

INSCRIPTION CANYON RANCH SANITARY DISTRICT

P.O. Box 215 Chino Valley, AZ 86323

~PUBLIC SESSION MINUTES~

August 12, 2013

Revised August 15, 2013

Approved Sept 24, 2013

Date: Monday June 24, 2013

Time: 9:00 a.m.

Place: Days Inn Conference Room 1, 688 Fletcher Court, Chino Valley, AZ 86323

1. CALL TO ORDER.

The Governing Board for the Inscription Canyon Ranch Sanitary District convened into public session at approximately 9:00 a.m.

2. ROLL CALL.

Present were Bob Hilb, Chairman; John Freeman, Board Member; Bill Whittington, District Counsel; Bob Busch, District Manager; Isabel Yribe, District Clerk, Bruce Eldredge, Accountant, and the following audience members.

Dayne Taylor Eileen McGowan Hillary Petersen Jimmy Stoner
Harvey Roberts Hugh Pryor William Dickrell Chris Stoner
Tim Emberlin (after the Executive Session)

3. CALL TO THE PUBLIC

- **Eileen McGowan** voiced her concerns regarding the different amounts residents were being charged, specifically for capacity fees in different areas of the District. Ms. McGowan referred to the fees on an application for service by the Sanitary District. *Mr. Hilb stated that that item would be put on the agenda for the next meeting as it was not on this agenda.*
- **Harvey Roberts** voiced his concerns regarding the inconsistency of his name when referring to him or his comments in the minutes. He stated that sometimes he would be called Mr. Roberts and sometimes Mr. Harvey. *Ms. Yribe apologized to Mr. Roberts and stated that she would correct the mistakes.* Mr. Roberts also had concerns regarding the consideration of amending the Development Agreement to be discussed during executive session. Mr. Roberts asked if there was anything that could be discussed with the public at all. *Mr. Hilb stated that the matter would be discussed at the appropriate time during the meeting.*
- **Dayne Taylor** voiced his concerns regarding the executive session meetings held by the board. Mr. Taylor opined that regarding the listed discussions to be held in executive meeting, only one warranted executive session. He stated that the rest could be talked about in public session. Mr. Taylor also stated that the present board was inappropriately meeting in executive session and should be more transparent in their dealings. Mr. Taylor stated that MDI Financial Services had many discrepancies in their reporting year end report of the District. He also

stated that this was common in the financial reports and it was difficult to understand the information provided by MDI Financial Services. *Mr. Hilb asked District Counsel whether or not he was allowed to elaborate further on the executive session question. Mr. Whittington stated to the public that even though the item might be on the agenda for discussion during executive session, there might not be any advice to be given at all. Mr. Whittington also stated that it was inappropriate to discuss those potential questions or requests for advice from the board during public session so they were put on the agenda to be potentially discussed during executive session. The Board may seek legal advice during the executive session, but may not reach a decision. Any decision must be made in a public session. Mr. Hilb stated that the financial reports would be discussed during that time in the public meeting.*

- **Eileen McGowan** asked for the amount in question regarding executive session item “Claims for reimbursement of attorney fees”. *Mr. Whittington stated that the item was not on the agenda and could not be discussed. Mr. Hilb asked Mr. Whittington to look at agenda item 7B, as it is included there. Mr. Whittington agreed it could be talked about there.*
- **Jimmy Stoner** asked if the letter from the Attorney General regarding the complaint against the District Board Members for Open Meeting Law violations. *Mr. Hilb stated that he would read it.* Also, Mr. Stoner asked if the RFQ would be posted on the website for review for possible enhancement to the plant. Mr. Stoner stated that the RFQ has been talked about for 9 or 10 months and it was yet to be seen by the public. *Mr. Hilb stated that Mr. Busch would speak on that item during the appropriate time in the meeting.*

4. Bob Hilb made a motion to VOTE TO GO INTO EXECUTIVE SESSION FOR: discussion or consultation for legal advice with the attorneys of the Inscription Canyon Ranch Sanitary District pursuant to A.R.S. Section 38-431.03.(A)(3) and discussion or consultation with the attorneys of the Inscription Canyon Ranch Sanitary District in order to consider its position and instruct its attorneys regarding the District's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation pursuant to A.R.S. Section 38-431.03.(A)(4) re:

- A. Missing and unaccounted for records and documents, property of the District, that have not been produced by the previous District Board members.
- B. Claims for reimbursement of attorney fees previously paid by the District.
- C. Complaint against the District Board Members for Open Meeting Law violation(s) filed with the Office of Attorney General.
- D. Amendment to the District Bylaws, Policies & Procedures, Article III, Section 6, FEES AND CHARGES
- E. Process for filling vacancy on the Governing Board.
- F. Assigning Board member duties.
- G. Possible amendments to the Amended and Restated Development Agreement.
- H. Consent Agenda/Minutes

John Freeman seconded the motion. The motion passed unanimously without discussion.

