



**Minutes**

Meeting of the KID Board of Directors  
 Carl W. Petersen Board Room  
 Tuesday, September 3, 2013, 9:00 a.m.

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

**Directors Present:**

Gene Huffman, President  
 Patrick McGuire, Vice President  
 David McKenzie, Director  
 Kirk Rathbun, Director  
 Penny Hermanson, Director

**Staff Present:**

Chuck Freeman, District Manager  
 Scott Revell, Planning Manager  
 Jason McShane, Engineering/Operations Manager  
 Judy Smith, Real Property Manager  
 Seth Defoe, GIS Specialist  
 Lynda Rosenbaum, Assistant Planner  
 Ben Woodard, Staff Engineer  
 Doris Rakowski, Executive Assistant

**Other Persons Present:**

Brian Iller, Legal Counsel

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

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

Items included on the consent agenda were:

1. Minutes, KID Board Meeting, August 20, 2013
2. Minutes, KID Board Special Meeting, August 26, 2013
3. Approve Final Plat of Cherry Creek Estates Phase 1
4. Approve Binding Site Plan 13-05 – W 24<sup>th</sup> Avenue
5. Approve Relinquishment of Irrigation Easement (Wayne Mapstead)
6. Travel Requests for NWRA Strategic Planning Summit
7. Letter to City of Kennewick
8. Confirm Job Description
9. KID O&M Vouchers

**Accounts Payable**

Numbers:	66855	through	66855	\$	42,000.00
	66856	through	66890		138,197.15
	66891	through	66909		<u>536,958.36</u>

**Total Accounts Payable**

717,155.51

**Payroll**

Numbers:	32581	through	32590	\$	9,198.53
Direct Deposit					<u>74,706.81</u>

**Total Payroll**

83,905.34

**Total Disbursements**

\$ 801,060.85

**Voided Checks:** None

**PUBLIC COMMENTS:** None

**PRESENTATIONS:** None

**PUBLIC HEARING:** None

**BOARD REPORTS:** None

**ACTION ITEMS:**

**Appointment of Assistant Board Secretary:** Mr. Freeman briefly discussed the need for an Assistant Secretary and recommended appointment of Colleen Storms to replace departing Assistant Secretary, Scott Revell.

**Director Rathbun moved to appoint Colleen Storms as Assistant Secretary. Director McKenzie seconded the motion and it carried unanimously.**

**Approve Irrigation Easements on KID Properties at Red Mountain:** Ms. Smith discussed the need for easements on KID properties for irrigation facilities for Red Mountain South LID.

In response to questions from Director Hermanson and Vice President McGuire, Ms. Smith briefly discussed progress on obtaining necessary easements from other land owners.

Mr. McShane confirmed to Director Rathbun that the proposed easements were based on RH2 Engineering recommendations.

**Director Hermanson moved to approve placing irrigation easement on the properties owned by KID that are within the Red Mountain South LID and that the Board President and Secretary/Manager execute all documents on behalf of the KID. Director Rathbun seconded the motion and it carried unanimously.**

**RESOLUTIONS:**

**Resolution 2013-17, Declaring Surplus and Authorizing Marketing of Real Property at Red Mountain:** Ms. Smith explained that, due to platting, new KID numbers had been assigned to the KID-owned properties in the Red Mountain area. She said the parcels proposed to be declared surplus and marketed were listed in the resolution.

In response to a question from Vice President McGuire, Mr. Freeman discussed plans for marketing the properties.

Ms. Smith confirmed to President Huffman that all of these properties were in the Red Mountain South LID.

**Director Hermanson moved to approve Resolution 2013-17 authorizing the surplus and marketing of KID Red Mountain properties. Director McKenzie seconded the motion and it carried unanimously.**

**Resolution 2013-18, WA Trust VISA Borrowing Resolution:** Mr. Freeman reported that this resolution was necessary due to staffing changes.

**Vice President McGuire moved to approve Resolution 2013-18, Authorized Signers for KID Banking and Investment Services. Director McKenzie seconded the motion and it carried unanimously.**

**Resolution 2013-19, Authorized Signatures for Banking and Investment Services at Yakima Federal:** Mr. Freeman presented the new resolution specific to banking and investment services at Yakima Federal Savings and Loan.

