

**MINUTES OF THE  
REGULAR MEETING OF THE  
I.C.R. SANITARY DISTRICT  
May 11, 2011**

**Approved: 5/25/11**

**Date:** Wednesday, May 11, 2011  
**Time:** 9:00 a.m.  
**Place:** Williamson Valley Fire Station 15450 Williamson Valley Road, Prescott, Arizona 86305

I.C.R. Sanitary District Board of Directors

Gene Leasure, Chair  
Dayne Taylor, Director  
Charlie Turney, Director

Gloria Lorntzen, District Clerk  
Harold Watkins, Counsel for the District  
Doug Nelson, Counsel for the District  
Julianne Wheeler, Counsel for the District

Guests

Jimmy Stoner, Homeowner  
Pat Carpenter, aQuality Water  
Cheryl Ibbotson, Wallace & Assoc.  
Harvey Roberts, Homeowner  
Chris Stoner, Homeowner  
Bob Hilb, Homeowner  
Eileen McGowan, Homeowner  
Tim Emberlin, Whispering Canyon  
Marless Taylor, Homeowner  
Brian Ray, Homeowner  
Clint Poteet, Talking Rock

---

**1. Call Regular Board Meeting to Order**

The meeting was called to order at 9:00 a.m. by Chair Gene Leasure. A quorum was present for the purpose of conducting business.

**2. Introduction of Attendees.** Present were Gene Leasure, Chair; Charlie Turney, Director; Dayne Taylor, Director; Gloria Lorntzen, District Clerk; Cheryl Ibbotson, Jimmy and Chris Stoner, Pat Carpenter, Harvey Roberts, Bob Hilb, Eileen McGowan, Tim Emberlin, Marless Taylor, Brian Ray, and Clint Poteet.

**3. Approval of Minutes**

**a. Approve minutes from Regular Meeting of April 13, 2011, Regular Meeting of April 27, 2011, and Executive Session Meeting of April 27, 2011.**

**Motion: Mr. Leasure moved to approve the April 13, 2011 Minutes as revised; Mr. Turney seconded; motion passed unanimously.**

**MINUTES OF THE  
REGULAR MEETING OF THE  
I.C.R. SANITARY DISTRICT  
May 11, 2011**

**Approved: 5/25/11**

**Motion: Mr. Leasure moved to approve the April 27, 2011 Minutes as revised; Mr. Turney seconded; motion passed unanimously.**

**Motion: Mr. Leasure moved to approve the April 27, 2011 Executive session Minutes as revised; Mr. Turney seconded; motion passed unanimously.**

**4. NEW BUSINESS**

**a. Financial Report by Wallace & Associates**

**(1) Review Applications for sewer hook ups in the District discussion and possible action**

Cheryl advised that there have been no new Applications for sewer hook ups since the last meeting.

**(2) Building permits in District discussion and possible action.**

The Board and Cheryl reviewed the building permit list.

Mr. Taylor stated that he got an e-mail from CivilTec regarding a property on Alcone, and they were requesting CivilTec's involvement with their sewage treatment device or pump device. Mr. Taylor responded to Rick Schrodes that our ordinance states that the District does not make any recommendations regarding onsite equipment and that it is the property owner's responsibility in every way.

Mr. Taylor advised that he got a notice regarding 6900 Almosta Ranch Road, Parcel No. 306-354-99, from Cathy Hodgkins, that "they have an approved alternate wastewater system and received a Certificate of Occupancy 1/19/11."

**b. Operator Report by aQuality Water**

**(1) Review operator report updates discussion and possible action.**

Pat Carpenter stated that the effluent pump is functioning correctly. He also advised that the No. 1 blower motor has a bad bearing and has been sent out for repair. He also advised that two new sewer connections were inspected on May 6: Lot 168 TRR and Lot 49 TRR. Pat stated that all required samplings were completed and they were all within permit parameters.

Mr. Taylor asked Pat Carpenter to verify that the discharge meter is in sync with the draw down from the effluent station.

