

MARIEKE FURNEE
PRESIDENT
Division 4

ANN PLUMB
VICE PRESIDENT
Division 5

ALTON WRIGHT
Director
Division 1



STEVE RONNEBURG
Director
Division 2

GARY HAWTHORNE
Director
Division 3

[VACANT]
General Manager

AGENDA

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

5:30 PM ♦ THURSDAY ♦ DECEMBER 8, 2022

NOTICE: THIS MEETING WILL BE PHYSICALLY OPEN TO THE PUBLIC AT THE DISTRICT OFFICE LOCATED AT 8691 QUINCY LA PORTE RD, BROWNSVILLE, CA 95919. HOWEVER, THE MEETING WILL ALSO TAKE PLACE VIA ZOOM, 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.

ANY MEMBERS OF THE PUBLIC MAY PARTICIPATE IN THE MEETING VIA VIDEOCONFERENCE AT:

Join Zoom Meeting

<https://us02web.zoom.us/j/88168062551?pwd=eHdKbTBFSUJBQm9WZmpGTm5wbHJyZz09>

Meeting ID: 881 6806 2551

Passcode: 448822

One tap mobile

*+16692192599,,88168062551#,,,,*448822# US (San Jose)*
*+12133388477,,88168062551#,,,,*448822# US (Los Angeles)*

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Meeting ID: 881 6806 2551

Passcode: 448822

Find your local number: <https://us02web.zoom.us/j/88168062551>

MEMBERS OF THE PUBLIC WILL BE GIVEN THE OPPORTUNITY TO PROVIDE PUBLIC COMMENT. 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 VIA VIDEO CONFERENCING CLICK ON THE "RAISE HAND." TO PROVIDE PUBLIC COMMENT BY TELECONFERENCE PRESS *9.

THE BOARD MAY ACT ON ANY OF THE ITEMS LISTED ON THIS AGENDA REGARDLESS OF WHETHER AN ITEM IS DESCRIBED AS AN ACTION ITEM, A REPORT, OR AN INFORMATIONAL OR DISCUSSION ITEM.

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.

COMMENCEMENT OF MEETING

- A. CALL TO ORDER/ROLL CALL
- B. PLEDGE OF ALLEGIANCE
- 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 (2) minutes per person, twenty (20) minutes total for all speakers.

**DISCUSSION/OPEN SESSION
ACTION CALENDAR**

- D. The Board of Directors will meet to discuss and possibly act to change the rules currently in use limiting public comment to two minutes.
- E. The Board will meet to discuss and possibly act to accept a contract with Paul Nicholas Boylan to act as the District’s Interim General Counsel.

CLOSED SESSION

- F. The Board will meeting 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.
- G. Conference with Legal Counsel —existing litigation (4 Cases) – pursuant to Government Code section 54956.9, subdivision (d), paragraph (1).:
 1. *Gideon Beinstock, Marieke Furnee, Israel Perla, and Jeanette Cavaliere v. North Yuba Water Agency* [sic], Yuba County Superior Court Case No. CVPT21-00515;
 2. *Fellowship of Friends, Inc. v. North Yuba Water District, et al.*, Yuba County Superior Court Case No. CVPT22-00246;
 3. *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; and
 4. *Charles Sharp v. North Yuba Water District, et al.*, Yuba County Superior Court Case No. CVPT20-00386.

- H. PUBLIC REPORT OF ACTIONS TAKEN IN CLOSED SESSION.

ADJOURNMENT

To: The North Yuba Water District Board of Directors
From: Paul Nicholas Boylan
Re: Terms of Retainer – Interim General Legal Counsel

Scope of Representation: The North Yuba Water District Board of Directors (“District” or “Board”), is retaining Paul Nicholas Boylan (“Attorney”) (collectively referred to as the "Parties") for the purpose of retaining Attorney to serve as the District’s Interim General Legal Counsel, with duties and authority described herein (the “Representation”).

