

**MINUTES OF THE REGULAR MEETING
OF THE BOARD OF DIRECTORS OF THE
KINNELOA IRRIGATION DISTRICT
September 19, 2006**

MEMBERS PRESENT: Directors Barkhurst, Pickard and Sorell.

STAFF PRESENT: Melvin Matthews, Chris Burt and Shirley Burt

CALL TO ORDER: The meeting was called to order at 1930 hours by the **Chair, Richard Barkhurst**. He noted that there was a quorum of the Board present. Director Krieger was not in attendance as he has submitted his letter of resignation. Director Kilburn was not in attendance as she is out of town. The Agenda was unanimously approved as presented.

PUBLIC COMMENT

No members of the public wished to comment at this time.

DISCUSSION OF WELLS FARGO BANK PROPOSAL FOR BANKING SERVICES

The Chairman made the following statement that he wished to have included in the minutes. "While I do not have a direct investment with Wells Fargo Corporation, I do have a substantial relationship with Wells Fargo Bank. I have my primary checking account with the Bank, as well as two IRA'S and a brokerage account. Additionally, I receive a check each month from Wells Fargo trust operations in Minneapolis, who is the successor Trustee to the First Interstate Bank defined benefit pension program. Accordingly, to avoid even the appearance of a conflict of interest, I am recusing myself from the discussion of and possible vote regarding the Wells Fargo Bank Proposal for Banking Services."

Following his statement the matter was then tabled until the next meeting due to the lack of a quorum.

DISCUSSION OF DISPOSITION OF IMPROVEMENT DISTRICT NO. ONE FUNDS

The **General Manager** reviewed the past history of the Improvement District No. One Account noting that in 2004 all of the Bonds and Interest due in connection with this General Obligation Assessment had been paid off and that there was approximately \$17,000 remaining in the Account. He stated that the account was closed and that the funds are now being carried on the books as a liability pending further disposition.

Director Sorell stated that in the past several options had been considered for these funds which included refunding the money or using it for projects in the area, and at that time the question came up that, if the moneys were to be refund, then what procedure would need to be followed.

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He explained that he thought it was appropriate to refund the money to members of the Improvement District because the money was originally raised for certain specific activities – buy out of certain projects, etc.. He further explained that he had discussed the matter with Mr. Kruse who confirmed that refunding would be permissible and that the approach that is required to be taken under the Government Code is

- 1) That it be reasonably reflective of the obligations to which it relates and that reasonable effort be made to assure that it is appropriate since the amounts would range from \$1.00 to a high of \$100. plus
- 2) That, since the assessments were based on the values of the properties which were not adjusted over the years even when property changed hands – so it was the same assessment over the 30years – and we don't have a complicated mathematical formula , it seems to be appropriate to refund the amount based on the percentage each household bears to the total
- 3) That it is appropriate and reasonable to refund the money to the current property owner since the obligation goes with the land.

Director Barkhurst questioned that, while Mr. Kruse said it was permissible to refund the money, did he say that there was an obligation to refund.

Director Sorell stated that there was no obligation to refund, just that it was one of the several alternatives that were considered several months ago.

The **General Manager** stated that the main concern was whether it would be an administrative burden where you spend all the money trying to figure out how to refund the money. He hoped that a simple administrative process could be developed.

Director Barkhurst stated that we are talking about \$17,000 approximately and that, in prior discussions, it was gleaned that a lot of these funds came into being because of penalties and late fees and so on. He further stated that philosophically it made no sense to want to give back money to those people that we assessed fees and penalties on some years ago.

Director Sorell replied that it is not going back specifically to those people who paid the penalties and **Director Pickard** noted that some of those people are gone.

Director Sorell stated that the assessments were set to give a certain cushion according to his information.

Director Barkhurst questioned whether, during the years that these assessments were collected, were there ever any written communications with the property owners that in the future they could expect a refund from excess funds that were collected.

The **Administrative Assistant** replied that the only questions came from Escrow companies at the time they were involved in transferring property title.