***Action Item: Pat Carpenter to verify that the discharge meter is in sync with the draw down from the effluent station.***

**MINUTES OF THE  
REGULAR MEETING OF THE  
I.C.R. SANITARY DISTRICT  
May 11, 2011**

**Approved: 5/25/11**

**(2) Status of Warbonnet leak repair discussion and possible action.**

Pat stated that the Warbonnet leak was repaired last week. Pat advised that the crew doing the repairs informed him that there was a property owner, he guesses west of where the leak was, who came down and took pictures and gave the crew a hard time. Pat kept the piece of pipe, and that there was a crack on the valve where the fitting for the flushing mechanism goes on that looks like it was tightened up too much when first put on. Mr. Carpenter said that there was really no saturation in the dirt below the leak, which is probably why it surfaced occasionally and going back down. He said that it must have leached out very quickly. Apparently, it finally got a bunch of solids out of the pipe, so it wouldn't leach anymore.

**(3) Status of ICR ground water intrusion inspections discussion and possible action. – Tabled.**

**c. District insurance discussion and possible action.**

**(1) Update information received from Weber Insurance on previous insurance questions discussion and possible action.**

Mr. Leasure advised that the Board received answers from Weber Insurance on previous insurance questions. Mr. Taylor stated that Mr. Weber did not answer two of his questions, so Mr. Leasure will contact Mr. Weber for these answers.

*Action Item: Mr. Leasure will contact Mr. Weber for the answers to two of Mr. Taylor's insurance questions.*

**d. Status of District counter claim against developers discussion and possible action.**

Mr. Leasure advised that the Board will discuss this item with counsel in Executive Session.

**e. Review invoices from District counsel discussion and possible action.**

The Board reviewed the invoices from Sacks Tierney and Aspey Watkins.

**Motion: Mr. Leasure moved to pay the invoice from Sacks Tierney dated 4/21/11; Mr. Turney seconded; motion passed unanimously.**

**Motion: Mr. Leasure moved to pay the invoice from Aspey Watkins Diesel; Mr. Turney seconded; motion passed unanimously.**

**f. Settlement demand by Marvin Kaiser discussion and possible action.**

**MINUTES OF THE  
REGULAR MEETING OF THE  
I.C.R. SANITARY DISTRICT  
May 11, 2011**

**Approved: 5/25/11**

This item will be discussed in Executive Session.

**g. Litigation – Harvard, The Preserve and Whispering Canyon lawsuit against the District and its Board (Yavapai County Superior Court P1300CV201000036).**

**1. Under Advisement Ruling**

Mr. Watkins advised that under advisement means that the Court considered the motions they have received before making their ruling.

**2. Status of case and Order to Show Cause Hearing.**

Mr. Leasure stated that the Court hearing scheduled for today and tomorrow has been cancelled.

**h. Review Action Item List and Motion List discussion and possible action.**

The Board reviewed and revised the action item list and reviewed the motion list.

**5. OLD BUSINESS**

**a. Resolution No. 2010-01 Moratorium on Sewer Hookups and Conditions for Lifting Moratorium discussion and possible action - Tabled.**

**b. Litigation – Harvard, the Preserve and Whispering Canyon lawsuit against the District and its Board (Yavapai County Superior Court) Arizona Property Rights Protection Act; Special Action; Breach of the Covenant of Good Faith and Fair Dealing discussion and possible action – This will be discussed in Executive Session.**

**c. Notice of Claims Inscription Canyon Ranch, L.P. - This will be discussed in Executive Session.**

**d. Properties in violation of District hookup ordinance discussion and possible action. - This will be discussed in Executive Session.**

**6. Call to the Public:**

Harvey Roberts: It wasn't clear about what Mr. Watkins said. It was distributed --- the rulings that ended the moratorium and gave some other \_\_\_\_\_ --- is there still more items in that suit that are to be settled, or is that the end of that suit?

Gene Leasure: I can't answer that. I don't know if counsel wants to comment on that or not.

**MINUTES OF THE  
REGULAR MEETING OF THE  
I.C.R. SANITARY DISTRICT  
May 11, 2011**

**Approved: 5/25/11**

Dayne Taylor: He appears to be ready.

Mr. Watkins: I only want to comment if you want me to comment, Mr. Chairman.

Mr. Leasure: Yes, I think it's okay.

Mr. Watkins: It was a ruling on a claim on open meeting. It was not a ruling on the merits of the moratorium. It did dispose of, in my opinion, several of the issues, but there are still other pending issues that would be raised in that litigation. There will be forms of Orders entered, there will be discussions in regards to some of the outstanding allegations, but those are more procedural than substantive in this particular piece of litigation.

Mr. Roberts: Didn't the ruling say that the open meeting rule was violated so that the moratorium was invalid, and then also that even putting the moratorium on was not valid --- that the Board couldn't put a moratorium on?

