

INSCRIPTION CANYON RANCH SANITARY DISTRICT

P.O. Box 215 Chino Valley, AZ 86323

PUBLIC SESSION MINUTES

November 17, 2011

1. CALL TO ORDER.

The Governing Board for the Inscription Canyon Ranch Sanitary District convened into public session at approximately 2:00 p.m. The meeting was held at The Days Inn Conference Room 1, 688 Fletcher Court, Chino Valley, Arizona 86323.

2. ROLL CALL.

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

Paula Green	John Freeman	Dick Tracey
Linda Hazzard	Gene Leasure	Dayne Taylor
Harvey Roberts	Barb Hilb	Bruce Eldredge

3. EXECUTIVE SESSION.

Member Bob Hilb made a motion to go into executive session for legal advice regarding discussion or consultation for legal advice with the attorneys of the Inscription Canyon Ranch Sanitary District pursuant to A.R.S. 38-431.03(A)(3); 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. Pending litigation with Harvard Investments et. Al., Case#V02010000036 & #P1300CV210-01855.
- B. Pending litigation with Marvin L. Kaiser et. Al., Case #P1300CV201100061.
- C. A claim against the District by Alfred & Nancy Moss. Claim #AZSP210040024.
- D. Possible indemnification of previous board members in connection with the litigation in A, B & C above.
- E. Possible MOU referencing the various pending business/service negotiations between Harvard and the District.
- F. Employment contract with Robert Busch to provide management services to the District.
- G. Employment contract with Isabel Yribe to provide secretarial and administrative services to the District.

The audience was asked to leave and the executive session began at 2:05 p.m.

4. RECONVENE FROM EXECUTIVE SESSION TO PUBLIC SESSION at 3:15 p.m.

Bob Hilb made a motion to authorize litigation counsel to proceed as recommended in executive session for items:

- A. Pending litigation with Harvard Investments et. Al., Case#V02010000036 & #P1300CV210-01855.
- B. Pending litigation with Marvin L. Kaiser et. Al., Case #P1300CV201100061.
- C. A claim against the District by Alfred & Nancy Moss. Claim #AZSP210040024.

Brian Ray seconded the motion. There was no discussion and the motion passed unanimously.

Item D: Possible MOU referencing the various pending business/service negotiations between Harvard and the District.

Bob Hilb made a motion to approve and sign MOU with developers. Scott Robbins seconded the motion and the following discussion ensued:

Brian Ray stated that he did not receive the latest copy of the document and would need time to read it. *Bob Hilb asked if he wanted to postpone the vote. Mr. Ray asked if he could. Mr. Hilb then said he'd adjourn the meeting so that Mr. Ray would have time to read the MOU document.*

Dayne Taylor asked if this was a public document. *Mr. Hilb stated that it would be once it was approved.*

5. ADJOURNMENT.

The meeting was adjourned at approximately at 3:20 p.m. so that Mr. Ray could read the MOU document.

6. RECONVENE INTO PUBLIC SESSION at approximately 4:00 p.m.

Continuing the discussion prior to the adjournment.

Scott Robbins needed clarification of the amount in A.2.b.iii. of the MOU document. *Mr. Hilb stated that it would be verified during development agreement process.*

Dayne Taylor asked what the financial implications would be of this decision. He also wanted to know what the implications of the acceptance of the infrastructure would be to the residents. *Mr. Hilb stated that Harvard would pay the District \$52,000 immediately and also other amounts mentioned in the agreement. Mr. Hilb stated that the infrastructure should have been accepted years ago according to the previous development agreement. As far as the agreement with A Quality water, they should have been maintaining that anyhow. But because of the disagreement between Harvard and*

the previous board, they weren't maintaining it but were still getting paid to do so. Mr. Taylor asked what the dollar amount of the infrastructure to be accepted. Mr. Hilb stated that he didn't have those figures in front of him at the moment. Mr. Taylor asked if the board was making a legal decision. He also asked if the MOU document would be made public prior to approval. Mr. Hilb stated that they would be voting on the signing the MOU and that the MOU document would not be made public prior to the vote. Mr. Taylor asked under what criteria Mr. Hilb was making the decision not to make it public prior to the vote. Mr. Hilb stated that there was no law requiring it to be made public prior to the vote.

Harvey Roberts wanted clarification on the document being made public. *Mr. Hilb stated that the document would be made available once the document was approved. There would also be a fee associated with providing that copy to members of the public who requested it. He asked that whoever wanted a copy should leave their name with Bruce Eldredge. The fees would be based on the ordinance.*

Dayne Taylor wanted to know what the fee would be. He also wanted to know why the document wouldn't be posted on the website. *Mr. Hilb stated that he did not have the amount or the ordinance in front of him, but basically it would be the cost of the copy billing, and mailing. Mr. Hilb stated that it wasn't required to be posted on the website. Mr. Taylor wanted confirmation on why Mr. Hilb was making the decision not to post it on the website. Mr. Hilb stated that that it was not required.*

Scott Robbins stated that even if the motion passed, the rest of the document would have to be signed by the other parties involved. Only until complete approval would the document become available to the public. *Mr. Hilb then stated that the board members would have to ask legal counsel on what could be made public.*

Dick Tracey asked why everything had to be so secret. He also asked what the Board Members were "hiding". *Mr. Hilb stated that that the board wasn't hiding anything. And then he stated that nothing further could be discussed as it was not on the agenda.*

