



Minutes

Meeting of the KID Board of Directors
 Carl W. Petersen Board Room
 Tuesday, January 4, 2011, 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
 Kirk Rathbun

Staff Present:

Charles Freeman, District Manager
 Ed Everaert, Engineering Manager
 Brian Iller, Legal Counsel
 Scott Revell, Planning Manager
 Colleen Storms, Comptroller/Treasurer
 Brad Crawford, Purchasing, Inventory & Tech Coordinator
 Doris Rakowski, Executive Assistant

Directors Absent:

David McKenzie

OATH OF OFFICE: The oath of office was administered to John Jaksch by Brian Iller.

APPROVAL OF AGENDA: Director McGuire moved to approve the agenda. Vice President Huffman seconded the motion and it carried unanimously.

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

Approved by consent agenda were the KID O&M Vouchers.

Accounts Payable

Numbers: 61378 through 61422	\$	570,077.79
61423 through 61423		14,682.00
61424 through 61463		36,757.72
61464 through 61464		129,058.00
61465 through 61465		154.00
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Total Accounts Payable		750,729.51

Payroll

Numbers: 31596 through 31601	\$	6,338.05
Direct Deposit		61,632.08
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Total Payroll		67,970.13

Total Disbursements **\$ 818,699.64**

Voided Checks: Check No. 61463 Void and reissue due to a misprint

PRESENTATIONS: None

PUBLIC HEARING: None

BOARD REPORTS: None

ACTION ITEMS:

Confirmation of District Manager as Board Secretary: Vice President Huffman moved to confirm Charles Freeman, District Manager, as Board Secretary. Director McGuire seconded the motion and it carried unanimously.

Ecology Construction Grant #G0900195: Mr. Freeman presented the proposed grant from the Department of Ecology. He discussed changes which were recommended by District legal counsel and distributed to the Board (copy on file). Terms of repayment were discussed.

Mr. Freeman said the Department of Ecology had not reviewed the most recent revision. President Jaksch recommended finalizing the draft and forwarding it to the Department of Ecology. The Board concurred.

Request to Bid Phone System Replacement: Mr. Freeman presented the request to seek bids for a new District-wide phone system. Mr. Crawford discussed the process used to determine the District's phone system needs. Discussion ensued regarding capacity to track phone calls with software, replacement of existing hardware and scalability of the new system.

Director McGuire moved to approve staff publishing a request for proposals for a new phone system and bringing back to the Board a recommended award for purchasing and installation. Vice President Huffman seconded the motion and it carried unanimously.

McKern Professional Services Agreement: Mr. Revell presented the proposed contract. Mr. Iller noted that Mr. McKern was involved in the past in work on the Amon Wasteway as an employee of the Corps of Engineers and that the District should obtain a sworn declaration of his recollections in case his testimony is ever needed in regards to the nature of the Amon Wasteway.

Vice President Huffman moved to authorize the District Manager to enter into a professional services agreement with John McKern in an amount not to exceed \$2,000. Director McGuire seconded the motion and it carried unanimously.

Award Canal Liner Contract: Mr. Everaert discussed the proposals received by KID. He reported that one bidder was disqualified because Addendum A was missing and another bidder was disqualified for late submission. Of the qualified bidders, the lowest cost was NW Linings and Geotextile Products at \$686,698.52 and the next was 2M Company at \$698,807.83.

Mr. Everaert reported that NW Linings and Geotextile Products did not include a specification sheet for the product they bid, but that his own research showed that it did not meet or exceed the specification, required by KID in the spec documents, for materials with puncture strength of 30 pounds using test method ASPMD-4833.

Mr. Everaert recommended the Board accept the proposal from 2M Company which met all of the specifications required by KID. Discussion ensued regarding cost.

President Jaksch moved to approve the acceptance of the apparent qualified low bid of \$698,807.83 submitted by the 2M Company Inc. for the 45-mil EPDM lining materials and tools for the KID Badger East Canal and the KID Main Canal. Director McGuire seconded the motion and it carried unanimously.

RESOLUTIONS:

Resolution 2011-01 Setting the Assessment: Ms. Storms reported that the assessment roll had been available for inspection since Board action in December and that no one had addressed any changes since the Board of Equalization meeting.

Mr. Freeman reported that the attachment to the resolution included no increase in the 2011 assessments for any tier, the 2010/2011 capital project charge of \$53.09 per parcel, USBR loan repayment of \$3.29 per acre for old lands and \$4.34 per acre for new lands and excess water charges. He said there were no additional changes since the budget process was completed and the assessment roll was presented in December. He confirmed that the Assessment Roll had been in his office available for inspection and that no ratepayers had reviewed or disputed it.

