



**Minutes**

Meeting of the KID Board of Directors  
 And Board of Equalization  
 Carl W. Petersen Board Room  
 Tuesday, December 4, 2012, 9:00 a.m.

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

**Directors Present:**

Gene Huffman, President  
 Patrick McGuire, Vice President  
 David McKenzie  
 Dean Dennis  
 Kirk Rathbun

**Staff Present:**

Chuck Freeman, District Manager  
 Colleen Storms, District Treasurer  
 Scott Revell, Planning Manager  
 Jason McShane, Asst Engineering/Operations Manager  
 Judy Smith, Administrative Contracts Specialist  
 Lynda Rosenbaum, Assistant Planner  
 Seth Defoe, GIS Specialist  
 Doris Rakowski, Executive Assistant

**Other Persons Present:**

Wendy Christensen, USBR  
 Gerald Kelso, USBR  
 Brian Iller, Legal Counsel

**APPROVAL OF AGENDA: Director Rathbun moved to approve the agenda. Director Dennis 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 approved by consent agenda were:

1. Minutes, KID Board Special Meeting, October 23, 2012
2. Minutes, KID Board Meeting, November 6, 2012
3. Approve NWRA Leadership Seminar and Forum Travel Request Addition
4. Approve Short Plat No. 12-06 - Canyon Ranch (Vic Johnson)
5. Award of Contract for Heavy Equipment Rental for Badger East Canal EPDM Lining
6. Approve LGPI Contract Amendment
7. KID O&M Vouchers

**Accounts Payable**

Numbers: 65448 through	65464	\$	6,945.49	
65465 through	65465		400.00	
65466 through	65503		<u>106,159.18</u>	
<b>Total Accounts Payable</b>				<b>113,504.67</b>

**Payroll**

Numbers: 32407 through	32413	\$	6,099.16	
Direct Deposit	11/15/2012		<u>74,322.45</u>	
<b>Total Payroll</b>				<b><u>80,421.61</u></b>
<b>Total Disbursements</b>				<b><u>\$ 193,926.28</u></b>

**Voided Checks: Accounts Payable: 65387 through 65389: Void due to printer error**

## **PRESENTATIONS:**

**Wendy Christensen, USBR, Integrated Plan:** Mr. Revell introduced Wendy Christensen, U.S. Bureau of Reclamation Program Manager, and Jerry Kelso, Columbia-Cascades Area Manager.

Ms. Christensen presented the Yakima River Basin Integrated Water Resource Management Plan Preliminary Cost Allocation. She explained what was meant by "Preliminary Cost Allocation" and discussed the purposes, benefits and costs of the plan. Ms. Christensen also reviewed the procedures used for the Preliminary Cost Allocation.

Ms. Christensen confirmed to Mr. Revell that Ernie Niemi of Eco Northwest prepared the analysis, which was reviewed by a USBR economist. Discussion ensued regarding the portion of the plan pertaining to agricultural irrigation. Mr. Kelso discussed approximate cost allocation of the project for irrigators. He agreed with Mr. Revell that it would essentially guarantee a 70% supply in drought years. Discussion continued.

Mr. Kelso confirmed to Director McKenzie that districts could opt in or out of the programmatic plan. He suggested studying the integrated plan and projected climate change to determine whether to participate. Mr. Kelso said more information would be available at the WSWRA annual meeting in Spokane tomorrow.

In response to a question from Director McKenzie, Mr. Kelso discussed methods planned to access additional water.

In response to a question from Vice President McGuire, Mr. Kelso said, irrigators, municipal and domestic water users would pay for their specific portions, and taxpayers in general (through the US Treasury) would pay for the larger ecological restoration portion. Discussion ensued regarding ecological restoration and planned benefit to ESA listed species.

At the request of President Huffman, Mr. Kelso discussed the timeline for the plan and the next expected steps. He said that strong support for plan had been expressed by the Secretary of Interior and the Reclamation Commissioner. Mr. Kelso said he expected a high participation by the State. He reviewed the broad base of support over a number of entities. Mr. Kelso said the intent was that the project would proceed in a balanced way, to the benefit of all of the interests.

Mr. Kelso and Ms. Christensen left the meeting.

Vice President McGuire expressed concern about repayment of the ecological portion of the project in light of recent proposed changes to directives and standards and asked if there were assurances that cost allocations would not change. Mr. Revell said there were no guarantees with anything requiring congressional appropriations. Discussion ensued regarding competition for limited financial and water resources.

