



Minutes

Regular Meeting of the KID Board of Directors
 And Board of Equalization
 Carl W. Petersen Board Room
 Tuesday, December 6, 2011, 9:00 a.m.

President McKenzie called the meeting to order at 9:00 a.m. Mr. Freeman called roll.

Directors Present:

David McKenzie, President
 Gene Huffman, Vice President
 Kirk Rathbun
 John Jaksch
 Patrick McGuire

Staff Present:

Charles Freeman, District Manager
 Colleen Storms, Comptroller/Treasurer
 Scott Revell, Planning Manager
 Jason McShane, Staff Engineer
 Doris Rakowski, Executive Assistant

Other Persons Present: Brian Iller, Legal Counsel

APPROVAL OF AGENDA: President McKenzie added to the agenda and executive session discussion with legal counsel legal risks of a proposed action regarding a meeting with West Richland and the continuation of Mr. Freeman’s performance review.

Director Jaksch moved to approve the amended agenda. Vice President Huffman seconded the motion and it carried unanimously.

CONSENT AGENDA: Director Jaksch moved to approve the consent agenda. Director Rathbun seconded the motion and it carried unanimously.

Items approved by consent agenda were:

1. Minutes, KID Board Special Meeting, October 4, 2011
2. Minutes, KID Board Meeting, October 18, 2011
3. Approve Short Plat - Texas Roadhouse
4. Approve Short Plat - Duryea & Associates for Inland Group
5. Approve Vacation of Irrigation Easement – 3826 Mountain Meadows Court
6. KID O&M Vouchers

Accounts Payable

Numbers: 63182 through 63236	\$	32,506.31
63237 through 63272		<u>155,920.65</u>
Total Accounts Payable		188,426.96

Payroll

Numbers: 32156 through 32160	\$	4,432.99
32161 through 32168		7,014.73
Direct Deposit		67,816.50
		<u>66,507.31</u>
Total Payroll		<u>145,771.53</u>
Total Disbursements	\$	<u>334,198.49</u>

Voided Checks: None

PRESENTATIONS:

Financial Reports for October 2011: Ms. Storms reviewed highlights of the October 2011 Financial statements, which were distributed before the meeting. She said that the November statements would be brought to the next Board meeting. Pages discussed included:

- Balance Sheet as of October 31, 2101.
- Statement of Revenues & Expenditures – Budget to Actual. In response to a question from Director Jaksch, Ms. Storms explained that “Miscellaneous operating revenue” included a one-time reimbursement for a prior year’s expenditure.
- Revenue & Expense by Fund.

Washington State Water Resources Association (WSWRA) Legislative Issue – Foreclosure: Mr. Revell reported that the executive committee of the WSWRA would meet December 7th to discuss legislative issues, including possible amendment of RCW 87.06.030 to allow irrigation districts smaller than two hundred thousand acres to determine not to foreclose in cases where foreclosure would not be in the district’s best interest.

Discussion ensued regarding what obligation KID had to irrigate and maintain planting strips on which it had been required to foreclose, as well as possible participation by cities or homeowners associations. A number of options available under current law and KID policy were discussed. Ms. Storm said there was no benefit to foreclosing on properties with no value. President McKenzie advised that KID make it part of KID standards that planting strips be tied to other parcels for approval of short plats. Director McGuire said that KID would need to better define criteria for foreclosure if the legislation passed. In response to a question from Director Rathbun, Mr. Freeman discussed ability to discontinue service to planting strips if assessments were not paid. The Directors agreed that the legislative change should be pursued.

Draft 2012 WSWRA Legislative Agenda: Mr. Revell briefly reviewed additional items on the draft 2012 WSWRA legislative agenda, including:

- Changing the time from for processing annexations for districts larger than 200,000 acres, which would not apply to the KID
- Designating electricity generated from irrigation water, drains and wasteways as renewable energy, which Mr. Revell noted Board Committees had previously supported philosophically over the last few years.
- Raising the dollar limit at which public notices would be required to sell or lease surplus personal property from \$500 to \$10,000.
- Excluding artificial irrigation systems, canals, and drainage ditches from the statutory definition of critical areas. Mr. Revell said this issue was of great importance to the KID. Discussion ensued.
- Changing requirements for the availability of public records for districts with fewer than 30 hours per week of office hours, which would not apply to the KID.