During the Executive Session, the public was asked to leave the Board meeting room until the public session is re-convened

Executive session began at approximately 9:15 a.m.

RECONVENE INTO PUBLIC SESSION at approximately 9:45 a.m

5. REPORTS:

Report from the District Manager Bob Busch Plant Statistics/Repairs

Mr. Busch reported that a cost of \$625 was incurred for repairs at the effluent lift station. He also stated that new diffusers had been ordered and were replaced last week. Mr. Busch stated that the plant was “in good shape”. He did however; state that the District was hauling more sludge than usual, two loads a week instead of one. Mr. Busch believes that it was due to the fact that the operators cleaned and flushed the lift stations. Mr. Busch also stated that this had also put the plant behind in the flushing process and hoped that it would be resolved soon.

Mr. Busch reported that the average flows were as follows, based on billing:

June 33,406 gallons per day.

July 42,670 gallons per day.

Mr. Busch stated that the District has purchased testing equipment for \$8000 and was applying for a permit from the Arizona Department of Health so that it could do its own testing and eliminate the \$150-\$180 per week for the courier service to Phoenix the District was currently paying. He also stated that the District would still use the courier service on a monthly basis and that the savings would help pay for the initial cost in a short time. Mr. Busch reported that after researching, he found that approximately 30 homes were sold without a transfer fee having been paid to the District. He stated that last week he has sent a bill to about 28 people with an application for service. Mr. Hilb asked Mr. Busch to make note of the results and stated that a frequent check on this matter might be needed. Mr. Busch reported that the website host, Northern Arizona Websites submitted a proposal requesting to be paid on a yearly basis instead of being billed monthly. Mr. Busch stated that the bill was \$600 per year and if the board didn't object, he would go ahead and pay it yearly. Mr. Busch stated that the FEQ (Flow Equalization) tank drawing needs some modifications before it could be sent out to contractors for bidding. Mr. Busch stated that one of the modifications including the location of the tank. Mr. Busch handed the board members a drawing of the proposed location. Mr. Hilb asked Mr. Busch to post the drawing upon finalization. Mr. Busch stated that there were no drawings indicating where the connectors to the tank were located and that the contractors would have to determine that by digging. Regarding the RFP and the question asked by Jimmy Stoner, Mr. Busch explained that the delay in this process was due to the talks with ADEQ and filing of the APP amendment. Mr. Busch stated that in early 2013, the board wanted to re-permit the existing waste water treatment plant and it was supposed to be a fairly easy process. Then, the District was to apply for a second amendment to the permit, once improvements planned to be made with the treatment plant upgrade were known. Subsequently, communications with ADEQ determined

that the District could apply for one permit instead of two permits, and that application could be made after all upgrades were known. Mr. Busch stated that the engineer should have something for him regarding the RFP by the end of the week.

Report from the accountant Bruce Eldredge

Bruce Eldredge of MDI Financial Services went through the District's financial reports for the month of June 2013. Mr. Eldredge went through the Income Statement, Balance Sheet and Budget Reports and answered questions from board members. Mr. Eldredge stated that he has met with Bob Busch regarding the new system of reporting and would begin in July as it was the beginning of a new fiscal year. June was the end of the fiscal year, and it would not be a good idea to switch to a new method of reporting for the last month. Mr. Freeman asked Mr. Eldredge if he would be running parallel reports. Mr. Eldredge stated that he would not. Mr. Busch asked about the level of detail to be reported at the meetings. Mr. Hilb stated that the level of detail should only be greater if one of the board members had any questions on a specific line item. Mr. Hilb asked Mr. Stoner, regarding his concerns, to wait for the new method of reporting, and if he still had any concerns, he could report them at that time.