Harvey Roberts asked if the \$2.4 million of back receivables was included in the MOU. *Mr. Hilb reminded everyone that ratification action had to be taken on the District Ordinance which may have made those fees illegal. He also stated that those fees weren't included in the MOU because the board felt that they didn't think they had much of a chance in any action to collect them. He reminded those present that this item was discussed at the Rate Hearing. Mr. Roberts wanted clarification on whether or not the ordinance was illegal. Mr. Hilb stated that no one said it was illegal but that there was a good chance that it might be illegal so it was ratified.*

Dayne Taylor stated that the legality of late fees and interest was not discussed at the rate hearing. *Mr. Hilb stated that it was discussed because he distinctly remembered an objection from the floor regarding the late fees and interest.*

John Freeman asked if the penalty in the ordinance of 25% per month and \$75.00 per month would have applied to residents who didn't pay their user fee. *Mr. Hilb stated that if the ordinance had not been ratified with the new late fees and interest that would have been the case.* Mr. Freeman then stated that if that was the case, then it would take about two years for the residents to lose their homes.

Dayne Taylor asked if the Board was making the ordinance retroactive. *Mr. Hilb stated that it wasn't being made retroactive. As far as the ratification process, Mr. Hilb reminded Mr. Taylor of his objection at the Rate Hearing. He couldn't get into it without legal advice from counsel. It was decided that if they had to find out whether or not it was legal to collect those fees but that litigation to do so could easily cost another \$.5 million in attorney's fees.* Mr. Taylor then asked if it was not worth it if it meant \$2 million to them, the residents. *Mr. Hilb stated that the Board felt it was not likely they could win.*

The motion passed unanimously after the discussion.

7. NEW BUSINESS

Item 5A: Consideration and possible action re: An engagement letter from Robert S. Lynch, Legal Counsel for services relation to issues relating to the proposed MOU and possible preparation of documents pertaining to indemnification of previous board members.

Bob Hilb made a motion that he be authorized to sign an engagement letter contracting Mr. Robert Lynch as described above. Brian Ray Seconded the motion. The motion passed unanimously without discussion.

Item 5B: Consideration and possible action re: Employment contract with Robert Busch to provide management services to the District

Bob Hilb gave a brief introduction to the questions raised at the previous board meeting regarding the implications of insurance costs if the District hired Mr. Busch. He stated that there were no financial implications in that regard. Mr. Hilb made a motion to accept the contract as modified by counsel, to hire Robert Busch as the District Manager. Brian Ray seconded the motion. The following discussion ensued:

Gene Leasure asked who the insurance agent was. *Mr. Hilb stated that Bill Weber was the agent.*

Dayne Taylor asked what Mr. Busch's salary would be and what his scope of work was. *Mr. Hilb stated that the Board would have to talk with counsel and they would have to decide what information could be made available. If the contract was made public, some of the items might have to be redacted. It would be up to counsel. Mr. Hilb stated that if requested, that information would be made available to the public.*

The motion passed unanimously after the discussion.

Item 5C: Consideration and possible action re: Employment contract with Isabel Yribe to provide secretarial and administrative duties to the District.

Mr. Hilb stated that this item would be withdrawn as Ms. Yribe did not have a draft contract to review. This item would be put off until the next meeting.

Item 5D: Consideration and possible action re: Scheduling a Rate Hearing for the purpose of establishing commercial user fees, possible repeal of residential user fees and consideration of adoption of other fees relating to copying District records and documents.

Bob Hilb stated the reason why this item was being considered was that the Board had stated on numerous occasions that the user fee was temporary until Harvard began paying various Fees and the District was over its cash flow problems. Bob Hilb made a motion to authorize Bob Busch to come up with a proposal to set commercial user fees and set a fee schedule hearing meeting to eliminate user fees. Brian Ray seconded the motion. The following discussion ensued:

Scott Robbins clarified the reason for setting a rate hearing meeting. He stated that a few residents had come to him confused over user fees and billing and once he explained, they were clear on what was happening regarding the billing.

John Freeman stated that people were concerned about the user fees. He stated that it was important that the residents know what they would have been paying had the ordinance remained as it had before the ratification. He stated the difference between what they would have been paying and what they are actually paying now. *Bob Hilb stated that there was information regarding this issue on the website.*

Dick Tracey asked if the District was cancelling the user fees. *Both Mr. Hilb and Mr. Robbins clarified that there would have to be a hearing. They reminded Mr. Tracey of the motion to authorize Bob Busch to work on scheduling that meeting. Mr. Hilb stated that the reason for the user fees were imposed and that it was mentioned that once the cash flow problems had been resolved the possible removal of those fees would be visited.*

Harvey Roberts asked if signing the MOU would mean that the District would be receiving money from Harvard. *Mr. Hilb stated that yes, the signing of the MOU would trigger money to the District.* Mr. Roberts asked if there would be additional commercial fees in addition to the ones in place. *Mr. Hilb stated that commercial fees would have to be standardized and transparent.*

Bob Busch needed clarification on the date of when the Fee Rate Hearing had to be done. *Mr. Hilb stated that it should be done as soon as possible considering the posting requirements.*

The motion passed unanimously after the discussion.

7. ADJOURNMENT

The meeting was adjourned at approximately 4:35 p.m.

11/17/2011
Date

Isabel Yribe
District Clerk