



**Minutes**

Meeting of the KID Board of Directors  
 Carl W. Petersen Board Room  
 Tuesday, November 15, 2011, 9:00 a.m.

President McKenzie called the meeting to order at 9:05 a.m. Mr. Freeman called roll.

**Directors Present:**

David McKenzie, President  
 Gene Huffman, Vice President  
 Patrick McGuire, Director  
 John Jaksch, Director  
 Kirk Rathbun, Director and Water  
 Rate Advisory Committee Member

**Staff Present:**

Charles Freeman, District Manager  
 Ed Everaert, Engineering/Operations Manager  
 Scott Revell, Planning Manager  
 Jason McShane, Staff Engineer  
 Beth Smith, Assistant Ops/Maintenance Manager  
 Lynda Rosenbaum, Assistant Planner  
 Doris Rakowski, Executive Assistant

**Other Persons Present:**

Tim Berk, Water Rate Advisory Committee Member  
 Gary Hall, Water Rate Advisory Committee Member  
 Brian Iller, Legal Counsel

**APPROVAL OF AGENDA:** President McKenzie moved Relocation Agreement and Confirmation Deed for New Indian Hills Siphon from the consent agenda to action items. He added to executive session discussion with legal counsel of the legal risks of a proposed action or current practice regarding the City of West Richland and discussion with legal counsel of pending litigation regarding Chavallo.

**Director Jaksch moved to approve the amended agenda. Vice President Huffman seconded the motion and it carried unanimously.**

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

Items approved by consent agenda were:

1. Minutes, KID Board Meeting, November 1, 2011
2. Minutes, KID Board Special Meeting, November 8, 2011
3. Approve Job Descriptions
4. KID O&M Vouchers

**Accounts Payable**

Numbers: 63155 through 63173	\$	26,862.56	
63174 through 63174		450.00	
63175 through 63179		5,487.14	
63180 through 63180		40.00	
63181 through 63181		6,141.07	
<b>Total Accounts Payable</b>			<b>38,980.77</b>

**Payroll**

Numbers: 32151 through 32155	\$	4,935.91	
Direct Deposit		66,179.80	
<b>Total Payroll</b>			<b>71,115.71</b>
<b>Total Disbursements</b>			<b>\$ 110,096.48</b>

**Voided Checks:**

Check number #61455: Stale dated check, reissued

Check number #62892: Permit application incomplete, will reissue at a later date

Check number #62943: Rate change for the USBR, reissued with the corrected rates

Check number #62986: Wife passed away, reissued to husband only

**PRESENTATIONS:**

**Derrick Sandison, Department of Ecology:** Deferred until Mr. Sandison's arrival.

**PUBLIC HEARING:** None

**BOARD REPORTS:** None

**ACTION ITEMS:**

**Website Re-design:** Ms. Storms discussed the need to update the KID website and presented the proposal received from the State of Washington Department of Informational Services to do the work. She briefly addressed site design and maintenance. She discussed timing of the project and integration with TruePoint.

Ms. Storms confirmed to President McKenzie that assessments were expected to be mailed in March. She further discussed the website design project timing.

Ms. Storms discussed card sorts and surveys as ways to get feedback from website users.

In response to a question from Director McGuire, Ms. Storms discussed goals for the website, and summarized them as providing current information in an accessible, intuitive way.

Ms. Storms told Director McGuire that KID would set policy for protection of email addresses that would tie in with the existing red flag policy (Policy 2.34, Identity Theft Prevention Program). Director Jaksch said the policy statement should be posted for the website users to read. President McKenzie asked that a draft policy be routed through Mr. Iller and committee.

**Director Jaksch moved to approve award of the web design contract to the State of Washington and authorize the District Manager and Attorney to negotiate a contract for this work. Director Rathbun seconded the motion and it carried unanimously.**

**PRESENTATIONS:**

**Derrick Sandison, Department of Ecology:** Mr. Sandison, Director of the Office of Columbia River for the Washington State Department of Ecology (Ecology), addressed Board to express enthusiastic support for the Red Mountain project Kiona Pump plan.