Duties: Attorney’s shall (1) advise the Board and District administrative staff; (2) conduct or facilitate training as requested or as needed; (3) supervise, manage and direct, all legal counsel the District employs; (4) manage all litigation, including but not limited to acting as lead negotiator for purposes of any settlement; (5) negotiate and oversee the negotiation of contracts; (6) locate, vet and recommend general and special legal counsel for employment; and (7) any other duties the Board may assign.

Chain of Command: To promote efficiency and cost-effectiveness, director access to District legal counsel outside of a noticed board meeting, including but not limited to Attorney, will be limited to the District Board President. The Board President may authorize other Directors to consult with Attorney.

Authority to Contract: Subject to the approval by the District’s acting general manager and the District’s chief financial officer, Attorney shall have the same authority as the general manager to enter into, pause/suspend and/or rescind contracts, subject to subsequent Board ratification.

Attorney does not have the authority to initiate litigation on behalf of the District or on behalf of any person or entity associated with the District.

Conflict of Interest Waiver: The Parties recognize that Attorney has represented parties in litigation brought against the District, and that such representation could give the impression of a conflict of interest in Attorney’s role as Interim General Legal Counsel, including but not limited to his efforts to settle the litigation. Attorney warrants (1) he will withdraw as counsel for any person that is a plaintiff/petitioner in any action against the District; and (2) attorney’s sole loyalty will be to the District in any settlement negotiations in which he participates as the District’s legal counsel and in any decision he makes managing said litigation.

Based on the foregoing assurances, the District agrees to enter into the Conflict Waiver, attached to this Agreement.

Hourly Rate: Attorney will bill the District, and the District agrees to compensate Attorney, for all time Attorney works associated with the Representation at a reduced hourly rate of \$550 per hour billed in .1 hour minimum increments. Attorney will not bill for travel time.

Costs: The Representation may require payment of fees and costs for filing, for service of process, or for the use of internet based research tools. The District agrees to reimburse Attorney for costs I pay on the District's behalf as part of the Representation. Costs and fees associated with travel, lodging, parking, duplication (document copies), and faxes are not considered "costs" per this Agreement.

Termination of Agreement: At any time either party may terminate this Agreement with notice of termination provided to the other party, with email notification being deemed sufficient notice. Termination will not void or excuse any payment obligations under this Agreement.

Full Cooperation: In order to facilitate Attorney's efforts on the District behalf, the District agrees to fully cooperate with Attorney's efforts on The District's behalf, including but not limited to providing documents and information in the form and organization Attorney specifies.

Only Agreement Between Us: The Parties further agree this Agreement is the only agreement between the Parties pertaining to the general and specific work described herein and that this Agreement supersedes all prior agreements between the Parties, written or oral. The Parties further agree that this Agreement cannot be changed or modified except through a writing signed and dated by both Parties.

Dispute Resolution: The District warrants and agrees that Attorney cannot guarantee any result(s). If any conflict arises between the parties pertaining to the performance or interpretation of this Agreement, the Parties mutually agree that any legal action will be venued in Yolo County, California, that California law will apply. The Parties warrant that, although they are aware that there may be arguments and legal authority supporting a right to a different forum and controlling law, the parties hereby waive any right or argument supporting any other forum or controlling law. The parties further agree that if a dispute arises between them, both parties shall bear their own attorney's fees and costs.

Errors and Omissions Insurance Coverage: Attorney warrants that Attorney maintains errors and omissions coverage applicable to the services to be rendered and in excess of the amounts set forth in Business and Professions Code section 6148.

Counterpart Signatures: This Agreement may be executed in several counterparts, including via facsimile, each of which shall be deemed an original for all purposes, including judicial proof of the terms hereof, and all of which together shall constitute and

be deemed one and the same agreement.

Warranty of Authority: The signator on behalf of the District, below, warrants that they are authorized to execute this agreement on behalf of the District.

Dated: December ____, 2022

Paul Nicholas Boylan

Dated: December ____, 2022

For North Yuba Water District

ATTACHMENT

**POTENTIAL CONFLICT OF INTEREST
DISCLOSURE AND WAIVER AGREEMENT**

Paul Nicholas Boylan (Attorney) represents or represented, Charles Sharp (“Sharp”) in the legal action entitled *Charles Sharp v. North Yuba Water District, et al., Yuba County Superior Court Case No. CVPT20-00386*. Attorney also represents Marieke Furnee (“Furnee”) in the legal action entitled *Gideon Beinstock, Marieke Furnee, Israel Perla, and Jeanette Cavaliere v. North Yuba Water Agency [sic], Yuba County Superior Court Case No. CVPT21-00515* (collectively referred to as the “Actions”).

