

INSCRIPTION CANYON RANCH SANITARY DISTRICT

PO Box 215 Chino Valley, AZ 86323

~ PUBLIC SESSION MINUTES ~

September 04, 2019

Date: Wednesday, September 04, 2019

Time: 12:30 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 Special Meeting of the Governing Board for the Inscription Canyon Ranch Sanitary District was called to order at 12:30 p.m. by Chairman, Bob Hilb.

ROLL CALL OF BOARD MEMBERS

Present were: Bob Hilb, Board Chairman; Kirk Leopold, Board Member; and Robert Busch, District Manager; Legal Counsel Stephen Polk; Konnie Frickman, Clerk.

Members of the Public: Ray Damesek, Jeff McLeod, Eileen McGowan, Jimmy Stoner, Christal Stoner, Tim Emberlin, Mark Emanuele, Alan Cocherell, and Dean Humphrey.

2. REPORTS

Report from District Manager

- Processed in July 1,810,000 gallons at 58,388 gallons per day with 8 days over 60,000 per day. Processed in August 1,693,470 at 54,628 gallons per day. There were 5 days over 60,000 gallons during August. We currently have 675 connections with 23 pending, that is, as of the end of July. We've had a number of repairs in the last 60 days: We had a repair on Chancella that cost about \$3,300.00, an air relief valve on Almosta Ranch costing \$1,725.00; a check valve at Indian Camp for \$1,200; a problem at Spotted Eagle that cost \$5,400.00, so far; and another check valve at Kokopelli at Talking Rock. for \$3,600.00. Still waiting for the final inspection from Yavapai County for the Phase 1 Upgrades to WWTP, which included a generator and air conditioner work. The contractor failed to call for inspections at the right time, so we are still waiting to get photographs and statements from the contractor for the engineer to sign off. The contractor for the project was Envirotec. There was a spill at the plant on August 13th in the afternoon. We had a float controller failure that resulted in a spill of about 750 gallons, that was contained on sight. It was treated properly, dried and cleaned. It is ok now. The controller has been repaired. We are investigating getting a backup. Stephen Polk added: "I would consider that a design failure as the alarm and the pump for the controller were on the same controller and so, lost both. Jimmy Stoner asked if the latest flow data is posted on the plant capacity chart on the website. Bob Busch replied. I try to keep that up to date, and so, if it is not current, I will make it current.

3. CONSENT AGENDA

Minutes of Meetings

Minutes of Public Meeting of July 2, 2019

Executive Session Minutes of July 2, 2019

Minutes of Public Meeting of July 11, 2019

Revised Public Minutes of June 7, 2019

Reimbursement to District Manager (\$388.54)

Prescott Courier- Publication of Notice soliciting candidates (\$14.70)

Prescott Courier- Publication of Notice soliciting bids for Plant Expansion construction (68.25)

GoDaddy- Additional Email addresses- 3 yrs. (\$274.39)

Sir Speedy – copies of construction drawings for plant upgrades (\$20.29)

Sir Speedy – copies of construction drawings for phase 1 improvements (\$10.91)

Mr. Hilb made a motion to approve the Consent Agenda, including Minutes and Reimbursements, and Mr. Leopold seconded the motion. Motion passed with Mr. Hilb and Mr. Leopold voting “yea”.

4. POSSIBLE VOTE TO GO INTO EXECUTIVE SESSION FOR:

Mr. Hilb read the agenda items and then made a motion to go into Executive Session. Mr. Leopold seconded the motion and it passed with both members voting “aye”.

During the Executive Session, the public will be asked to leave the Board meeting room until the general session is reconvened.

RECONVENE INTO PUBLIC SESSION AT 1:20

Mr. Hilb reconvened into Public Session.

5. CALL TO THE PUBLIC ...

Mr. Hilb asked if anyone from the Public wished to speak and no one spoke.

6. OLD BUSINESS –Discussion and Possible Action

A. *Setting a time and date for future ICRSD Board Meetings:* Originally, regular meetings were set up for the 1st Tuesdays of each quarter. Mr. Hilb made a motion that we change that to the 3rd Tuesday of the first month of each quarter, and, that change be made to the website to reflect that the next meeting will be October 15th, 2019. Mr. Leopold seconded the motion. Motion passed by the board with both Mr. Hilb and Mr. Leopold voting “aye”.

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 insurance company said that there is a possibility we are going to start negotiation in the near term. There needs to be a board member appointed to negotiate. Mr. Leopold made a motion to appoint Mr. Hilb and Mr. Hilb seconded the motion. Any Discussion? One question was asked by a member of the public regarding conflict of interest. Mr. Hilb stated we are not taking comments on that. Asked if all were in favor. Both Board members stated “aye” and the motion passed.

C. **Acceptance of Al Poskanzer’s resignation.**

Regarding the resignation of Al Poskanzer’s, Mr. Hilb made a motion to accept it, effective the date of the letter that Al Poskanzer submitted and is seconded by Mr. Leopold. Both board members stated “Aye” and the motion was passed.

