



Minutes

Meeting of the KID Board of Directors
 Carl W. Petersen Board Room
 Tuesday, November 5, 2013, 9:00 a.m.

President Huffman called the meeting to order at 9:01 a.m. and Mr. Freeman called roll.

Directors Present:

Gene Huffman, President
 Patrick McGuire, Vice President
 Penny Hermanson, Director

Staff Present:

Chuck Freeman, District Manager
 Colleen Storms, District Treasurer
 Seth Defoe, Planning Manager
 Jason McShane, Engineering/Operations Manager
 Lynda Rosenbaum, Administrative Assistant
 Doris Rakowski, Executive Assistant

Absent:

Kirk Rathbun, Director
 David McKenzie, Director

Other Persons Present: Fran Forgette and Brian Iller, Legal Counsel

APPROVAL OF AGENDA: Vice President McGuire moved to approve the agenda. Director Hermanson seconded the motion. All present voted in favor. The motion carried.

CONSENT AGENDA: Director Hermanson moved to approve the consent agenda. Vice President McGuire seconded the motion. All present voted in favor. The motion carried.

Items included on the consent agenda were:

1. Minutes, KID Board Meeting, October 15, 2013
2. Approve Binding Site Plan 12-07 – Ridgeline
3. Approve Final Plat 13-08 - Inspiration Heights Phase 3A
4. Approve Final Plat - The Heights at Meadow Springs Phase 4
5. Approve Final Plat - Southcliffe Phase 1
6. Confirmation of Letter to Benton County Planning Department
7. Confirmation of Letter to the Department of Ecology
8. Gerald Stanton Access Easement Amendment
9. Vouchers/Warrant Approval

Accounts Payable

Numbers:	67101 through	67139	\$	212,351.32
	67140 through	67163		448,765.05

Total Accounts Payable 661,116.37

Payroll

Numbers:	32619 through	32627	\$	8,257.22
	32628 through	32628		128.29
	32629 through	32636		8,508.00
Direct Deposit		10/17/2013		71,702.60
Direct Deposit		10/31/2013		76,223.93

Total Payroll 164,820.04

Total Disbursements \$ 825,936.41

Voided Checks: Ck# 67100; wrong amount

PUBLIC COMMENTS:

Jim Wade asked why KID didn't have a declaration of candidacy form for elections. He asked what irrigation district RCWs allowed KID to pay \$600 per month to the WSWRA and travel to meetings, to pay for board members and spouses to fly, or for board members and others to attend the National Water Resource Conference in Texas. He asked why the notice about elections couldn't be put in the October newsletter, notifying people about sending in their requests for absentee ballots.

Walter Tamosaitis distributed a handout and addressed the Board on behalf of the homeowners between 1608 and 1676 Meadow Hills Drive. He said they understood the need for canal liner and straightening the canal, but asked KID to reconsider the access road on south side of canal. He referred to pictures and said there was unimpeded access without a road. He reported that builders had encouraged property purchasers to landscape to edge of canal because their lots were so short.

Mr. Tamosaitis referred to the property at 1676 Meadow Hills Drive. He said they were first told the access road would dead end, but KID decided to straighten the canal and put the road through. He said it was KID's decision to straighten the canal, but questioned the need for the access road on the south side. Mr. Tamosaitis said the quarter mile section of canal was heavily used by pedestrians, bikers and vineyard caretakers who would quickly see any problems.

Mr. Tamosaitis reiterated that the properties narrow and short and said homeowners had maintained the area for ten years without putting obstacles KID's way. He said that when the homes were built, builders recognized the properties were narrow and finishing them to the canal would benefit the community appearance and security.

Mr. Tamosaitis said if KID's concern was weeds, the homeowners would maintain the area. He said a proposal was in the handout and presented a signed petition to President Huffman. He offered to meet with KID representatives on site.

President Huffman said the District would respond in writing. He confirmed that the issue would not be discussed further in the meeting.

