



**Minutes**

KID Board of Directors Meeting  
 And Canvassing of 2010 Election  
 Carl W. Petersen Board Room  
 Monday, December 20, 2010, 9:00 a.m.

President Jaksch called the meeting to order at 9:00 a.m. District Manager Freeman called roll.

**Directors Present:**

John Jaksch, President  
 Gene Huffman, Vice President  
 Patrick McGuire  
 David McKenzie  
 John Pringle

**Staff Present:**

Charles Freeman, District Manager  
 Con Higley, Assistant Operations/Maintenance Manager  
 Brian Iller, Legal Counsel  
 Scott Revell, Planning Manager  
 Colleen Storms, Comptroller/Treasurer  
 Doris Rakowski, Executive Assistant

**APPROVAL OF AGENDA: Director McKenzie moved to approve the agenda. Director Pringle seconded the motion and it carried unanimously.**

**CANVASSING OF ELECTION: President Jaksch moved to appoint the election board composed of Inspector Bob Gudgel, Judge Karen Woofter and Judge Bette Gudgel. Vice President Huffman seconded the motion and it carried unanimously.**

**Director Pringle moved to delegate the counting of the ballots to the election board. Vice President Huffman seconded the motion and it carried unanimously.**

**CONSENT AGENDA: Vice President Huffman moved to approve the consent agenda. Director McKenzie seconded the motion and it carried unanimously.**

Items approved by consent agenda were:

1. Short Plat 10-21, McLaughlin
2. Return Water Smart Grant - Ed to write memo and letter
3. Authorizing Use of Collection Services
4. KID O&M Vouchers

**Accounts Payable**

Numbers: 61266 through 61316	\$	97,959.50	
61321 through 61330		42,510.24	
61331 through 61377		40,964.75	
<b>Total Accounts Payable</b>			181,434.49
<b><u>Payroll</u></b>			
Numbers: 31590 through 31595	\$	6,525.67	
Direct Deposit		60,334.08	
<b>Total Payroll</b>			66,859.75
<b>Total Disbursements</b>			<b><u>\$ 248,294.24</u></b>

**Voided Checks**

Check No. 61197 Lost check, void and reissue  
 Check No.'s 61317-61320 Printed out of sequence, void and reissue

**BOARD REPORTS:**

**Finance Committee:** Director McGuire reported that the Finance Committee discussed:

- Financial statements
- Potable water rates

Mr. Wade said he had a question and Mr. McGuire replied, "We're not at that point, sir. I'm talking. Thank you very much."

- A draft delinquency account policy
- Adoption of a cafeteria plan
- A draft refund policy

**PRESENTATIONS:**

**Financial Reports:** Ms. Storms expanded on some sections of the financial reports (on file). Pages reviewed were:

- Balance Sheet
- Statement of Revenue, Expenses and Changes in Net Assets
- Year to Date (YTD) Budget to Actual Variance
- YTD Revenue Statement-Comparative
- Statement of Cash Flows-Reconciliation of Change in Net Assets to Net Cash Provided by Operating Activities
- Balance Sheet Footnotes-Cash Schedule
- Statement of Revenue Footnotes including Grant & Matching Funds Schedule
- Cash Investment Report

Ms. Storms notes that recently paid off leases would show in the December report.

**PUBLIC HEARING:** None

**ACTION ITEMS:**

**Approve Professional Service Agreement - Environmental Attorney - Red Mountain:** Mr. Revell presented staff's request to authorize the District Manager to retain a law firm specializing in environmental permitting. Costs would be paid by the Red Mountain LID. Discussion ensued.

**Vice President Huffman moved to authorize the District Manager, or his designee, to enter into a professional services agreement with a law firm for the environment permitting associated with the Red Mountain LID project. Director McGuire seconded the motion and it carried unanimously.**

**Approve Professional Service Agreement - Cultural Survey Specialist - Red Mountain:** Mr. Revell presented staff's request to authorize the District Manager to retain Reiss-Landreau Research to perform a cultural resources study. Cost was expected to be less than \$15,000 unless something culturally significant was found. Funds were available in the Realty budget and would be reimbursable by the Red Mountain LID. Discussion ensued regarding work done by Pacific NW Project.