**Vice President McGuire moved to approve Resolution 2013-19, Authorized Signers for KID Banking and Investment Services at Yakima Federal Savings and Loan Association. Director McKenzie seconded the motion and it carried unanimously.**

**Resolution 2013-20, Authorized Signatures Banking Investment Services-General:** Mr. Freeman presented the new resolution for banking and investment services at other than Yakima Federal Savings and Loan.

**Director Rathbun moved to approve Resolution 2013-20, Authorized Signers for KID Banking and Investment Services. Vice President McGuire seconded the motion and it carried unanimously.**

**Resolution 2013-21, Final Acceptance of Contract 2013-01 Kiona Intake and Pump Station Phase 1:** Mr. McShane reported that final approval by the Board was needed to accept the work done for the first phase of the Kiona Intake and Pump Station. He confirmed to Director Rathbun that the retainage balance was \$24,865.10, and briefly discussed the project work schedule and progress.

**Director Rathbun moved to approve Resolution 2013-21, Project Acceptance for Public Works Contract 2013-01 Kiona Intake and Pump Station, Phase 1. Vice President McGuire seconded the motion and it carried unanimously.**

**STAFF REPORTS:**

**Finance Manager:** None

**Engineering/Operations Manager:** Mr. McShane reported:

- Preparations for the off-season program were underway. Authorization for purchase of HDPE would be brought to the Board at a later meeting. Options to rent, lease or purchase equipment for liner installation were being weighed.
- Most of the work orders in the system were completed.
- The first copper treatment on the main canal in seven years was fairly effective.

In response to a question from President Huffman, Mr. McShane discussed the functioning of the District's automated weed screens.

President Huffman commended field crews for being up to date on work orders.

In response to a question from Director Rathbun, Mr. McShane discussed the amount EPDM lining left and purposes for which it might be used.

**Planning Manager:** Mr. Revell reported:

- Mr. Defoe had been working on the Red Mountain short plat. Ms. Smith said closing was expected in the next week.
- The surveyor was working on creating tracts on the large Red Mountain parcel.
- Mr. Defoe would attend the quarterly Yakima River Basin Water Enhancement Project work group tomorrow.

- The initial phone call was received from David Child for the habitat study of the west fork of the Amon Wasteway. Mr. Revell discussed the usefulness of the Amon Wasteway Main Stem study report for addressing confusion from the Washington State Department of Ecology and the Washington State Department of Fish and Wildlife about the nature of the wasteway and appropriate uses of the area. He said it would be necessary to keep aggressively correcting misinformation about the wasteway as the subdivision at Beer Falls progressed. Discussion ensued regarding interaction with the City of Richland regarding the wasteway and incorrect nomenclature on signage and maps. Management of KID drains and wasteway was discussed.

**District Manager:** Mr. Freeman thanked Mr. Revell for his years of service and said District was better off for his tenure. He said the letter to the Department of Ecology (regarding the subdivision at Beer Falls) which was signed today represented the culmination of Mr. Revell's seven year research project.

He reported that field crews were on a new schedule and operating effectively.

Mr. Freeman said he spoke with a Richland Park Board member at the Benton Franklin Fair and recommended offering to address that board about the Amon Wasteway and KID drains.

**WORKSHOP:**

**Draft Policy 8.2 Private Line Areas:** Mr. Revell reviewed work done to date on the draft private line area policy. He said Mr. McShane was prepared to address the issue of very small private line areas.

Director McKenzie commented that creation of a policy for private line areas was wise, but voiced a concern that property owners in private line areas not be alienated or treated differently than other customers. Discussion ensued regarding implementation of the draft policy.

In response to a question from Director Rathbun, Mr. Freeman said KID had limited authority to go on private property where the District had no easement rights. He said that in emergencies, KID's default procedure was to turn off water to prevent further damage then work with property owners to provide information on system management options.

Mr. McShane said private line area referred to places where several parcels were served by a single KID service point. He describes a range of configurations of private line areas and said KID could not expend public funds on a private area without some sort of contract or agreement for repayment. Mr. McShane discussed the often unsung volunteer efforts of private line area water masters over time and noted that money was rarely put aside by private line area associations for eventual capital improvement needs.

**Draft Drought Management Plan:** Mr. Revell noted that most sections of the draft Drought Plan had been reviewed previously by the Board. He briefly reviewed items listed in Section 6, Policy Issues.

