

INSCRIPTION CANYON RANCH SANITARY DISTRICT

P.O. Box 215 Chino Valley, AZ 86323

~ PUBLIC SESSION MINUTES ~

November 2, 2018

Approved November 27, 2018

Date: Friday, November 2, 2018

Time: 1:05 p.m.

Place: The meeting was held at the Days Inn, 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 1:05 p.m.

2. ROLL CALL.

Present were: David Barreira, Board Chairman; Al Poskanzer, Board Member; Bill Dickrell, Board Member; Robert Busch, District Manager; Stephen Polk, Legal Counsel and Jeannine Yeager, Clerk. Attending telephonically was Bob Hilb, future Board Member.

Members of the Public: Linda Damesek, Ray Damesek, Tim Emberlin, Alan Cocherell, Roy Kneale, Derrill Fulkerson, Clint Poteet, Suzanne Terwilliger, Brian Ray, Bob Summers, Jeanette Summers, Dean Humphrey, Dick Brubaker, Virginia Brubaker, Jim Cooper, Bob Fresch, Lee Marshall, Jan Marshall, Lynda Davidson, Bob Davidson, Gwen Coad, Fred Kemp, Terry Horne and Eileen McGowan.

3. CALL TO THE PUBLIC.

Mr. Barreira reminded the public to fill out a "Request to Speak" paper if they wanted to speak or ask questions of the Board. Mr. Barreira also reminded the public that they would have 3 minutes to speak and that there were microphones available at the front table for people to use so that everyone could hear them. Mr. Barreira mentioned that Mr. Busch would be timing the speakers.

Mr. Barreira stated the first item on the agenda would be a review of the 2018-2019 Budget and an overview of the reason for the budget increase resulting in a property tax increase. Mr. Barreira stated that he would read the report. Mr. Barreira read that the District posted in the local newspaper, on the District website and at the meeting location that there would be a budget hearing about rates and fees on June 21, 2018 and the proposed budget rates and fees were discussed at that meeting. The proposed budget rates and fees were approved at a Publicly Noticed Meeting on August 1, 2018. As of June 21, 2018, which was the date of the public hearing, the District had already incurred litigation costs of \$75,000. That was not the end of the Fiscal year so we still had fees that were still coming in. The approved budget for the upcoming fiscal year included \$150,000 for the anticipated future litigation cost. So that was the primary reason for the increase in the District budget that caused the change in the tax rate. As of October 30, 2018, the District had already incurred \$63,300 in litigation costs so in one

quarter we have spent nearly half of what we have budgeted in representing the District in legal proceedings.

Mr. Busch stated that an extra \$12,000 was spent in the end of October.

Mr. Barreira stated that in one quarter the District has spent \$75,000 and that they still have two actions that have not been resolved in the court. Mr. Barreira deferred to Mr. Busch for the next agenda item, Report from District Manger.

Mr. Busch reported regarding the District operations. Mr. Busch reported the daily flows through the plant for September and October. For September, it was 1,570,000 gallons of effluent with an average of 52,353 gallons per day with two days of over 60,000. That was September 3, 2018 with 67,800 gallons and then on September 5th with 62,800 gallons. The October readings were 1,632,700 gallons with an average of 52,604 per day. There were two days where that were over 60,000 gallons: October 9th at 66,500 gallons and October 16th with 63,900 gallons. The District has 622 connections to the system with 12 pending.

Mr. Busch stated that the Phase I additions at the treatment plant added a new air conditioner and replaced the old generator. The air conditioning work is complete. The new generator is in place and old generator has been relocated. The District has been waiting several weeks for APS to connect to the new service panel so the new generator can be fired up old one disconnected. The total expected cost is \$175,000 and fifty percent of that is qualified for reimbursement. We also had a leak a week or so ago in the Preserve. The air relief valves, the ARVs, that were installed were all metal and they have apparently corroded and resulted in flooding in the ARV.

