

# ICR SANITARY DISTRICT NEWSLETTER



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www.icrsd.com

## From the Chairman

Bob Hilb

On December 14<sup>th</sup>, the Board voted to accept a settlement on all outstanding litigation. Our insurance company had offered \$1 million to all plaintiffs and claimants in settlement in all actions pertaining to the illegal moratorium. Claims had reached into the hundreds of millions.

Although the District did not recover legal fees incurred by the current or previous board, the District is now free from potentially catastrophic financial obligations. The Board believes there are still ways to recoup legal fees and will vigorously pursue all possibilities.

The last few months have been difficult and at times frustrating for the Board and the members of the public as well. Events

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occurring during the negotiation process necessitated calling special meetings on short notice and conducting Executive Sessions not open to the public, often with little apparent result to the observer. The nature of the negotiations AND the Open Meeting Law required this process.

Now that a settlement has been reached, we hope that we can begin to conduct public meetings that can be planned more in advance, giving the public more notice.

## Rate Hearing Scheduled for Dec 29th

December 29<sup>th</sup> is the date set for a rate hearing to determine rates the District charges for services authorized by Arizona statutes. The board has proposed changing residential and commercial user fees. Residential user fees have been billed since last August to owners of property connected to the sanitary system.

The board has not proposed changes in other fees such as hookup fees, permit fees, activation/transfer fees, returned check fees and late fees and interest on late payments.

The Board had previously revised the late

fees associated with late payments that were contained in the District Ordinance because they were exceptionally high (possibly illegally high)- 10 to 25 percent of unpaid balance compounded monthly as well as monthly late charges of up to \$100. The active fee is now 10 percent annual interest, less than one-tenth the prior penalties, and more as specified in state law.

The hearing will be held at 9:00 am at the Days Inn, 688 Fletcher Court, in Chino Valley. The public is welcome to attend and comment at the hearing.

## A Quality Water Report

A Quality Water Company, the operator of the waste water treatment plant reports that the plant is operating well. All required monitoring sampling have been performed and there have been no compliance issues or ADEQ violations.

Minor modifications recently made at the plant that have reduced the amount of methanol required. Methanol costs have averaged over \$1,000 per month for the past few months. A Quality expects a reduction in methanol use by as much as 20%. The modifications have lowered electric power consumption.



Average daily flows of effluent from the plant have been between 35,000 and 38,000 gallons per day, about 55% of plant capacity.

For a look at historical and projected plant output vs capacity, visit the website: [www.icrsd.net](http://www.icrsd.net)

## MOU Signed to Settle District Dispute

A Memorandum of Understanding was signed by the District Board and the Developers (Talking Rock, Whispering Canyon, & The Preserve) on November 29th. The MOU sets forth the terms of a revised development agreement which settles business issues that have been a part of the legal dispute between the District and the Developers. Here are some highlights of the MOU:

- Outstanding payments:

- Whispering Canyon will pay outstanding invoices in the amount of \$1,296. The District will waive penalties and interest that we believed to have been improperly adopted and may have exceeded District's authority.
- Harvard will pay \$4,000 per month for effluent delivered up to 1,000,000 gallons and \$1.10 per 1,000 thereafter from Nov 2009. The rate after 1,000,000 gallons adjusts every 5 years.

*District Board meetings have recently been held at the Days Inn in Chino Valley due to various complaints to the Arizona Attorney General's office regarding meetings held at Talking Rock Ranch House. Until those complaints are resolved, the Board meetings will likely to continue to be held at the Days Inn.*

*Please see MOU on page 4*



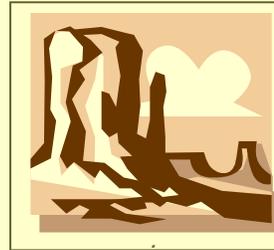
## District Signs Settlement Agreement Ending Lawsuit

In a special public meeting held on December 14<sup>th</sup>, the District Board approved a settlement agreement which ends the more than two-year old dispute between the District and its opponents.