Vice President Huffman moved to adopt Resolution 2011-01, Assessment Roll for 2011. Director McGuire seconded the motion and it carried unanimously.

Resolution 2011-05 Water Rates Advisory Committee (WRAC): Mr. Revell presented the proposed resolution which would modify the establishing resolution for the WRAC and remove references to dates which had passed. He also discussed staff's recommendation that the Board consider expanding the roll of the WRAC into a planning or policy advisory committee.

President Jaksch said there were agricultural areas located within the urban area of Kennewick which should be acknowledged in the resolution. The words "urban-agricultural" were added to customer type category B of the signature copy of the resolution.

President Jaksch moved to adopt Resolution 2011-05 (Water Rate Advisory Committee) with the change in wording on page 2 dealing with agriculture located in urban growth areas. Director McGuire seconded the motion and it carried unanimously.

PUBLIC COMMENTS:

James Wade, residing at 1813 S Rainier Place, made the following statement about the recent election: "In the past, I've referred to KID Board as having the deck stacked. This so-called past election of the Board of Directors in December proves that I was correct, number one, by putting notice of the Election in the classified legal ads, which is mainly looked at by developers and attorneys and legal counsels and not the general public. By rescheduling the Board of Directors meeting from December 21st to December 20th at the same time and place as the canvassing of the election within two to twenty feet of everyone in the room, I found it impossible to concentrate on both the meeting and the canvassing of the elections. I also find it ironic that only farmers and developers are elected to the Board of Directors, but it's understandable when the Board consists of farmers and developers. What is hard for me to fathom is the Kennewick School District, who has a large block of votes, voting, I believe, at the request of KID, to vote for Kirk Rathbun, a farmer and developer, just as I believe the Board of Directors who have large blocks of votes, and possibly the Cities of Kennewick and Richland, and Benton County. I believe that everyone that pays assessments at KID should know what's going on behind closed doors, and the tax payers of the Kennewick School District and taxpayers who elect our officials know what's going on. After arriving back home after the canvassing of the election, it dawned on me that the absentee returns were not checked against the voters registration book. Why?"

Mr. Wade mentioned \$200 safety glasses not being guaranteed against scratch resistance and showed a pair of \$5 safety glasses. He added that, according to RCW 87.03-04, -075 and -110, Dale Walter should have been elected to position 4.

Mr. Iller said the District did follow statutes relating to the elections and that anybody who disagreed had the right to seek relief in court. He noted that the recount process was recorded. He said Mr. Wade was present during the recount, was asked repeatedly if he had any objections to the process, and he did not. Mr. Iller said that any objections, which were not raised at the time of the recount, were waived.

Mr. Wade said he recommended listening the recording because he did object and they discussed quite a few things. Mr. Iller also recommended reviewing the record and said it would speak better than either of their recollections.

Mr. Freeman said the legal notice section of the newspaper was used for all advertising of official District business. He noted that it is used by many different units of government and was where one looked to find out what government was doing. Mr. Wade repeated that only attorneys and developers look there.

Mr. Iller stated that the Board follows the open public meetings act, and that the "behind closed doors" statement was a complete fiction based on incorrect interpretation of the facts. Mr. Iller invited anyone who wanted to be part of the open public meetings to attend.

Vice President Huffman noted that since he joined the Board, it did not have all farmers on it. He stated that he owned only urban properties, and did not own or represent any farmland. Mr. Wade apologized.

President Jaksch asked Mr. Wade if he had any proof that anyone on the Board or in the KID staff communicated with the Kennewick School District and told them how to vote or if it was just an allegation on his part. Mr. Wade said, "I didn't say you did; I said I believed."

President Jaksch compared the estimated cost of over \$1,200 for the recount requested by Mr. Wade to Mr. Wade's complaint about safety glasses.

Mr. Jaksch asked if he was correct that KID was required by RCW to have the meeting to canvass the election on the 20th instead of the 21st. Mr. Iller said it was the past practice on the canvass, and that this was the first recount and the Board did the right thing in getting it done though there was really no basis for the belief that the result would change.

Ms. Rakowski noted that, when absentee ballots were issued, it was noted in the voter rolls, which were checked by the election officials at the polling place.

