



## MINUTES

Regular Meeting of the KID Board of Directors  
Carl W. Petersen Board Room  
June 2, 2009

**Call to Order/Roll Call:** The meeting was called to order in open public session at 9:02 a.m. by President Jaksch. Interim Secretary/Manager Revell called the roll.

**Directors Present:**

John Jaksch, President  
John Pringle, Vice President  
David McKenzie  
Patrick McGuire  
Gene Huffman

**Staff Present:**

Scott Revell, Interim Secretary/Manager  
Joetta Rupert, Real Estate Manager  
Clark Haueter, District Treasurer  
Brian Iller, Legal Counsel  
Beth Smith, HR/Risk Management  
Administrator & Acting Engineering Manager  
Harry Fox, Operations Manager  
Richard Evans, Professional Engineer  
Jason McShane, Staff Engineer  
Doris Fiske, Executive Assistant

**Approval of Agenda:** President Jaksch added discussion of the legal risks of a proposed action regarding assessments to Executive Session and a Finance Committee Update to New Business. **Director McGuire moved to approve the modified agenda. Vice President Pringle seconded the motion and it carried unanimously.**

**Consent Agenda:** **Director Huffman moved to approve the consent agenda. Director McKenzie seconded the motion and it carried unanimously.** Items on the consent agenda were:

1. Minutes, KID Regular Board Meeting, May 19, 2009
2. Interim District Manager's Contract
3. Letter of support for Steptoe Project Phase II
4. Authorization for Interim District Manager to execute a contract with the Benton Franklin Fair for booth at the 2009 fair

**Accounts Payable**

|                               |       |         |       |    |                   |
|-------------------------------|-------|---------|-------|----|-------------------|
| Numbers:                      | 56921 | through | 56968 | \$ | 34,880.14         |
|                               | 56969 | through | 56969 |    | 98.00             |
| "                             | 56970 | through | 57028 |    | <u>124,173.70</u> |
| <b>Total Accounts Payable</b> |       |         |       |    | \$ 159,151.84     |

**Payroll**

|                            |       |         |       |  |                      |
|----------------------------|-------|---------|-------|--|----------------------|
| Numbers:                   | 31138 | through | 31150 |  | 12,347.93            |
| Direct Deposit             |       |         |       |  | <u>71,879.43</u>     |
| <b>Total Payroll</b>       |       |         |       |  | <u>84,227.36</u>     |
| <b>Total Disbursements</b> |       |         |       |  | \$ <u>243,379.20</u> |

**Voided Checks**

None

**Unscheduled Visitors:** James Wade, 1813 S Rainier Place, asked if Joetta Rupert completed the report requested by Vice President Kinsel on September 2, 2008 showing how much real estate was sold over the years and the benefits to ratepayers. Mr. Wade requested a copy. Ms. Rupert said the Real Estate Department looked at comparisons as far back as they go and summarized the gross amount for each year. Reporting on net proceeds requires examining each file for costs manually and has not been done. Ms. Rupert had previously proposed hiring temporary administrative help allow staff to complete projects currently on hold. President Jaksch said the Board is interested in those numbers. Mr. Haueter said that from 2005 to 2008 realty sales subsidized the District's operations and maintenance budget by about \$400,000 each year.

Mr. Wade asked why McKay & Sposito spends so much time on Red Mountain. Mr. Evans responded that McKay and Sposito's services have been contracted after Requests for Proposal were issued and applications were reviewed and ranked. The firm was deemed to be the most qualified candidate when they were selected.

Mr. Wade asked if any money, beyond the \$100 submitted with the petition, has been received from property owners at Red Mountain. Mr. Revell answered that the Board did not opt to require an additional sum through a bond. Expenses of the feasibility study will be incorporated into the cost when the LID is formed and to date there has been about \$100,000 in expenses. McKay & Sposito was hired to do some preliminary design work and the public hearing is scheduled for July. Mr. Evans said all costs will be accrued, the system built, expenses totaled and after the final hearing and approval of the assessment role, payments in annual installments will begin. Mr. Wade asked if Red Mountain landowners could have fronted the money instead if KID. Mr. Evans said KID could not require that, but the residents could have chosen to do so. Mr. Jaksch recommended that when the \$95,000 grant from the State Department of Ecology is received the money be put in reserves.

