

INSCRIPTION CANYON RANCH SANITARY DISTRICT

P.O. Box 215 Chino Valley, AZ 86323

~ PUBLIC SESSION MINUTES ~

July 2, 2019

revised July 8, 2019

Date: Tuesday, July 2, 2019

Time: 1:00 p.m.

Place: The meeting was held at the Granite Peak Unitarian Universalist Congregation, 882 Sunset Avenue in Prescott, AZ

1. CALL TO ORDER.

The Governing Board for the Inscription Canyon Ranch Sanitary District convened the Call to Order at 1:02 p.m.

2. ROLL CALL OF BOARD MEMBERS.

Present were: Bob Hilb, Acting Board Chairman; Al Poskanzer, Board Member; Robert Busch, District Manager; Bill Whittington, Legal Counsel; and Jeannine Yeager, Clerk.

Members of the Public: E. M. Zimmerman, John Terwilliger, Jerry DeSantis, Derrick Scott, Jeanette Summers, Eileen McGowan, Dean Humphrey, Ray Damesek, Chris Stoner, Jimmy Stoner, Brian Ray, Mark Arnold, Bob Agnew, Sally Agnew, Bob Frisch, Terri Kiffer, Virginia Brubaker, Richard Brubaker, Barb Hilb, Tim Emberlin, and Rick Shroads.

A. Select Temporary Board Chairman

Mr. Poskanzer made a motion to nominate Mr. Hilb for the position of Temporary Board Chairman and Mr. Hilb seconded the motion. Mr. Hilb asked if there were any questions and then Mr. Hilb stated "aye" and Mr. Poskanzer stated "aye" and the motion passed unanimously. Then Mr. Hilb made a motion to go into Executive Session for consultation with Mr. Whittington on item 3A and 3C. Mr. Poskanzer seconded the motion and both Mr. Hilb and Mr. Poskanzer voted "aye". Public Session adjourned at 1:04pm to go into Executive Session.

RECONVENED BACK INTO PUBLIC SESSION AT 1:16pm

3. SPECIAL REPORTS AND POSSIBLE ACTION

A. Possible action to fill vacant position on the Board of Directors.

Mr. Hilb stated that they had two candidates to the open Board Member position, Jerry DeSantis and Kirk Leopold and Mr. Hilb made a motion to confirm Kirk Leopold to the open position, Mr. Poskanzer seconded the motion. Mr. Hilb asked if there was any discussion and Eileen McGowan asked if the public could know how the Board had made their decision

between the two candidates. Mr. Hilb stated that Mr. Leopold had more experience in the construction industry and helped to build the sewer plant. Mr. Poskanzer seconded the motion and both Board Members stated “aye” and the motion was passed. The question was asked if Mr. Leopold was here in the audience today and Mr. Hilb said that he was not here and that a lot of people are on vacation at this time.

B. Possible action to select officers.

Mr. Hilb stated that for the past few years the election of officers has not been legal because it is supposed to be done during a regular meeting and that the Board has not had “regular” meetings for many years. So at this time, the Board is following the appropriate process and the bylaws. Mr. Poskanzer made a motion to make Mr. Hilb the Chairman of the Board of Directors. Mr. Hilb seconded the motion and asked if there was any discussion. There was no discussion and Mr. Hilb and Mr. Poskanzer both stated “aye” and the motion passed unanimously. Mr. Hilb made a motion to appoint Mr. Poskanzer as Clerk for the Board. Mr. Poskanzer seconded the motion. Both Mr. Hilb and Mr. Poskanzer stated “aye” to that motion, which passed unanimously.

C. Status and Review of Civiltec Engineering plans.

- a) Review of process for soliciting and accepting bids and approval to publish notice of intent to accept bids for construction of improvements related to the wastewater treatment expansion. *Mr. Hilb called on Mr. Rick Shroads to bring everyone up to date. Mr. Shroads stated that the 100% plans were done and he would give a copy to Mr. Busch. Mr. Shroads stated that the specifications were basically done but they were working on lightening them up a little bit and also that the cost estimate for closure of the plant is finished. Mr. Shroads stated that he could send all of the information to ADEQ today, as soon as he receives the blessing from the Board to do so and that everything is ready to go.*

Mr. Poskanzer asked if he could have the floor and Mr. Hilb stated that he could. Mr. Poskanzer stated that he realized that they needed to expand the plant but he would like to see the data of the actual capacity of the current plant and some correlation of the data would be in order.