STAFF REPORTS:

Finance Manager: Ms. Storms reported:

- Staff was working on the conversion to cash accounting and 2010 cash basis financial statements for comparatives in 2011.
- The state auditors started two weeks ago but were called away for a different audit. The entrance conference would be scheduled when the auditors returned. The audit might still be finished by the third week of January.

Engineering/Operations Manager: Mr. Everaert reported:

- Two crews were working on canal lining preparation. Cold temperatures had hindered work.
- Work continued on weed screens, some purchased and others built by staff.
- Other items on the winter work list were being addressed as weather allowed.
- Staff was working on the Bretz Road LID formation, including addressing public comments, establishing water master and water meter requirements, and submitting documents for review by legal counsel.
- Siphon inspections had not begun. Mr. Freeman said siphon inspections were out to bid.
- Main canal restriction points were being studied regarding delivery requirements versus requested delivery. Future development and canal capacity were discussed.
- Use of the "bathtub" spillway as a reservoir was being studied.

Planning Manager: Mr. Revell reported:

- Staff was attending the KID AG Show booth. Board members were invited to participate.
- The water entitlement transfer process for the current cycle was nearing completion. Policy improvements would be proposed to the Finance Committee.
- Staff was working on details for the Cultural Resources Study for the Kiona Pump Station.
- A water user survey was being designed.
- The business/commercial zoning code change was submitted to the City of Richland.

District Manager: Mr. Freeman reported:

- The Feasibility Study review is complete. He noted that the design parameter for Division 4 was at 75cfs but 92cfs was actually pushed over the summer and said staff was verifying facts in the document. He said financial modeling was being done with data provided by staff.
- Staff training would be provided on diversity, ethics and public records law this week.
- Senior Staff would be meeting off site to prepare for the Board retreat which was expected to include a half day regarding Realty. Judy Smith was preparing a portfolio of properties.

Mr. Revell confirmed that he planned to attend the Benton County planning board open house on rural lands.

WORKSHOP: None

At 9:50 a.m., President Jaksch noted that executive session would begin with a discussion of the District's position on collective bargaining negotiations following a short break.

At 10:05 a.m., the Board met in executive session for 90 minutes to discuss the District's position on collective bargaining negotiations and to discuss with legal counsel litigation regarding Acquavella.

Executive session was extended 30 minutes at 11:30 a.m., 20 minutes at noon and five minutes at 12:20 p.m. The meeting returned to open session at 12:25 a.m.

OATH OF OFFICE: Director Elect Kirk Rathbun arrived at the meeting and the oath of office was administered by Brian Iller.

President Jaksch moved to waive any potential conflict of interest that KID may have with GordonDerr Law Firm and have that conveyed by the KID's attorney. Director McGuire seconded the motion and it carried unanimously.

Mr. Everaert reported that he received an email from NW Linings and Geotextile Products that indicated they would provide specifications that show the product they proposed meets the required specification. Mr. Everaert asked them to provide the document by Board meeting adjournment at 12:30 p.m. Mr. Everaert left the room to check for the email.

Director McGuire reported that there will be a Finance Committee meeting on January 13th at 1:00 p.m. and a Water Rate Advisory Committee meeting on January 10th at 3:30 p.m.

President Jaksch requested that Board members provide calendar information to Ms. Rakowski for scheduling a Board retreat.

Mr. Freeman said he expected to schedule the next public open house in conjunction with the public unveiling of any changes to assessments, probably in May.

Mr. Everaert read an email from Scott Newton at NW Linings and Geotextile Products (copy on file), in which he stated that he was unaware of the timeline for providing documentation but that the Carlisle and Firestone products were functional equivalents despite a two pound difference in puncture test results.

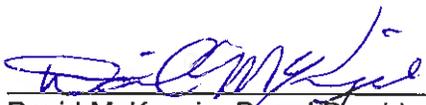
Mr. Iller questioned the claim that BJI claim NW Linings and Geotextile Products did not know there was a deadline. Mr. Everaert reported that he talked to Mr. Newton at 4:15 p.m. on Monday, January 3rd then he realized the product did not meet the specifications. He noted that another bidder was turned away because they were late, and asked if this bidder could be allowed to change the product specified after bid closing.

Discussion ensued. The Board declined to change the award of contract.

Vice President Huffman moved to adjourn at 12:45 p.m. Director Rathbun seconded and the motion carried unanimously.

Attest:

Witness:



David McKenzie, Board President, 2/1/2011



Charles Freeman, Secretary/Manager

Prepared by Doris Rakowski