

**MINUTES OF THE  
REGULAR MEETING OF THE  
I.C.R. SANITARY DISTRICT  
March 23, 2011**

**Approved: 4/13/11**

**Date:** Wednesday, March 23, 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  
Doug Nelson, Counsel for the District

Guests

Jimmy Stoner, Homeowner  
Eileen McGowan, Homeowner  
Cheryl Ibbotson, Wallace & Assoc.  
Harvey Roberts, Homeowner  
Chris Stoner, Homeowner  
Barb Hilb, Homeowner  
Bob Hilb, Homeowner  
Brian Ray, Homeowner  
Clint Poteet, Talking Rock  
Tim Emberlin, Whispering Canyon  
Charles O'Brien, Homeowner

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

The meeting was called to order at 9:07 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; Doug Nelson; Cheryl Ibbotson; Jimmy Stoner; Chris Stoner; Harvey Roberts; Eileen McGowan; Pat Carpenter; Clint Poteet; Tim Emberlin; Bob and Barb Hilb; Charles O'Brien; and Brian Ray.

**3. Approval of Minutes**

**a. Approve minutes from Regular Meeting of March 9, 2011, and Executive Session of March 9, 2011.**

The Minutes of the regular meeting of March 9, 2011 were reviewed and revised.

**Motion: Mr. Leasure moved to approve the March 9, 2011 regular meeting Minutes as revised; Mr. Turney seconded; motion passed unanimously.**

The Minutes of the Executive Session were reviewed.

**Motion: Mr. Leasure moved to approve the March 9, 2011 Executive Session Minutes; Mr. Turney seconded; motion passed unanimously.**

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**NEW BUSINESS**

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

**(1) Review financial reports discussion and possible action.**

The Board reviewed and discussed the financial reports with Cheryl Ibbotson. There was apparently a problem with the depreciation numbers, so Cheryl will look into this.

Mr. Turney stated that Harvard Investments owes \$492,859, and Whispering Canyon owes \$780,945.

*Action Item: Cheryl Ibbotson will renew the automatic adjustment for depreciation on the financial reports.*

**Motion: Mr. Leasure moved to accept the February financial reports, with the exception of the outstanding items for Cheryl to check into; Mr. Turney seconded; motion passed unanimously.**

Mr. Leasure stated that Harvard paid \$514,343.66 for the period from 8/28/02 through 11/23/09 for operation costs, which Harvard considered payment for effluent. At that time, Harvard stopped paying any operation costs without any explanation as to why they stopped paying. Mr. Leasure advised that the plant is owned by Harvard Investments, and those were charges that started way back to get the plant operational to meet the water quality standards that had to be in place for the golf course. Mr. Poteet stated that Mr. Krumwiede wrote the Board a letter stating that they would pay \$5,000 per month in operation costs when they receive a negotiated rate for effluent. Mr. Leasure replied that the District had asked Mr. Krumwiede to increase the amount of \$5,000 a month to \$10,000 a month so we wouldn't have to go through all the adjustments every quarter, and Mr. Krumwiede was not in favor of doing that.

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

Mr. Leasure advised that a building permit has been requested for a house and a casita in Talking Rock Ranch.

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**b. Operator Report by aQuality Water**

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

aQuality was not in attendance at this meeting. Pat Carpenter had advised Mr. Leasure that the pump for the effluent lift station will be picked up today and will be installed at the end of the week.

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

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

**(1) Policy limits and extended coverage discussion and possible action.**

Mr. Leasure discussed the umbrella policy. Mr. Leasure has had discussions with the insurance agent regarding pollution coverage. The District is covered under pollution coverage. Mr. Leasure recommends a \$2,000,000 excess coverage under an umbrella policy.

**Motion: Mr. Taylor moved to proceed with the \$2,000,000 umbrella liability policy; Mr. Turney seconded; motion passed unanimously.**

*Action Item: Mr. Leasure will call the insurance agent today to proceed with the \$2,000,000 umbrella liability policy.*

**d. Resolution No. 2010-01 Moratorium on sewer hookups and conditions for lifting moratorium or partial lifting of moratorium discussion and possible action.**

Mr. Leasure advised that the District still has not heard any comments from the Plaintiffs regarding negotiation or modification of the Resolution. Mr. Nelson stated that he received an oral rejection of the Resolution No. 2010-01 Moratorium from the Plaintiffs' attorneys.