Planning Committee Update: Mr. Revell briefly reviewed the concept of creating a Planning Committee. He said a list of issues the committee might consider was provided in the memo. He briefly discussed formation process, membership and terms. Mr. Revell said forming the committee with five members had been discussed, but the number of members could be changed if the Board preferred.

Mr. Revell said that following passage of a resolution to form the committee, vacant seats on the committee would be advertised, and that he expected the committee could be formed in the first quarter of 2012. He noted that a number of people had already expressed interest in serving on the committee, and Mr. Freeman said there would be an interview process.

In response to a question from Director Rathbun, Mr. Revell said that staff strongly recommended holding meetings within business hours due to additional staff costs and little additional attendance at past evening meetings.

Mr. Revell said the Board could choose whether to appoint a Board liaison to the committee and could change that if needed. Director McGuire suggested that the resolution state that the Board may appoint a liaison if desired.

PUBLIC HEARING:

Board of Equalization: Mr. Freeman said that the Assessment Roll was before the Board and he reported that the Board of Equalization had been properly noticed. Mr. Freeman noted that only one member of the public was in attendance and said there had been very few calls on the subject of rates in the last month.

President McKenzie suggested holding the Board of Equalization open until the end of meeting to allow time for latecomers arrive, due to the foggy weather. Discussion ensued.

At 9:43 a.m., President McKenzie called a break. Open session resumed at 9:52 a.m.

Vice President Huffman moved to open the Board of Equalization. Director Rathbun seconded the motion and it carried unanimously.

Jim Wade, residing at 1813 S Rainier Place, reported that he examined the assessment roll on December 5th. He said it appeared to him that 85% of the parcels showed a benefit to land of \$10,000 though the assessment amounts varied. He asked why there was only \$.30 difference between the benefits of a \$10,000 parcel that paid \$403.71 and a \$421,200 parcel that paid \$404.21. He asked why there were parcels listed for which the Benton County Assessors Office had no record and why some private lines were not listed.

Mr. Wade asked why RCW 87.03.240, which stated "assessments shall be made in proportion to the benefit occurring to lands assessed," was not adhered to. Mr. Wade asked to be told the difference in assessment to parcels of varying sizes, with or without structures, and said there would be no difference. He said that common lands were charged assessments in the past, but now KID was charging condominiums. He asked which parts of a common parcel belonged to each condominium parcel and said there was a separate parcel number for the common land. He referred again to RCW 87.03.240 and said assessments applied to lands not any structure.

Mr. McShane reported that during the implementation of the tier and toll system for the 2009 assessment, benefit was established by looking at values of properties receiving irrigation water versus properties which did not receive irrigation water. He said a formula was used to calculate benefit based on information received which showed a \$10,000 benefit for properties under a certain acreage, and about \$3,000 per acre for properties of larger acreages.

In response to a question from Mr. McShane, Mr. Wade said he did not have the parcel number for the property he referred to earlier as having a benefit of \$421,200 and an assessment of \$404.21, but that it was on the first page. Mr. McShane agreed that the benefit was probably in error and that he would check the number. Mr. McShane said a great deal of work went into preparing the assessment roll and checking that it was correct as much as possible for the over 22,000 accounts. He said that KID welcomed input from anyone believing they may have found an error so that it could be investigated and corrected if necessary.

Ms. Storms clarified that, while the assessment was calculated by the accounting software and was very accurate, the benefit was added to the assessment roll through an Excel spreadsheet.

Mr. Freeman said that the common area of a condominium development was proportionally divided between units. Mr. McShane added that a declaration was recorded at the time of creation of each condominium development which described the proportion of the common area assigned to each unit and that KID followed the distributions in those condominium declarations.

Mr. Iller stated that Mr. Wade was correct that lands were divided into parcel, but that the use of term "lands" in statute rather than "parcels" was a distinction without a difference. Mr. Iller said he was not aware of any theory that implied intent to make a difference in assessment structure by use of the term "land," not "parcel." He said that, as was previously discussed with Mr. Wade, RCW 64.34.040 was clear and mandatory, and KID must follow the mandatory statute.