Mr. Wade asked why the Board adopted a tiered rate structure and if it was because LID 1000 was in violation of the RCWs and if it was a way to have other LIDs cover costs for LIDs with lots of expenses. Mr. Wade read from the Attorney General's opinion. Mr. Iller said the Attorney General's opinion also stated that the tiered rate structure is permissible if it was justified as reasonable and advised Mr. Wade to read the last section of the letter which authorizes the Board's decision. President Jaksch said balances left in the LIDs were refunded to the applicable landowners in each LID. Mr. Haueter said the tiered structure was not a result of LID 1000, but stabilizes assessments for water users in about 160 LIDs by spreading maintenance costs over the District, eliminating spikes in assessments when extensive work becomes necessary. This method is similar to how other utilities manage infrastructure and equipment.

### **New Business:**

**1. Resolution 2009-15 Approving 4<sup>th</sup> Avenue Phase I Contract:** Mr. McShane gave a brief report. Because of the city's construction schedule, the contract, which is outside the spending authority of the District Manager, needs to be authorized to be awarded before the Board meets again on July 7<sup>th</sup>. Discussion ensued. **Vice President Pringle moved to adopt Resolution 2009-15.** President Jaksch noted that a clerical error in the resolution's numbering that will be corrected before the paperwork is signed. **Director Huffman seconded the motion and it carried unanimously.**

**2. Request for Additional Authorization of Change Order for W. 4th Ave. Roundabout Work:** Mr. Revell reviewed the need for a change order authorizing the District Manager to approve an additional \$12,000 out of the \$450,000 project to extend the line through the roundabout to avoid a need to cut into the new roundabout at a later date to extend the line further. Mr. Revell confirmed that this change order will not change the total amount budgeted for the project of \$450,000. **Director Huffman moved to authorize the District Manager to approve the additional \$12,000 to the KID change order on the City of Kennewick's contract P070609 from the project budget for the KID 4<sup>th</sup> Avenue Phase I project. Vice President Pringle seconded the motion and it carried unanimously.**

**3. District Manager's Report:** Mr. Revell reviewed items from the District Manager's report and several other issues:

➤ **Municipal & Industrial Water** - The U.S. Bureau of Reclamation notified the KID that M&I water is no longer an issue. USBR's Chuck Garner researched existing Bureau policy which allows for non-commercial irrigation. President Jaksch instructed a letter of thanks be drafted to Mr. Garner, copying Dawn Weidemeier and Gerry Kelso.

➤ **Aquatic Weed Control** - The KID's aquatic weed control vendor toured the District facilities with Mike Pearce and said KID has some of the best canals they have seen for aquatic seed control. Mike Pearce deserves praise for the job he is doing. Mr. Fox said KID tested Sonar in two canals last year and applied it system-wide this year.

➤ **Smart Watering Class** - The WSU extension office asked KID to co-sponsor their smart watering course with the Master Gardeners in July. Cost to KID will be a couple of hundred dollars and KID will provide some technical expertise.

➤ **District Manager Search** - Revision five of the advertisement was distributed and had been reviewed with the consultant, legal counsel and search committee. The proposed extended application submission date of July 27<sup>th</sup> was discussed and the Board agreed it was acceptable.

➤ **Newsletter** - A Port of Benton quarterly newsletter was provided as a sample of the type of publication KID could produce once or twice a year. Mr. Revell said the first newsletter may take 45-60 days to prepare. President Jaksch suggested including information on the rights-of-way and easement issue. Ms. Smith said newsletters were budgeted in 2005-2007, but not in 2008. Director McGuire told staff that he supported including a larger budget for public outreach in the 2010 budget. President Jaksch concurred.

➤ **Easements** - President Jaksch asked Mr. Revell to investigate how KID was included on the letter from Canyon Lakes. Mr. Iller said the answer on public access on easements depends on the specific documents creating the easements, but, usually, the underlying landowner maintains the right to exclude people from his or her property. Under general principles, KID and its contractors have the right to enter for maintenance and operation of the canal but not to authorize third parties to enter someone's land on KID's easement for recreation or travel. Mr. Fox said canal roads throughout the District are used for casual access by citizens and no trespassing signs are ignored. He said KID had substantial difficulty keeping people out of construction zones last year.

➤ **Saltz Encroachment Denial** – A written denial reversing a previous approval was issued on a request for encroachment on the Highlift Canal by Saltz. The Saltz proposal was to cut into the canal bank and build a retaining wall. A short history of the case was discussed. Due to costs and to the public safety issues, the request was denied.

➤ **Badger East Canal Repair** – In Badger Den Estates near Shockley Road below the canal, leveling and removal of dirt by the developer exposed portion of the canal seepage cone. Staff is monitoring the seepage closely and considering options to fix the problem. Shut down of the canal for a few days may be required. Staff is investigating the right-of-way to determine responsibility for the repair.

➤ **Amon Wasteway Right-of-Way** - Amon Wasteway right-of-way is being marked to fulfill with KID's part of the access control plan. Signs from the U.S. Bureau of Reclamation are being installed which tell that about the Amon Wasteway and that it is an emergency drain and delivery canal. There is a non-emergency number for the Richland police department for citizens to report trespass.