**e. Possible public meeting regarding facts involved in the lawsuit discussion and possible action.**

Mr. Leasure advised that the cost to use Embry Riddle for a public meeting would be \$115 per hour. Mr. Turney would like to table this item until the next meeting, and Mr. Taylor concurred. They would like to see if there are other avenues to get the information out about the lawsuit without holding a public meeting. Mr. Leasure stated that someone has been sending out a publication which states that if the District holds a public meeting, it would be a violation of the rules of the District, which Mr. Leasure does not agree with. Mr. Leasure added that the correspondence he received had a fictitious return address, which happens to be a vacant lot at Talking Rock which is owned by Hal Lobaugh. Mr. Poteet stated that it is a P. O. Box, and not associated with a vacant lot. Eileen McGowan confirmed that the address listed on the publication that was sent out belonged to Hal Lobaugh and is a vacant lot.

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**f. Review invoices from Doug Nelson discussion and possible action.**

The Board reviewed the invoices from Doug Nelson and the law offices of Aspey, Watkins & Diesel.

**Motion: Mr. Leasure moved to pay Doug Nelson's invoices dated March 14 and March 22, 2011; Mr. Turney seconded; motion passed unanimously.**

**Motion: Mr. Leasure moved to pay the invoice from Aspey, Watkins & Diesel dated March 10, 2011; Mr. Turney seconded; motion passed unanimously.**

**g. Status of wastewater treatment plant expansion cost estimate discussion and possible action.**

Mr. Taylor stated that he received the cost estimates for the plant expansion and it is \$4,334,137.50 for a 250,000 gallon per day plant. There was some discussion about posting the cost expansion letter on the website, but Mr. Taylor did not think it's a good idea to do that. Mr. Turney discussed that another cost for expanding the Santec plant would be for a new APP because the current APP is for a new MBR plant only. Mr. Leasure advised that if the District goes ahead with the 2010 Resolution, the District needs this updated cost number for the plant expansion. Mr. Poteet wanted to know why the current estimate is over \$1,000,000 more in 2010 than the original estimate that Harvard got in 2008, which was \$3,200,000. Mr. Leasure advised Mr. Poteet that perhaps their original estimate didn't have all the information in it.

**h. Sub-Committee status regarding plant cost of service studies and discharge permit discussion and possible action.**

Mr. Stoner stated there has been no action on this item yet. The Sub-Committee members will shortly be reviewing the liability coverage policy before any work is done on the plant cost of service studies and discharge permit.

**i. District registration as a lobbyist discussion and possible action.**

Mr. Leasure stated that the District has registered as a lobbyist with the State of Arizona.

**j. 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.

**k. Litigation – Harvard, The Preserve and Whispering Canyon lawsuit against the District and its Board (Yavapai County Superior Court P1300CV2010000036)**

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

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**2. Developers' alleged failure to comply with Arizona's Real Estate Law and environmental Laws for committed capacity for sold lots**

**3. Legality of developers collecting fees on behalf of the District (Public monies collected as raised by Judge Kenton Jones)**

**5. OLD BUSINESS**

**l. Notice of Claims Inscription Canyon Ranch, L.P.**

**m. Notice of Claims Marv and Joyce Kaiser**

Mr. Leasure advised that Mr. Nelson has a letter of proposed action for the Kaiser Notice of Claim, and based on review of the hook up list, this letter authorizes the Kaisers, Lot 33 of Preserve at the Ranch, to hook up providing they pay the connection fee in compliance with the District Ordinance. Mr. Nelson would like to discuss this further in Executive Session and then take action when the regular meeting reconvenes.

**n. Properties in violation of District hookup ordinance discussion and possible action - Tabled**

**Additional Item:** Cheryl Ibbotson advised that the cost for mailing postcards notifying everyone of any future public meeting would be approximately \$500 - \$600, which includes printing and cutting the postcards, labels, Wallace & Associates' time spent, and postage.

**Additional Item:** Gene has been advised that people can vote early for the recall election if they contact the election office in Prescott.