7. NEW BUSINESS –Discussion and possible action

A. . Discussion and possible action re: board seat previously held by Al Poskanzer; prior appointment of Bob Summers and subsequent recognition of Attorney General letter opining that the appointment was invalid.

Mr. Hilb stated that he would like to combine the prior appointment of Bob Summers with the subsequent recognition of the Attorney General's letter opining that the appointment was invalid. Background being that Bob Summers has gone to the county attorney, as he does not accept the Attorney General's opinion. The county attorney says that he is considering a quo warranto to recognize that Bob Summers is on the board. One possible solution is that we ask the Attorney General to quo warranto, basically confirming the original opinion of his attorneys. So Mr. Hilb made a motion that our attorney's contact the Attorney General and ask for a possible quo warranto action against Bob Summers. Mr. Leopold seconded the motion. Any Discussion?

Ms. McGowan asks: "I have a question on the quo warranto, the judge makes the decision? The final decision? Not the Attorney General, right?"

Mr. Hilb replies: Yes, in either case, If the county files it, then the board is forced to defend it in court and the judge would make a decision. If the Attorney General were to do it, the reverse would be true. Bob Summers would probably have to defend it and we would, probably, not have to pay the attorney to participate in this.

Eileen asks again, "A judge will make the final decision, either way? Mr. Hilb replies: "Yes, either way. Let's ask Stephen Polk to explain.

S. Polk: "There are 2 different Quo Warranto Statutes. One says that if the county attorney has reason to believe that someone is usurping a public office, they must file a quo warranto action and then the judge will decide who's on the board and who's not. The second statute says that if the Attorney General's office has reason to believe someone is usurping the public office, then the Attorney General must file a quo warranto and the judge will decide who is on the board and who is not. I do think, in either case, whoever files, that the board members would be named as defendants in the law suit, but in terms of attorney's fees, if the Attorney General's office files, and the board's position is that Al Poskanzer was properly on the board they would incur less attorney's fees, if the Attorney General were to file. Verses, if the county attorney files and sues the district and the district defends saying that we are following the Attorney General's decision, that is a more active defense."

Mr. Hilb: "Any other discussions?"

R. Damesek asks for more clarification regarding "contesting" who is on the board and a second illustration that is unclear to him.

S. Polk responds: The board recognized, at a previous board meeting the AG's letter. And, the board says we will follow what the letter states which is that Al Poskanzer remained on the board. If the Attorney General files, they would probably be filing saying that Al Poskanzer was properly on the board.

R. Damesek: "But you gave a reason for why they would file, that you are not repeating this time. The reason they would file is because somebody is on the board. They are going to file against them?"

S. Polk responds: "The County Attorney would file because they believe that Bob Summers was properly appointed in November, so they are going to sue whomever the board appoints to fill Al's spot, right now."

R. Damesek: "We are talking about the AGs' filing, that's the issue. That they are filing because somebody is on the board, against Bob Summers, because he is on the board, something like that, but my point is that Bob Summers is not on the board. So how can the AG file a quo warranto action, when the person they are filing it against is not on the board?"

S. Polk: So, the statute says that if the AG office has reason to believe that someone is usurping a public office, then they shall file a quo warranto action. If the attorney general in a letter to the district said Al Poskanzer remained on the board, he was properly on the board, therefore, your appointment of Bob Summers was invalid. So, if the AG believes that, right now, today, Bob Summers is usurping that board seat, by asserting that he is still on the board, when in the Attorney Generals' eyes he is not, then they might file to get the judge to say that "No you were not properly appointed".

Mr. Busch: "He never submitted a resignation, so I guess he figures that he is still on the board."

S. Polk: "It is a little clearer from the county attorney's position, which is, whomever we appoint to that position, that appointment is invalid, because Bob Summers position is valid. It is a little clearer for the county to sue whomever we appoint. It is a little less clear who the AG would sue. What we can do is have the attorney ask and the AG will say yes or no, but that would be the least cost for us."

Mr Hilb: Any other discussion? With no further discussion, both Board members voted "aye" and the motion passed.

Regarding Item 7.B, Possible appointment of a new Board member: Mr. Hilb stated that we don't want to do anything, so we are postponing until some things are made clear, Mr. Leopold moved not to appoint a new board member at this timer. Mr. Hilb seconded the motion. Both Board members voted "aye" and the motion is passed by the board.

C. Bids received for construction work related to the Wastewater Treatment Plant Expansion Project.

Mr. Hilb: Regarding the notice for construction of improvements, we received one bid, and it was late, therefore, we are rejecting that bid and I will make a motion for that the District reject all bids, as we did not receive any on time. Mr. Leopold seconded the motion. The motion is passed by the board with both Board Members voting "aye".

D. Approval of financial reports for June and July 2019

Mr. Busch reviewed the Budget vs Actual Report for June. So for the total fiscal, year we were at 89% of our revenue budget, because of that non billing of the user fees. On the expense side, most things are pretty close to budget. The big difference on the expense side were the consulting expenses, the attorney's fees being the big one, we spent almost \$100,000 over the budget there. We had \$175,000.00 budgeted and spent almost \$270,000. Any questions?

