



Board of Directors Meeting
Tuesday, February 18, 2020, 9:00 a.m.
Carl W. Petersen Board Room
2015 S. Ely St., Kennewick, WA 99337

President Rathbun called the meeting to order at 9:02 a.m. and Mr. Freeman called roll.

Directors Present:

Kirk Rathbun, President
David McKenzie, Vice President
Gene Huffman
Arland Ward

Absent: Raman Venkata

Other Persons Present:

John Crotty, Legal Counsel

Staff Present:

Charles Freeman, District Manager
Kipp Drummond, Comptroller/Treasurer
Jason McShane, Engineering/Operations Manager
Seth Defoe, Land and Water Resources Manager
Lynda Rosenbaum, Real Property Manager
Matt Berglund, Public Relations Coordinator
Lori Gibson, Executive Assistant to Engineering
Melissa Olheiser, Accountant II
Doris Rakowski, Executive Assistant

Director Huffman moved to excuse Director Venkata's absence. Director Ward seconded the motion. All present voted in favor and the motion carried.

APPROVAL OF AGENDA: President Rathbun modified the agenda to consider Resolution 2020-04 to after Resolution 2020-06, and to hear public comment to under Resolution 2020-04.

Vice President McKenzie moved to approve the agenda as modified. Director Ward seconded the motion. All present voted in favor and the motion carried.

CONSENT AGENDA: Director Huffman moved to approve the consent agenda. Director Ward seconded the motion. All present voted in favor and the motion carried.

Items on the consent agenda were:

1. Minutes, KID Board Meeting, December 3, 2019
2. Minutes, KID Board Meeting, December 16, 2019
3. Minutes, KID Board Meeting, January 7, 2020
4. Minutes, KID Board Meeting, January 21, 2020
5. Minutes, KID Board Meeting, February 4, 2020
6. Final Plat of Cob Hill
7. Final Plat of Clearwater Creek Phase 12
8. Binding Site Plan 20-01 Lachman
9. Short Plat 2019-016 Davis
10. Travel Authorization - ESRI Annual Conference
11. Travel Authorization Revision - Irrigation Leader Trip
12. City of Richland Request for Waterline and Access Easement
13. Vouchers/Warrant Approval

Accounts Payable:

Numbers:

80174	through	80217	\$	44,369.93
80218	through	80218	\$	9,296.16
80219	through	80219	\$	142.50
80220	through	80220	\$	1,533.14
80221	through	80269	\$	51,836.94
Bank Drafts	FSA		\$	659.67
Bank Drafts	General		\$	816.96
Bank Drafts	AP		\$	137,215.55
Total Accounts Payable				\$ 245,870.85

Payroll:

Numbers:

34235	through	34235	\$	784.57
Direct Deposit	2/5/2020		\$	154,605.72
Total Payroll				\$ 155,390.29
Total Disbursements				\$ 401,261.14

Voided Checks: Check # 79505 \$218.36 – VOID and Reissue – Lost in mail
Check # 79410 \$151.13 – VOID and Reissue – Lost in mail

PRESENTATIONS

Chad Stuart, Yakima Field Office Manager, U.S. Bureau of Reclamation: Spoke about

- Title transfer progress, including Hazmat report, categorical exclusion, and regular meetings with Kyle Weaver
- Columbia-Cascades Area Manager Dawn Wiedmeier retirement; Talmadge Oxford scheduled to start in March
- Precipitation, snow pack, and storage
- Kachess Dam conduit seepage repair plans

In answer to a question from Mr. McShane, Mr. Stuart spoke about the 2015 drought.

Financial Reports for January 2020: Mr. Drummond presented highlights of preliminary report pages including:

- Balance Sheet as of January 31, 2020
- Statement of Revenues & Expenditures - Budget to Actual
- Statement of Revenues & Expenditures - Comparative

In response to a question from President Rathbun, Mr. Drummond spoke about LGIP (Local Government Investment Pool) rates.