Director Barkhurst questioned whether this was originally assessed to permit all the expenses associated with this group of homeowners coming into the District.

The **General Manager** replied that the funds were used to buy out the existing water companies and put in new facilities.

Director Barkhurst questioned as to the options permitted to expend the funds.

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The **General Manager** stated that there were three options designated by the attorney –1) for projects that specifically benefited this group of people, 2) To refund the money, and that he could not remember the third option at this time.

Director Barkhurst stated that almost any project where the ultimate result was the forming of clear water, better water, or more water would indirectly affect those people and would affect those people also outside of the assessment district.

The General Manager stated that he did not remember that that was one of the options of absorbing the money into the general fund.

Director Barkhurst questioned whether there were any projects in the near future that would specifically benefit directly or indirectly those persons within the Improvement District area.

The **General Manager** replied that there was a specific project scheduled for the next year that would involve a pipeline project near Fairpoint Street which would improve the fire flow and system operations in that area..

Director Barkhurst then clarified that it is not a dire need project but one that should be done in the near future. He further questioned that, if the money was to be rebated back to the Improvement District No. One customers, would this project be done in the year 2007.

The **General Manager** stated that the timing of the project depended to some extent on the City of Pasadena as they are involved in the tying in of the pipeline, but there is some work that could be done in any event. He noted that the total cost of the project is much more than the money in Improvement District No. One fund.

Director Barkhurst stated that, in reviewing the budget and including the probable sale of water to the City of Pasadena and the electrical cost involved, there would be a small positive cash flow and that the question therefore is to rebate the \$17, 000 to rate payers who are not expecting it or to use it to enhance a tight budget to do something that at least indirectly if not directly benefits those people in Assessment District No. One.

The General Manager stated that that is the reason he has brought this issue forward so that the Board and the Public would have a chance to respond.

Director Barkhurst asked the one member of the public present whether she wished to comment and she replied it would be useless to rebate the money as the amount would be so small that it would do no one any good, where the pipeline line project would benefit everyone.

Director Sorell explained that there is another way to look at this issue because the Improvement District is not a part of KID and the funds were never co-mingled. There were separate meetings for the Improvement District that were separate from KID. In addition these funds were raised for the Improvement District which existed at one point in time to accomplish certain things which incidentally caused a certain divisiveness in the Community for several years. and co-mingling of those funds might reopen those issues even though the amounts involved are small. And because the amount of money is so small it will hardly make a dent in the overall cost of the pipeline project.

Director Pickard commented that it might improve customer relations if the money was rebated.

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Director Barkhurst questioned what the management estimated the cost of refunding the money.

Director Sorell replied that all costs would come out of the fund.

The General Manager replied that costs would be relatively low if the Board would allow the amounts to be credited to the water bills as opposed to writing out checks for \$0.75 to \$1.00.

Director Sorell stated that if that method was to be used he recommended that the customer be sent a letter telling them the rebate would appear on their water bill unless they specifically request the amount in a check.

Director Pickard stated that he couldn't see that there was any drawback to doing the refund.

Director Barkhurst replied that the drawback is that you don't get to spend the \$17,000 toward the project and the money has to be raised some other way.

Director Sorell stated that he does not think the \$17,000 is the KID's to use.

The Administrative Assistant stated that a prior motion regarding these funds would have to be rescinded if the Board changed the manner in which these funds are disbursed.

Director Sorell and the **General Manager** both stated that they did not recall that any resolution or motion as regards disposition of these funds.

Director Barkhurst then recommended that this item be placed as an action item for the next meeting.

The **General Manager** stated he felt the action should be handled as a resolution and that he will draft the document for the next meeting.

**REPORT ON THE IMPACT AND POSSIBLE ACTION AS A RESULT OF THE
CALIFORNIA SUPREME COURT DECISION IN THE CASE OF BIGHORN-DESERT
VIEW WATER AGENCY VS. VERGIL**

The **General Manager** stated that he had had a discussion with Mr. Kruse regarding this issue and that as a member of the Public Agency Water Group we had received certain recommendations. He further stated that he wanted to make the Board aware of the fact that we had been advised that in the future we should follow the procedures outlined in his memo as regards future rates.