One comment regarding reimbursables, we have one that we are anticipating from Talking Rock and they will pay that. And for the reimbursement of Phase One Improvements that are still

pending. He reviewed the Cash flow projection for August and November. The taxes will start coming in November.

Mr. Hilb made a motion to approve the financial reports for June and July. It is seconded by Mr. Leopold. Both Board Members voted in in favor and the motion was passed by the board.

E. Authorized Signers : We will skip this item.

F. Possible Action in connection with Quo Warranto actions

Mr. Hilb: Can I make a motion to delay motion to appoint member? Stephen Polk: "I recommend that we allow time to clarify this with the AG's office and that we make a motion to revise it is on a temporary basis ". Motion seconded by Mr. Leopold. All in favor "aye". Motion passed. Directed legal counsel, Stephen Polk, to contact the Attorney General.

G. Approval of proposed publication noticed for construction of improvements and the wastewater treatment plant.

Mr. Hilb: One reason we did not get a number of bids is because the bid had no flexibility, for changes and suggestions and substitutions, etc. And, we were also missing some of the legal language required for the bid. So, this new bid would have that flexibility and the language required. Mr. Hilb made a motion that we republish the bid and put a new bid out with the changes. It was seconded by Mr. Leopold. Any questions?

How much will it cost the company for attorneys, civil tech or whomever? If we have already paid to have it go out, should we have to pay additional? Mr. Hilb: "They did rewrite the bid so I am not sure". Mr. Busch: "The notice will cost about \$450 to publish. Mr. Hilb: Shall we vote? Both Board member voted "Aye" and motion is passed.

H. Designation of Responsible Corporate Officer for establishing on-line reporting of test results to ADEQ.

Mr. Hilb made a motion to designate Mr. K. Leopold as the Responsible Corporate Officer fro ADEQ reporting. Mr. Leopold seconded. The motion is passed with both members voting "aye"..

I. Change Order/Amendment to MDI contract for accounting/billing services to add fee for handling application for new service.

Mr. Busch stated that MDI wants to add a \$25.00 charge for handling the service connection. It takes extra time to handle all the records and keep the data base up to date and MDI wants to charge \$25.00 a piece for this. I think that is reasonable. Mr. Leopold made a motion to approve it. MR. Hilb seconded the motion. Both members voted "aye" and the motion passed.

J. Approval of Certificate of Destruction for outdated District Records.

Mr. Busch stated that he has reviewed the files that are outdated and upon approval of the board he will sign the Certificate and have the documents shredded. Mr. Hilb made a motion to authorize the District Manager to sign the form and submit it to the state. Mr. Leopold seconded. Both Board members voted in Favor and the motion passed.

K. Approval of the addition and purchase of 10' x 18' storage building at the WWTP for storage of records and spare parts, cost not to exceed \$4,300.00

Mr. Busch: "We currently have records stored at the Treatment plant, not a good place for records, so I h put together an estimate for a 10' x 18' shed we could put on site that would cost not more than \$4300.00, and assembled by myself We do currently have a rental storage unit,

it's a small 5' x 5' for \$50.00 per month. So we would be able to eliminate that as well. Mark Emanuele "Have you looked at the cost of scanning and storing them electronically, somewhere on site, and have you looked into the cost of c-train which is a car built container, they can be picked up very inexpensively to store our records in." Mr. Busch: "Some are required to be kept permanently some are already on electronic media, others are not. The records we are speaking about have a specific retention period, and you are supposed to get rid of them after that. So that is what we are doing now. It is expensive to put them on electronic media."

Mr. Hilb: I make a motion for the manager to investigate both the electronic storage and the storage container and come up with a suggestion for the best method for storing permanent records and should the hard copies be destroyed, just a general records management review and recommendation . Mr. Leopold seconded the motion, all are in favor. The motion is passed.

L. Possible action to reimburse Gordon Swanson, of 14100 Spotted Eagle, for expenses in connection with line blockage. Total cost of his expenses \$2,410.

Mr. Hilb: According to counsel, we can only take claims according to the claims statute, a Notice of Claims Statute. Therefore, we must reject his request at this point and I make a motion that Bob Busch inform Gordon that he needs to follow the Notice of Claims statute, in order to make a claim against the District. Mr. Leopold seconded the motion, all voted "aye" and the motion passed.

M. Possible action to approve Change Order to contract with Civil Tec Engineering for Plant Upgrade to 90.000 gpd . Change order is for additional work in the amount of \$29,990.00.

Mr. Hilb: I would like to make a motion that we have Bob Busch take a look at the change order and judicate which are legitimate changes, ones we asked for, and which ones are covered under the original contract. The motion is seconded by Mr. Leopold. Any questions for discussion? The motion passed with both Board Members voting "aye".

8. ADJOURNMENT

There being no further business, the meeting was adjourned at 1:55pm.

Board Clerk

Date