In response to a question from Mr. Wade, Mr. McShane said there were about 27 condominium projects in the district and that he could provide a list, if desired.

Mr. McShane said he believed he found the error in the benefit spreadsheet, and that it would be corrected. He said that he confirm with complete confidence that, for the purposes of the Board of Equalization, that there were no parcels with less benefit than their assessment costs.

Mr. Iller said that the language regarding "benefits accruing" had been the subject of much litigation, treatises and discussion. He said it was not simply the difference in fair market value with and without irrigation water, though that was one way to look at it. He said that since the great bulk of assessments were for operations and maintenance of the system, determining benefits of maintenance and operation of the system was difficult. Mr. Iller added that the statute expressly said that it did not override contracts with the federal government. The U.S. Bureau of Reclamation contract required KID to assess to recover costs of operation and maintenance. He said Mr. Wade raised a good question, but it was not as simple as it appeared to be. Mr. Iller restated the issue of whether the District had adopted a fair means to determine benefit and was complying with the contract, and asked that if Mr. Wade had a suggestion of an alternate method of determining benefits, that he offer the recommendation to the Board.

Mr. Wade did not reply.

President McKenzie said he believed all the issues brought up by Mr. Wade had been discussed. He said that while no one else was present, the Board of Equalization would be held open while other business was discussed, in case anyone was delayed by the weather.

BOARD REPORTS: None

ACTION ITEMS:

Policy 3.1-8 Employee Economic Emergency Program: Mr. Freeman said that historically KID allowed employees to cash out up to 80 hours of vacation annually, though the practice was discontinued in 2010. He proposed Policy 3.1-8 to allow vacation cash out for narrowly defined economic emergency circumstances. Mr. Freeman reviewed the details and limitations of the proposed policy.

In response to a question from Director Rathbun, Mr. Freeman said that, in consultation with the Board, he discontinued the annual vacation cash program because he interpreted it to be optional according to the language of the union contracts and believed it best for employees to

take vacation as time off. He reported that it was not in the 2010, 2011 or 2012 budget and that the change had not been challenged by union.

Mr. Freeman confirmed to Director Jaksch that the KID had a Leave Donation policy.

Mr. Freeman told Director McGuire he did not know if there were programs similar to the proposed policy at other local agencies.

Director McGuire asked how catastrophic medical conditions or loss of income would be defined to avoid abuse of the program or accusations of favoritism. Mr. Freeman suggested changing the policy statement to read in part "loss of primary source of income." Discussion ensued regarding continued concerns over room for interpretation and the need to exercise judgment.

Ms. Storms said that catastrophic medical conditions based on serious illness as defined by the Family Medical Leave Act. Director McGuire was concerned that employees dealing with a family medical problem would need vacation time to deal with the issue, and if they cashed in vacation might have to ask colleagues for Leave Donations for more time. Discussion continued.

Budgetary constraints and program limitations were further discussed, as were vacation accrual rates and yearly vacation carry over limitations.

Director Jaksch moved to approve Policy 3.1-8 Employee Economic Emergency Program. Vice President Huffman seconded the motion. Directors McKenzie, Huffman, Jaksch and Rathbun voted aye and Director McGuire voted nay. The motion carried.

Mr. Freeman confirmed that the policy statement would read "primary source of income."

RESOLUTIONS:

Resolution 2011-38, Approval to Submit Application for the FY 2012 WaterSMART Water and Energy Efficiency Grant: Mr. Revell discussed the grant which staff proposed to pursue for canal lining and said that a resolution was needed to approve the application.

At Director Rathbun's request, Mr. Revell reviewed the maximum available grant amount and matching fund requirements. Director Jaksch clarified that the match could include in kind credits, such as for labor.

In response to a question from Director Jaksch, Mr. Revell said water savings was governed by terms of the Acquavella Settlement Agreement. Mr. Freeman said that the amount identified in the current lining program was an achievable amount. He added that engineering would propose a water savings amount to the Board when the lining location was determined.