Mr. Revell said a unique characteristic and advantage of this plan was the long lasting agreement of a number of players with competing interests. Mr. Iller confirmed that discussion had been taking place among the diverse groups planning the project about how to keep the project moving forward as an integrated complete package.

**Financial Reports for October 2012:** Ms. Storms referred to the report distributed before the meeting and briefly reviewed highlights. Pages reviewed included:

- Balance Sheet as of October 31, 2012
- Summary Statement of Revenues and Expenditures - Budget to Actual - Year to Date

- Comparative Statement of Revenues and Expenditures - 10 Months ended October 31, 2012 and October 31, 2011
- Accounts Receivable Aging by Year Annual Totals - 2007 to Present

Discussion ensued regarding accounts receivable. Ms. Storms said she would provide a comparative report for the Accounts Receivable Aging for 2012 to 2011.

**PUBLIC HEARING:**

**Board of Equalization:** Mr. Freeman reported that the Assessment Roll was presented to the Board on November 6<sup>th</sup> and that notice of the Board of Equalization had been published on November 9<sup>th</sup> and 11<sup>th</sup>.

**Vice President McGuire moved to open the Board of Equalization. Director McKenzie seconded the motion and it carried unanimously.**

**Mr. Jim Wade**, residing at 1813 S Rainier Place, asked the board how much the USBR charged KID for water. He said that money was not distributed evenly and residential ratepayers paid more per acre than agricultural lands. He said the charge for the water should be passed on and asked why small lots should pay more per acre than large lots. He asked why private line areas were charged so much when the KID did not service their systems. Mr. Wade said whoever wrote the equalizations should not be paid what they were getting because he did not agree with them. Mr. Wade said KID was charging for drought management and asked how much the tribes were contributing for anything.

Mr. Freeman reminded Mr. Wade that the District conducted a rate study and said it was more costly to deliver water in town than off the ditch. He said the rate study was available for review. Mr. Freeman said the USBR charged KID for delivery of water, not the actual water. Vice President McGuire and Mr. Freeman discussed that both the USBR and KID charge for service to deliver water. They noted that KID charged different costs for different levels of service. Mr. Freeman said the Planning Committee was considering private line area policy and invited Mr. Wade to attend the open public meetings.

Mr. Wade said KID paid nothing on private line areas. He said the cost on his LID for O&M and everything in 2006 was \$396, most of which went into their account which and if there was a problem they would repair it themselves from that account. Mr. Wade said KID decided to take that money, give it back and confiscate the LIDs without paying for them.

Mr. Freeman said KID did not confiscate anything. He said that because the LID system was not manageable, the KID moved to the tier and toll system about five years ago, following multiple public hearings and an Attorney General opinion. Mr. Freeman noted that KID would not exist were it not for agriculture and said the purpose of Project water was for agriculture.

Mr. Iller noted the Board was sitting as a board of equalization to hear objections to the assessment roll. He said if Mr. Wade had any specific objection to his assessment he needed to present the specific basis on which he claimed his assessment was inequitable, unfair or did not constitute a reasonable assessment for the operations and maintenance of the systems necessary to get him his water. He said general policy objections to the assessment structure were not the purpose of the board of equalization, but that Mr. Wade was free to become involved in the advisory committee.

Mr. Iller further clarified that the federal government did not charge KID for water. He said the USBR charged KID lands for the cost of constructing the system based on the 1953 contract, and also charged KID a proportionate share of operations and maintenance of the system which it operated for the benefit KID and its customers. He said KID was obligated, under terms of the contract and federal and state law, to charge landowners reasonable and fair amounts for operations and maintenance of the district. He said the purpose of the board of equalization was to allow people to point out specific bases, supported by evidence, as to why their specific assessment was not fair and equitable. Mr. Iller added that there had been an election to approve the contract in the 1950s.

In response to a question from Mr. Wade, Mr. Iller said that, after construction costs were paid off, landowners must continue to pay operations and maintenance charges.

President Huffman noted that despite appropriate notice of the board of equalization, only one of about 22,000 customers appeared. Mr. Wade said he was speaking for all 22,000.

President Huffman called for a motion to close the Board of Equalization.

**Director McKenzie moved to close the Board of Equalization. Director Rathbun seconded the motion and it carried unanimously.**

#### **BOARD REPORTS: None**

President Huffman called a short break at 10:10 a.m.  
At 10:16 a.m., the meeting resumed in open session.

President Huffman noted that through staff and Board efforts, KID held rates without an increase for four years, except for the capital improvement charge. He said the KID had shown it could be financially prudent.