Mr. Sandison said Ecology was working on report of exam and that once the SEPA/NEPA process completes, a draft report of exam could be out in two to four weeks. He said the capital budget was sound as far as he knew. Mr. Freeman said the SEPA/NEPA was on hold until the pipe route was selected. Mr. Revell added that information would be circulated to Ecology shortly and mentioned the co-lead agreement. Discussion ensued.

In response to a question from Director Jaksch, Mr. Sandison said the funds were in the appropriated capital budget and were solid for the biennium ending July 2013. He confirmed to Director McGuire that the funds included both phases of the project, or the full \$10 million.

Mr. Revell said he expected to have the Shrub Steppe Mitigation Agreement back from the Washington Department of Fish and Wildlife and to Board for final action in a few weeks.

At the request of Mr. Revell, Mr. Sandison addressed work being done with the Yakima River Basin Water Enhancement Project (YRBWEP) on the Integrated Water Resource Management Plan. He said that the draft programmatic environmental impact statement would be released tomorrow, and that the next step would be to go to Congress and the State Legislature to seek authorization for the integrated plan, commonly called YRBWEP 3.

Mr. Sandison briefly reviewed the September 19<sup>th</sup> visit to the YRBWEP Work Group by Secretary of the Interior Salazar, Governor Gregoire, Congressman Hastings, Senator Cantwell, Director of Ecology Sturdevant, Washington State Director of Agriculture Newhouse, Yakama Nation Tribal Chairman Smiskin, USBR Commissioner Connor. He reported that at the request of Secretary Salazar, in the weeks following the meeting a list of early actions was provided to Secretary Salazar and Commissioner Conner. Mr. Sandison said he was waiting to hear the response and whether the early actions would be funded. He noted that there was a \$2 million State appropriation for the Yakima Project.

Mr. Sandison explained that "resubordination" referred primarily to the Roza Dam facility, but said there were implications for Chandler. Power generation for irrigation facilities would be subordinated to the needs of fish. Fish entities have asked for and received concessions to not divert water for power generation at times. He said there was a push for a permanent arrangement to forgo power generation for at least a couple months in spring. Bonneville Power and Roza Irrigation District were not in favor and discussions were still taking place. Director Jaksch confirmed that the KID was concerned as well.

Mr. Sandison addressed the early start storage enhancement feasibility work. He said the parts which were "shovel-ready" were primarily conservation and fish habitat, and that the fish passage and storage components required more study. He said that to date irrigation districts had only been asked to help with outreach.

Mr. Sandison added that there was a habitat enhancements element to the plan which would purchase of pieces of diverse habitat for preservation. He said that KID's habitat mitigation was separate but complimentary and could possibly be used collectively for a large purchase.

President McKenzie thanked Mr. Sandison and expressed appreciation for his focus and dedication to working as a partner.

**Election 2011:** President McKenzie said he would abstain from voting as he was a candidate.

Mr. Freeman announced that the three candidates for Director Position 3 were:

**Kirk Dean Higginson  
David McKenzie  
James Wade.**

Mr. Freeman briefly listed the actions which the Board was being asked to take.

**Polling Place: Vice President Huffman moved to designate the KID Administrative Office as polling place for the 2011 Election. Director Rathbun seconded the motion. Directors Huffman, McGuire, Rathbun and Jaksch voted in favor and there were no votes against. President McKenzie abstained from voting. The motion carried.**

Notice of Election: Director Jaksch moved to instruct the Secretary of the Board to cause notices of the time and place of holding the 2011 election to be posted in three public places and in the KID Administrative Office, on or before November 28, 2011. Director Rathbun seconded the motion. Directors Huffman, McGuire, Rathbun and Jaksch voted in favor and there were no votes against. President McKenzie abstained from voting. The motion carried.

Press Release: Director Rathbun moved to instruct the staff to issue a press release announcing the polling place and time, and to purchase space in the Tri-City Herald for the election notice to be published on December 4 and 11, 2011. Director Jaksch seconded the motion. Directors Huffman, McGuire, Rathbun and Jaksch voted in favor and there were no votes against. President McKenzie abstained from voting. The motion carried.

