



**Minutes**

Regular Meeting of the KID Board of Directors  
 And Canvassing of 2012 KID Board Election  
 Carl W. Petersen Board Room  
 Monday, December 17, 2012, 9:00 a.m.

President Huffman called the meeting to order at 9:04 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:**

Brian Iller, Legal Counsel

**APPROVAL OF AGENDA:** Vice President McGuire requested that public comments be moved to before the canvassing. **Vice President McGuire moved to approve the agenda as modified. Director Rathbun seconded the motion and it carried unanimously.**

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

Items on the consent agenda were:

1. Travel Request - Irrigation Leader Operations and Management Workshop - McShane
2. Approve Short Binding Site Plan No. 12-05 – Grandridge Blvd.
3. Approve Relinquishment of Irrigation Easement – Keith Martin
4. Approve Final Plat No. 12-08 – Villas Verde – Phase 1
5. Approve Final Plat – Brookshire Estates – Division 7
6. Approve Amendment of Overlay ECRs - City View and Stoneridge Property
7. Red Mountain South LID Project - RH2 Engineering Contract Amendment 6
8. Red Mountain South LID Project Design Criteria Memo No. 1 Rev. A and Design Criteria Memo No. 14
9. KID O&M Vouchers

**Accounts Payable**

Numbers: 65504 through	65548	\$	449,537.35
65549 through	65620		314,037.78

<b>Total Accounts Payable</b>		<b>763,575.13</b>
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**Payroll**

Numbers:

Direct Deposit

**Total Payroll**

<b>Total Disbursements</b>		<b>\$ 763,575.13</b>
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**Voided Checks: Accounts Payable: 65387 through 65389: Void due to printer error**

**PUBLIC COMMENTS:**

Jim Wade, residing at 1813 S. Rainier Place, asked why the Board kept violating RCW 87.03.105 by delegating canvassing to the election board. He asked when the Board would open up that the five acres and less is over 50 percent.

Mr. Iller responded that as a general principle, most duties of a public entity may be delegated unless statutory language states that the duty may not be delegated or under the statutory scheme it appears that the duties should not be delegated. He said it was his opinion that statute did not preclude delegation. He said he was aware of no case law or Attorney General opinion which discussed the issue. Mr. Iller said it was the Board's decision.

Mr. Wade said he wanted to respond.

Vice President McGuire said it was a public comment period, not a debate, and Mr. Wade had had his time to address the Board.

Mr. Wade persisted in his rebuttal.

President Huffman closed the public comment period and moved to the next order of business.

**CANVASSING OF ELECTION:**

**Director Rathbun moved to delegate the counting of the ballots to the election board. Director Dennis seconded the motion and it carried unanimously.**

Vice President McGuire recommended the Board take a break while the election board canvassed the votes, to allow the audience to observe the canvassing.

President called a break at 9:10 a.m. and the meeting resumed in open session at 9:51 a.m.

President Huffman announced that the election board had delivered the results of the ballot count to the Board of Directors. Mr. Freeman read the results of the count.

**Position 2:**

<b><u>Absentee Ballots Cast:</u></b>		<b><u>Ballots Cast at Polling Place:</u></b>		<b><u>Combined Totals:</u></b>	
Patrick McGuire	489	Patrick McGuire	726	<b>Patrick McGuire</b>	<b>1,215</b>
James Wade	17	James Wade	151	<b>James Wade</b>	<b>168</b>

**Position 4:**

<b><u>Absentee Ballots Cast:</u></b>		<b><u>Ballots Cast at Polling Place:</u></b>		<b><u>Combined Totals:</u></b>	
Dean Dennis	5	Dean Dennis	382	<b>Dean Dennis</b>	<b>387</b>
Penny Hermanson	488	Penny Hermanson	421	<b>Penny Hermanson</b>	<b>909</b>
Dale Walter	13	Dale Walter	77	<b>Dale Walter</b>	<b>90</b>
		Michel Mickolds	1	<b>Michel Mickolds</b>	<b>1</b>
		Tom Vistrees	1	<b>Tom Vistrees</b>	<b>1</b>

Mr. Freeman asked if there was any person present who was of the opinion that the votes had been incorrectly counted. There being no response, President Huffman called for a motion.

**Director Rathbun moved to accept certification of the 2012 election. Director Dennis seconded the motion and it carried unanimously.**

Certificates of Election were signed and presented to the Mr. McGuire and Ms. Hermanson.

Mr. Freeman and President Huffman thanked the election board members for their work.

At 9:56 a.m., President Huffman called a break while the election records were secured. At 10:07 a.m., the meeting resumed in open session.

**PRESENTATIONS:**

**Financial Reports for November 2012:** Ms. Storms briefly reviewed highlights of the financial report. Pages reviewed included:

- Balance sheet as of November 30, 2012
- Summary Statement of Revenues & Expenditures – Budget to Actual
- Comparative Statement of Revenues & Expenditures

Ms. Storms briefly discussed the difference from 2011 to 2012 in assessments collected, interest paid on past due assessments, and the foreclosure process.