#### **ACTION ITEMS:**

**Reschedule January 1, 2013 Board Meeting:** Mr. Freeman said, though meetings which fall on holidays were by policy held the next Thursday, due to scheduled training for himself and two Board members, he recommended moving the meeting to the following week.

**Director Rathbun moved to approve moving the first Board of Directors meeting in January to January 8, 2013 at 9:00 a.m. Director McKenzie seconded the motion and it carried unanimously.**

**Salary Adjustment for District Manager:** President Huffman said that the Board reviewed the performance of Mr. Freeman at the November 20<sup>th</sup> Board meeting. He discussed history of compensation of KID District Managers and the CPI adjusted rate of compensation, as well as the 2012 approved salary range based on the Salary Survey.

In response to a question from Director Rathbun, Ms. Storms discussed PERS and deferred compensation, which were the same for all employees.

The directors discussed Mr. Freeman's performance including direct communication with the Board, willingness to take on any difficult issue, encouraging good staff morale and attitude, provision of staff training including ethics training, good leadership and bringing the right people to the right jobs.

**Vice President McGuire moved to set the District Manager's salary at the top step in the currently approved salary scales, which is \$10,502 per month for 2012, effective on his anniversary, November 2<sup>nd</sup>, 2012. Director Dennis seconded the motion and it carried unanimously.**

**Policy 3.1-5 Service Awards and Recognition Program, Rev. 1:** Mr. Freeman presented revisions to the policy, including Employee of the Quarter and Employee and Manager of the Year. He briefly discussed the specific changes and award levels. He noted that this was the first policy revision since adoption in 2006.

**Director Rathbun moved to approve revised Policy 3.1-5 entitled Service Awards & Recognition Program. Director Dennis seconded the motion and it carried unanimously.**

**Amendment to Interlocal Agreement with Benton County:** Mr. Freeman discussed the long-standing agreement with Benton County for purchase of rock from the Owens Quarry. He said this was the last available extension of the agreement, which would be renegotiated next year.

Discussion ensued regarding the use and type of rock and the approximate market price.

**Director McKenzie moved to approve the Interlocal Cooperative Purchasing Agreement Amendment with Benton County for the purpose of allowing KID to obtain quarry rock from the Owens Quarry. Director Rathbun seconded the motion and it carried unanimously.**

**RESOLUTIONS:**

**Resolution 2012-42 Authorizing the Sale of Real Property, KID #7043:** Ms. Smith presented the proposed resolution and reviewed the history of the sale and its approval. She reported the result of the record survey of the property and said the purpose of the resolution was to memorialize the sale of the property to Numerica Credit Union.

**Vice President McGuire moved to approve Resolution 2012-42 authorizing the sale of KID #7043, City View Lot 1, Short Plat 3374, to Numerica Credit Union for the total cash purchase price of \$774,497. Director Rathbun seconded the motion and it carried unanimously.**

**PUBLIC COMMENTS:**

Mr. Wade asked how KID handled a one cent shortage on an assessment, whether the mortgage company or owner would be billed, and how much it cost KID to collect the one cent.

Mr. Wade asked why KID used RCWs other than irrigation ones to get what it wanted and said he thought KID should follow State voting procedures, including sending absentee ballots out and not requiring a witness unless signing with an "X." He said he thought it was another way KID stacked the votes. He said he thought it was illegal to take requests for absentee ballots and absentee ballots to people to get votes.

Mr. Wade noted that Ed Everaert had not been there for a month and asked if he was sick, or on leave, or if it was going to be another law suit.

Mr. Wade asked what RCW said a person speaking in a public meeting only got three minutes.

Mr. Iller said RCW 87.03.030 stated, "All elections of irrigation districts, general or special, for any district purpose and in any county of the state shall be called, noticed, and conducted in accordance with the laws of the state, specifically relating to irrigation districts."

Vice President McGuire instructed Mr. Wade speak from the podium, not the audience.

Mr. Wade said the RCW also said you could charge people so much for a land deal and said KID referred to RCW 42 which was not irrigation policy to charge condos.

Mr. Iller said statutes were subject to interpretation, but said the RCW 42 statute Mr. Wade referred to applied to assessment of condominiums for all purposes. Mr. Wade said it didn't say irrigation district in it. Mr. Iller restated that "all purposes" included irrigation district assessment.

Mr. Iller confirmed that the Board had the right to limit public comment to a reasonable length of time and to prohibit comments that were unduly repetitive and not constructive.