Appointment of Inspectors and Judges: Director Jaksch moved to appoint Bob Gudgel as Inspector, and Bette Gudgel and Karen Woofter as Judges for the 2011 election. Vice President Huffman seconded the motion. Directors Huffman, McGuire, Rathbun and Jaksch voted in favor and there were no votes against. President McKenzie abstained from voting. The motion carried.

Election Canvassing Date: Vice President Huffman moved to change the date of the Board meeting regularly scheduled for Tuesday, December 20<sup>th</sup>, 2011 to Monday, December 19<sup>th</sup> 2011 for the purpose of canvassing the Election of December 13<sup>th</sup>, 2011. Director Rathbun seconded the motion. Directors Huffman, McGuire, Rathbun and Jaksch voted in favor and there were no votes against. President McKenzie abstained from voting. The motion carried.

**Relocation Agreement and Confirmation Deed for new Indian Hills Siphon:** Mr. McShane confirmed to Director Jaksch that this was a private development and KID would be giving up a right of way for a ditch and that the developer, R. C. of Washington, put in a siphon. Mr. McShane reported that the location did not have a water allotment. Mr. McShane indicated on a map the only area in the development which had a water allotment assigned to it (approximately 1/3 acre) and said that staff would suggest that the developer request a water allotment relegation for that parcel as the rest of the development did not have an allotment. He further indicated that there were no further turnouts beyond that location.

Mr. McShane reviewed the history of this project. He said that in 2005 and earlier the developer had an agreement with the USBR to do this relocation/abandonment, but did not go through with it at that time. The revised agreement was provided in the Board packet. Mr. McShane said the work was completed last winter, the siphon approved by the USBR and that following this paperwork, the USBR would hold title and KID would operate the siphon. Mr. McShane clarified that KID would be relinquishing an easement to the landowner, not real property. He noted that this was an agreement between the USBR and R. C. of Washington for which KID, as the operator, was being asked to concur.

Director Jaksch moved to approve the relocation agreement and confirmation deed. Director Rathbun seconded the motion and it carried unanimously.

## RESOLUTIONS:

**Resolution 2011-29, Amending the 2011 Budget:** Mr. Freeman referred to the packet distributed before the meeting and reported that the revisions had been reviewed by the Finance Committee.

Mr. Freeman listed some of the changes to revenue including increases due to new delinquency and foreclosure fees, a revised credit from the Farm Bureau for 2007, water meter rental revenue and engineering fees. He said decreases were due in part to the changed water transfer policy and fees, and lower interest income. Additionally, grant programs were moved to Capital Projects and transfers were made between Realty and Operations for staff time.

Mr. Freeman reviewed changes to expenditure by department. Highlights included:

- General Fund - Helping Hands support from delinquency fees, debt principle payments, refund of performance bonds, and transfers for the 2012 liner purchase and general capital projects and the elevator.
- Executive - Reduced by \$20,538.
- Finance - Reduced by \$153,724 due to staff changes and reduced spending.
- Engineering - Reduced by \$29,941 due in part to lack of need for outside professional engineer services with two P.E.'s on staff.
- Operations - Reduced by \$417,334.
- Planning - Reduced by \$58,625, largely due to bringing the Comprehensive Plan in house.
- Realty - Reduced by \$70,155 under new program for running that department.
- Board - Reduced by \$38,050.

Mr. Freeman said page 11, Total General Fund, was a summary balancing the budget and populating the reserves including:

- Equipment Replacement: \$280,000
- Carry Forward: 3.6% or \$296,841
- Emergency Mitigation: total transfers of \$248,780
- Conservation Capital: \$150,000

Mr. Freeman added that there were further refinements to the Elliott Lake and Lorayne J potable systems budgets.

Mr. Freeman summarized that overall the District was doing quite well. He said that budget amendments were new to KID but common for other municipalities.

Mr. Freeman said that KID was being frugal. He noted that there were no rate increase in the assessment roll which had been delivered to the Board. He said this was the third year with no increase in the assessment portion for all non-agricultural parcels and the second year for agricultural parcels. Additionally, it was proposed to not increase the capital component charge.

