

**INSCRIPTION CANYON RANCH SANITARY DISTRICT**

**P.O. Box 215 Chino Valley, AZ 86323**

**PUBLIC SESSION  
~MINUTES~**

**Approved June 25, 2012**

**May 22, 2012**

**Date:** Tuesday May 22, 2012

**Time:** 9:00 a.m

**Place:** Days Inn Conference Room 1, 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 approximately 9:00 a.m.

**2. ROLL CALL.**

Bob Hilb, Chairman; Brian Ray, Board Member; Scott Robbins, Board Member; Bob Busch, District Manager; Isabel Yribe, District Clerk; Bill Whittington, Counsel; E.J. Kotalik, Legal Counsel (via telephone in Executive Session) and the following audience members according to the sign in sheet:

Charles O'Brien

Hugh Pryor

John Freeman

Paula Green

Dick Tracey

Stan Steiner

**3. CALL TO THE PUBLIC**

After a brief comment by the Board Chairman about staying on agenda items and observing a two minute allowance per person during the call to the public, the following discussions ensued.

- **Charles O'Brien** asked if he would be allowed to speak on certain issues later in the meeting or if this was his only chance. He was unclear about his options. *Mr. Hilb stated that he wasn't sure if there would be time later on during the meeting. Mr. Hilb stated that we were in the Call to the Public and his two minutes had started.* Mr. O'Brien stated that he wasn't and demanded he be given an explanation as to why ADA accommodations hadn't been provided to him after he attempted to talk to Bob Busch. He also asked if Mr. Hilb had received any of his emails. Also, Mr. O'Brien asked if the Board was planning on acting on the proposed Policies and Procedures. He stated that the Board shouldn't as there was a pending Attorney General investigation. Mr. O'Brien also asked who the members of the committee were that assisted Bob Busch and Scott Robbins on the Policies and Procedures project. *Mr. Hilb stated that those issues would be addressed later on during the meeting.* Mr. O'Brien stated that during that time, he would not be allowed to comment,

according to the rules stated at the beginning of the Call to the Public. *Mr. Hilb stated that he wasn't decided yet. Mr. Hilb then asked Counsel, Mr. Whittington if he could speak to the ADA issue. Mr. Whittington stated that it wasn't on the agenda and couldn't be talked about at this time. Mr. O'Brien stated that he disagreed with Mr. Whittington and that it was a Federal Law and it was his right. He stated that he wanted all of this information to be on the record.*

- **Dick Tracey** wanted to know who the person that responded to the emails was. He stated that these emails are directly submitted to the board. Mr. Tracey also stated that he didn't think it was an unreasonable request to have this question answered. *Mr. Hilb stated that this couldn't be addressed because it wasn't on the agenda. Mr. Hilb instructed Bob Busch to put it on the next meeting agenda.*
- **John Freeman** commented briefly on his experience with Planned Area Developments. He stated how residents in the District didn't understand the ramifications of PADs and wanted to comment on that. He also stated that the previous board was non-compliant with the PAD requirements.
- **Charles O'Brien** asked for a Point of Order and was denied by the Chairman of the Board. Mr. O'Brien stated that the ADA subject did appear on the agenda. Mr. Hilb restated that it would not be talked about at this time. Mr. Hilb then instructed Mr. Busch to put that on the next meeting agenda. Immediately after, Mr. O'Brien stated that he was leaving the meeting due to pain, and asked that he be contacted via telephone so that he could attend the meeting that way. Mr. Hilb stated that Mr. O'Brien could call into the Days Inn and join the meeting via telephone. . He left at approximately 9:11 a.m.

