

INSCRIPTION CANYON RANCH SANITARY DISTRICT

P.O. Box 215 Chino Valley, AZ 86323

PUBLIC SESSION

~MINUTES~

Revised March 11, 2013

February 28, 2013

Approved May 15, 2013

Date: Tuesday February 28, 2013

Time: 9:30 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 9:30 a.m.

2. ROLL CALL.

Present were Bob Hilb, Chairman; Scott Robbins, Board Member, Brian Ray, Board Member; Bill Whittington, Counsel (by phone); E.J. Kotalik, Counsel; Bob Busch, District Manager; Isabel Yribe, District Clerk and the following audience members.

Bruce Eldredge

Hugh Pryor

John Freeman

Clint Poteet

Dayne Taylor

Lani Beach

3. CALL TO THE PUBLIC

Dayne Taylor stated a comment about Arizona Revised Statutes regarding Open Meeting Laws. Mr. Taylor stated that there needs to be transparency and simplicity regarding the meeting minutes. He stated that being absent for the previous meeting he tried following the minutes and couldn't understand them at all. *Mr. Whittington, Counsel, asked Mr. Taylor if there was a specific date he was referring to. Mr. Taylor stated it was the February 5, 2013 meeting.* Mr. Taylor stated that what was actually said in the meeting by certain individuals was not stated in the minutes as mandated by statute. *Bob Hilb stated that this may be partially addressed when they get to the approval of the minutes later in the meeting. Mr. Hilb asked Mr. Busch to take a look at those minutes and see if there was anything missing.* Mr. Taylor also stated that other individuals have asked to have things put on the agenda and that has not been responded to. Mr. Taylor stated that it was the Districts policy and that it appears to benefit only the Board Members as members of the public aren't allowed to ask questions to get a better understanding of what's being discussed. *Mr. Hilb stated that this issue was addressed at the last meeting and it wouldn't be addressed again at this time.*

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. Resolution 2013-1 Acceptance of Whispering Canyon, Onsite and Other Related Wastewater Facilities and approval of Bill of Sale in the amount of \$1,181,001.43, for infrastructure in Whispering Canyon, Phases 1 through 4 and possible amendment to the Amended and Restated Development Agreement dated March 1, 2012 (Implementation Agreement).
- E. Approval of Sewer Service Agreements and Capacity Assurance Certificates for Whispering Canyon Phases 5-7.
- F. Actions required by the District to overspend or increase approved budget.
- G. Approval of three-year contract with MDI Taxes & Accounting for accounting and billing services to the District.
- H. Process for filling vacancy on the Governing Board.

Scott Robbins seconded the motion. The motion passed unanimously without discussion.

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

Executive session began at approximately 9:40 a.m.

5. RECONVENE INTO PUBLIC SESSION at approximately 11:20 a.m.

6. REPORTS

Chairman's Report

Chairman, Bob Hilb distributed handouts to the board. Extra copies were available for the public. The presentation material is attached to these minutes.

Manager Report. Bob Busch reported on the following agenda items.

Report from District Manager

- Closure of Escrow Account and transfer of funds and the status deeds of trust. *Bob Busch stated that approximately \$714,000 was transferred into the Capital Account. Mr. Busch also stated that there was \$19,000 in Deeds of Trust still outstanding. There are 8 deeds of trust that the District hasn't received payment on. Mr. Busch stated that he was hopeful that the District would collect on at least 5 of those in the amount of about \$7500. Mr. Hilb stated that some money could be collected whenever the lot comes in for a building permit. Mr. Busch stated that a note would be put in the file of those properties.*

Bill Whittington left the meeting at 11:40 a.m.

- Report on possible of transfer of funds within the budget. *Mr. Busch, as directed by the Board, went to the County/Coordinator of Special Districts to research the implications of possible overspending of the budget was told to refer to the District's Legal Counsel and declined to give him any information.*

Engineer's Report Davin Benner

- Status of reapplication of Aquifer Protection Permit 103119 for the Santec Plant *Mr. Benner stated that he and Mr. Busch will go through the requirements for the submittal of the APP and report anything significant back to the Board.*
- Status of RFQ. *Mr. Benner stated that that he would hold off on this until they get back the report from the APP requirements. Specifically the Historical Flow Data.*
- Engineering review of plans for Whispering Canyon phases 5-7. *His firm provided the letter to Mr. Busch and Mr. Emberlin yesterday. What he is basically asking on the Capacity Assurance Forms is that they base the capacities on Historical Flow Data and should include a peaking factor/multiplier. Mr. Benner stated that he has instructed Tim Emberlin to use a 100/GPD flow. He also stated that he commented on the engineering plans for phases 5-7. The plans should include control valves Inline flushing stations at T intersections. He also recommended re-evaluating the lift station at Phase 5 and*

one at Phase 7, which affects the long term cost for the district. Mr. Benner stated that Tim Emberlin and his engineer have reviewed his letter and are in the process of making revisions.