Discussion ensued regarding the total reduction in expenditures and the repopulation of the reserve funds. President McKenzie said the Finance Committee was comfortable with the numbers.

**Director McGuire moved to adopt Resolution 2011-29 revising the 2011 budget. Director Jaksch seconded the motion and it carried unanimously.**

**Resolution 2011-36, In Appreciation of the Water Rate Advisory Committee (WRAC):** President McKenzie requested that Mr. Berk, Mr. Hall, and Mr. Rathbun come forward. Mr.

Freeman read the resolution into the record (appended to minutes). Staff presented plaques to the WRAC members present. Members of the Board and staff added their thanks to the WRAC members. Mr. Rathbun thanked Director McGuire and Mr. Revell for bringing information to the committee. Mr. Berk said that it was a team effort and said that staff and Board members contributed to the success of the committee.

**Director McGuire moved to adopt Resolution 2011-36. Vice President Huffman seconded the motion and it carried unanimously.**

**Resolution 2011-37, Sequoia Springs Pond Dedication:** Mr. McShane discussed the proposed resolution regarding the transfer of ownership to KID of the tract on which the 177 irrigation pond sits. He reported that the pond was constructed to KID standards at the time of construction. He said that the pond serves also serves the plat neighboring Sequoia Springs. Mr. McShane said staff recommended approval.

Discussion ensued regarding the location of the pond.

In response to a question from Director McGuire, Mr. McShane said that engineering staff was working with Judy Smith as part of the Comprehensive Plan project to identify all properties that have KID O&M equipment to ascertain that there is an easement or they are on KID-owned properties. He said this was the first of three properties identified so far.

**Director Rathbun moved to approve Resolution 2011-37 transferring ownership from SR Homes, LLC to Kennewick Irrigation District, property described as Tract A, Sequoia Springs, according to the Plat thereof recorded in Volume 15 of Plats, Page 305, records of Benton County, Washington, by way of Statutory Warranty Deed. Director Jaksch seconded the motion and it carried unanimously.**

At 10:07 a.m., President McKenzie called a short minute break. The meeting resumed in open session at 10:15 a.m.

#### **PUBLIC COMMENTS:**

**James Wade**, residing at 1813 S Rainier Place, addressed the Board. He said the RCWs say assessments are made in proportion to benefits to the lands assessed. He also said that water entitlements must be allocated by the KID Board to parcels that must be able to be irrigated. He asked about the "Table 6-1 class 4 cost estimate for tier 1 of \$58,600,000 for approximately \$2,900,846 per parcel."

Mr. Wade said he would like the election canvassing to be held on a separate date from KID Board meetings because it was too hard to listen to both. He said that was why he asked for a recount last year.

Regarding his statement on water entitlements and the RCW, Mr. Wade asked how a 1,300 square foot condo on an upper floor could benefit or qualify for a water entitlement.

President McKenzie said that the canvassing meeting coincided with the Board meeting to avoid incurring the extra expense of an additional meeting date. He acknowledged Mr. Wade's continued preference that they be held on different days.

Director Jaksch said he thought a benefit to condo was in market value with irrigated versus dry grounds. Mr. Iller agreed with Director Jaksch. He said that regardless of which floor a

condominium was on, a portion of their parcel as defined by statute included the common areas and their proportion of the common area benefited from delivery of irrigation water. He noted that Mr. Wade previously indicated he did not believe that statute applied to KID, but Mr. Iller noted that the statute stated "for all purposes," which would include irrigation assessments. Mr. Iller further said that if the land was classification as irrigable by the U.S. Bureau of Reclamation (USBR) at the time the Kennewick Irrigation District contracted with the USBR, by contract and State and Federal law, the lands were burdened and required to be assessed. He discussed case law which determined that obligated properties could be assessed whether or not they took water. Mr. Iller stated that KID does its best to be fair. He said he believed there was no leeway to avoid the requirement to assess each unit a proportionate share for the common area. Mr. Iller pointed out that the State Supreme Court in the 1920s said that the near availability of water constituted a benefit sufficient to support assessments.

