meet in closed session to consider and possibly act upon the appointment/employment of a public official/employee for the position of District Interim General Manager.**

**PUBLIC COMMENT:** No public comment.

**H. 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. Marieka Furnee, Gideon Bienstock, Jeanette Cavaliere, Donna Corson, Israel Perla, and Charles Sharp v. North Yuba Water District, Yuba County Superior Court Case No. CVPT21-00436;
3. Charles Sharp v. North Yuba Water District, et al., Yuba County Superior Court Case No. CVPT20-00386.
4. North Yuba Water District v. South Feather Water and Power District, Yuba County Superior Court Case No. Case No. CVCS21-0001857

**PUBLIC COMMENT:** No public comment.

**I. Conference with Legal Counsel — existing litigation (4 cases) — pursuant to Government Code section 54956.9, subdivision (d), paragraph (3):**

Significant exposure to litigation pursuant to paragraph (3) of subdivision (d) of Section 54956.9: (6 potential cases)

The Board will meet in closed session to evaluate whether facts and circumstances pertaining to six potential cases that might result in litigation against the district, but which the local agency believes are not yet known to a potential plaintiff or plaintiffs, justify a closed session discussion with District Legal Counsel pertaining to one or more of these six potential cases.

**J. 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, declare the director's chair for Election District 3 vacant, to fill the vacancy, and to remove defamatory content posted on the District's webpage.

**PUBLIC COMMENT:** No public comment.

The board entered closed session at 6:48 P.M.

The board returned from closed session at 8:58 P.M.

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

**President Furnee reported that for Item G. the board gave staff instructions to write and implement the negotiated contract with Leona Harris at a Stipend of \$100 per day retroactive to November 30, 2022 when she came into the role. The board will recite the contract in open session.**

**Six cases were deemed suited for future closed session and may result in litigation and therefore will be discussed in closed session.**

**In all other closed session items, the board gave legal counsel instructions.**

**PUBLIC COMMENT:** Leona thanked the board for the opportunity. Charles asked for clarification on the interim general manager.

**ADJOURNMENT**

The meeting was adjourned at 8:28 PM.

In compliance with the Americans with Disabilities Act, if 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.

Respectfully Submitted,



Catherine L. Fonseca, Recording Secretary