

INSCRIPTION CANYON RANCH SANITARY DISTRICT

P.O. Box 215 Chino Valley, AZ 86323

**PUBLIC SESSION
MINUTES of ANNUAL RATE HEARING
August 25, 2011**

1. CALL TO ORDER.

The Governing Board for the Inscription Canyon Ranch Sanitary District convened into public session at approximately 9:05 a.m in the Main Dining Room of the Ranch House at Talking Rock Ranch, 15075 N. Talking Rock Ranch Blvd., Prescott, Arizona.

2. ROLL CALL.

Present were Robert Hilb, Board Chairman; Brian Ray, Board Member; and Scott Robbins, Board Member; Bob Busch, District Manager; Isabel Yribe, Clerk.

3. GUIDELINES:

Pursuant to A.R.S. 48-2027(H) all sanitary district fees authorized under A.R.S. 48-2027(G) are to be reviewed by the District's Governing Board on an annual basis. These include: user fees, hook up fees, lateral fees, capacity fees and availability fees. The Governing Board must publish notice of the time and the place of the hearing, allowing the statement of the rates to be considered or reviewed not less than twenty days or not more than thirty days before the hearing. Anyone who wishes to object to the establishment of rates or the continuation of rates may file an objection with the Chairman of the Board or directors prior to the meeting date.

Mr. Hilb reminded the audience that only comments regarding the rates would be allowed. He also reminded the audience that they would be allowed two minutes to voice their comments or questions.

● **Harvey Roberts**

1. Mr. Roberts stated that the Residential User Fee is definitely a newly established fee. He then stated that he would assume that it would go into effect following the Hearing, meaning that the first billing month would be September. *Chairman Hilb responded that the Residential User Fee is not a new fee and has been used in prior years. The fee had been \$0.00 and now there will be an amount associated with it.*

2. Mr. Roberts asked whether all the other fees listed for the Hearing are a continuation of earlier rates? If not, which are new? *Chairman Hilb replied that these rates have been in effect for a number of years prior.*

3. Mr. Roberts then asked what the Commercial Account Fee schedule is? *The Chairman responded that since there were different types of commercial buildings around the District with various capacities and patterns of use, each would be individually*

negotiated and the rate would be determined based on those factors. Chairman Hilb also stated that as the agreements were up for renewal, the calculations for the rates would be published. Harvey Roberts questioned whether the Residential User Fee was different than the money that used to be in effect. He thought the old one was also sent to empty lots. Bob Hilb replied that it was not the case.

- **Terry Harman**

1. Mr. Harman stated that the 2009 moratorium that the past Board put into effect was found to be in violation of Arizona's Open Meeting Law because it was not properly noticed, it did not provide the public with such information as was reasonably necessary to inform the public of the matters to be discussed or decided, the information the public needed was not otherwise made available to them until six (6) days after the meeting and the minutes or recording of that meeting were not made available to the public for more than a month following the meeting, all in violation of the Open Meeting Law. The Judge also ruled that the conduct of the defendants in this regard was a blatant and intentional violation of the Open Meeting Law. Is it true that this illegal moratorium led directly to a lawsuit being filed which in turn led to lawyers' fees that the District paid with District funds?" *Mr. Hilb stated that this question was not rate related, therefore he could not answer it.*
2. Mr. Harman then asked whether the current SBR facility is capable of being expanded? If so, would the amount of money spent for lawyers' fees been enough to cover the cost of expansion? If that is the case then it seems logical to assume that if it wasn't for the illegal moratorium, the District could have expanded the existing plant with the funds available and the Board would not have to ask us for more money? *Again, Mr. Hilb stated that this question was not rate related therefore he could not answer it.*

- **Gene Leasure**

1. Mr. Leasure asked about the rationale from moving from a broad ad valorem tax to one limited only to house connections. *Mr. Hilb stated that this was discussed at the Budget meeting. He stated that the District's funds were depleted by the lawsuits. The District will not get tax money until later in the year so monies were needed in the meantime to replenish the fund. He then stated that should the District and the developers settle their lawsuit, then the user fee would go away.*
2. Mr. Leasure referred to the paragraph regarding late fees and stated that it was in conflict with the District ordinance. *Mr. Hilb stated that even if it was in the District ordinance, state law cannot be overridden by the District.* Mr. Leasure went on to state that the District had prevailed in prior years. *Mr. Hilb said he would have to take the question back to legal counsel and get back to him. If the ordinance had to be changed, it would be in a public meeting.*

- **Dayne Taylor**

1. Regarding the fee hearing, Mr. Taylor stated that he was concerned about why the Board was doing this now if fees were already set at the budget meeting. *Mr. Hilb stated that the Board checked with the county and because the budget meeting was*

not advertised as a rate and budget hearing, they were obligated to do that part of the requirement today.