At the last meeting Mr. Busch reported that he might have to move unrestricted money to the general fund to pay expenses until the tax revenues come in, but as of a few days ago that looks like it won't be necessary because we have received over \$100,000 in ad valorem taxes. The contract that was signed with Civil Tech for upgrading the plant is just getting started and there is a meeting scheduled for November 13th.

Mr. Poskanzer asked about the status of the Phase I improvements to the plant because he had trouble hearing Mr. Busch and Mr. Busch stated that the improvements are 90% completed and talked about the new air conditioner and the new generator.

Mr. Barreira stated that he would skip item number 4, Consent Agenda, and go to the Call to the Public. Mr. Barreira stated that anyone wishing to speak should fill out the Request to Speak form and Mr. Barreira would call on them individually and Mr. Busch would keep the time. Mr. Barreira called on Mr. Brian Ray to speak. Mr. Ray requested that he defer to others and would like to speak last, in case his questions were answered by others.

Mr. Barreira called on Mr. Dean Humphrey to speak.

Mr. Humphrey asked if his voice was loud enough to not use the microphone. Mr. Barreira asked if the people on the phone could hear Mr. Humphrey and Mr. Hilb stated he could hear Mr. Humphrey. Mr. Humphrey asked who was on the phone and Mr. Barreira stated that Bob Hilb was on the phone.

Mr. Humphrey spoke about the calendar and said that last year there were 8 meetings in 2017 and this year, so far, there had been 21 meetings in 2018. Mr. Humphrey stated that they might be meeting the letter of the law by posting a meeting every month on the same day and time. Mr. Humphrey suggested a meeting once a month on the third Thursday of the month. Mr. Humphrey stated that there could be extra meetings, if necessary, but if the posting is only 24 hours ahead, it doesn't give people time to plan to attend the meetings. He also stated that he had no problem with Mr. Hilb, the newest Board member, but that the announcement for a new Board member position should be more public, since he felt that there was not much notice about the open position. Mr. Humphrey also investigated the anniversary dates of the Board members and found no information on the website stating such and he would like that to be added to the website so that the public could know when there might be an open position coming up.

Mr. Barreira stated that the next speaker was Darrel Fulkerson.

Mr. Fulkerson requested an explanation regarding the 63% increase in the property tax bills and how did the Board come up with that amount. Mr. Fulkerson stated that he thought the increase should have been a more reasonable 10-20% and he also asked if, after the attorney's fees were paid, would their tax bill decrease in respect to the legal fees that were being paid. Mr. Fulkerson stated that his tax bill had an increase of over \$600 and he felt that the large increase in the tax bill was outrageous.

Mr. Barreira spoke with Mr. Polk, legal counsel, and then stated that the Board had looked at what they had spent in the previous fiscal year and they did an estimate of what they might be spending this year for legal fees in the next fiscal year. They felt that was on the low end. Then the budget is sent to the County and the County determines what the tax rates will be based on the District's Budget plan. The District does not determine the tax rates. That is done by the County which determines the tax rates per individual property and the Board has to make sure there is enough money in the budget to keep the District going because if there isn't enough money in the District, then there is a problem.

Mr. Fulkerson asked if, once the attorney's fees were paid, would he get a refund on his taxes or will it stay on his taxes forever?

Mr. Barreira stated that Mr. Fulkerson would not get a refund of his taxes, but next year when the District does the budget estimates and submits them to the County, and if there are less legal fees to be paid, then the taxes will reflect that and the County will estimate the taxes for everyone based on the lower budget estimates.

Mr. Barreira then called on Allen Cocherell.

Mr. Cocherell stated that under Arizona Statute 48 Title 2010, regarding qualifications of the Board of Directors, sentence 2, "Members of the board of directors shall be qualified electors of the district." Mr. Cocherell stated that Mr. Poskanzer is not a registered voter in this district and therefore Mr. Cocherell feels that Mr. Pozkanzer does not have the right to vote on anything for the District and that any past votes should be considered invalid due to Mr. Poskanzer not being legally a member of the District. Mr. Cocherell would like the Board to address this issue.