Director Huffman moved to approve the January 2020 Financial Reports. Vice President McKenzie seconded the motion. All present voted in favor and the motion carried.

PUBLIC HEARING: None

BOARD REPORTS: None

ACTION ITEMS:

Variance Request for Jolianna Heights: Mr. McShane presented the developer's request for a variance regarding construction and maintenance of a fence along a USBR right of way. He spoke about the location and KID's conditions for plat approval. He said staff recommended approval of the variance contingent upon compliance with KID'

There being no questions, President Rathbun called for a motion.

Vice President McKenzie moved to approve the Proposed Final Plat - Jolianna Heights Ph.2 with variance request, removing the condition that states "Applicant must construct and maintain a fence adjacent to the USBR ROW", contingent upon the developer's compliance with KID's revised conditions of approval. Director Ward seconded the motion. All present voted in favor and the motion carried.

RESOLUTIONS:

Resolution 2020-05, Aquilini Water Allotment Transfer: Mr. Freeman reviewed the 2019 discovery of water spreading by an owner on Red Mountain. He reported that the proposed resolution would cure the water spreading by transferring water off five of the owner's parcels and onto two of their parcels where water was needed.

Additionally, a disagreement regarding liability for crop losses and the owner's liability for failing to call 811 for a locate and \$30,000 of damage to the new distribution system. Mr. Freeman said staff was not opposed to rescinding invoice #16421 for the damages.

Mr. Freeman said a total of 13.25 acres would be reallocated and the owner would be invoiced for the change.

In response to a questions from the Board, Mr. Freeman confirmed that the owner had some additional dry land, but none that would need water. Mr. Freeman said the request was not unprecedented. He confirmed that the damage occurred in 2016.

Director Huffman moved to approve Resolution 2020-05 Water Allotment Transfer. Director Ward seconded the motion. All present voted in favor and the motion carried.

Resolution 2020-06, Surplus and Marketing of Real Property: Ms. Rosenbaum presented staff's request to surplus and market a 1.08-acre parcel with no improvements in the Kiona area. She reported that the Realty Committee determined there was no benefit to holding the property. She noted that back taxes would be paid at the time the property was leased or sold.

Ms. Rosenbaum confirmed to President Rathbun that the parcel isolated from irrigation so its allocation could be removed, and that it had no assessment.

Director Huffman noted that garbage had been dumped on the parcel in the past, so selling it could potentially save the district money for maintenance. The location was discussed further.

Director Huffman moved to approve Resolution 2020-06 to surplus and market KID #5103. Director Ward seconded the motion. All present voted in favor and the motion carried.

EXECUTIVE SESSION: At 9:32 a.m., Mr. Freeman announced that the Board would go into executive session to discuss with legal counsel potential litigation, in the form of litigation or legal risks of a proposed action or current practice pursuant to RCW 42.30.110(1)(i)(iii) regarding two matters, and to consider the minimum price at which real estate will be offered for sale or lease,

pursuant to RCW 42.30.110(c), for approximately 60 minutes, unless extended. President Rathbun said meeting attendees would not be asked to leave, as the executive session would take place in a different room.

At 10:30 a.m., executive session was extended for 30 minutes.

OPEN SESSION: At 11:02 a.m., open session resumed.

RESOLUTIONS, continued:

Resolution 2020-04, Condemnation of Reservoir Site for Central Storage: President Rathbun announced that staff would make a presentation, then public comment would be taken. He noted that this was not a public hearing, and that speakers would each be given three minutes. Following public comment, the board would vote on the proposed resolution.

Mr. McShane introduced himself and expressed appreciation for the show of support for the Cox family and of those who came to learn more about irrigation.

Mr. McShane displayed usbr.gov webpage of the Yakima River Five Reservoir Diagram and spoke about KID's water supply and service area. He said the combined storage capacity of the five reservoirs was about one million acre feet (AF) and the annual need for water from the Yakima River was about 2.4 AF. He spoke about snow as a sixth reservoir and the snow melt.