Mr. Poskanzer asked for the growth rate, the actual daily flows and the quality of water correlated with the daily flows to be looked at for comparison data. He asked if anyone had done any graphs on these correlations. Mr. Shroads stated that they had done their process calculations but that it is very difficult to meet the ADEQ standards. Mr. Derrick Scott, Plant Operator, stated that per ADEQ standards, he only samples once a month so one sample out of 30 days is not correct and does not meet the standard. He offered to let the Board see the daily logs for the plant and Mr. Scott stated that the data was “wobbling pretty bad”. Mr. Scott stated that the plant will not perform 62,500 gallons per day and if

he is only doing one sample every 30 days then they are out of compliance and it is very necessary to expand the plant.

Mr. Hilb asked if Mr. Scott was taking a reading every day as the previous Board had instructed him to do. Mr. Scott stated that he was doing readings every day but that they are “field tests” not laboratory tests. Mr. Scott stated that if they wanted him to run the samples through laboratory tests every day, then the Board is welcome to do that. Mr. Busch stated that Mr. Scott was instructed at an earlier meeting to only send samples to the lab on days where the flow was over 60K/day and that they have not had one of those days for a while. Mr. Scott stated that they had one on Monday, July 1st and he did send those samples in yesterday.

Discussion ensued regarding the data and comparisons of the actual daily quality verses the daily flows and Mr. Hilb asked Mr. Poskanzer and Mr. Scott to discuss this together outside of the meeting.

- b) Approval to submit application for amendment to Aquifer Protection Permit.

Mr. Shroads stated that he was just waiting for the okay from the Board to release the job for the bidding process and he could give the information to Mr. Busch. Mr. Hilb made a motion to instruct Mr. Shroads to send to ADEQ, the application for amendment to the Aquifer Protection Permit and Mr. Poskanzer seconded the motion. Mr. Busch asked if Mr. Shroads needed anything else to submit the paperwork and Mr. Shroads stated that they just needed a letter regarding the closure cost and also the submittal fees. Mr. Hilb and Mr. Poskanzer both stated “aye” and the motion passed.

Mr. Hilb asked if they wanted to go over the process for posting bids for the project and Mr. Busch stated that they had to post it in the newspaper with a description and a deadline for the bid. Mr. Whittington stated that it had to be posted twice and not less than 6 and not more than 10 days in between each posting.

A discussion ensued regarding the meeting dates when the discussion of the bids will take place and that the whole process will take around 4-6 weeks which makes the next meeting around the middle of August. Mr. Whittington brought up that the bidding forms in the packet had many blanks in them that need to be filled in before giving them to bidders. Mr. Hilb made a motion to have Mr. Busch complete the forms and determine suggested dates for meetings and run it by the Board Chairman for approval and then proceed with the process. Mr. Poskanzer seconded the motion and then Mr. Hilb and Mr. Poskanzer both stated “aye” and the motion was passed.

- c) Approval of closure strategy and plant closure cost estimate required by ADEQ in the application for an amendment to the Aquifer Protection Permit.

Mr. Busch directed the Board to the packet and stated that \$236,000 was the bottom line for the plant closure cost estimate. The Board discussed the closure costs for the

plant which is required by ADEQ. Mr. Poskanzer asked about the costs for closing the plant and Mr. Busch stated that they did not have to have the money in their accounts to do it but they just had to give ADEQ a plan for whenever they did have to close the plant in the future. Mr. Hilb made a motion to approve the letter to be sent to ADEQ regarding the closure of the plant in the future. Mr. Poskanzer seconded the motion. Mr. Hilb and Mr. Poskanzer both stated "aye" and the motion passed.

4. REPORTS

Mr. Busch stated that they just got the data in for the June flows through the plant. There was 1,574,497 gallons in June which averages 52,483 gallons per day. There were no days in June over 60,000 gallons but some days came very close. There were no samples sent to the lab for the month of June. On July 1st the flow rate was 64,900 gallons, there was a sample sent to the lab for yesterday. Mr. Busch stated that there was a repair to the collection system. There was a broken flush valve at the cul-de-sac on Chancella in Whispering Canyon and the cost of that repair was \$3296. Mr. Busch did a cost analysis of the attorney's fees since June 1st and the Board has received \$42,029 in billing and that the bulk of those fees are for the contested seat on the Board. Mr. Busch stated that he had the breakdown from the attorneys if the Board wanted it.