**Director McGuire moved to authorize the District Manager, or his designee, to enter into a professional services agreement with Reiss-Landreau Research. Director McKenzie seconded the motion and it carried unanimously.**

**RESOLUTIONS:**

**Resolution 2010-32 In Appreciation of John Pringle:** Mr. Freeman read into record Resolution 2010-32, A Resolution of Appreciation of John Pringle, For Years of Service to the People of the Kennewick Irrigation District:

A Resolution of the Board of Directors of Kennewick Irrigation District, Benton County, Washington, to give appropriate acknowledgement and recognition to John Pringle for rendering invaluable service to the customers of Kennewick Irrigation District for twenty-seven years as a Director of the Kennewick Irrigation District; whereas, John Pringle has faithfully served on the Board of Directors since August 1983; and whereas, during his tenure in office, John Pringle has served as President and Vice-President of the Board of Directors, and served on multiple committees and been a positive influence on every department of the Kennewick Irrigation District; and whereas, John Pringle led and inspired the District through his hard work and dedication to public service; and WHEREAS, John Pringle has worked tirelessly to support improvements to the District's facilities, organization and service to the water users of the District; and whereas, under John Pringle's leadership the Kennewick Irrigation District has continued to meet the changing needs of a growing community; and whereas, Kennewick Irrigation District staff and Directors have made a special point to express their gratitude and appreciation for John Pringle's service to the District; now, therefore, be it resolved by the Board of Directors of the Kennewick Irrigation District, Benton County, Washington, that the Kennewick Irrigation District does hereby recognize John Pringle and expresses sincere gratitude and appreciation for the exemplary work performed during his tenure as a Director of the Kennewick Irrigation District.

**Vice President Huffman moved to adopt Resolution 2010-32, In Appreciation of John Pringle. Director McKenzie seconded the motion. Directors Jaksch, Huffman, McKenzie and McGuire voted in favor. Director Pringle abstained. The motion carried.**

**Resolution 2010-33 Section 125 Premium Only Plan:** Ms. Storms presented staff's recommendation that KID offer a Section 125 Premium Only Plan which would allow employees elect to have their share of the insurance premium to be paid pre-tax. Discussion ensued.

**Director McGuire moved to adopt Resolution 2010-33 Section 125 Premium Only Plan. Director Pringle seconded the motion and it carried unanimously.**

**Resolution 2010-34 Determined Plan of Development:** Mr. Freeman recommended discussion of this topic after executive session.

**PUBLIC COMMENTS:**

**James Wade**, residing at 1813 S Rainier Place in Kennewick, asked if the Red Mountain LID had started paying yet or if the rate payers were continuing to subsidize them. President Jaksch said that Mr. Wade had been told a number of times that the rate payers were not subsidizing Red Mountain LID as the money was coming from reserves accumulated from the sale of property and that the money would be paid back by the Red Mountain LID.

Mr. Wade asked if he had to wait to call for a recount. President Jaksch said he must wait until after the initial count.

**STAFF REPORTS:**

**Finance Manager:** Ms. Storms reported:

- The State Auditor was expected that day.
- Customer Service was working on storing prior year records.
- Staffing issues were being considered in view of the retirement of Clare Arbogast.
- Work was proceeding on accounting policies including the purchasing policy and training was being planned.

Discussion ensued regarding the merits and deficits of the Springbrook accounting program and other software options.

Vice President Huffman thanked Ms. Storms for her directness and honesty in running of the Finance Department.

**Engineering/Operations Manager:** In Ed Everaert's absence, Mr. Higley reported:

- Bids for canal lining would be opened in one week.
- Prep work for the lining was proceeding but the snow had slowed progress.
- Mr. Higley offered Board members a tour of the winter work and President Jaksch expressed interested in touring after the canal lining installation had begun.

**Planning Manager:** Mr. Revell reported that he had indicated KID's support for the integrated water plan at the recent Yakima River Basin Water Enhancement Project (YRBWEP) Work Group meeting. He discussed the stated positions of several other agencies and noted that the modifications to the District's proposed language regarding power subordination were workable. Discussion ensued regarding the group's drafting of federal legislation.

**District Manager:** Mr. Freeman reported that the Feasibility Study document was being reviewed and revised with the goal of adoption by the Board during the first quarter of 2011.

**WORKSHOP:** None

President Jaksch called a short break at 9:35 a.m. and the meeting reconvened at 9:50 a.m.

**CANVASSING OF ELECTION:** The election board delivered the results of the ballot count to the Board of Directors. President Jaksch read the results aloud. The election board confirmed the accuracy of each number as it was read.