Mr. Revell confirmed to Vice President Huffman that KID's match obligation would be equal to the amount received in the grant. Mr. Freeman said KID would apply for the maximum amount for the three year period.

Mr. Revell discussed terms for reduction of diversion under the Acquavella Settlement Agreement and said that there would be some level of diversion reduction that would result from the canal lining. Discussion ensued regarding deep perk and seepage could be estimated.

Director Rathbun moved to approve Resolution 2011-38 (Approval to Submit Application for the FY 2012 WaterSMART Water and Energy Efficiency Grant) and to authorize the District Manager as representative and signature authority for the 2012 WaterSMART Grant Application. Director Jaksch seconded the motion and it carried unanimously.

PUBLIC HEARING:

Board of Equalization, continued: President McKenzie called for a motion to close the Board of Equalization. **Director Jaksch moved to close the Board of Equalization. Director Rathbun seconded the motion and it carried unanimously.**

PUBLIC COMMENTS (Matters other than Equalization):

Jim Wade said people do not come to special meetings is because they are advertized in the legal classified which regular people do not read. He said that the KID does not need a \$70 million elevator because people appear to be in good health. Mr. Wade asked why KID kept employees on staff year round when water was only on for six months. He said the city cut the budget by 5% and KID wanted to increase and spend.

President McKenzie noted that the budget for the elevator was \$70 thousand, not \$70 million.

Director Jaksch said winter maintenance was underway on the canal, and that the down time was needed to lay liner, upgrade roads and do other repairs.

STAFF REPORTS:

Finance Manager: Ms. Storms reported:

- Strategy of using money in the checking account to offset fees would result in about a \$21 thousand savings this year.
- Ms. Storms had the investment policy reviewed and would bring the Board proposed revisions based on recommended best policies used by Government Finance Officers.
- Ms. Storms related a story of successful use of the Helping Hands Program and the gratefulness of the recipient.
- Changes would be made to the phone system late in the day on Thursday to greatly simplify the phone transfer (phone tree) and voice mail system. She said the Board members would be provided extension lists.
- Shannon Frame was the lead for the website redesign project. Input was being sought from public and the Board. Director Jaksch volunteered to participate.
- Staff would be taking responsibility for conversion of data to the new software system and creating fields to accommodate the new rate model, reporting needs, work orders and other criteria. In response to a question from Director Jaksch, Ms. Storms said that TruePoint did not offer payroll, general ledger or accounts payable, but there may be other software that was a better product than Springbrook for those functions. She reported that the TruePoint trainer would be at KID the third week in December.

Engineering/Operations Manager: In Mr. Everaert's absence, Mr. McShane reported:

- Work on the 16.1 Badger East project was complete.
 - The PSA 99 flow meter installation was complete.
 - 2,100 feet were complete on the Main Canal lining project. The preparatory cleaning operation was at about 6,000 feet. 600 feet of lining was installed yesterday.
 - Engineering was working with finance on TruePoint implementation.
 - Engineering was providing support for the election.
- Mr. McShane had an update on Red Mountain from Paul Cross. The aerial photography, survey, and preliminary hydraulic modeling were completed. Design criteria for

instantaneous flow and pressure were developed with the growers. The KID-owned parcel at the Yakima River was assessed for constructability and likely difficulties with developing ground water source at that location. Mr. McShane discussed the consideration and selection of an alternative site. In response to a request from Director Jaksch, Mr. McShane said the results of the test well would be provided. Mr. Cross reported that the project was a little behind schedule, but he was hopeful of catching up. Engineering staff was helping contact landowners to identify where irrigable acres would be assigned.

In response to a question from Director McGuire, Mr. Freeman said the Realty Committee would assess the KID properties.

In response to a question from Director Rathbun, Mr. McShane said pressure zones were designed with both minimum and maximum pressure in mind.