Mr. Busch stated that he also has arranged to transfer funds from the Restricted fund at the County to the Unrestricted fund at the County to cover the Capital Improvement costs that the District has incurred recently. \$17,754 is the engineering cost, there is a \$24,331 invoice from Enviro Tech for the completion of the Phase 1 improvements at the plant, and \$1230 for the attorneys that are associated with Capital Improvement costs.

Mr. Busch received a quote from Santec Corporation for a clarifier which would be used in connection with the upgrade of the plant and the quote was \$63,000 which includes 30% down (\$18,900) but does not include transportation charges or taxes. The delivery for this item would take approximately 10 weeks.. Mr. Hilb asked what the estimate was from Civiltec. Mr. Busch responded that Civiltec's estimate was \$93,000 installed.

Mr. Busch stated that he had spent quite a few hours for the past few weeks doing an audit of the information of the property owners of the District and there were about 150 corrections that need to be made in the data base and this needs to be done if the Board decides to implement users fee. Mr. Busch has requested an estimate from MDI regarding updating the records by August 1st. The Phase 1 Improvement costs are \$176,332 and half of that is billed to the developers. \$13,000 is left from the \$150,000 that the developers were to contribute to the upgrade of the plant. Check signing is scheduled for the next three months and Mr. Busch asked if Mr. Poskanzer would be available on July 10th for that but Mr. Poskanzer stated that he would be on a plane that

day. Mr. Hilb asked if there were any questions for Mr. Busch. Mr. Jimmy Stoner asked Mr. Busch to repeat the costs for the improvements. Mr. Busch repeated the costs.

5. CONSENT AGENDA

Mr. Poskanzer made a motion to approve the Consent Agenda and Mr. Hilb seconded the motion. Both members stated “aye”.

6. POSSIBLE VOTE TO GO INTO EXECUTIVE SESSION

Mr. Hilb read the agenda items and then made a motion to go into a second Executive Session. Mr. Poskanzer seconded the motion and both members stated “aye”. Public session adjourned at 1:50pm

RECONVENE INTO PUBLIC SESSION AT 2:32PM

Mr. Hilb reconvened into Public Session. Mr. Busch was redirected back to item 4 on the agenda and he stated that there were a few things in the Reports that he wanted to discuss. There was a discussion about historical flows and linear projection regarding the average daily flows and the 645 homes that they currently have with projections of more homes in the future. Mr. Poskanzer stated that he felt that the projection of 27 houses per year was not enough.

Mr. Busch also stated that he had handed out something during the Executive Session regarding the expansion of the plant and the issue of time and money. Mr. Hilb stated that they would have a meeting with Civiltec to discuss with them about have a lot more homes per year. Evelyn Zimmerman asked if this would be discussed in a public meeting. Mr. Hilb stated that the meeting with ADEQ would not be a public meeting.

7. CALL TO THE PUBLIC

Mr. Hilb stated that those who wished to speak would be allowed to talk for two minutes. Then he called on Mr. Mark Arnold. Mr. Arnold read the following statement:

“Mr. Hilb and Mr. Poskanzer, in order to assure your board positions, it appears that you have adopted a stance that directly contradicts the opinion of the Sanitary District’s own legal counsel and the Yavapai County Attorney’s office, as both have indicated Mr. Poskanzer’s actions rendered him ineligible to serve on the ICRSD Board. Instead you have relied on conflicting, unadjudicated opinions of two members of the State Attorney General’s office in order to advance the interests of a board of unelected members counter to the interests of the residents you have pledged to serve. Relying on the Arizona Attorney General’s unadjudicated opinions brings the legitimacy of the board into question and clouds all decisions this board makes. Also, your actions may place personal

liability and possible legal jeopardy on you both and on any person you appoint to serve on this board. Therefore, it becomes incumbent on both of you, this Board, to inform any person or business you deal with of the risks they face. Thank you.”