Vice President McGuire said guests were welcome to stay or leave as they wished, and that the meeting was likely to run a couple hours.

PRESENTATIONS: None

PUBLIC HEARING: None

BOARD REPORTS: None

ACTION ITEMS:

Election 2013 - Announcement of Candidates: Mr. Freeman reported that as of Monday, November 4th at 5:00 p.m., four candidates submitted nominating petitions and declarations of candidacy. The candidates, by position and in alphabetical order by last name, would be:

Position 1
Kirk Rathbun
James E. Wade

Position 4
Dean L. Dennis
Penny Hermanson

Mr. Freeman said staff would issue a press release announcing names of the candidates. He said if candidates provided biographical statements, the statements will be posted, unedited, on the KID website along with the press release. He said the statutorily required notice of election would be posted on Monday, November 25th, pursuant to RCW 87.03.085.

Mr. Freeman said absentee ballot request forms would be made available on the KID website, in KID lobby and, upon request, by mail. He said absentee ballot requests would be filled after the voter roll and ballots were printed and the elector's qualification to vote had been verified.

Filing of Assessment Roll and Notice of Board of Equalization: Mr. Freeman presented the Assessment Roll to the Board and said that it would be available for inspection through the time set for the Board of Equalization pursuant to RCW 87.03.250. He recommended that the Board of Directors meet as a board of equalization on December 3, 2013 and publish legal notices on November 8th and November 10th to meet the statutory requirements for notice.

Vice President McGuire moved to give notice by publication in the Tri-City Herald legal notices on November 8 and 10, 2013 that the 2014 Assessment Roll had been filed with the KID Board of Directors and that the Board of Directors, acting as a board of equalization, would meet on December 3, 2013 at 9:00 a.m. to equalize assessments. Director Hermanson seconded the motion. All present voted in favor. The motion carried.

Travel Request and Special Meeting for Attendance of WSWRA Annual Meeting: Mr. Freeman said the WSWRA (Washington State Water Resources Association) Annual Meeting would be held at the Davenport Hotel in Spokane, Washington on December 4th to 6th, 2013 and that Directors Huffman, McGuire and Rathbun, GIS Specialist Defoe, District Treasurer Storms and District Manager Freeman requested approval to attend.

As a majority of the Directors have indicated that they plan to attend, Mr. Freeman recommended the Board call a special meeting to announce the attendance of Board members at this event. He noted that the agenda for the meeting would be set by WSWRA and KID Board attendance would be for the purpose of continuing education of the attending Board members. He said the Board would not transact any business of the District or take final disposition on any District matters at this seminar.

Director Hermanson moved approve the travel requests for six attendees to the Washington State Water Resource Association Annual Meeting at the Davenport Hotel in Spokane, Washington on December 4th through December 6th, 2013 and to call a Special Meeting of the Board of Directors, for the purpose of attending said seminar. Vice President McGuire seconded the motion. All present voted in favor. The motion carried.

RESOLUTIONS:

Resolution 2013-25 Changes to Irrigation Water Allocations in Red Mountain South LID: Ms. Rosenbaum said the purpose of the resolution was to remove a combined 6.68 acres of irrigation water allocation from two parcels and assign two acres to a parcel on the waiting list. She said 4.68 acres would still need to be assigned after review by Engineering.

Ms. Rosenbaum confirmed to Director Hermanson that the requests were made in writing.

In response to a question from Vice President McGuire, Mr. McShane confirmed that the flow rates of allocations being acted on through this resolution would not affect the system design.

He said Engineering would evaluate whether acres to be assigned later would require changes to the design. Ms. Rosenbaum noted that the two acres being moved were neighboring parcels.

Vice President McGuire moved to approve Resolution 2013-25 authorizing the change of water allocations in the Red Mountain South LID #192 as shown on Exhibit "A" and Exhibit "B" of the resolution. Director Hermanson seconded the motion. All present voted in favor. The motion carried.