Ballots cast at  
polling place:

Position 1

Dean Dennis 51

Kirk Rathbun 1246

James Wade 28

*\*Dale Walter received*

*seven write-in votes for*

*Position 4, which was not*

*on the ballot.*

Absentee ballots cast:

Position 1

Dean Dennis 85

Kirk Rathbun 519

James Wade 14

Dale Walter 2

**Total ballots cast:**

**Position 1**

**Dean Dennis 136**

**Kirk Rathbun 1765**

**James Wade 42**

**Dale Walter 9**

**Call for Recount:** James Wade, residing at 1813 S Rainier Place in Kennewick, called for a recount on the basis of violation of RCW 87.01.051 and 87.03.034. Mr. Wade said RCW 87.01.051 states that "on community property that if the Secretary of the District had not received the authorization for the spouse to vote, that the first elector showing up to the election

may do so. He said that was violated because the first elector that showed up without the authorization from the spouse was only allowed the one vote and not two votes that were required.

District Counsel Brian Iller noted that during the break, Mr. Wade indicated to Mr. Iller that he had not observed election board perform the canvass of the vote. He asked Mr. Wade the basis for the statement that for community property only one vote was allowed.

Mr. Wade said, "That's just one of them, Mr. Iller. The other was, I had requested public records for every corporation signature and stuff, and absentee ballot and stuff that came in; to view those as they came in. I have yet to see one. I was denied that privilege."

Mr. Iller said Mr. Wade was not denied the privilege, as the ballots were present in the Board room; they have been counted less than ten feet away from Mr. Wade and he had every opportunity to observe the count and look at the ballots and look at the records he requested as they were being counted.

Mr. Wade said he was not advised he could be there when they were canvassing and that if he had been notified that he could sit there he would have done so when they were counting. Mr. Wade also said he saw no authority for the Board of Directors to appoint the same people that counted the ballots the first time to do so again. He said the RCW states the Board must do it.

Mr. Iller said Mr. Freeman reported that Mr. Wade was present and observed the count last year, and, apparently, knew he had that right last year. Mr. Iller also noted that Mr. Wade had obviously read and familiarized himself with the statutes applying to irrigation district elections. He said that RCW 87.03.105 states, in relevant part, that the canvass must be made in public. Mr. Iller concluded that Mr. Wade knew that the statutes authorized him to observe the process.

Regarding the delegation issue, Mr. Iller agreed that nothing was expressly stated that authorized the Board to delegate the canvass. He said he was unaware of any statute, case, Attorney General Opinion, or any other legal authority that prevented said delegation. He asked if Mr. Wade was aware of any authority that prevents the Board from delegating that duty.

Mr. Wade asked if Mr. Iller was aware of any that permit it.

Mr. Iller said as a general principle, a board may delegate statutory duties unless specifically prohibited by statute or a court of law had concluded that a board may not delegate those particular duties.

Mr. Wade said he understood Mr. Iller's opinion and noted that he talked to numerous people that come in and voted that were not allowed their two votes when their wives had not signed the statement. He said he could bring witnesses and that they had already been sent to the Attorney General.

Mr. Wade confirmed to Mr. Iller that his reasons for requesting a recount were that certain people were denied a second vote for community property that they owned and that the Board had the responsibility to count the votes. Mr. Wade asked if the recount would be granted.

Mr. Iller said it was for the Board to decide whether Mr. Wade entitled to recount because he had an opinion that the vote had not been correctly counted and, if they choose to allow the recount, whether to perform the recount or refer the recount back to the election board.

Mr. Wade said, "The other problem I had was having a regular meeting during the canvassing where I thought it was a regular meeting. Like I said, I didn't know I was allowed to sit in there on this canvassing, otherwise I'd have been sitting there instead of listening to the meeting."

Mr. Iller noted that Mr. Wade was sitting six feet away from the table where the canvass was occurring, and that he did not ask if he could watch though he did watch last year. He noted that the Board delegated the canvass without Mr. Wade's objection until after the count.

Mr. Wade said he started to object and was not allowed to speak while Mr. Huffman was speaking.

Mr. Iller said, "You did not object to the delegation at the time the delegation was made." He repeated the description of Mr. Wade's opportunity to observe the canvass, had he chosen to do so. He restated the recount and delegation questions before the Board.

Mr. Wade said "I still want to see those corporate signatures for people to vote and all the information I'd requested previously."