Then Mr. Hilb called on Jimmy Stoner who stated that he had three statements that he wanted to make which are as follows:

“We believe the 6/7/2019 sanitary meeting was improperly called by a single member, Mr. Hilb. No other Board member was present. There was no quorum which is required to hold a Board meeting. (Note: Only 2 Board members existed immediately after adjournment of the 6/4/2019 Board meeting following David Barreira submitting his resignation from the Board). The draft minutes of the 6/7/2019 meeting have excluded significant discussion and comments made in the meeting. Public comments are not accurately or adequately included. We believe many deviations from the Sanitary District Ordinances have, and are, occurring. We recommend you promptly correct these and conform to the Ordinances. Thank you”

Then Mr. Hilb called on Mr. Dean Humphrey to speak.

Mr. Humphrey stated that on the June 7th meeting minutes that he had made comments and also sent in comments via the District website that he wanted clarification on as long as they could be part of the minutes for the last meeting. Mr. Humphrey also wanted to get some more information about Mr. Leopold and that he, Mr. Humphrey, was very frustrated. He also stated that it appears that the Board is very influenced by Developers. Mr. Humphrey stated that when he bought his residence he was told he was paying for the sewer system and now it appears that he is also paying for the sewer system for people who are not even here yet, like from California or whatever state they might come from. Mr. Humphrey thanked the Board.

Mr. Hilb asked Mr. Whittington if the Board could address the minutes issue since it is on the Consent Agenda since he allowed two other people to read their statements at today’s meeting and could they go back and add an appendix to the minutes for the June 7th meeting. Mr. Whittington stated that they could reopen the approval of the minutes from June 7th from the Consent Agenda. Mr. Hilb stated that he wanted to reopen the minutes for the June 7th meeting and put Mr. Humphrey’s comments into those minutes. Mr. Hilb made a motion to do this and Mr. Poskanzer seconded the motion and both stated “aye”. Mr. Whittington stated that they could go back in and correct the minutes but they could not add Mr. Humphrey’s statement to the previous minutes or they could add Mr. Humphrey’s comments about the June 7th minutes into today’s minutes. Mr. Busch stated that Mr. Humphrey wanted his statements from June 7th added into the minutes of June 7th and Mr. Whittington stated that they could not do that. Mr. Whittington stated that

they could only add Mr. Humphrey's comments into today's minutes. Mr. Humphrey stated that what was quoted in the minutes was correct but that he explained his context in his letter to the Board. Mr. Whittington apologized that he could only make the statements in today's minutes. Mr. Whittington recommended to the Board that they withdraw their motion and put this discussion on a future agenda.

8. OLD BUSINESS

A. Setting a date and time for future ICRSD Board Meeting(s).

Mr. Hilb stated that the Board has decided that the first Tuesday of a quarter will be the regular scheduled meeting date and time, at 1:00 pm, and they will still have Special Meetings as needed. Mr. Hilb made a motion for having the regular meetings on the first Tuesday of the quarter at 1:00 pm and location to be announced. Mr. Poskanzer seconded the motion and both stated "aye" and the motion passed.

B. Communications with insurance company re: possible involvement in settlement efforts with Talking Rocking Land, LLC; appointment of Board negotiator, status of Appeal of Court Ruling.

Mr. Hilb stated that the update on the appeal with the Appellate Court was sent in today and they needed to appoint a Board negotiator. Mr. Poskanzer made a motion to appoint Mr. Hilb to the negotiator position with the proviso that at any point in time, if necessary, the Board can hire an outside negotiator. Mr. Hilb seconded the motion. Evelyn Zimmerman asked what the cost would be and Mr. Hilb stated that if they needed to hire an outside negotiator then they would have to have a discussion and go through the process of that. Both Mr. Hilb and Mr. Poskanzer voted "aye" on the motion which passed..

C. Updating of newsletters.

Mr. Hilb stated that the newsletters that were on the website were not what the Board had wanted so he made a motion to remove the newsletters and move the Attorney General's documents up to the news section and put the newsletters in the newsletters section. Mr. Hilb asked Mr. Whittington if they could say that this was the recommendation of the Insurance Company attorneys and Mr. Whittington stated that they could not say that. Jeanette Summers stated that on the website there is a section for the newsletters to be updated and she requested that when they did update the newsletters, could they put the date that the update was submitted so the public doesn't have to search through everything to find something. Mr. Hilb and Mr. Poskanzer both stated "aye" and the motion passed.