Resolution 2013-26 Amending Resolution 2013-23 Relegation Requests: Ms. Rosenbaum reported that a parcel was inadvertently left on the list of properties relegating water, as the owner had submitted a request to be removed from the list on the last day of the application period. She said the error was found when verifying the assessment roll. She said the correction would be handled internally and there would not be any assessment roll issues.

In response to a question from Director Hermanson, Ms. Rosenbaum said this error was caught due to internal processes and that assessment roll verification and USBR payoff were stages at which errors could be caught.

Ms. Rosenbaum confirmed to Vice President McGuire that Resolution 2013-23 was the first relegation list for the 2014 assessment roll.

Vice President McGuire moved to adopt Resolution 2013-26 amending Resolution 2013-23 not to include the Loughton's parcel 1-0989-202-0001-016 for relegation for the 2014 assessment year. Director Hermanson seconded the motion. All present voted in favor. The motion carried.

STAFF REPORTS:

Finance Manager: None

Vice President McGuire and President Huffman indicated they would be the two Board members to attend the audit entrance conference on Thursday.

Engineering/Operations Manager: Mr. McShane reported:

- All three schedules for the pipeline projects at Red Mountain had started. KID staff addressed the miscommunications between RH2 and the contractor on the first two schedules and would watch the project carefully.
- The coffer dam was removed from intake site, and work was proceeding.
- HDPE materials were ordered. Seaming equipment was out to bid and should be received by the third week of November.
- The Cherry Creek pump station and reservoir site was under design and constructions had started on the lateral pipelines. District crews were installing about 700 feet of pipe in coordination with the City of Kennewick reconstruction of 45th Avenue.
- The assessment roll was complete and Engineering was working on the 2013 election roll.
- The draft Southridge master plan was being reviewed by staff and would go to the O&E Committee in December.
- Robert Blain accepted an offer of employment for the Assistant Operations/Maintenance Manager position.

In response to a question from Vice President McGuire, Mr. McShane said the data collected from the baseline testing for canal seepage was the best in three years of testing. Mr. McShane hoped to finish analysis of the data by the first of the year. He said the purpose of the data

collection was to establish criteria which allowed verification of results predicted for seepage savings through programs funded by grants.

Planning Manager: Mr. Defoe reported:

- An employment offer would be made to a GIS/Environmental Compliance Specialist applicant.
- Work continued with Scott Musser and the Realty Department to prepare KID parcels for November 23rd auction. The 20-acre segregation of the two parcels was in the surveyor's hands, after which the County would review them. Staff was checking its status daily.
- The USBR regional office in Boise was reviewing the Red Mountain project inclusions and exclusions. When they were returned to USBR Yakima office, there would be a mini-ESA which would be done with cost sharing.
- The public notice was published and the comment period ended for the trust water application. The Office of the Columbia River was doing a report of examination after which the water would be put in the trust program.
- Ms. Rosenbaum was working on the environmental review for pipeline replacement on Olympia Street and 45th. Public notice would be published Thursday, followed by a 14 day comment period.
- Staff was drafting a letter to cities and county within the District about the comment period ending November 26th for the USBR's Directives and Standards regarding discharge from roads to Bureau facilities. Discussion ensued.
- The comment period on the Department of Fish and Wildlife draft changes to the hydraulic code was extended to December 13th. Staff and David Child were reviewing the changes, and, at this point, the only corrections were to correctly name the Amon Wasteway.
- Ms. Rosenbaum sent postcards to give notice to landowners in Red Mountain where pipeline easements pass to allow owners to meet with contractors.