Mr. Barreira stated that Mr. Poskanzer changed his voter registration on a date after the last Board meeting and that he has not voted on anything since he changed his voter registration to Prescott Valley. As far as Mr. Poskanzer being a qualified Board Member, Mr. Barreira stated that he would be addressing that after the Call to Public has ended and the regular session of the Board Meeting is in progress.

Mr. Poskanzer showed Mr. Cocherell and the rest of the public, a current voter registration showing Mr. Poskanzer is registered within the District. Mr. Cocherell asked why this did not show up in the Voter Registration rolls and Mr. Poskanzer stated that this was done very recently. Mr. Cocherell asked Mr. Poskanzer how long he has been outside of the District and Mr. Poskanzer replied that he had been outside of the district for three weeks. Mr. Poskanzer offered to show Mr. Cocherell his current voter registration card and Mr. Cocherell refused. Mr. Cocherell stated that they had gone to the Registrar's office last week and checked and Mr. Poskanzer was not on the District rolls. Mr. Poskanzer stated that was correct, but as of today, Mr. Poskanzer is on the voter registration rolls for the District. And Mr. Poskanzer again offered to show his voter registration to Mr. Cocherell.

Mr. Cocherell asked if Mr. Poskanzer was going to submit his registration or if it was something that had already been recorded. Mr. Poskanzer stated that it has already been recorded. A member of the audience asked at what address was Mr. Poskanzer's registration. Mr. Poskanzer stated that it was at his personal address which is 14775 N. Agave Meadows Way, Prescott, AZ which is in Talking Rock.

Mr. Cocherell asked why Mr. Poskanzer did not make it public in a meeting that he would be leaving the District for a period of time. Mr. Poskanzer stated that there were events and facts that the public was not aware of and Mr. Poskanzer stated that it was on the agenda and that when that item came up, Mr. Poskanzer would be happy to explain the circumstances of that move. Mr. Cocherell asked if that was because he had figured it out or because Mr. Poskanzer wanted to "come clean" before that. Mr. Poskanzer asked Mr. Cocherell what prompted him to investigate this issue with the voter registration rolls. Mr. Cocherell stated that it was in preparation for a recall election.

Another member of the public started speaking and Mr. Barreira requested that they fill out a form to speak and that they state their name for the record. The speaker stated that his name was Ray Damesek.

Mr. Damesek asked if Mr. Poskanzer was receiving mail at the address on his voter registration and Mr. Poskanzer replied that yes, he was receiving mail at that address.

Then Jeanette Summers asked what the date was on Mr. Poskanzer's voter registration and Mr. Poskanzer replied that the date was today, November 2, 2018.

Mr. Barreira called the next speaker, Eileen McGowen. Ms. McGowen had a question on a previous recall and the number of directors on the board. She stated that they did the recall and that they still only have three directors and she would like to know why they don't have five directors for the five districts. Ms. McGowen feels that there are more than enough people to be represented by two more directors. She feels that the district should not be so one sided and that there should be more directors from other districts and not just Talking Rock.

Mr. Barreira thanked Ms. McGowen for her comments and called the next speaker, Clint Poteet.

Mr. Poteet asked Mr. Barreira if he was going to sign his Capacity of Assurance form right now. Mr. Barreira stated that he would not be doing that today. Mr. Barreira asked Mr. Poteet if he had applied to the County yet and Mr. Poteet stated that the County would not accept their application without the Capacity of Assurance form. Mr. Barreira stated that per their agreement, the form had to be submitted to the County first. Mr. Poteet stated that the agreement could not be submitted without a Capacity of Assurance form and then he asked Mr. Barreira who he spoke with at the County because Mr. Poteet spoke with the Director, not just a secretary. Mr. Poteet read a statement that said that the “District’s refusal to timely issue its approval to reduce density of Phase 13 from 32 lots to 21 lots is causing a delay and constituting our memorandum and our council will be contacting you”. Mr. Poteet addressed the public and stated that because of the refusal of the Board to sign the paperwork for Sterling Ranch has caused litigation between the Board and the attorneys for Sterling Ranch at a cost of \$400,000 and that is the reason everyone’s taxes have increased. Mr. Poteet exited the meeting.