D. Possible termination of Bob Lynch's 2011 engagement and request for withdrawal from litigation

Mr. Hilb made a motion to terminate Mr. Bob Lynch's 2011 engagement and request him to withdraw from the litigation. Mr. Poskanzer seconded the motion. Mr. Poskanzer stated that the termination should be from the date of his termination letter and that anything up to that date should be considered attorney/client privilege. Mr. Whittington

stated that they could not bring up the issue of the attorney/client privilege because it was not on today's agenda and that would have to be on a different meeting. Mr. Hilb asked he could amend the motion to add the termination date of June 7th. Ms. McGowan asked what was the reason for the board terminating Mr. Lynch and if he doesn't accept the termination, then what will happen. Mr. Hilb stated that Mr. Lynch has already accepted the termination in a letter to the Board. Ms. McGowan asked why he was being terminated and Mr. Hilb stated that it gets into Executive Session information and he would not tell the Public why Mr. Lynch was being terminated. Ms. Zimmerman stated that she was at the Board meeting where Mr. Lynch was terminated and that there was only one Board Member and another person who was appointed even though it is still in litigation as to whether or not he is even supposed to be on the Board. So she asked how that could be a legal decision. Mr. Hilb stated that he would not go into it. He asked for the vote and Mr. Hilb voted "aye" and Mr. Poskanzer voted nay. Mr. Hilb asked if Mr. Poskanzer wanted to make another motion.

Mr. Poskanzer asked that Mr. Lynch's engagement be terminated as of the date of his letter to the Board. Mr. Hilb made a motion to terminate Mr. Lynch's engagement as of the 7th of June and that he be requested to withdrawal from the litigation. Mr. Poskanzer wanted to know as to what date for the withdrawal from the litigation and Mr. Whittington explained that the Board cannot make that decision and that has to come from the Judge in the litigation. Mr. Hilb made a motion that Bob Lynch's 2011 engagement letter be terminated on June 7, 2019 and that he be directed to withdrawal from the litigation when the Judge orders it. Mr. Poskanzer seconded the motion. Mr. Poskanzer and Mr. Hilb both stated "aye" and the motion passed.

E. Possible motion to accept David Barreira's resignation.

Mr. Hilb stated that the Board accepted Mr. Barreira's resignation and would have voted on it at the last meeting. Mr. Hilb made a motion for the Board to accept Mr. Barreira's resignation on the date of his resignation which was June 4th. Mr. Poskanzer seconded the motion and both board members stated "aye".

9. NEW BUSINESS

Mr. Whittington requested that he be able to leave because he had another client.

A. Approval of financial reports for May 2019.

Mr. Busch gave the financial reports for May 2019. He stated that there were higher bills for repairs and maintenance and attorney's fees. The balance sheet does not reflect some receivables that are due from developers and there is about \$6000 that still needs to be put on the books. Mr. Poskanzer made a motion to accept the financial report for May 2019 and Mr. Hilb seconded and both members stated "aye".

- B. Change Order to the Civiltec engineering contract for design of improvements to the wastewater treatment plant.

Regarding the change order to the Civiltec engineering contract there is nothing new to report on that.

- C. Authorized signers of ICRSD warrants and notification to Yavapai County.

Mr. Busch stated that he had a letter from Yavapai County requesting who the authorized signers were and that he just needed the Board members to sign the letter so he could notify the County of who the Board members are and Mr. Busch stated that he would have to get Mr. Leopold's signature also. Mr. Hilb made a motion that the board members sign the letter for the warrants and notifications for the County and for the District Manager to forward the letter to the County once he had received all of the signatures. Mr. Poskanzer seconded the motion and they both stated "aye".

- D. Standby generator annual service agreement; 15075 Talking Rock Ranch Rd. & 14000 Grey Bears Trl.

Mr. Busch stated that he had gotten two proposals for the service agreement for the standby generators. Cummins proposed \$5140 for the annual service with one visit with service work and a second visit with a load test. Empire Cat gave a proposal of \$2600 with the same services. Mr. Busch recommended that they stay with Empire Cat. Mr. Poskanzer made a motion to stay with Empire Cat and that Mr. Busch can sign the new service agreement. Mr. Hilb seconded the motion and both stated "aye".

Meeting was adjourned at 3:11pm

Board Clerk

Date