Mr. Iller said the recount would be held in public like the count that had just occurred and that Mr. Wade could watch. He confirmed that Mr. Wade could inspect all of the information that he had requested. He clarified that if Mr. Wade wished to pay the fee for copies of materials he inspected, he could do that as well.

President Jaksch said the Board of Directors had historically delegated counting of the ballots to avoid accusations of bias where the Board may have interest in one or more of the candidates.

Mr. Iller noted that Mr. Wade demanded that the Board of Directors count the ballots themselves and said that in so doing, he believed that Mr. Wade had waived any argument that the Board is biased in favor of one of the candidates. He asked Mr. Wade if, since he was demanding that the Board not delegate, he had no problem at all with the Board counting the ballots and doing the recount.

Mr. Wade said, "If I can be present, that is correct."

Vice President Huffman asked Mr. Wade if he thought the recount would change the result.

Mr. Wade said he didn't know; it depended on how they came in and how they were authorized. He said there was a good possibility it would make a difference.

Vice President Huffman asked who bears cost for the recount.

Mr. Wade said he guessed KID and the rate payers did.

**Director McGuire moved to recount.** Mr. McGuire volunteered to be on the recount committee. **Director McKenzie seconded the motion and it carried unanimously.**

President Jaksch asked if there was a motion to delegate back to the election board or if the Board of Directors wished to conduct the recount themselves. Director McGuire recommended that Board conduct the recount.

President Jaksch asked Mr. Freeman to secure the ballots until after the executive session and asked staff to provide additional certificates for use in the recount.

Mr. Iller confirmed to President Jaksch that Mr. Wade could not demand a second recount under RCW 87.03. He read aloud the statute governing certification of returns and preservation for recount.

The Board recessed for five minutes at 10:15 a.m. while Mr. Freeman secured the ballots in the presence of Mr. Wade and other witnesses.

The Board returned to open session at 10:20 a.m.

President Jaksch thanked Inspector Bob Gudgel, Judge Karen Woofter and Judge Bette Gudgel for their service on the election board and excused them.

Mr. Iller stated that he had reviewed Mr. Wade's contentions regarding community property voting. He referred to RCW 87.03.051 and read, in relevant part, "The ballots cast for each ownership of land or shares shall be exercised by common agreement between electors or when land is held as community property, the accumulated votes may be divided equally between husband and wife. Except for community property ownership, in the absence of the submission of the common agreement to the secretary of the district at least twenty-four hours before the opening of the polls, the election board shall recognize the first elector to appear on election day as the elector having the authority to cast the ballots for that parcel of land for which there is more than one ownership interest." He noted that the rule regarding the first elector to appear does not apply to community property ownership.

Mr. Wade explained, "On your community property, you have two votes; one for each. Yet, only the elector shows up and that form has not been received, then instead of receiving one vote, that elector is allowed two votes, which has been denied."

Mr. Iller read again, "Except for community property ownership, in the absence of the submission of the common agreement to the Secretary of the District..., the election board shall recognize the first elector to appear on election day as the elector having the authority to cast the ballots for that parcel of land..."

Mr. Wade said he interpreted it differently.

#### **EXECUTIVE SESSION**

Following a short recess at 10:25 a.m., the Board met in executive session for 90 minutes to discuss with legal counsel litigation regarding Acquavella and to discuss with legal counsel potential litigation per RCW 42.30.110(1)(i)(i).

#### **OPEN SESSION:**

The Board returned to open session at 11:55 a.m.

**Resolution 2010-34 Determined Plan of Development:** Mr. Freeman presented the proposed resolution and discussed its purpose. He noted that USBR staff reviewed the resolution and had no changes and confirmed that Derrick Sandison received a copy for the Department of Ecology.

**Vice President Huffman moved to approve Resolution 2010-34, Establishing a Development Plan for Future Planned Projects within the District. Director Pringle seconded the motion and it carried unanimously.**

**RECOUNT:**

Director McGuire acted as inspector and Vice President Huffman and Director McKenzie served as judges. Mr. Wade sat at the table to observe. Also observing the recount were Mr. Freeman and Mr. Iller, who were seated at the table, and President Jaksch, Director Pringle and Ms. Rakowski who were seated nearby.

Mr. Wade inspected the boxes and confirmed that they were still sealed as they were before executive session. Mr. Freeman opened the ballot boxes.

