

INSCRIPTION CANYON RANCH SANITARY DISTRICT

P.O. Box 215 Chino Valley, AZ 86323

**RATE HEARING
~MINUTES~**

**Revised 2/5/13
Approved 2/5/13**

January 8, 2013

Date: Tuesday January 8, 2013

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.

Present were Bob Hilb, Chairman; Scott Robbins, Board Member, Brian Ray, Board Member; Bill Whittington, Counsel; Bob Busch, District Manager; Isabel Yribe, District Clerk and the following audience members.

Eileen McGowan	Charles O'Brien
Jimmy Stoner	Chris Stoner
John Freeman	

3. CALL TO THE PUBLIC

- **Jimmy Stoner** asked the Board if there was a posted agenda for this rate hearing meeting. Mr. Stoner stated that he was aware of a posted notice for it, but not an agenda. *Bob Hilb stated that it was posted. Bob Busch also stated that it was posted on the District website.* Mr. Stoner stated that this topic was also mentioned at the Rate Hearing last June. He stated that there was no agenda at that time either. Mr. Stoner asked that the Board produce one. Also, that if the Board produced an agenda at this time it would not comply with the 24 hour time requirements of the posting laws. *Mr. Busch asked the Board and its Counsel what it was that needed to be put on a Rate Hearing Meeting Agenda. After review of the posting notice, Counsel for the District, Bill Whittington stated that the posted notice would suffice as an agenda as it covered the purpose for the meeting. Mr. Whittington also stated that it was okay to proceed with the meeting.*
- **Eileen McGowan** had concerns regarding the 200% rate increase. Ms. McGowan asked the Board to justify the increase to \$1000 when it use to be \$375. *Mr. Hilb stated that it use to be \$750.* Ms. McGowan stated that she remembered paying \$375 and that is why she questioned it. *Mr. Hilb stated that he was unsure of the*

previous Boards history but that the rates have not been raised for a number of years. Mr. Hilb also stated that there were two factors that he discussed with the District Manager Bob Busch. One of the factors was that half of the lots on The Preserve weren't covered by the Settlement Agreement. The 18 lots plus the lots at Inscription Canyon Ranch have not built yet. Since the rates have not been raised, Mr. Hilb along with Mr. Busch felt that the amount of \$1000 was reasonable. Ms. McGowan asked what the extra cost was for. Mr. Hilb stated it was their contribution to the expansion of the Plant.

- **Charles O'Brien** had concerns regarding the fee arrangement that the Sanitary District has imposed on its members, specifically ARS 48-2027. He also stated that specific areas are identified that may generate rates, fees and charges. Mr. O'Brien stated that if it doesn't provide for a charge, it cannot be exacted and asked that Counsel Whittington confirm that statement. *With permission from the Chairman of the Board, Mr. Whittington stated that it was his recommendation that the Board wait to ask questions in Executive Session. Mr. Whittington also stated that he did not want to get into legal advice to the public.* Mr. O'Brien then stated that it was his understanding that the Sanitary District was not able to charge any amounts, fees or rates other than as provided in ARS 48-2027 because a Statutory Lien results upon failure to make the specified payment if duly enacted by a District. Mr. O'Brien then stated that the District could not charge developers, specifically Whispering Canyon and Talking Rock or any lot or home purchasers any additional fees that are the subject of today's rate. Mr. O'Brien wanted to know how the Board was going to reconcile those charges with Harvard on that no such charges could be made with Talking Rock Ranch and Whispering Canyon according to the Settlement Agreement. *Mr. Hilb stated that somewhere in the Agreement there was a fee of \$3000 (this increases over time) and that that would cover the capacity that the hook up fee covers. Mr. Hilb stated that the Board received illegal opinion from a specialist.* Mr. O'Brien stated that he was going to challenge that for the reason that there is unequal protection. Mr. O'Brien asked if Talking Rock failed to make those payments, could then the Sanitary District impose a lien on that property. *Mr. Hilb stated that if they failed to make a payment, they could not sell the property. Mr. Hilb then stated that Mr. O'Brien was getting off subject.* Mr. O'Brien went on to state that if there was a provision to impose a severe penalty to one part of the community and no penalty for the other part of the community, the District and its Board would have a problem. *Mr. Hilb stated that if one part of the community, specifically the Developers, agreed to give the \$3000 and its increases, the rest of the community which only has to pay the \$1000 is going to get a bargain. Mr. Hilb stated that the \$3000 and with increases as a pre-payment of the hook-up fees and other fees, and was discussed by the parties. Mr. Hilb stated that there was language to this effect in the Settlement Agreement.* Mr. O'Brien stated that there was no such language and offered to show the Settlement Agreement he had on hand. *Mr. Busch stated that he understood Mr. O'Brien's concern but that this item had nothing to do with the Rate Hearing and was a matter of his interpretation of the Settlement Agreement.* Mr. O'Brien disagreed and sought the opinion of the District's Counsel. *Mr. Hilb stated that Mr. O'Brien had made his point and that it was not his privilege to seek advice from Counsel as he requested. The Board was*

only obligated to listen to his comments/concerns. Mr. O'Brien stated that once Mr. Hilb disclosed what happened, it had to be provided. It was now a matter of public record/ public domain. *Mr. Hilb stated that he was going from memory of that document and if his memory was wrong, then that's the way it was.* Mr. O'Brien stated that they'd have to wait to see what the transcripts provided.

- **Jimmy Stoner** submitted written questions to the board for answers/discussion as follows: 1.To whom do these Rates and Fees apply? 2. Are there any conditions, understandings or agreements with any 3rd parties which impose any constraints for determining and imposing rates and fees on the District customers other than the applicable Arizona Statutes? Mr. Stoner stated that he expected written responses to these questions.
- **Eileen McGowan** asked the Board why it was holding a Rate Hearing in the middle of the fiscal year. *Mr. Hilb conferred with Mr. Busch regarding the time the District had its last Rate Hearing. Mr. Busch stated that it was less than a year ago and there was no stipulation that stated the District couldn't have more than one Rate Hearing per year.* Ms. McGowan stated that what was decided at the last Rate Hearing should pertain to the rest of the fiscal year. *Mr. Hilb stated that the Budget pertained to the rest of the year but the Rate Hearing was a different activity.*

6. ADJOURNMENT

Therefore the meeting was adjourned at 9:15 a.m.

Date

Board Clerk