Accountant Report Bruce Eldredge

- Review of Income Statement, Balance Sheet and Budget. *Bruce Eldredge stated that on Line Item 6400 was a last year's income entry that was paid this year. Mr. Eldredge stated that everything looked pretty normal except for the Litigation Fees and going way over budget. Mr. Eldredge stated that he would like the Board's permission to write off a \$10 bill for late fees that has no chance of being collected. The Board gave him permission by consensus.*

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

Minutes of prior meeting

Public Meeting Minutes of February 5, 2013

Executive Session Minutes of February 5, 2013.

Mr. Hilb addressed the question raised during Call to the Public. He stated that minute requirements are: subject to be discussed; anyone that spoke and whether they spoke for or against it; what the vote was and who voted. Mr. Hilb stated that the Board exceeded those requirements. He also stated that verbatim minutes were not a requirement.

Bob Hilb made a motion to approve the Consent Agenda. Brian Ray seconded the motion and the motion passed unanimously.

8. OLD BUSINESS - DISCUSSION & POSSIBLE ACTION RE;

- A. Missing and unaccounted for records and documents, property of the District, that have not been produced by the previous District Board members.** *There is no action on this item at this time.*
- B. Claims for reimbursement of attorney fees previously paid by the District.** *There is no action on this item at this time.*
- C. Complaint against the District Board Members for Open Meeting Law violation(s) filed with the Office of Attorney General.** *There is no action on this item at this time.*
- D. Resolution 2013-1 Acceptance of Whispering Canyon, Onsite and Other Related Wastewater Facilities and approval of Bill of Sale in the amount of \$1,181,001.43, for infrastructure in Whispering Canyon, Phases 1 through 4 and possible amendment to the Amended and Restated Development Agreement dated March 1, 2012 (Implementation Agreement).** *Bob Hilb made a motion that the documents be approved as presented to the Board except that before they are executed the District gets letter from the District Engineer certifying the removal of restrictions on the lots for different sized pumps, and also that Harvard is included as a signatory on the Implementation Agreement. Brian Ray seconded the motion. The following discussion ensued: Mr. Hilb stated that the report from Barnes Pump Manufacturer and Lyon Engineering would be reviewed*

by the Engineer and that the Engineer agrees with those reports and have a letter from him as part of the record. The motion passed unanimously.

- E. Consideration of Approval of Sewer Service Agreements and Capacity Assurance Certificates for Whispering Canyon Phases 5-7.** *Bob Hilb made a motion to approve the Agreement and Certificates with the addition of Provision of 38- 511 if it is applicable. Scott Robbins seconded the motion and the following discussion ensued. Bob Hilb stated that what these agreements are basically saying is that the District will have the financial capacity add capacity to handle the homes as they come online. Mr. Busch asked for the specific wording to Prevision 38-511 and Mr. Hilb stated that he could get that Mr. Whittington would provide that to him. Mr. Busch also had a question regarding the Capacity Assurance form. Mr. Benner and Mr. Emberlin would modify the multipliers in accordance to Historical Flow Data. Mr. Hilb withdrew his motion. Mr. Hilb made a motion to approve the Service Agreement as presented with the addition of ARS Provision 38-511 and the Capacity Assurance Certificate with the changes to reflect the 100/GPD/Residence. Scott Robbins seconded the motion. The motion passed unanimously.*
- H. Set time and place for next Public Meeting.** *No time and place were set until some contingent items were known regarding other agenda items. Mr Hilb directed that Mr. Busch contact the Board and staff once all the contingencies are removed and schedule another meeting.*

9. NEW BUSINESS AND POSSIBLE ACTION RE:

- A. Approval of Financial Report for January 2013.** *Bob Hilb made a motion to approve the report but remove the voided check in the amount of \$13. Scott Robbins seconded the motion and the motion passed unanimously.*
- B. Authorization to overspend the approved budget or increasing the budget amount to cover anticipated over-expenditures.** *This item was tabled for a later date.*
- C. Approval of three-year contract with MDI Taxes & Accounting for accounting and billing services to the District.** *This item was tabled for a later date.*
- D. Acceptance of the resignation of Director Scott Robbins.**
Mr. Hilb made a motion to accept Mr. Robbins resignation effective on today's date. Brian Ray seconded the motion. The motion passed unanimously.
- E. Appointment of a Director to fill the unexpired term of Director Scott Robbins following his resignation. (Application Attached for completion and submittal prior to the meeting)**
Mr. Hilb made a motion to accept the application for Board position received from John Freeman and included in the motion, appoint John Freeman to succeed Scott Robbins on the Board. Brian Ray seconded the motion. The following discussion ensued. Mr. Busch asked when this would become effective. Mr. Hilb stated that it would become effective once he took the Oath of Office and submitted his paperwork to Yavapai County. The motion passed unanimously

10. ADJOURNMENT

Therefore the meeting was adjourned at 12:15 p.m.

Date

Board Clerk