Mr. Iller asked that if Mr. Wade observed anything that he believed was not proper and in accordance with statute that he immediately object so that a record could be made of his objections and they could be addressed.

**Examination by Mr. Wade of forms submitted at the polling place:**

Mr. Wade examined the oath of qualification forms, and the authorization to cast votes for spouses and entities forms for ballots cast in person at the polling place.

Upon completion of his examination of said forms, Mr. Wade noted that some forms did not have the county filled in.

Mr. Wade asked Director Pringle if he was the registered agent for his corporations. Director Pringle replied that he didn't remember for which corporation he was the managing member or registered agent and would have to look them up.

Mr. Wade indicated the forms which he challenged.

Mr. Iller asked Mr. Wade to identify the person or entity on each oath of qualification that he challenged and the grounds for each challenge. The objections and resolutions are summarized in the table below:

Entity	Grounds for Objection	Resolution
J&S Orchards	Registered agent did not give permission	Director Pringle said he was the managing partner and his partner was the registered agent. Unresolved **See discussion below.
Finley Orchards	Registered agent did not give permission	Director Pringle said he was the registered agent. Mr. Wade withdrew challenge.
Cherry Creek Orchards	Registered agent did not give permission	Director Pringle said he was the registered agent. Mr. Wade withdrew challenge.
Sun River Farms	Registered agent did not give permission	Mr. Wade looked at the Secretary of State's website which confirmed that Director McKenzie was the registered agent and withdrew challenge.
Windfeather Farms	Registered agent did not give permission	Mr. Wade looked at the Secretary of State's website which confirmed that Director McGuire was the registered agent and withdrew challenge.

Sharon McCain	County left blank	*See discussion below.
Carol M. Jekel	County left blank	*See discussion below.
Trudi Adams	County left blank	*See discussion below.
Dean Wake	County left blank	*See discussion below.
Patricia Wake	County left blank	*See discussion below.
Merle R. Hornbacker	County left blank	*See discussion below.
Jim Carol	County left blank	*See discussion below.
Tim Berk	County left blank	*See discussion below.
Danielle L. Harmon	"CID" was written across the form	Ms. Rakowski explained that no KID ballots were issued to Ms. Harmon as her property was in the Columbia Irrigation District and that staff has directed her to the CID office.
Dana Flajole	County left blank	*See discussion below.
Gerry B. Sleater	County left blank	*See discussion below.
R C McAloon	County left blank	*See discussion below.

**\*Discussion regarding resolution of "county left blank" challenge:** Mr. Iller asked Mr. Wade what was the basis of his contention that the county must be filled in before the oaths of qualifications could be accepted.

Mr. Wade said it was his understanding that there should be no empty area on the forms and said there might be something in the state constitution regarding that matter.

Mr. Iller read from RCW 87.03.105: "No list, tally paper or certificate returned from any election shall be set aside or rejected for want of form, if it can be satisfactorily understood." He said that the oath of qualifications was in effect a certificate and that the RCW directs the Board not to set aside or reject these documents. He also said it was impossible for him to respond to the general claim regarding the state constitution. Ask that the challenged oath of qualification be counted separately.

**\*\*Discussion regarding resolution of "registered agent did not give permission" challenge:** Mr. Iller noted that RCW 87.03.051 said, "The ballots cast for each ownership of land or shares shall be exercised by common agreement between electors..." and that RCW 87.03.033(1)(c) said, "The statements in the certificate of qualifications shall be certified as correct by the voter by the affixing of his signature thereto in the presence of a witness..."

Mr. Wade confirmed that there was a witness on the form, but that it was a member of the election board. He said he thought it was improper for an election official to witness in place of a member of the corporation.

Mr. Iller restated that the certificate of qualifications was to be signed in the presence of a witness acquainted with the voter. He said if the J&S Orchards LLC corporate authorization form was signed by a member of the election board (to which Mr. Iller could not attest due to illegibility of the signature) and if it were improper, and no statute was provided to show that it was, RCW 87.03.033(1)(c) only required the witness be acquainted with the voter.

Mr. Wade said he disagreed and would get confirmation.

Mr. Iller said that the registered agent under the Secretary of State's registration statutes is simply the agent for receiving service of legal process. He said that, generally, a president has full and apparent authority to act on behalf of a corporation and for an LLC, the managing member has full authority to act. He asked Mr. Wade what authority he had in support of his argument that a managing member of an LLC does not have authority to act.