Mr. Wade said that the land had already been assessed for years. He said there was a law that only Homeowners Associations could make the assessments.

Mr. Iller responded that Mr. Wade may have been referring to a law regarding condominium assessments, which were different than a tax or special purpose assessment such as an irrigation assessment. He discussed two different meanings of the word assessment as used in different statutes. Mr. Iller said that for tax purposes, every unit, plus its interest in the common areas shall be treated as a separate parcel for all purposes relating to taxation and assessment. He said that, unfortunately, KID had not been assessing condominiums correctly under a statute enacted in the 1990s, but that now it was assessing correctly.

Mr. Wade asked why Mr. Iller referred to a statute in which was not in the RCW for irrigation. Mr. Iller repeated that the statute governed to condominiums and applied to tax and special district assessments for all purposes.

Mr. Wade said he did not think a jury would agree that it applied.

Mr. Iller said that the matter would be decided by a judge, not a jury.

President McKenzie closed the discussion and moved on to the next order of business.

#### **STAFF REPORTS:**

**Finance Manager:** Mr. Freeman reported that Ms. Storms and staff were meeting all week with TruePoint representatives to gather information and work on software conversion. Testing was expected to continue for a month or two, followed by a test installation in January.

**Engineering/Operations Manager:** Mr. Everaert reported:

- Lining of the Badger East Canal section should be completed tomorrow.
- Three employees were working on shaping of road for the Main Canal section to be lined.
- Three seasonal employees and one new regular employee were hired.
- A crew was installing asphalt grindings from the 395 Hwy paving project on the canal roads.
- Engineering staff was working on the TrueCanal water tracking side of the TruePoint project.
- Engineering staff was working on the Capital Plan.
- Engineering staff was working with RH2 on the Red Mountain South project initial design criteria. The first meeting of the advisory committee would be held tomorrow. Mr. Everaert addressed well site options and discussion ensued.

Director McGuire recommended creating a procedure for consistently naming and identifying siphons, pumps, and pipe sections. Discussion ensued regarding possible naming conventions. Mr. Everaert agreed that using technically correct nomenclature would be appropriate.

In response to a question from Director McGuire, Mr. Everaert said staff was sent to Yakima instead of Pasco for pesticide training because the timing of the course offerings was better work schedule needs of the District.

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

- The USBR proposed amendments to administrative policies which would narrow the definition of irrigation and result in increased costs. The KID submitted comments because there was potential it could adversely impact KID water users. He said the full effects were not completely known but districts without paid-out contracts might be forced to pay full cost water and there could be implications for land classification. Discussion ensued.
- Mr. Revell was working on a planned presentation on Red Mountain for the Washington State Water Resource Association annual meeting.

**District Manager:** None.

#### **WORKSHOP:**

**Project Tracking:** Mr. Freeman reviewed project tracking updates including:

- Ms. Storms and Mr. Freeman met with KID's advisor from Seattle NW Securities regarding the Red Mountain financing plan. She would be scheduled to meet with the Board in January to discuss financing options.
- Recalibration Phase 1 was complete and the Phase 2 scope of work was being defined, as was the job description for the additional Engineering position the Board approved.
- Planning and Engineering held an initial meeting on drought mitigation. The plan would be presented to Committees in time to have it in place for the 2012 season.
- The Comprehensive Plan Phase 1 was on target for April of 2012.
- Still waiting to hear from the Yakama Nation regarding the Amon Basin Drain. They may be moving to a different preferred site facility.
- Mr. Revell and Mr. Freeman will propose environmental work to clean up Amon Drain. Discussion ensued regarding debris, informal foot bridges created by the public, risk management and liability. Director McGuire recommended that the Tapteal Greenway Association and the City of Richland be approached to help with clean up. Director Jaksch asked to add to discussion of the matter to the Operations and Engineering Committee agenda. Mr. Revell discussed a previous clean-up and the access control plan, right of way survey and installation of signage.
- The Canal and Siphon inspection programs were underway.
- KID used the leak detection company twice this year and it sped repairs. Discussion ensued regarding the cases. Mr. Everaert discussed a plan to fill cracks on main canal below the siphon.
- Creating a technology plan for SCADA would be discussed in the Operations and Engineering Committee meeting.
- The computer training lab was up and running in the basement.
- The accounting policy and operation manual was near completion.
- Small potable water systems disposition would be reviewed by Mr. Iller.
- A Stoneridge LID meeting would be held with the City of Richland on December 6<sup>th</sup>.
- Negotiation on City View Lot C would be discussed in Realty Committee on Thursday.
- An encroachment issue at Vista Field was being addressed by with a lease agreement.