Mr. McShane said KID was a return flow district, and had to call for direct diversions from reservoirs in last year's drought for the first time in KID's history. He said that if the 90% snow pack melted too quickly, we could be in a drought situation.

Mr. McShane described how the USBR operated the Yakima River, addressing needs of upstream water users and target flows for fish. He said KID had not been part of the calculation in its 60-year history, but survived on return flows that seeped back to the river through the ground. Uniquely, KID was able to benefit from water in excess of its pro rata share, but excess supply was diminishing, in part due to conservation upstream.

Mr. McShane reviewed past drought years and Yakima River Basin Water Enhancement Project legislations, and said excess flows were of critical importance to why KID needed a reservoir.

Mr. McShane spoke about the Chandler Power Plant, which produced power most of the year, but in summer directed water to turn hydraulic turbines to fill KID canals. The turbines require 1.5 gallons of water for every 1 gallon put in KID's canal; so for every 2.5 gallons diverted from the river, KID received 1 gallon and 1.5 gallons were returned to the river. This means that any storage upstream from KID's main canal needed to be done at a ratio of 2.5 to 1. Also, any upriver storage could be used by other districts upstream.

Mr. McShane said most people don't recall droughts in 90s and earlier, because excess flow was still sufficient. However, 1994 legislation led to conservation, which directly affected KID's supply. He displayed a chart of Monthly Return flows to Yakima River, and spoke about water supply available in various years. He said there was an increasing water supply for pro-rated irrigators, but a decreasing water supply for KID.

Mr. McShane displayed a graph of flows in the river system. He said that if flow dropped below set targets for fish, supply to KID was reduced. He spoke about past rationing, scheduled watering, and shut down of large customers.

Mr. McShane said reservoir storage of a size and shape new to KID was needed to supply water to customers in time that the river could not supply the water to our district. He spoke about plans that included reservoirs since 1986, and the KID capital improvement plan. Mr. McShane said there were only so many locations where a reservoir could be constructed for public benefit.

Mr. McShane explained why water was not coming from the Columbia River, including that the Columbia River elevation was lower than KID's service area, so pumping costs alone would be near \$4 million per year. He said KID was working toward that, but bucket for bucket mitigation would be required, with water being stored in spring and returned to the river when needed.

Mr. McShane said KID's canal system was built in the 1950s to serve agriculture, but had provided water to urban areas as far back as 1891.

Mr. McShane said several reservoir sites were considered, though the district did not talk publicly about potential sites until closer to purchase of the properties. He displayed a map of the site being discussed today. He summarized that KID was looking for a site near the canal, with low operating cost from a minimal need to pump water. He reported that a site adjacent to the 65-acre Cox family farm was purchased last year.

Mr. McShane said KID obtained an appraisal of \$1.134 million, and offered the Cox family \$1,908,535.06. He noted that KID had published notice of this meeting in the Tri-Cities Herald and sent a certified letter to the Cox family.

Mr. McShane spoke about SEPA (State Environmental Policy Act), including economic and other considerations. He said SEPA requirements were met for acquisition of the property, and were not required for land acquisition. Additional actions would need to be reviewed prior to building the project.

In response to a question from President Rathbun, Mr. McShane said the Yakima Basin had less storage than needed for one year, whereas the Colorado had 4.5 times their annual water need in storage.

PUBLIC COMMENTS: President Rathbun reviewed format for the public comment period.

Vickie Cox, 62403 E. 95, spoke about water deliveries above the canal, when there was not enough water. She asked about publication of the previous property purchase from Czebotar & Peterson. She spoke about difficulty finding information and lack of timeliness of minutes. She read from RCW 42.30.10 and RCW 42.30.60.

Ms. Cox asked whether KID took over Richland so they would not be on city water. She said Resolution 2019-29 would close the same day as the meeting.

Ms. Cox spoke about her husband's family previously losing property to eminent domain at Whitcomb Island.