Mr. Wade he did not have a reference at the time, but he challenged on the basis of a conflict of interest with someone on the election board witnessing. He confirmed that he did not have a reference for that contention either.

J&S Orchards forms were put aside as undecided.

**Recount of votes cast in person at the polling place:**

Mr. Wade requested to inspect the ballots.

Mr. Iller noted that Mr. Wade was sitting at the table with the counters. He invited Mr. Wade to observe and state if he were to see a ballot that is improper for any reason so it could be examined and Mr. Wade's objections addressed.

Director McGuire proceeded to read from the ballots the number of votes cast and the name of the candidate for whom the votes were cast. Directors Huffman and McKenzie tallied the votes.

A ballot was read with one vote for James Wade and a write in vote for Dale Walter for position 4. Mr. Iller pointed out that there was no election being held for that position. Discussion ensued regarding whether there should have been an election for position 4.

Mr. Wade read RCW 87.03.075. He stressed "for each" in the sentence "If, after the expiration of the date for filing petitions of nomination, it appears that only one qualified candidate has been nominated thereby for each position to be filled it shall not be necessary to hold an election, and the board of directors shall at their next meeting declare such candidate elected as director..." Mr. Wade said "shall, for each position, it shall be not necessary to hold an election."

Mr. Iller, advised, to give Mr. Wade the benefit of the doubt, to count the vote for Mr. Wade and make a notation that there was a vote for Mr. Walter even though there was no election for that position. He noted that each position was singular and that statute did not require an election for every position even though there was only one qualified candidates for those positions.

Director McGuire said he thought the statute said only valid official ballots shall be accepted, and asked, since this was a ballot for position 1, was it a valid ballot for position 4.

Mr. Iller said as it was on an official form, to count vote for Mr. Wade on position 1 and make a note of the vote cast for a different position.

Counting continued.

A ballot with votes for both Dale Walter and James Wade for position 1 was read. Mr. Wade agreed to discard the ballot.

A ballot with "write in" checked but no name written was read. Mr. Wade confirmed invalidation of the ballot.

Mr. Iller summarized the actions regarding irregular ballots: all votes for position 4 were duly noted despite there being no election for that position; ballots with no candidate named invalidated with Mr. Wade's agreement; ballots with more than one candidate marked for position 1 were invalidated with Mr. Wade's agreement.

Tallies were totaled and compared. There was a difference between the tallies so the ballots for 5 and 10 votes were recounted. The tallies were again compared and matched.

Mr. McGuire read the results of the recount of ballots cast at the polling place:

Position 1

Dean Dennis 51

Kirk Rathbun 1236

James Wade 28

*\*Dale Walter received six write-in votes for Position 4, which was not on the ballot.*

Mr. Wade confirmed the totals agreed with his own count.

Mr. Freeman locked up the ballots and Director McGuire filled in the certification of the results of the polling place returns recount form and obtained the necessary signatures.

Mr. Iller put aside the Authorization form for J&S Orchards and the oaths for qualifications that Mr. Wade challenged until a clear determination could be made of how many votes those persons would have cast and it was known whether counting them could have affected the results. Mr. Wade said he had no problem with that.

**Examination by Mr. Wade of forms submitted by absentee voters:**

Director McGuire opened the absentee ballot box.

Mr. Wade declined the opportunity to review the requests for absentee ballots and declined to review the privacy envelopes. Mr. Wade reviewed the absentee ballot envelopes with certificate of qualifications.

Mr. Iller read passages of the letter from Dave Barnes, Superintendent of the Kennewick School District (KSD), authorizing Vic Roberts, KSD Business Manager, to vote on behalf of KSD and the corresponding KSD Board Resolution #5, adopted December 3, 2008, and offered it to Mr. Wade for examination.

Mr. Wade examined the documents and challenged Mr. Robert's authority to vote on behalf of KSD because "the school board should have had something to do with it."

Mr. Iller noted that the attached resolution was a resolution of the school board.

Mr. Wade said "I don't know whether that's the school board members that signed that or not. It doesn't say 'school board members,' that's why I'm questioning it."

Mr. Iller asked if Mr. Wade had reason to believe they were not the signatures of the people they purported to be.

Mr. Wade said he did not know if they were the school board members.

Ms. Rakowski read from the KSD website the names of current KSD Board Members who were also Board Members when the resolution was written.