#### **STAFF REPORTS:**

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

- Brad Crawford had created a written plan for IT which would improve access, data security and records management. She reviewed cost savings and improvements to procurement procedures.
- Customer service winter work plans included assistance with records management.
- Foreclosures would be handled differently this year, including letters issued by the attorney's office to properties at risk of foreclosure.
- Ms. Storms discussed reimbursement of travel costs by per diem or actual costs with submission of detailed receipts, and said the two systems could not be combined. Mr. Freeman noted that employees could also pay for participant meals by KID credit card.

**Engineering/Operations Manager:** Mr. McShane displayed satellite maps overhead and reported on the locations and approximate repair costs for canal breaks from 2007 to present. He displayed the breakdown of costs for the most recent repair which totaled \$77,032.67 including the deductible. He briefly discussed how costs of repair were kept low though KID labor. Discussion ensued regarding the insurance coverage and deductible.

In response to a question from Vice President McGuire, Mr. Freeman said the Risk Mitigation fund was for the purpose of responding to breaks, but was not used this year as the cost could be absorbed in the budget. Mr. McShane further addressed accounting for the repair costs.

Mr. McShane said the lining project on main canal moving forward despite weather delays, and other projects were done when lining was not possible. He said Work had begun on other capital projects, including survey of Badger East, Highland Feeder automated screen, power separation for the two potable systems, and preparation for the next water season.

Mr. McShane would attend the Issues in Condemnations seminar in Seattle this week.

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

- The Southcliffe preliminary plat subdivision was issued by the Kennewick Hearing Examiner and it included KID's conditions requested in May.
- Work was underway on the Red Mountain South LID reservoir tracts and staff would prepare a short plat to create the tracts.

- Following receipt of a copy of a letter to the city from the environmental review section of Ecology requesting buffers along the manmade section of the Amon Wasteway, a letter was sent to the Department of Ecology with information showing this was a location of an engineered feature. Also provided was a water right decision showing all waters in Amon Wasteway were determined to be project return flows. Mr. Revell said he was disappointed that Ecology staff continued to call the Wasteway a creek.
- WaterSMART grant kick off meeting would be held this week.
- The Integrated Plan would be discussed Monday at Heritage College.
- The Yakima River Basin Water Enhancement Project meeting and a retirement party for Commissioner Leo Bowman would be held Wednesday.
- The Columbia-Snake River Irrigators Association meeting would be held Thursday.

**District Manager:** Mr. Freeman reported:

- Ms. Smith closed on \$2,105,918 of property sales this year.
- Employee of the Year was Ben Woodard and Manager of the Year was Colleen Storms.
- The Washington State Water Resources Association Annual Meeting would begin tomorrow. Travel plans and the meeting schedule were discussed.

**WORKSHOP:** None

**EXECUTIVE SESSION:** At 11:11 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 twenty minutes, to discuss with legal counsel pending litigation regarding Acquavella pursuant to RCW 42.30.110(1), and to discuss with legal counsel potential litigation pursuant to RCW 42.30.110(1)(i), with possible action in open session to follow executive session.

The Board returned to open session at 11:35 a.m.

**Action Item:**

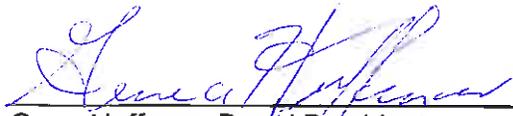
**Proposed Settlement between KID and Ed Everaert:** President Huffman called for discussion of an offer received from Mr. Everaert. Mr. Freeman briefly listed the positions held by Mr. Everaert. He discussed the cost involved in defending the District from lawsuits and recommended the District come to a mutually beneficial separation agreement with Mr. Everaert. Mr. Freeman said \$50,000 and a release of all claims was in the best interest of the District.

Discussion ensued. President Huffman agreed with Mr. Freeman regarding the potential cost of litigation. Vice President McGuire concurred that the settlement would save the District ratepayers money and allow everyone to move on. Director Rathbun said he did not like it, but based on previous experience it was the best choice. Director McKenzie agreed that it was part of the cost of doing business. Director Dennis agreed it would be best to accept the offer.

**Director Rathbun moved that the Board approve Chuck Freeman's execution of the settlement agreement offered by the former Engineering and Operations Manager, Ed Everaert. Director McKenzie seconded the motion and it carried unanimously.**

**Director McKenzie moved to adjourn at 11:47 a.m. and Director Rathbun seconded the motion. The motion carried unanimously.**

Attest:



Gene Huffman, Board President  
Approved January 15, 2013

Witness:



Chuck Freeman, District Manager

Prepared by Doris Rakowski