Although Attorney has or will withdraw as legal counsel for Sharp and Furnee pertaining to both Actions, if the North Yuba Water District (the “District”) retains Attorney to act as the District’s Interim General Counsel, it could lead to the impression of a conflict of interest and/or potential conflicts of interest due to the circumstances described above.

The California Rules of Professional Conduct require that, before an attorney represents clients that may involve a conflict of interest, the attorney must: (1) inform each client in writing of the relevant circumstances and of the actual and reasonably foreseeable adverse consequences to the each client arising from the proposed representation, and (2) obtain the informed written consent of each client to engage in a retainer that could involve a conflict of interest.

Attorney does not perceive any actual or reasonably foreseeable conflict of interest and/or adverse consequences at this time. There is no problem if the District’s interests coincide with Sharp and Furnee’s interests, but, before the District, Sharp and/or Furnee agree to waive Attorney’s potential conflict(s) of interest, they should consider the following:

(1) For purposes Attorney’s work on behalf of the District pertaining to the Actions, including but not limited to settlement negotiations, Attorney shall be focused on the District’s best interests, and not Sharp or Furnee’s interests.

(2) Attorneys owe their past and present clients a duty to preserve secrets and confidential communications. Although Attorney will maintain the confidentiality of any communications between him and Sharp, and between him and Furnee, that took place when Attorney represented Sharp and Furnee, the attorney/client relationship between Attorney and Sharp and attorney and Furnee has ended, and any future communications between Attorney and Sharp, and Attorney and Furnee pertaining to the Actions will not

be subject to the attorney/client privilege, and Attorney, if retained by the District, will have the duty to keep the District reasonably informed of significant developments.

The aforementioned risk is minimal, if not nonexistent. Furnee has withdrawn or is withdrawing as a party to *Gideon Beinstock, Marieke Furnee, Israel Perla, and Jeanette Cavaliere v. North Yuba Water Agency* [sic], Yuba County Superior Court Case No. CVPT21-00515. Sharp continues to retain other legal counsel to represent him in *Charles Sharp v. North Yuba Water District, et al.*, Yuba County Superior Court Case No. CVPT20-00386 – which means that Attorney cannot communicate directly with Sharp on matters pertaining to *Charles Sharp v. North Yuba Water District, et al.*, Yuba County Superior Court Case No. CVPT20-00386, but may only communicate to Sharp’s attorney.

(3) Although Attorney does not foresee any conflict arising due to his former representation of Sharp and Furnee and his possible future representation of the District, it is possible that, if a conflict arises, Attorney will be required to inform all Parties and may possible be required to recuse himself from representing any of the Parties in matters connected to the Actions.

(4) Attorney will be representing and advising the District. He will no longer provide legal advice to Sharp and/or Furnee pertaining to the Actions – or any matter in which the interests of Sharp and/or Furnee are adverse to the interests of the District.

By signing this Disclosure and Waiver Agreement, the District, Sharp and Furnee expressly acknowledge that they: (1) have carefully read and fully understands the disclosures set forth above; (2) has carefully considered all of the circumstances and potential consequences described above; and (3) agree that Attorney may represent the District for purposes of acting as the District’s defense counsel in the Actions, including but not limited to engaging in settlement efforts on the District’s behalf; and (4)

The Parties agree that this Potential Conflict of Interest Disclosure And Waiver Agreement may be executed in several counterparts, including via facsimile, each of which shall be deemed an original for all purposes, including judicial proof of the terms hereof, and all of which together shall constitute and be deemed one and the same agreement.

The person signing on behalf of the District warrants that they have the authority to enter into this Agreement.

Date: December __, 2022

For the North Yuba Water District

Date: December ___, 2022

Charles Sharp

Date: December ___, 2022

Marieke Furnee