Director Sorell stated that since a rate increase is being considered by the budget committee the matter should be placed on the calendar.

The **General Manager** stated that the reason he is bringing the matter up this month is because of the 45 day notice requirement.

Director Sorell stated that he thought the 45 day notice was just a recommendation but the **General Manager** replied that was specific language out of Proposition 218 and that the impact of the Supreme Court decision is that we need to follow proposition 218.

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Director Sorell replied that Proposition 218 doesn't have to be followed exactly although that is the most cautious approach but actually the decision says that something could be approved

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tonight but that the residents could say by a majority vote that they don't want it. Then we would be forced to go back to 218. It is covered in the sense that it could be subject to objection.

The General Manager replied that that was not his interpretation but that he was bringing the information forward so that there could be further discussion and that he was reporting what our attorney's had advised and that he had not personally analyzed proposition 218.

Director Pickard stated that he would like to mention the FEMA aspect of getting money or not getting money, and that, since the extension has been approved, he presumed it is pretty reasonable that KID will get that money.

The **General Manager** replied that there is a good chance but that it certainly is not automatic. He explained that FEMA had not yet responded to his letter requesting additional funds and noted that approving the extension allows for reimbursements to happen but it does not determine the magnitude of the reimbursements. That depends on the pool of funds available. He noted that FEMA funds are not factored in the budget that he has presented.

Director Barkhurst stated the purpose of this report was to make the Board aware that any future rate increases, in the opinion of counsel, should follow the requirements of Proposition 218.

REPORT FROM AD HOC BUDGET COMMITTEE

Director Sorell reported that the committee had just received an updated draft budget which indicates that based on the water master report the District will have surplus water to lease. He stated that the idea of a rate increase is being considered and that in the committee the idea of a 4% overall rate increase that would be higher on the commodity side had been suggested. He also noted that the electrical and insurance costs were going to go up substantially.

Director Barkhurst questioned as to what the most recent draft budget reflected as cash flow and Director Sorell stated that according to the current draft budget presented by the General Manager an \$80,000 deficit is shown for 2006 and a \$21,000 surplus for 2007.

The General Manager stated that there will be additional revenue in 2006 from the sale of water to Pasadena which will begin in November.

It was unanimously agreed that this item should be scheduled as an action item for the October Board Meeting.

RESIGNATION OF DIRECTOR FOR DIVISION II

Director Barkhurst noted that a letter of resignation had been received from Director Krieger

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dated September 15, 2006.

It was M/S/C-(Barkhurst/Pickard-3/0)-**“That the resignation of Director Krieger be accepted and thanking him for his service”** .

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Staff was directed to follow the procedures as outlined by counsel regarding a Board vacancy which includes sending the letter of notification of the vacancy to all residents within the boundaries of Division II.

GENERAL MANAGER’S REPORT

The General Manager stated he would entertain any questions regarding his report as presented. Director Sorell questioned whether the Doty project had begun and the General Manager replied that it had not but that the job walk was scheduled for the next day.

REVIEW OF THE MINUTES

The minutes of the regular meeting of Board August 15, 2006 were unanimously approved as presented.

The minutes of the special meeting of August 26, 2006 were approved by Directors Pickard and Sorell with the following corrections on Page 1—In Paragraph One General Manager’s Memo-Line 14, the word “differed” should be “deferred” and on Line 18 “2%” should be “2-5%”.

REVIEW OF FINANCIAL REPORTS

The Financial Reports were reviewed by Director Sorell and unanimously approved as presented.

ITEMS FOR NEXT AGENDA

Consideration of Rate Increase
Presentation and Possible Approval of 2007 Budget
Discussion of Wells Fargo Bank Proposal for Banking Services
Interview of District II Director Applicants

ADJOURNMENT

The meeting was adjourned at 2027 hours. The next meeting will be held on October 17, 2006

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Respectfully submitted,

Shirley L. Burt
Secretary to the Board