➤ **Zebra Mussels** - KID is not aware of any of this invasive species in the canal, but has the ability to treat if they appear. Mr. Fox said the chemicals are not kept on hand. President Jaksch advised protecting intakes on pumps.

➤ **Engineering Department Customer Follow-up** - Ms. Smith is working on resolving the backlog of issues in the Engineering Department. Customer calls are being returned diligently.

➤ **Engineer Field Training** - New staff engineer, Ben Woodard, has been training with Operations staff in the field two ½ days per week.

➤ **Water Permit Meeting** – Staff met with the Department of Ecology, the USBR and the Department of Fish and Wildlife last week to talk about the change and transfer request. Mr. Revell hopes to have the MOU signed by the end of July and modification to the existing permit seems viable. Yakama Nation did not send a representative, but KID hopes to meet with the Yakama Nation so they continue to be involved in the discussions.

The Department of Ecology indicated that new water would be available in three to five years on the pending 82 cfs permit from the McNary Pool. This source of supply is being developed through their Columbia River Program office in Wenatchee.

➤ **Fair Booth** - Mr. Revell thanked Ms. Rupert for her offer to cover the cost of booth rental from the Realty budget.

➤ **May 30<sup>th</sup> Town Hall Meeting** – Follow-up has begun on LID 171 issues. Mr. Fox had staff examine the equipment. A pump valve issue was found and corrected, but pressure was not affected so investigations continue.

Follow-up letters and a survey will be sent to attendees. A brief list of issues and responses will be provided to the Board and published on website. Mr. McKenzie thanked the staff for taking time away from their families to attend the Saturday Town Hall meeting.

➤ **Frost Protection Water** – Mr. Jaksch said we need to get water in side canals where orchards are located as well as the main canal. Mr. Revell said operational issues will be discussed at the July Operations and Engineering Committee meeting.

➤ **Attachment 5** - Mr. Jaksch asked for clarification on items three and six. Mr. Revell will investigate and report back.

At 9:55 a.m., President Jaksch called a break.

At 10:00 a.m., the meeting reconvened in executive session for 90 minutes

➤ to discuss with legal counsel potential litigation regarding easements,

- to discuss with legal counsel pending litigation regarding the federal Biological Opinion on Columbia and Snake River hydro operations,
- to discuss with legal counsel legal risks of a proposed action regarding parcel account consolidation,
- to review the performance of a District employee, and
- to discuss with legal counsel the legal risks of a proposed action regarding assessment.

At 11:30 a.m., executive session was extended for fifteen minutes.

At 11:45 a.m., executive session was extended for fifteen minutes.

At 12:00 p.m., President Jaksch called a break.

At 12:10 p.m., the meeting reconvened in open public session.


**4. Parcel Account Consolidation:** Mr. Haueter distributed copies of Policy and Procedure 2.20 and presented details of the proposed policy and procedure as well as expected results should they be approved. He noted that the policy is for the Board's approval and the attached procedure, which the District Manager will approve, is included for the Board's information. Legal Counsel Iller presented the legal issues surrounding the adoption of Policy and Procedure 2.20. Mr. Iller said he researched the Board's authority to correct the 2009 Assessment Roll after the Board of Equalization is closed and was unable to find authority to modify assessments for those parcels which did not have 2008 modifications. Board cannot consider new 2009 applications under those policies received after assessments were issued. Mr. Haueter said the proposed Policy and Procedure 2.20 will supersede Policies and Procedures 50 and 8. President Jaksch asked if applications that are denied because of legal limitation will receive letters. Mr. Haueter answered yes; all applicants will receive letters. Those receiving denials will also be notified that they may apply for consolidation through the county. **Director McGuire moved to approve Policy 2.20 "Parcel Account Consolidation" and authorize the District Manager to approve Procedure 2.20 to implement Policy 2.20 and acknowledge that Policy and Procedure 2.20 supersedes Policy and Procedure #8 "Parcel/Account Consolidation" and Policy and Procedure #50 "Consolidation of Parcels less than One Acre." Director McKenzie seconded the motion and it carried unanimously.** Mr. Haueter clarified that the policy number is two point twenty not point two.

**Director Huffman moved to adjourn the meeting at 12:18 p.m. Vice President Pringle seconded the motion and it carried unanimously.**

Attest:

Witness:

  
\_\_\_\_\_  
John A. Jaksch, Board President

  
\_\_\_\_\_  
Scott Revell, Secretary/Manager

Prepared by Doris Fiske, Executive Assistant