District Manager: None

WORKSHOP:

Project Tracking: Mr. Freeman briefly updated progress on projects including:

Red Mountain

- Inclusion (annex)
- Allocation Requests
- Antinori Road
- Assessment Policy draft

Water Right Management

- Recalibration Phase 2
- Drought Mitigation Plan options
- Measurement of Canals
- Edison Point of Diversion Change
- Columbia River and Rock Creek Mitigation
- USBR Directives and Standards
- Yakima Basin Integrated Plan – Urban Eberhart will attend next KID board meeting. Discussion ensued. Mr. Iller said he would send staff the Acquavella adjudication draft list of entities with Yakima River water rights and offered to discuss legalities of the return flows compared to the potential supply in the integrated plans in executive session as litigation of the integrated plan had already been threatened. At the request of Vice President McGuire, Mr. Freeman gave a brief overview of the integrated plan. Discussion ensued.

- Lamprey

Strategic Planning

- Draft Comprehensive Plan, Southridge Master Plan and Drought Plan
- Private Line Area draft policy
- Endangered Species Act Risk Assessment
- All Drains and Wasteways Plan

Finance

- Replacement of remaining components of Springbrook
- Banking RFP
- IT Master Plan
- Travel Policy revisions
- Financial Summary Reports for KID website
- Red Mountain South LID Gap Financing Proceeds Policy
- Red Mountain South Assessment Methodology Policy

Engineering & Operations

- TruePoint GIS Integration
- Re-reg Reservoirs - Cherry Creek and Division 3
- Winter Work Plan

Realty - Renewed interest in industrial props

Administrative

- Policy and Procedure Update
- Board Retreat
- Elliott Lake Potable Water System
- Legislative Changes
- NPDES

EXECUTIVE SESSION:

At 10:00 a.m., on behalf of the presiding officer, Mr. Iller announced that the Board would go into executive session to discuss with legal counsel potential litigation in the form of threatened litigation regarding a personnel issue pursuant to RCW 42.30.110(1)(i)(i), to consider the minimum price at which real estate will be offered for sale pursuant to RCW 42.30.110(c), to discuss with legal counsel potential litigation in the form of the legal risks of a proposed action regarding canal rights of way pursuant to RCW 42.30.110(1)(i)(iii), and to review the performance of a public employee pursuant to RCW 42.30.110(1)(g) for an estimated 60 minutes following a short break. Mr. Iller said action was possible after the executive session.

Executive session was extended for 15 minutes at 11:05 a.m., 11:20 a.m., and 11:35 a.m. At 11:53 a.m., the Board returned to open session.

OPEN SESSION:

Settlement Agreement: Mr. Iller reported that allegations were made by employee Beth Smith through a letter from her attorney, John Ziobro. Mr. Iller said staff investigated the allegations and had strong evidence that a number of the claims were not accurate or true. He said staff negotiated a tentative agreement, subject to Board approval, by which Ms. Smith would separate from District employment through elimination of her position and would waive all claims against the District in exchange for \$50,000 and unpaid compensation of about \$11,000,

which would be subject to withholding. Mr. Iller said the provided this information to the Board and this morning was notified that Ms. Smith agreed to the offer.

Mr. Iller said that staff felt there were strong defenses and that the District would probably be successful in litigation. He said that, particularly, the allegation that KID did not respond appropriately or timely was untrue. He said the District took seriously any complaint of improper behavior or harassment.

Mr. Iller said that because litigation was expensive, time consuming and distracting from the District's mission, staff and counsel recommended approval of tentative settlement to avoid the expense and risk of litigation. There being no discussion, President Huffman called for a motion.

Vice President McGuire moved to approve tentative settlement agreement by which Beth Smith would waive all claims against the District in return for \$50,000. Director Hermanson seconded the motion. All present voted in favor. The motion carried.

Vice President McGuire moved to adjourn the meeting at 11:59 a.m. and Director Hermanson seconded the motion. All present voted in favor. The motion carried.

Attest:


Gene Huffman, Board President
Approved November 19, 2013

Witness:


Chuck Freeman, District Manager

Prepared by Doris Rakowski