Mr. Watkins: No, the ruling was strictly based upon the procedural requirements for notice and the distribution of Minutes when requested, so it was based upon the Arizona open meeting law. It didn't go into the merits of the moratorium.

Mr. Roberts: But they also --- I'm just thinking what I read --- that didn't they say that using the Arizona Dept. of Quality water usage or whatever the rules are --- the guidelines --- that was a valid point that the District can follow. Is that a point that was agreeable to them or been settled?

Mr. Watkins: There were actually two motions for summary judgment. There were cross-motions for summary judgment. What you're referring to is the ruling on the Defendants on the Board's motion for summary judgment, and yes, the Court granted the summary judgment for the Board that indicated that the Arizona Dept. of \_\_\_\_\_ (inaudible), and that was a peripheral point that was raised --- there were several points raised in the Defendants' motion for summary judgment, and there was a series of rulings. There were two separate rulings.

Mr. Roberts: But that was really the heart of the moratorium itself, was the fact that the District could not provide enough capacity. It seems to me that is the heart of the whole idea, the whole problem. They agreed to that, correct?

Mr. Watkins: The Court has not agreed, I think, as to the nature of --- the way you characterize --- the Court has agreed that ADEQ regulations can, in fact, be, or should be, the governing regulations. I read the Order in that fashion. It didn't go so far as to indicate the factual disputes that you've indicated --- whether there is or isn't capacity.

Mr. Roberts: How many hook ups did you just approve? You said that one of them has a septic system. I thought that in the past, you said that the District did not allow septic systems in the District. Is that your position?

**MINUTES OF THE  
REGULAR MEETING OF THE  
I.C.R. SANITARY DISTRICT  
May 11, 2011**

**Approved: 5/25/11**

Mr. Leasure: The District Ordinance does not allow alternative systems. The District Ordinance says you have to hook up. That's what the Ordinance says. And as far as how many new people hooked up . . .

Cheryl Ibbotson: Six. Six paid.

Mr. Leasure: . . . six. Any other questions?

Mr. Hilb: It seems to me that strategy and things like that should be in Executive session, but certainly, doesn't the public have the right to know what the liability is for all the lawsuits that are going on and the potential costs for these lawsuits? I haven't seen anything about that, and that seems to be critical to the public to know that. What is your justification for not --- as I said, I understand what your justification is for not wanting to reveal your strategy, but the total picture should be something the public should know about.

Mr. Leasure: That's not on the agenda, so we can't answer that question. Doug, you had a question?

Mr. Nelson: Yes, referring back your agenda item 4(g), it's actually 1 and 2, under (g), regarding the Harvard litigation. What I would like to know from Charlie is if you would describe what's happened since the District received notice about the rulings in respect to the website regarding the ruling and hookups.

Mr. Turney: There are two announcements on the website since the ruling has taken place, which are available for all to read. Basically, it explains the ruling and the way we understand it. If you haven't read those, you probably should because it clarifies where we're standing and where we're at. They are under announcements. Other than that, the website itself is having minimal changes yet due to the way they date things. When something is listed on the website, it's dated anytime it's posted. If it's updated, the posting date goes away and the updated date goes in. So there might be a few things that might have a clerical error on it, but rather than move them around or change them, for clarification in case it's needed for the Court, it's left with the date that's there. It's not modified. Does that answer your question, Doug?

Mr. Nelson: Thank you, Charlie.

Mr. Hilb: A follow up to my last question. Certainly the budget is on the agenda, so are you saying that all of these actions are going to stay within budget and we are within the budget on all those items?

Mr. Leasure: The budget is not on this agenda.

Mr. Hilb: There is a financial report on the agenda.

Mr. Leasure: The financial report by Wallace & Assoc. are not applicable to the budget. They're sewer hookups and building permits. We get our budget --- financial documents --- at the fourth Wednesday of the month. Any other questions?

**7. Announcements – None.**

**MINUTES OF THE  
REGULAR MEETING OF THE  
I.C.R. SANITARY DISTRICT  
May 11, 2011**

**Approved: 5/25/11**

**Motion: Mr. Leasure moved that the Board recess to Executive Session; Mr. Taylor seconded; motion passed unanimously.**

Meeting recessed at 10:07 a.m. to go into Executive session.

The regular session reconvened at 1:06 p.m.

**8. Adjourn Meeting**

**Motion: Mr. Leasure moved to adjourn the regular session; Mr. Turney seconded; motion passed unanimously.**

Meeting adjourned at 1:07 p.m.