6. CONSENT AGENDA (Routine items that may be approved by one motion)

Mr. Hilb asked that all the items of the consent agenda be removed.

Mr. Hilb then made a motion to approve Public Session Minutes of June 24, 2013 with the corrections made to Mr. Roberts name and change page 4, 7th line from the bottom to "county, and they strongly recommend that ..." *Mr. Freeman seconded the motion. The motion passed unanimously without discussion.*

Mr. Hilb made a motion to approve the following minutes with the minor changes as presented to the board:

Executive Session Minutes of June 24, 2013 (revised)

Executive Session Minutes of August 16, 2012 (revised)

Executive Session Minutes of September 7, 2012 (revised)

Executive Session Minutes of September 21, 2012 (revised)

Executive Session Minutes of May 15, 2013

Executive Session Minutes of April 18, 2013

Mr. Freeman seconded the motion. The motion passed unanimously without discussion.

7. OLD BUSINESS

A. Missing and unaccounted for records and documents, property of the District, that have not been produced by the previous District Board members.

Mr. Hilb stated that there was nothing to report at this time.

B. Claims for reimbursement of attorney fees previously paid by the District.

Mr. Hilb stated that there was nothing to report at this time.

C. Proposed settlement of the complaint against the District Board Members for Open Meeting Law violation(s) filed with the Office of Attorney General.

Mr. Hilb read the letter from the Attorney General to the public in its entirety as attached to the minutes. In compliance with the terms of the letter, Mr. Hilb stated that the Board would schedule Open Meeting Law training as part of an upcoming meeting. . He requested that Mr. Whittington forward copies of Notices, Agendas and Minutes to the Attorney General for the next three months as required by the letter, and that Mr. Whittington, as legal counsel will be present at all meetings for the next three months,. Mr. Hilb asked for comments from the public and the board.

- **Hugh Pryor** asked if the last date of an infraction by this board was in August 2011. *Mr. Hilb stated that it was.*
- **Jimmy Stoner** stated that this wasn't the letter originally received from the Attorney General. Mr. Stoner asked Mr. Hilb where that letter was. *Mr. Hilb stated that the original letter had a minor correction in one paragraph. Mr. Hilb stated that the first paragraph of the letter refers to an earlier letter being revised and that the date for a response was changed to August 31, 2013.*
- **Dayne Taylor** asked if the letter would be posted on the website. *Mr. Hilb stated that it would be posted on the front page for a few months. Mr. Hilb then asked Mr. Busch to find an appropriate place on the website. Mr. Taylor then asked if any subsequent violations would have to be filed by the public with the Attorney General. Mr. Hilb stated that the letter spoke for itself and that this ended the original complaint. Mr. Whittington reminded Mr. Hilb to entertain a motion on this matter if all comments and discussions were complete.*

Mr. Hilb made a motion to approve the letter and authorize all three board members and the district counsel to sign it and have it forwarded to the Attorney General by Mr. Whittington. Mr. Freeman seconded the motion. The motion passed unanimously without any further discussion.

D. Setting a time and place for future meetings of the District Board.

Mr. Hilb made a motion to have the next board meeting set for September 24, 2013 at 12:00 p.m. at the Days Inn in Chino Valley with Open Meeting Law training immediately to follow. *Mr. Freeman seconded the motion. The following discussion followed:*

- **Isabel Yribe** asked whether or not she would have to retake the training since she would be unavailable for that meeting date. *Mr. Whittington stated that she didn't as she wasn't named specifically in the remedy from the Attorney General. Mr. Whittington stated that she could listen to the training from the recording since she was going to do the minutes from that training session.*

The motion passed unanimously without any further discussion.

E. Amendment to the District Bylaws, Policies & Procedures, Article III, Section 6, FEES AND CHARGES.

Mr. Hilb reminded the public and the board that Mr. Busch was given direction in a previous meeting to modify the definitions in the bylaws to coincide with the fee schedule that the district had previously approved.

Mr. Hilb made a motion to approve the modifications as presented to the board by Mr. Busch. Mr. Freeman seconded the motion and the following discussion ensued.