**4. Bob Hilb made a motion to go in GO INTO EXECUTIVE SESSION FOR:** Discussion or consultation for legal advice with the attorneys of the Inscription Canyon Ranch Sanitary District pursuant to A.R.S. Section 38-431.03.(A)(3) and 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. Missing and unaccounted for records and documents, property of the District, that has not been produced by the previous District Board members.
- B. Claims for reimbursement of attorney fees previously paid by the District.
- C. Conduct of meetings and hearings
- D. Effluent Line Easement Agreement to TRR for the line through District property
- E. Letters of Instruction regarding the transfer and deposit of funds provided in the Escrow Account Fund Transfer; Escrow Agreement Termination pursuant to the Amended and Restated Development Agreement Dated March 1, 2012, to provide for immediate deposit of money market funds and deposit of funds from CDs at maturity.
- F. Collection of Past Due Users Fees, Late Fees and Interest

G. Draft Policies and Procedures for ICR Sanitary District (as possible replacement for Ordinance 2008-1)

**Executive session began at approximately 9:15 a.m.**

**5. RECONVENE INTO PUBLIC SESSION at approximately 10:30 a.m.**

*Counsel Whittington did not return to the Public Session.*

***Mr. O'Brien was added via telephone conference.***

By way of Consensus, the Board stated that so as to limit the disruptions by the audience, comments could only be made during the Call to the Public. This was necessary to ensure that the District Clerk could take good minutes and to stay on task. It was also mentioned by Scott Robbins that it would make sense to him, since the agendas were posted and could be read by the public body and be prepared to speak their piece once they had the Call to the Public at the meeting. Mr. Ray agreed. Mr. Busch stated that there had been no new requests for email notification as of late.

- **Charles O'Brien** attempted to ask a question. *Mr. Hilb stated that comments from the public would not be allowed.*

**Agenda Item 5 A: Missing and unaccounted for records, documents, and property of the District that has not been produced by the previous District Board members.** *Mr. Hilb stated that there would be no action on this item at this time.*

**Agenda Item B: Claims for reimbursement of attorney fees previously paid by the District.** *Mr. Hilb stated that there would be no action on this item at this time.*

**6. CONSENT AGENDA:**

Mr. Hilb requested that the Executive Minutes be removed from the Consent Agenda

The Consent Agenda was approved by Consensus of the Board.

Brian Ray stated that on the May 1, 2012 Executive Session minutes, in the third paragraph "via telephone," should be deleted. Bob Hilb made a motion to accept them as amended. Brian Ray seconded the motion, and the motion passed unanimously.

**7. REPORTS**

**Financial Reports for April 2012.**

Bruce Eldredge gave the Board and the audience a report on the financials for the District. He went line item by line item stopping to ask if anyone had any questions. Mr. Hilb had a question regarding a payment made by Talking Rock and Mr. Eldredge explained that it would show up in the May 2012 Financial Report. Mr. Eldredge suggested that Web Hosting expenses and the Accounting Audit expenses be increased in the budget.

**Managers Report:** Bob Busch gave a status update on the Past Due accounts of residents in the District. He stated that twenty seven certified notices had gone out. Also, that a few of those had different addresses, so about 24 properties were actually involved. Mr. Busch stated that as of today, there had been no requests for hearings in the Appeal

process. He did state, however, that there were a handful of “potential” appeal requests coming his way. Mr. Busch stated that one of those appeals requests would have to be made over the telephone as the resident was out of the country. He also stated that the deadline to request a hearing was at the end of this week. Bruce Eldredge stated that his firm did have to send out a notice to England. Mr. Eldredge mentioned that that there might have to be a special allowance for this person as it could take at least a month for them to receive it. After a brief inquiry, Mr. Eldredge reported that 10 accounts were paid off and only 2 of those came back as “undeliverable”. Mr. Busch stated that he would need one Board Member for those potential hearings. The Board gave Mr. Busch the dates of their availability. Mr. Busch reported that the District has received the license agreement to the WAPA property. He also stated that the District has sent out the invoice to Harvard for the effluent. Mr. Busch stated that the District had already received a payment of \$56,000. Regarding the escrow account, he stated that item was on the agenda. Mr. Busch stated that in regards to the Infrastructure agreement, Mr. Davin Banner had not yet heard back from the Barnes Pump Company.