She said the appraiser was on the property though they asked him to leave, because they had the right to be with him.

She said KID told the paper this was for farms and people, but was taking their farm. She said KID's lawyer told their lawyer no one wanted 5 acres in the area, but people were interested. She said they did not want to sell, but wanted to farm.

Ms. Cox gave the Board a letter from someone who could not attend the meeting.

President Rathbun said the Board wanted to hear people's comments, but recommended they also speak with staff to get their questions answered. Mr. Freeman clarified that this was a public comment period, not a public hearing.

Mr. Freeman said the KID did not do things in secret and said the Czebotar property was part of a law suit settlement. He said statutory notice obligations were met. He said publication was in the Tri-City Herald.

President Rathbun said anyone was welcome at the two public board meetings every month, and said good records of the meetings were kept and available.

Jim Diecker, 25809 E. Sunset, said the community would like its questions answered in detail. He commended the board and staff for good job in PSA 171.

Mr. Diecker asked what effect the proposed reservoir would have on residents. He said the Benton County Planning Department was unaware of reservoir plans. He called for better transparency.

Mr. Diecker asked about when planning began, the project's current status, the reservoir size and footprint, whether property was acquired, project cost and source of funds, how value was determined, time frame for construction, cost to maintain, whether KID did a cost-benefit analysis, impact on assessments, impact on other projects, cultural impact, environmental impact including on aquifers and wells, and how it will be filled. He provided a copy of questions to staff and asked for written answers.

Mr. Freeman said you don't negotiate purchase price in public.

Mr. Diecker said prices were high now.

Mr. Freeman said that is why \$1.9 million was offered.

Travers Bracy, 62310 E. 99 PRSE, expressed concerns about analysis of impact on the water table for residential wells bordering the proposed reservoir, impact to property value, and what it will look like (natural or concrete-lined and fenced). He also asked if the district could acquire his property if not large enough.

Steve Wallace, 78002 Twin Bridges, noted he had property in the area. Mr. Wallace said he had done business with President Rathbun's family, and said it would have an immediate effect on surrounding properties. He questioned if President Rathbun had a conflict of interest since his father had property in the area.

He asked if this was the best location since it was near the end of the irrigation line. He said Prosser would be better, so there was more access to it. He asked if the cost was justified, and which properties considered and rejected. He said there was disparity about the project's openness, and there would be litigation. He recommended it be put off for at least six months.

Britt Marlin, 64008 E. 99 PRSE, said he lived above the property bought previously. He spoke about his 40-year history on the property. He said he did not understand how the District could take the property and keep price negotiation secret.

He asked what it would look and smell like when it was filled, and when drained in the winter. He asked how it would be handled so it did not depreciate surrounding properties. He repeated the idea of locating the reservoir near Prosser, near Chandler Dam. He suggested locating it to the west, or pumping through ryegrass at Vantage and back to the Yakima system.

Mr. Marlin said KID seemed secretive and said it looked like a land grab to sell for more in ten to 20 years. He requested a drawing of how it would look.

Cody Elliot, 7310 Canyon View, said this was his family's farm, and they went through drought and cut back. He said KID was selling water rights, such as to Red Mountain vineyards. He said it sounded like a money game. He said KID was trying to claim 400 acres. He asked when KID would stop selling water rights it didn't have, since it was short of water.

Harland Lippold, 9611 S Badger Canyon Rd, asked why a public process by a public agency for the maximum benefit of the community was being conducted in a manner so opaque. He noted KID said "we want to answer your questions" but asked when their questions were solicited.

Mr. Lippold said four notices were published in the Tri-City Herald legals. He said he was concerned with the process of such a drastic land use change with no notice to adjacent owners, and said he would have a reasonable expectation of a letter before the decision was made. He said he understood how the land could be legally obtained for public use, but not ethically.

Charles Prescott, 66504 E Sunset View, said he was rocked to the core about KID's use of eminent domain. He said this was prime farmland, and recommended a location further upstream, even if water needed to be pumped. He spoke about the Cox family farm and asked the District to leave them alone and let them farm.