**PUBLIC HEARING:** None

**BOARD REPORTS:** None

**ACTION ITEMS:**

**RESOLUTIONS:**

**Resolution 2012-38 Interfund Loan from KID Realty to Red Mountain LID:** Ms. Storms reviewed the purpose of the resolution and the schedule for the proposed loan payment.

Ms. Storms confirmed to Vice President McGuire that money from realty reserve would be used after use of state money, though she noted that there were also costs which were not covered by the state funds for which realty reserves money would be used.

President Huffman noted that the loan to the Red Mountain South LID would be repaid by the Red Mountain South LID at no cost to the general rate payers. Ms. Storms added that the rate of interest was better than currently available investment returns and was therefore a benefit to the realty reserve account.

In response to a question from Director McKenzie, Ms. Storms said no any early withdrawal penalties would need to be incurred.

Ms. Storms confirmed to Vice President McGuire that, starting January 1, 2013, any expense incurred to date would begin to accrue interest.

In response to a request from Director Rathbun, Ms. Storms said she would add a report on current expenses of the project to the monthly report.

**Vice President McGuire moved to adopt Resolution 2012-38 Authorizing an Interfund Loan from the Internal Realty Reserve Fund to the Red Mountain South LID Capital**

**Project Fund in an amount not to exceed \$6.7 million at an interest rate of 1.8% per annum. Director Dennis seconded the motion and it carried unanimously.**

**Resolution 2012-43 Garagetown Condominiums Relegation:** Ms. Rosenbaum presented the proposed resolution to remove the Garagetown Storage Condominium from the assessment rolls. She briefly explained the circumstances justifying bringing the resolution to the Board out of cycle. She confirmed that their 2012 assessments had been paid in full.

In response to a question from Vice President McGuire, Ms. Rosenbaum discussed the policy definition of the time frame for relegation. She said the exception was due to incorrect decision by KID based on information available at the time of processing. Discussion ensued. Mr. Iller noted that the erroneous interpretation by staff dissuaded the applicant from applying. He said that a waiver in this one situation on the basis of those facts would not establish precedent or modify policy and was a reasonable decision for KID to make.

Mr. McShane went into further detail on the reviews of the water service to the property.

**Director McKenzie moved to adopt Resolution 2012-43 to process the Garagetown Relegation request. Director Dennis seconded the motion and it carried unanimously.**

**Resolution 2012-44 Approval to Submit Application for WaterSMART 2013 Grant:** Ms. Rosenbaum briefly discussed process of applying for the WaterSMART grant.

**Director Rathbun moved to approve Resolution 2012-44 (authorizing signature authority for 2013 WaterSMART grant Group II Funding Opportunity No. R13SF80003). Director Dennis seconded the motion and it carried unanimously.**

#### **STAFF REPORTS:**

**Finance Manager:** None

**Engineering/Operations Manager:** Mr. McShane reported that work was continuing on capital projects including Badger East Canal lining project and TruePoint implementation finalization.

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

- Vice President McGuire and Mr. Revell attended a meeting at Heritage University on basin-wide issues regarding the integrated plan and the quarterly Yakima River Basin Water Enhancement Project meeting.
- Mr. Revell briefly attended Commissioner Bowman's retirement party.
- Mr. Iller and Mr. Revell attended a meeting in Yakima regarding water rights issues.
- Staff emailed Department of Ecology staff requested they continue to hold the KID Red Mountain ground water right applications while a mitigation agreement was worked out.
- Mr. Freeman, Mr. Iller and Mr. Revell attended the Yakima Basin Joint Board meeting and discussed the west fork of Amon, or East Badger drain.
- Comments would be submitted to the Washington Department of Fish and Wildlife regarding their fishing regulations which include a fishing season in the Amon Wasteway.
- Tom Tebb sent letter stating that the Department of Ecology would not be regulating irrigation created wetlands, drains and wasteways.
- Mr. Revell said the water right was expected to be issued by February 15.

**District Manager:** Mr. Freeman thanked Director Dennis for his service to the District.

Director Dennis thanked the Board and staff for welcoming him and asked that Penny Hermanson be welcomed in the same fashion.

President Huffman wished everyone a Merry Christmas and Happy New Year.

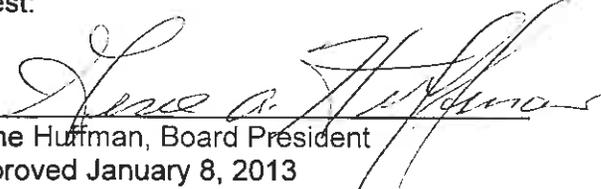
**WORKSHOP:** None

**EXECUTIVE SESSION:** None

**Director Dennis moved to adjourn at 10:51 p.m. and Director Rathbun seconded the motion. The motion carried unanimously.**

Attest:

Witness:

  
\_\_\_\_\_  
Gene Huffman, Board President  
Approved January 8, 2013

  
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Chuck Freeman, District Manager

Prepared by Doris Rakowski