## **8. OLD BUSINESS**

- A. Future meeting time.** It was decided that the next meeting would be on June 25, 2012 at 9:00 a.m. at the Days Inn, Conference Room 1 in Chino Valley. It will be a Regular meeting with a Budget and Rate Hearing. Mr. Hilb instructed Mr. Busch to add regular agenda items as well.
- B. Draft Policies and Procedures for ICR Sanitary District (as possible replacement for Ordinance 2008-1).** Mr. Hilb started by stating for the record that there were no committees in place for the preparation of the draft policies and procedures. Mr. Hilb also stated that Counsel is reviewing the proposed Policies and Procedures. Mr. Hilb in a Consensus with the other Board Members asked Mr. Busch to post the revised document up on the District’s website three or four days prior to the next meeting, for input from the Public if Counsels changes were significant.

## **9. NEW BUSINESS**

- A. Approval of Financial Reports for: April 2012**

Charles O’Brien left the meeting (via telephone). Bob Hilb made a motion to approve the financial report for April 2012. Brian Ray seconded the motion and it passed unanimously.
- B. Review draft budget for fiscal 2012-13 and possible vote to schedule Budget/Tax and Rate Hearings and publishing notice of Hearings.** Mr. Hilb stated that the meeting has been scheduled in Agenda Item 8a but was being reviewed now so that changes could be made before the District Published it for the Hearing. Bob Busch made a comment about having made the Expenses and the Ad Valorem tax equal. There was a brief discussion about perhaps waiting for Mr. Kotalik to provide his estimated expenses for litigation fees. Mr. Hilb stated that there was \$40,000 already in the budget and that item would be adjusted when Mr. Kotalik provided his estimate. Bruce Eldredge gave a brief clarification on how the budget should be annotated so that a clear understanding was possible by anyone who looked at it. During the Budget review it was suggested by Brian Ray that the expenditure of the Accountants Allowance be around \$5,000 since it was half of the cost of a full audit

and the other Board Members agreed to it. It was agreed that this year a “review” as opposed to a “full audit” would suffice. Mr. Robbins suggested that he thought it better that taxes be high enough there be a large enough reserve so that wouldn’t have to incur a user fee if a contingency occurred . Bob Busch would publish the proposed budget.

- C. Effluent Line Easement Agreement to TRR for the line through District property.** Bob Hilb stated that the agreement had not yet been reviewed by Counsel. This item would have to be deferred for a later date.
- D. Letters of Instruction regarding the transfer and deposit of funds provided in the Escrow Account Fund Transfer; Escrow Agreement Termination pursuant to the Amended and Restated Development Agreement Dated March 1, 2012, to provide for immediate deposit of money market funds and deposit of funds from CDs at maturity.** Bob Hilb made a motion that Bob Busch be authorized to sign and execute the two documents. The Fund Transfer Instruction was under review by the escrow company and could be executed only if it did not have substantive changes. Brian Ray seconded the motion and it passed unanimously.
- E. Collection of Past Due Users Fees, Late Fees and Interest:** By Board consensus Bob Hilb directed that Bob Busch send a letter to the previous owners of the homes that had a past due amount and have since been sold, stating that if they didn’t pay, the bills would be sent to collections. Mr. Hilb stated that Mr. Busch should use his discretion and not spend more money trying to collect an account for more than what was going to be recovered.

*Bruce Eldredge stated for the record that in regards to Mr. O’Brien’s accusations of having called Mr. Busch and Mr. Busch not returning his phone calls; Mr. O’Brien called MDI Financial Inc. after hours. The message wasn’t retrieved until the business opened up at 9:00 a.m. Mr. O’Brien could not be reached because Mr. Eldredge was already at this meeting.*

**6. ADJOURNMENT**

Therefore the meeting was adjourned at 12:10 p.m.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Board Clerk