Mr. Barreira said that the last to speak was Brian Ray.

Mr. Ray stated that he has been a resident here since 2007 and that he feels that he is in a time machine and that there is still a lot of dickering and that they can’t seem to get the facts straight. He stated that the public should “know their history, least they repeat it.”

Mr. Barreira asked if there were any more members of the public who wished to speak.

Mr. Jim Cooper spoke and stated that he was a member of Inscription Canyon and asked if everyone could hear him. Mr. Barreira asked if Bob Hilb, on the phone, could hear Mr. Cooper. Mr. Hilb responded that he could hear Mr. Cooper. Mr. Cooper asked if it would be out of order to discuss the statement from Mr. Poteet regarding the \$400,000 spent in legal fees by the District.

Mr. Barreira stated that the Board is in litigation for that issue and that the Judge would be issuing his decision in mid-November and that the cause of that litigation was that they filed an Order to Show Cause. The board did not sign the Capacity of Assurance. They have to file with the County to build a new Phase and then the Board has to fill out Capacity of Assurance forms where the Board has to sign the forms under penalty of perjury, fine and imprisonment. Typically the Board Chairman signs the forms.

Mr. Barreira stated that when they submitted their application to the County, then the Board’s engineer has to review the forms and make sure that they are correct. But when they submitted their forms to the County, the County rejected their numbers. So the Board did not sign the Capacity of Assurance and then Sterling Ranch requested that the County accept their forms. The attorney for the District said that the Board would not sign the Capacity of Assurance forms because the County rejected the application from Sterling Ranch because the County did not agree with their calculations and they had not submitted new forms with the corrected calculations. So the judge ordered Sterling Ranch to give the County the corrected forms and he ordered the Board to give the information to their engineers to go over and approve the new calculations. This was in June, and they did what the judge ordered them to do and the Board did what the judge ordered them to do and that when the engineers for the board reviewed the

documents and signed off on them and then the Board signed off on them and Mr. Busch hand delivered the forms to the County. The Board has asked the judge to dismiss the case and when they went to the next to the last hearing, the attorneys for Sterling Ranch said that they wanted to modify their complaint to include attorney's fees. The judge was ready to dismiss the case and he gave Sterling Ranch 30 days to file. They have filed and the Board's attorneys have responded and they are now waiting for a decision on that case. In the meantime, Sterling Ranch filed a \$5 million lawsuit stating that the Board hindered the sale of their properties, even though they are selling their properties and getting deposits. According to the agreement, the members will go to mediation and arbitration before any legal action and those steps were skipped over and Sterling Ranch went directly to legal action. So that is in contention and that is why the Board has put \$150,000 into the budget.

Ms. McGowen stated "kudos" to the Board for standing their ground.

Mr. Barreira asked Bob Hilb, on the phone, if he had any questions. No response.

Mr. Barreira recognized Jan Marshall who asked Mr. Poskanzer if he was still residing in the Prescott Valley area. Mr. Poskanzer stated that he was in a rental. Mr. Marshall asked he was renting the property in Talking Rock. Mr. Poskanzer stated that they were building a house in Talking Rock and Mr. Marshall asked if Mr Poskanzer had changed his address with the Motor Vehicle Department and Mr. Poskanzer stated that he had changed it and that when they get to that item on the agenda, he would explain that in full.

Mr. Barreira stated that because there is a legal question whether or not Mr. Poskanzer can legally sit on this Board and can participate in votes, Mr. Barreira would like to adjourn the meeting for the day to allow the attorneys more time to research this issue and advise the Board on what needs to be done. Mr. Barreira stated that he wanted to be certain that the Board does not violate the meeting laws.

Mr. Barreira moved to adjourn the meeting until the Board had a concrete legal opinion regarding this issue. Bill Dickrell seconded the adjournment and Mr. Poskanzer stated "aye" and Mr. Barreira stated "aye". Meeting adjourned at 1:40 p.m.