2. Mr. Taylor asked whether, by statute, the Board is obligated to provide an analysis of the fees? *Mr. Hilb stated that he was going by what the statute said and he didn't read where it said that.*
3. Mr. Taylor stated that he had a struggle with the Board changing the fees before changing the ordinance. *Mr. Hilb stated he thought the rates would have to be changed before the ordinance.*

- **Charles O'Brien**

1. Mr. O'Brien began his two minutes by questioning whether or not the Board gave required notice to the meeting. *Mr. Chairman stated that as required by law, the meeting notice was posted on time on Aug 5. The meeting notices are posted at the Guard shack.*
2. Mr. O'Brien asked if the transactions today would result in an amendment to the budget. *Mr. Hilb stated that it was the same information previously stated in the budget.*

- **Jimmy Stoner**

1. Where in the budget are the billing costs? What are they? *Mr. Hilb stated that it was located in line item 7220. Also, Mr. Hilb stated that it could not be determined as to what the costs would be until there was a settlement or decision in the ongoing litigation. Mr. Stoner then quoted the budget stating that it reflected \$250.00. After some discussion with Mr. Hilb, it was determined that this was an estimate based on a couple of months fees and could have been a math error. Mr. Stoner also discussed concerns about having heard that the Board would check into certain issues at the budget hearing and still hasn't heard anything in that regard. Mr. Hilb said it would be checked and corrected if necessary.*

- **John Payne**

1. Mr. Payne had concerns about the use fees being collected after they started charging for effluent. *Mr. Hilb stated that this was discussed at the budget hearing. That in essence, once they had fees from effluent sales, they would no longer charge user fees.*

- **Dayne Taylor**

- 1 Why are you instituting this user fee? *Chairman Hilb stated that the Board made calculations based on the need to pay counsel. If they continued at the same rate the District would run out of money. Taxes would not be in on time to cover counsel fees or operating costs. The only way to collect revenue was to institute a user fee. Mr. Taylor had other questions. Mr. Hilb stated that had already been addressed at a budget hearing and were NOT subjects for the rate hearing.*

- **Craig Brown**

1. Mr. Brown had concerns with this not being a temporary fee. *Mr. Hilb stated that it was temporary in the way that once the District settled or had a decision in the lawsuits, the fee would no longer be needed. If no settlement was made or for as long as there was no decision, this fee would be in place. Mr. Hilb also*

stated that effluent fees were a possibility. He reminded Mr. Brown that these fees would have to be voted on every year.

- **Charles O'Brien**

1. Mr. O'Brien voiced his suggestion on how the District could maximize revenue by imposing a user fee on those who owned lots. *Mr. Hilb stated that he was going by District ordinance. He referenced the 2002 precedent.*

- **Dick Tracey**

1. Mr. Tracey voiced his concerns on how it was beneficial to have a tax instead of a fee, for purposes of writing them off on his personal taxes. He asked if other options were looked at prior to suggesting a user fee. *Mr. Hilb stated that this was the only way this fee made sense. Mr. Hilb referenced A.R.S. Section 48-2027(G) and (H). Also, Mr. Hilb stated that that was the proposal and that would be what would be voted on shortly,*

- **Dayne Taylor**

1. Mr. Taylor stated that a capacity fee was also an option for the District to consider. *Mr. Hilb thanked him.* Board member Scott Robbins moved to approve the fees as published. Board member Brian Ray seconded the motion. The motion was approved unanimously.

6. ADJOURNMENT.

Thereafter, the public session adjourned at approximately 9:30 a.m.

Adopted and approved this ____ day of _____, 2012.

Date

Board Clerk