- **Bob Busch** asked that the attachment of the User Fees also be approved as part of this motion. *Mr. Hilb stated that those User Fees were approved at a previous meeting. Mr. Hilb asked Mr. Whittington if Mr. Busch's request was necessary. Mr. Whittington stated that it might be prudent to include the modified attachment as part of motion.*
- **Mr. Hilb then made a motion to amend his motion to include that Section 6, Fees and Charges be amended in the District's bylaws to the definitions as presented by the District Manager and that the appendix (Exhibit A) be updated to reflect the fees that were approved at the Fee Hearing on June 24th. Mr. Freeman seconded the amendment. Mr. Whittington asked that the board vote on the amendment then vote on the motion. Both votes were approved unanimously. District Clerk Ms. Yribe then stated that Mr. Hilb withdrew his original motion. Mr. Whittington then stated that he understood that withdrawal to be an amendment.**
- **Chris Stoner** asked if anyone had answered Eileen McGowan's question regarding the different fees charged to different residents. *Mr. Hilb stated that he was only allowed to talk about the definitions as they were on the agenda. Mr. Hilb stated that the rest could be discussed at the next meeting.*

F. Reconsideration of previous approvals to re-apply for Aquifer Protection Permit Amendment for the Santec WWPT and closure of the SBR plant and to issue an RFQ for plant upgrades. Mr. Busch stated that motions previously approved in January should be reconsidered and reapproved to reflect the changes in direction that this item is headed in since its first approval. Mr. Busch stated that some changes have been discussed and new direction needs to be given.

Mr. Hilb made a motion that the District Engineer clarifies the RFQ by adding that an FEQ tank was installed on the property. Mr. Hilb then withdrew his motion. Mr. Hilb made a new motion that the RFQ be amended to show the existence of an FEQ tank and change the requirement for an APP to be only for the plant expansion provided by the bidder and that the APP be an optional item in the bid. Mr. Freeman seconded the motion. The motion passed unanimously without discussion.

8. NEW BUSINESS - DISCUSSION & POSSIBLE ACTION RE;

A. Approval of Financial Reports- June 2013

Mr. Hilb made a motion to approve the financial report for June 2013. Mr. Freeman seconded the motion. The motion passed unanimously without discussion.

B. Appointment of a Director to fill the unexpired term of Director Brian Ray following his resignation. (Application attached for completion and submittal prior to the meeting)

Mr. Hilb made a motion to appoint William Dickrell to fulfill Brian Ray's term as director. *Mr. Freeman seconded the motion. The motion passed unanimously without discussion. Mr. Hilb asked that the record reflect the gratitude towards Mr. Ray and his years of service. The board welcomed William Dickrell.*

- C. Assigning Board member duties.** *Mr. Hilb gave a brief description of the duties Mr. Ray undertook as a board member. Mr. Hilb asked Mr. Freeman if he was in agreement with passing the same responsibilities to Mr. Dickrell. Mr. Hilb asked Mr. Dickrell if he felt comfortable in taking over Mr. Ray's duty of reviewing vendor contracts and also researching fair market costs for prospective vendors. Mr. Dickrell had no objections.*

Mr. Hilb made a motion to approve Mr. Freeman as District Clerk and also that William Dickrell work with Mr. Busch on vendor contracts. *Mr. Freeman seconded the motion. The motion passed unanimously without discussion.*

- D. Communication and Coordination with Williamson Valley Community Organization (WVCO).** *Mr. Freeman suggested that the District coordinate with community organizations so that there is no confusion as to what the district does. He also stated that the District should be a source of information to the public. Mr. Whittington stated that because the WVCO was specifically named in the agenda, other organizations would be excluded until they were properly agendized. Mr. Freeman stated that the WVCO was an example he was using but that the ICR Water District could be another organization it could join. Mr. Whittington stated that the Board could appoint the District Manager specifically, but if more than one person was involved it would be categorized as a sub-committee. Mr. Hilb stated that this matter should be looked at in greater detail by Mr. Busch and he report back to the board.*

- **Eileen McGowan** asked if the new Board Member would introduce himself to the public. *Mr. Whittington stated that this should be done when the item was properly put on the agenda at a future meeting. Mr. Hilb suggested that a small biography piece on the website be put up by Mr. Busch.*

9. ADJOURNMENT

Therefore the meeting was adjourned at 11:00 a.m.

Date

Board Clerk

Attachment: Letter dated 8/8/13 from Office of the AZ Attorney General