Mr. Prescott said he heard about this three days ago. He asked for more transparency and that KID think before going ahead this.

Clayne Cox, 62403 S 95 PRSE, said taking farm land for a pond did not feed the farmers. He said KID came in a week before Christmas and said if they would not sell the land, KID would take it. He said his grandfather was kicked off land at Whitcomb Flats by the government and was going to do it again. He questioned a 400-acre pond to grow lawns. He said his grandfather didn't want houses built there, but now there would be a pond.

Mr. Cox said there was a lot of land by Yakitat, Prosser or Webber Canyon that wouldn't bother anyone. He suggested KID build in a draw like Roza Irrigation District. He said people had been trying to buy the land for years.

Shane Elliot, 64303 E Solar PRNE, spoke about their family history and heritage of farming the land. He read from RCW 43.30.010. Mr. Elliot said the farm was never for sale, but KID wanted to take it. He said it was not right. He said more open transparency was needed.

Ashley Elliot, 7803 Goose Gap Rd., asked how many properties KID owned and if KID was in it to develop or for water. She said KID had 107 properties.

Ms. Elliot said Badger Canyon was full of animals, especially horses, and the pond could bring West Nile virus. She said money meant nothing to them; they just wanted to farm.

Daniel Carlson, 6208 Collins Rd, said the farm land more than the Cox family's history; it was his and other people's history, too. He said land up by Prosser would be better suited and not take their way of living.

Mr. Carlson said KID owned a lot of land around the Tri-cities that was not being used. He asked if KID did a study after taking land and found they could not build the pond, would they sell back to the Cox family, minus what they lost because they couldn't farm the land.

Ellen Warnick, 307 S. Goose Gap Rd, spoke about her relationship with the Cox family and her pride to see pumpkins being sold in Alaska that were grown on that farm. She spoke about her love of farming, and said it wasn't right to take the farm. She asked who would grow food when there was no dirt for farms.

Robbie Cox asked if the Board would answer the questions or just vote.

Mr. Crotty said this was a comment period, not a public hearing. He said many of the considerations brought up had been considered by the District. He said staff had considered all that had been discussed, including siting, and that farmers would lose ground. He said there was opportunity for questions to be addressed in another forum by staff members.

Robbie Cox said, please, don't take my farm.

EXECUTIVE SESSION: At 12:25 p.m., it was announced that the Board would go into executive session for 15 minutes pursuant to RCW 42.30.110(1)(i)(iii).

OPEN SESSION: At 12:41 p.m., the meeting resumed in open session.

President Rathbun announced that in response to the public's concerns and questions about the project, voting would be postponed. He said an open house would be held March 26 from 4:00 p.p. to 7:00 p.m. to answer these questions. He encouraged attendees to send questions ahead of time or make appointment to speak to staff.

Mr. McShane confirmed that the USBR owned the pumping station at Chandler. He spoke about what the District would own if title transfer was completed.

Mr. McShane said KID looked at other options and he would be happy to review other solutions.

STAFF REPORTS

Finance Manager: Mr. Drummond reported regarding:

- Draft statement for bond issuance and getting bond rating
- Attendance of LGIP (Local Government Investment Pool) board meeting by phone

Engineering/Operations Manager: Mr. McShane reported regarding:

- Badger East Canal lining
- Water on preparation activities

Land & Water Resources Manager: Mr. Defoe reported regarding water supply, snowpack, and the ENSO Neutral forecast.

District Manager: None

Mr. Crotty reported that a new draft of Schessler bill would be put forth, based on the irrigation district election working group suggestions.

Workshop

Adjournment

At 12:51 P.M., Director Huffman moved to adjourn. Director Ward seconded the motion. All present voted in favor and the motion carried.

Attest:

Witness:


Kirk Rathbun, President
Minutes Approved March 17, 2020


Charles Freeman, Board Secretary

Prepared by Doris Rakowski