The settlement calls for the District's insurer to pay a total of \$1,000,000 in payments to plaintiffs and claimants in the dispute. Three separate payments of \$913,640, \$66,000 and \$20,360 go to the plaintiffs (developers of Talking Rock, Whispering Canyon & The Preserve; and to two other claimants.

The agreement resolves all outstanding litigation and disputes surrounding the moratorium declared in 2009-10 and subsequent lawsuits involving the moratorium, claims for damages and counterclaims.

In addition, the agreement provides that the



former board members and their wives will be indemnified against any claims or damages resulting from the moratorium not included in the settlement agreement.

Since June of 2009, the District has spent over \$675,000 on attorney fees, the vast majority of which has been related to the moratorium and the ensuing legal dispute.

It took months of negotiations to reach the agreement which involved numerous parties

*Please see Lawsuit on page 4*

## Sign Up for Email Notification of Public Meetings

Arizona statutes require that notices of District Board meetings be physically posted prior to the meeting date. The official posting location is the Talking Rock Guard Shack. The District also posts the notices at two other places (Coop's at Talking Rock and Prescott Realty in Inscription Canyon) and on its website. In order to find out about meetings, one had to check one of the posting sites or go on line regularly to find out when public meetings were to be held. That has not been very convenient, especially with all the special meetings that have been required because of negotiations associated with ongoing litigation.

You can now sign up to receive notification of pending public meetings via email.

Just go to [icrsd.net](http://icrsd.net) and click on the "Sign up for Meeting Notification" tab. You will need to enter your name, property address, mailing address and email address. You will receive an email letting you know the time and place of any meeting scheduled by the District Board.

Lawsuit - *from page 3*

and their attorneys. Seventeen separate entities were required to sign the agreement, including six law firms (one of which represented the District). In addition, the District utilized three other law firms in working out the details of the settlement.

The law firms are:

Jim Evans: Wood, Smith, Henning & Berman.LLP  
(Counsel for District's insurance carrier)

Bill Whittington: Boyle Pecharich Cline  
Whittington & Stallings, PLLC (District Counsel)

J. Jeffery Coughlin: Law Offices of J. Jeffrey  
Coughlin PLLC (Counsel for the District re  
Litigation)

Ed Kotilak: Peshkin & Kotalik PC (Insurance  
specialist)

*MOU- from page 1*

- The Parties agreed to a standard for infrastructure acceptance and completion of certain items before acceptance of existing infrastructure.
- Harvard and Whispering Canyon will match District expenditures on plant improvements up to \$150,000.
- The escrow account now in control of Harvard and the District will be eliminated in favor of an account solely in the control of the District to be used for funding of future capital improvement of the treatment plant.
- Harvard & Whispering Canyon will assume responsibility for the \$117,494.30 owed by

New District Phone Number

**237-9347**

## District Receives Payment

The District received a payment of \$52,000 from Harvard Investments on December 19<sup>th</sup>. The payment was made in accordance with the Memorandum of Understanding for effluent delivered to Talking Rock Golf Course between November 2009 and the end of December 2010. An additional payment for 2011 is scheduled upon the execution of a Revised and Restated Development Agreement between the parties.

*MOU- from page 1*

*MOU from left column*

- Pivotal and will deposit the funds within 12 months.
- The Revised & Restated Development Agreement will specify the lot fees to be deposited into the District's new escrow account.
- The District agrees to refund to Developers for constructed infrastructure over a 20 year period at the rate of 10% of revenues collected (taxes & user fees), not to exceed 50% of the total cost of the infrastructure.
- The District will provide a credit of up to \$45,000 at \$2,000 per month for costs of maintenance incurred by Harvard during the dispute.

A complete copy of the MOU can be obtained at a cost of \$3.25 by calling 713-0548 and arranging pickup at the business office in Chino Valley.

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*Visit us at:*  
[www.icrsd.com](http://www.icrsd.com)

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