- Options for the Finley Properties would be discussed in Realty Committee.

Director Rathbun said the Realty Committee meeting would be held on Thursday.

Discussion ensued regarding the status of the KGH water right.

Estimated time needed for executive session was discussed.

President McKenzie called a short break at 10:55 a.m.

**EXECUTIVE SESSION:** On behalf of the presiding officer, Mr. Iller announced that the Board would go into executive session to discuss with legal counsel the legal risks of a propose actions per RCW 42.30.110(1)(i)(iii) regarding shrub steppe agreement, and regarding city development issues, to review the performance of a public employee per RCW 42.30.110(1)(g), and to discuss with legal counsel pending litigation regarding Chavallo and Citadel Estates v KID per RCW 42.30.110(1)(i)(i). Executive session was estimated to take 45 minutes.

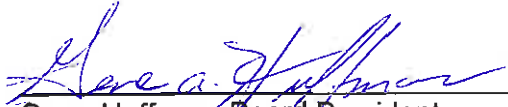
Executive session was extended for one hour at 11:45 a.m. and for 15 minutes at 12:45 p.m.

At 12:57 p.m. the Board returned to open session.

**Director Jaksch moved to adjourn at 12:58 p.m. and Director Rathbun seconded the motion. The motion carried unanimously.**

Attest:

Witness:

  
\_\_\_\_\_  
Gene Huffman, Board President  
Approved January 17, 2012

  
\_\_\_\_\_  
Chuck Freeman, District Manager

Prepared by Doris Rakowski



**Resolution 2011-36**

**Resolution of Appreciation to the  
Water Rate Advisory Committee**

A **RESOLUTION** of the Board of Directors of Kennewick Irrigation District, Benton County, Washington, to give appropriate acknowledgement and recognition to the members of the Water Rate Advisory Committee for rendering invaluable service to the Kennewick Irrigation District staff during the Cost of Service Study process to ensure fair and equitable rates to the customers of Kennewick Irrigation District;

**WHEREAS**, the Board of Directors of Kennewick Irrigation District met in regular session on November 15, 2011 with a quorum present; and

**WHEREAS**, the members of the Committee being recognized are Les Adams, Tim Berk, Jeff Lutz, Gary Hall and Kirk Rathbun; and

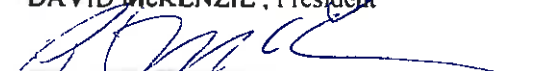
**WHEREAS**, Kennewick Irrigation District would like to officially thank and commend the committee members for their contribution of time and efforts contributed to the Water Rate Advisory Committee;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF KENNEWICK IRRIGATION DISTRICT, BENTON COUNTY, WASHINGTON**, the Kennewick Irrigation District does hereby recognize the members of the Water Rate Advisory Committee; Les Adams, Tim Berk, Jeff Lutz, Gary Hall and Kirk Rathbun, and expresses sincere gratitude and appreciation for the exemplary work performed as a citizen committee representing all KID customers during the Cost of Service Study completed in 2011.

**RESOLUTION 2011-36 IS HEREBY ADOPTED** by the Board of Directors of Kennewick Irrigation District, Benton County, Washington, at a regular open public meeting thereof this 15<sup>th</sup> day of November 2011.

  
DAVID MCKENZIE, President

  
GENE HUFFMAN, Vice President

  
PATRICK MCGUIRE, Director

  
JOHN A. JAKSCH, Director

  
KIRK RATHBUN, Director