Planning Manager: Mr. Revell reported:

- KID was waiting to hear from the Washington Department of Fish and Wildlife regarding the Shrub Steppe Mitigation Agreement at Red Mountain. Discussion ensued.
- There would be an LID hearing with the City of Richland this evening.
- The Finley property road vacations of the north-south road and small east-west road were approved, the east-west portion which would have connected Finley Road to Nine Canyon Road was denied.
- Staff had been working on response to the USBR water initiative policy which would redefine irrigation as only applicable to commercial agriculture and parcels larger than ten acres. This would have potential impacts to KID as there thousand of urban parcels of less than ten acres which could be required to pay the full cost of water. Mr. Revell said staff believed this would be disproportionately burdensome to parcels in urban areas. Formal comments were submitted to Congressman Hastings and the Washington State Water Resources Association. The effort was being coordinated by the Strawberry Water Users Association in Utah and KID was invited to participate in a conference call tomorrow.

The Board asked to be kept informed on this issue. President McKenzie asked if the public should be notified this was being considered. Mr. Revell said the first comment period had closed but that following creation of a new version there would be a 90-day comment period. Mr. Freeman said this could be included in the next news letter in spring.

District Manager: Mr. Freeman reported:

- At the Awards Banquet on Friday night, thirteen employees would receive service awards.
- The Election would be held Tuesday, December 13th from 1:00 p.m. to 8:00 p.m. Canvassing would take place the following Monday at 9:00 a.m.
- Winter work was progressing. Mr. Freeman told Mr. Wade that the reasons employees were not laid off in winter were to retain the trained work force and complete off-season work. He offered a tour of the winter work sites to Mr. Wade.

WORKSHOP: None

President McKenzie said there were a number of items to discuss in executive session. Mr. Iller estimated that one hour would be needed. President McKenzie said there may be action following executive session.

At 11:10 a.m., President McKenzie called a short break and the meeting resumed in open session at 11:17 a.m.*

**Preparer's note: The recording system was not turned back on for the announcement of executive session.*

Mr. Iller announced on behalf of the presiding officer that the Board would meet in executive session in compliance with the agenda as amended for one hour to discuss with legal counsel litigation regarding Acquavella per RCW 42.30.110(1)(i), to discuss with legal counsel legal risks of a proposed action regarding four matters regarding assessments, water allotments, issues with other municipalities, and salaries per RCW 42.30.110(1)(i)(iii), to planning or adopting the strategy or position to be taken by the governing body during the course of any collective bargaining, ...or reviewing the proposals made in the negotiations or proceedings while in progress per RCW 42.30.140(4)(b), and to continue the review the performance of a public employee, District Manager Freeman, per RCW 42.30.110(1)(g). He announced that there was potential for action following executive session.

EXECUTIVE SESSION: The Board went into executive session at 11:20 a.m. Executive session was extended for ten minutes at 12:20 p.m. and twenty minutes at 12:30 p.m., after which the meeting recessed for a break.

OPEN SESSION: Following the break, the Board reconvened in open session at 1:08 p.m.

President McKenzie announced that the Board had completed Mr. Freeman's annual performance review and asked the Board members for discussion.

Director Jaksch said that the consensus of Board was that Mr. Freeman was doing an excellent job. Director Rathbun concurred and added that Mr. Freeman had the courage to confront issues and problems head on. Vice President Huffman said he appreciated Mr. Freeman's involvement in the District and his openness in keeping the Board informed. Director McGuire said Mr. Freeman was doing a great job bringing in outside consultants and experts as needed. President McKenzie commended Mr. Freeman for recognizing that one person can only be a leader of people and assembling a staff of very qualified people.

Director Jaksch said that the Board would wait to hear back about 401K contribution and said that the Board would keep Mr. Freeman at the 2011 cap rather than 2012 since this was 2011.

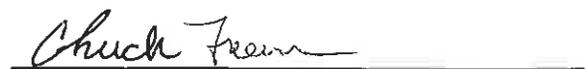
Director Jaksch moved to increase Mr. Freeman's annual salary, effective November 2, 2011, from \$111,300 to \$116,875. Director Rathbun seconded the motion and it carried unanimously.

Director Jaksch moved to adjourn at 1:12 p.m. and Vice President Huffman seconded the motion. The motion carried unanimously.

Attest:

Witness:


Gene Huffman, Board President
Approved February 7, 2012


Chuck Freeman, District Manager

Prepared by Doris Rakowski