In response to questions from Director Rathbun, discussion ensued regarding the permitting process for wells during a declared drought and advance preparations to allow quick action when drought occurred.

In response to a question from President Huffman, challenges to setting up a temporary pump station at McNary pool on the Columbia River were discussed.

Water banking was discussed in response to concerns expressed by Vice President McGuire.

In response to questions from Director McKenzie, the possibility of negotiation with Red Mountain property owners for use of existing wells in case of drought was discussed, as were compensation for use of non-KID water in lieu of KID irrigation water, temporary water allotment transfer and water right condemnation.

The importance of recording agreements and conditions regarding properties, so future owners would have notice, was discussed.

Challenges to paying agricultural landowners to fallow land during droughts were discussed.

In response to a question from Director Rathbun, control and capture of spills, such as at the Amon Pumps to the Amon Wasteway, was discussed.

Director McKenzie commended Mr. Revell, the Planning Department and Planning Committee for facilitation forward thinking in the District.

**Service Award to Scott Revell:** On behalf of the Board, President Huffman thanked Mr. Revell for his work for the District and presented an award for his service.

Mr. Revell said he enjoyed working for KID and commented on the positive influence on the District made by Directors Huffman, McGuire and McKenzie, and improvements influenced by past District Manager and Director Vic Johnson, and past Directors John Pringle and John Jaksch.

**EXECUTIVE SESSION:** At 10:48 a.m., on behalf of the presiding officer, Mr. Iller announced that, following a short break, the Board would go into executive session for an estimated 30 minutes to review the performance of a public employee pursuant to RCW 42.30.110(1)(g) and to consider the minimum price at which real estate will be offered for sale, pursuant to RCW 42.30.110(1)(c). Mr. Iller noted that there may be action taken in open session following the executive session.

At 11:22 a.m., the Board returned to open session.

#### **OPEN SESSION - ACTION ITEMS:**

**Settlement Agreement with Release and Waiver of All Claims:** Mr. Iller provided a summary of the claim and potential settlement of any claims with KID employee Con Higley. He said there had been disputed issues with Mr. Higley's work and that Mr. Higley had retained attorney John Ziobro, with whom Mr. Iller had discussed potential settlement of the claims. Mr. Iller referred to a chain of emails regarding an offer from Mr. Higley, and a settlement agreement and release of waiver of all claims, which had been provided to the Board. He reviewed terms of the proposed settlement and said acceptance would control legal costs and provide assurance of no future litigation from Mr. Higley.

President Huffman spoke in favor of resolving the dispute without costly litigation.

Mr. Iller confirmed to Director Rathbun that the agreement would waive all claims of any kind.

In response to a question from Vice President McGuire, Mr. Iller confirmed that the settlement agreement was being offered because of the pre-disciplinary letter alleging dishonesty,

insubordination and divisiveness, but said Mr. Higley challenged that letter and that the settlement would supersede the letter. Mr. Iller noted that, despite Mr. Higley's request to expunge the letter, the District could not un-create an existing public record. He said that, if the draft settlement were approved, the parties would settle their differences rather than follow the disciplinary path to its conclusion, and Mr. Higley would separate by mutual agreement.

In response to a question from President Huffman, Mr. Freeman discussed medical insurance coverage.

Mr. Iller said that, while the email from Mr. Higley had been provided for background, if the Board approved the draft settlement it would be authorizing a counter offer to what Mr. Higley wanted. He said only items included in the draft settlement agreement would be authorized, not everything Mr. Higley requested in the email.

Director Rathbun spoke in favor of authorization.

In answer to a question from President Huffman, Mr. Iller said that section 7 of the settlement agreement was from the Older Workers Benefit Protection Act and would provide Mr. Higley opportunity to review and revoke the agreement.

**Director Rathbun moved to authorize the Secretary/Manager to execute the settlement agreement proposed for Mr. Higley for \$50,000 in exchange for a waiver of all claims. Director Hermanson seconded the motion and it carried unanimously.**

**Vice President McGuire moved to adjourn the meeting at 11:38 a.m. and Director Rathbun seconded the motion. The motion carried unanimously.**

Attest:

Witness:

  
Gene Huffman, Board President  
Approved October 15, 2013

  
Chuck Freeman, District Manager

Prepared by Doris Rakowski