**6. Call to the Public:**

Mr. Poteet asked why the District is registering as a lobbyist. Mr. Leasure explained that if the District wants to talk to any Legislator in Arizona, it must be registered as a lobbyist. Mr. Nelson stated that without disclosure by the developers and others, efforts have been made to amend the Sanitary District laws without any consultation with this Board. The Board and Mr. Nelson learned of this and consulted the sponsors of it. They were informed that the Plaintiffs' attorney, Dawn Meidinger, has drafted the bill that would limit future moratoriums, similar to cities and counties. This District doesn't have a control mechanism like cities and counties where there is an upfront effort for making assurances that there is money in place, there are agreements in place, before actions are taken, and therefore, there are certain limitations on moratoriums. This District doesn't have them. This District and this or any future Board does not have a way to remedy a situation that a county is putting on the District for new hookups.

Mr. Hilb asked Mr. Nelson if Talking Rock is paying for effluent or not. Mr. Nelson answered that when the Board looks at the numbers, it sees operating costs. When the bill is received by Talking Rock, they see a bill for effluent. The amount in the bill is determined by operating costs.

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Mr. Poteet asked what the District's attorney's expense to date is. Mr. Nelson advised that Mr. Leasure does not have to respond to this question at this time, and can get back to Mr. Poteet later. [After Mr. Poteet requests the information in writing, and Mr. Poteet said he would.] Mr. Nelson then brought up that the District is owed to date more than \$1,000,000 by Harvard and Whispering Canyon, and that the District has not been able to track the \$1,600,000 that was collected previously by the developers for capacity fees, which should have been spent on the Santec plant. Mr. Hilb asked what action has been brought to get information on the missing funds, and Mr. Nelson answered that it has been made part of the lawsuit. Mr. Hilb stated that he understood that it was Pivotal that was responsible, and he asked if the District has taken any action against Pivotal. Mr. Nelson stated that Pivotal is an arrangement between Harvard and Whispering with their contractor, Pivotal. The arrangement the District has is with Harvard. Mr. Leasure stated that there is between \$1.7 to \$2.1 mil. that has been collected and there is nowhere near that amount accounted for.

Mr. Stoner discussed whether Mr. Taylor talked to the Legislature. Mr. Taylor explained that he was able to speak to the Government Committee for the House of Representatives. He was able to express his concern about how he felt about Bill 1523. He was able to state his opinion on the problem with that Legislative decision. Mr. Stoner asked if it was in public comment session at a meeting, and Mr. Taylor answered that it was a house committee that hears people's comments on Legislative actions.

Mr. Stoner stated that there is a rumor circulating that says that Mr. Taylor owns land where the new sewer plant is supposed to go, and that Mr. Taylor would benefit personally from this new plant. Mr. Taylor stated that he owns one parcel, and it's the one on which his residence is located. Mr. Hilb stated that the rumor probably started when there was some discussion in the past that there would be eminent domain put in effect on some of the surrounding lots of the new plant. Mr. Leasure stated that the existing Santec plant supposedly can be expanded to 455,000 gallons a day. The Board has never seen any definitive engineering plan of how that would fit on that property. He also stated that Santec has never built a plant that large. The membrane plant will fit basically on the three empty cement tanks that are already there. If the Santec plant is expanded to 455,000 gallons a day, and until he sees some plans how that will fit on the property, it could be that somebody will have to buy property outside that District area to augment that capacity. According to the existing drawings for the current APP, that whole facility will fit in the three tanks that are sitting there empty right now, with a building over it.

Mr. Roberts asked what happened at Court yesterday. Mr. Leasure stated that the Judge has not made a ruling yet. Mr. Roberts also discussed the District spending \$250,000 on the litigation so far. Mr. Leasure stated he could not confirm that number at this time.

**7. Announcements –**

**Motion: Mr. Leasure moved to recess the regular meeting and go into Executive Session to discuss 4(k), and Old Business items (l), (m), and (n); Mr. Taylor seconded; motion passed unanimously.**

Regular meeting recessed at 10:40 a.m.

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Regular meeting reconvened at 11:20 a.m.

**Motion: Mr. Taylor moved to send the above-mentioned letter to Marv Kaiser; Mr. Leasure seconded; motion passed unanimously.**

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

**8. Adjourn Meeting**

Meeting adjourned at 9:57 a.m.