Mr. Wade examined the envelope from the KSD that had been retained with the letter and resolution.

Absentee ballot returns were tallied. Write in votes for position 4 were duly noted. The tallies of the absentee ballots were totaled and compared.

Mr. McGuire read the results of the recount of absentee ballots:

Position 1

Dean Dennis 85  
 Kirk Rathbun 498  
 James Wade 14  
 Dale Walter 2

*\*Dale Walter received four write-in votes for Position 4, which was not on the ballot.*

Mr. Freeman locked up the absentee ballots and Director McGuire filled in the certification of the results of the absentee returns recount form and obtained the necessary signatures.

Mr. Wade did not object to the results.

The absentee and polling place tallies were entered, totaled and certified on the RECOUNT Statement of Election Returns. Mr. Freeman declared the results based on the recount:

Ballots cast at  
 polling place:

Position 1

Dean Dennis 51  
 Kirk Rathbun 1236  
 James Wade 28  
 Dale Walter 0  
*Pos. 4 Dale Walter 6*  
 Total regular votes: 1321

Absentee ballots cast:

Position 1

Dean Dennis 85  
 Kirk Rathbun 498  
 James Wade 14  
 Dale Walter 2  
*Pos. 4 Dale Walter 4*  
 Total absentee votes: 603

**Total ballots cast:**

**Position 1**

**Dean Dennis 136**  
**Kirk Rathbun 1734**  
**James Wade 42**  
**Dale Walter 2**  
***Pos. 4 Dale Walter 10.***  
**Total votes cast: 1924**

Mr. Iller asked Mr. Wade if he had any problems with how the recount was handled other than the challenges to the various qualifications. Mr. Wade replied "No."

Mr. Iller said, that while he did not think the registered agent must execute the authorization to vote for an entity or that the failure to insert the name of the county on the oath of qualifications was disqualifying, he looked up the acreage and calculated maximum possible votes for the group of challenged forms. The results were as follows:

Entity	Acreage	Maximum Potential Votes
J&S Orchards	33	14
Sharon McCain	(not read aloud)	2
Carol M. Jekel	(not read aloud)	2
Trudi Adams	4.92	2
Dean Wake	558.817	224
Patricia Wake	53.6	22
Merle R. Hornbacker	2.57	2

Jim Carol	(not read aloud)	2
Tim Berk	2.63	2
Dana Flajole	.256	2
Gerry B. Sleater	15.3	4
R C McAloon	.284	2
Kennewick School Dist.	445.309	180
Total potential votes	-	440***

Mr. Iller said he did not agree that any of these votes could not be counted, however the total potential votes which were challenged was 440 votes. Mr. Iller pointed out that, given the spread, of the final results, even if they had all voted for Kirk Rathbun and been disqualified, the total would be 1294 for Mr. Rathbun and the election result would not change.

\*\*\*Preparer's note: The corrected total of potential votes was 460 and possible reduced votes for Mr. Rathbun would have been 1274.

Mr. Iller reviewed Mr. Wade's challenge of the KSD authorization, and noted that Mr. Wade provided no authority that they are not proper qualifications. He said that even if they had not voted it would not change the results.

Mr. Wade said he had no qualms with that.

Mr. Wade said Mr. Iller forgot to mention position 4. He said, "The votes came in for position 4 and my understanding is, if it is a write-in vote, that he would be the one elected because he was the only one voted for for position 4."

Mr. Iller said, "As we've discussed before, position 4 was filled, without an election, pursuant to the statutory requirements, and, if Mr. Walter wanted to challenge that action, he should have done so before the election and before the issuance of the ballots."

Mr. Wade said, "I don't believe it has to be Mr. Walters to do that, however, it is not up to me to decide; it will be up to someone else to decide. I thank the Board for their time. Thank you."

Mr. Iller said matter of the recount is in the hands of the Board which should decide whether to accept the certification of the 2010 election after the recount performed by the Board.

**Director Pringle moved to accept the Certification of the 2010 Election. Director McGuire seconded the motion and it carried unanimously.**

A Certificate of Election was completed, signed and sealed for Kirk Rathbun for position 1.

**Director Pringle moved to adjourn at 2:30 p.m. Vice President Huffman seconded and the motion carried unanimously.**

Attest:

Witness:

  
John Jaksch, Board President

  
Charles Freeman, Secretary/Manager

Prepared by Doris Rakowski