

ICR SANITARY DISTRICT NEWSLETTER



PO Box 215 Chino Valley, AZ 86323 237-9347
www.icrsd.net

District Sets Tax Levy For Fiscal 2018-2019.

At its annual Budget and Rate Hearing, held on August 1, 2018, the Governing Board set the tax levy, (the amount required to fund the operation of the District), at \$466,720. This is considerably more than the \$266,820 from a year ago. The increase is primarily due to legal and consulting fees anticipated in the 2018-19 fiscal year because of the court action filed by Talking Rock Land, LLC. This year's levy is reflected in each property owner's tax bill sent out by Yavapai County in September. You can find the 2018-19 budget on the District website: <https://www.icrsd.net>

Board of Directors:

Dave Barreira - Chairman
Bill Dickrell - Director
vacant - Director

Staff:

Bob Busch - District Manager
928-713-0548

System Operator:

A Quality Water Company
Accounting & Bookkeeping:
MDI Taxes & Accounting, Inc.
928-237-9347

The ICR Sanitary District now has 622 homes connected to sanitary sewer system

Governing Board Meetings are open to the public. They have recently been held at the Prescott Realty office on Inscription Canyon Drive. Check the calendar on the website <https://www.icrsd.net> for the next meeting and location. If you would like an email sent to you advising you of the meetings, sign up on the website on tab "Contact Us".

Construction Boom Creates Challenge for Sanitary District

The thriving housing market, while a boon to the local economy has the Sanitary District scrambling to make sure it can serve all those new homes.

The present treatment plant, located on Grey Bears Trail in Inscription Canyon Ranch has a stated capacity to process 62,500 gallons per day. It is currently averaging over 50,000 gallons per day, with a peak month of 57,999 gallons per day. According to the report recently completed for the District by Civiltec Engineering, the treatment plant has capacity for an increased average daily flow of only 375 gallons per day before it reaches the Discharge Limit (Alert Level) of 95% of stated capacity (based on peak monthly average). The District must plan ahead to assure that the plant will be capable of handling all the homes under construction and planned in the near future. (See District Seeks Engineering Services below.)

Rumors Dispelled & Debunked

- Talking Rock has offered (and the District rejected the offer) to fund a portion of the cost to expand the treatment plant.

No such offer has been received by the District. If so, it would have required a public meeting of the Board of Directors to discuss and decide the issue. Such action by the Governing Board requires a public meeting, properly agendized.

- The District has held meetings in violation of the Open Meeting Law.

The District has announced and posted agendas for all meetings of the Board Of Directores as required by law. There have been meetings of NON-BOARD MEMBER personnel associated with the District, ie Manager, Sytem Operator and Engineers to discuss matters concerning construction and operations. None of these meetings are Board or Committee meetings and do not require notice to the public.

- The Governing Board removed former member Al Poskanzer from the Board.

The Board merely recognized the opening created by operation of law. Mr. Poskanzer moved out of the District and registered to vote outside the District, and was no longer considered a qualified elector in the District. See opinion letter from legal counsel on the website: www.icrsd.net. The District has announced it is seeking candidates for the position to be filled by appointment of the Board.

District Approves User Fees for 2018-2019

In August, the Governing Board approved charging user fees for properties connected to the sanitary system. Residential user fees were set at \$35.00 per month and commercial fees were set at \$100.00 for small commercial and \$150.00 per month for large commercial users. Although the fees are effective as of the beginning of the 2018-19 fiscal year (July 1, 2018), no date has been set to begin billing the fees.

The District Governing Board approved the fees to enable the District to raise capital for future expansions to the treatment plant. The District does have enough in its capital fund to pay for a small expansion to the treatment plant that would handle the next 2-5 years of expansion, but it will not have funds for future expansions, and has limited sources from which to obtain capital funding.

District Contracts for Engineering Services

In August, the Governing Board approved issuing a Request for Proposal for engineering services to design an expansion to the treatment plant. The plant is regularly operating at above 80% capacity, and more homes are being added every month. If the plant capacity were exceeded, the plant would not comply with the regulations for effluent quality produced by the plant, resulting in severe consequences for the District. The District hopes to construct a modest expansion of plant to handle growth expected in the next 3-5 years. The District has only enough funds in its Capital Fund to pay for a modest expansion. Eight firms were solicited for proposals which were due to the District at the end of September. Only two firms responded. The Board selected Civiltec Engineering, Inc. to perform the work. It is expected that the project will take 12-18 months to complete. The project will require the District to amend its Aquifer Protection Permit (APPA) issued by the Arizona Department of Environmental Quality. The engineering firm will file the application and obtain an amendment to the APP permitting the District to implement the expansion. Once the design work is completed, the construction work will be awarded through a separate contract.

RECORD REQUESTS PUT EXTRA BURDEN ON THE DISTRICT

Arizona statutes require that, as a public body, the District must provide public documents to parties requesting them. The documents must be provided, essentially at no charge, (except for the cost of printing). Recently, in connection with the litigation initiated by Talking Rock, the District has received several requests for public records that are costing the District thousands of dollars to provide. As an example, Talking Rock's attorneys have requested copies of attorney invoices received since January 1, 2018, checks issued to attorneys and tapes of public meetings held during the last four months. Providing these tapes and documents has required that an attorney familiar with the case, redact invoices for confidential information, listen to tapes of meetings to verify that it does not contain an Executive Session (which is confidential). At several hundred dollars per hour for legal services, the cost adds to the already high bill for legal services the District is incurring.

Lawsuit - Questions and Answers

Many property owners in the District are likely aware that the District is involved in litigation with Talking Rock Land, LLC. Little has been publicized about the lawsuit and rumors are surfacing. Although not much can be said about the current status of litigation for obvious reasons, there are some facts that can be included here. The following questions and answers should help to understand what has happened.

Question: What is the litigation all about?

Answer: Talking Rock Land, LLC., (plaintiff) filed an Order to Show Cause with the Yavapai County Superior Court in April, 2018 to compel the ICR Sanitary District to approve Capacity Assurance Forms required by Yavapai County, for Talking Rock's planned development called Sterling Ranch at Talking Rock. The District refused to sign the forms because it contended they were incomplete and inaccurate. After two court hearings, the plaintiff submitted information satisfying the District and the forms were subsequently approved.

In addition, the plaintiff alleged that the District's refusal to approve the forms constituted an illegal moratorium and asked the court for relief.

Both parties filed documents with the court to claim attorney fees incurred in the litigation so far. The court's ruling awarded partial attorney fees to Talking Rock, LLC. The District is contesting that ruling.

Finally, Talking Rock Land, LLC. Has filed a 5 million dollar damage claim against the District in connection with the matter. The District has a short time to respond to the claim and then the matter may be filed with the courts.

Question: Why didn't the District approve the forms?

Answer: The District claimed that the forms were not complete and contained errors. The District also contended that it would not be proper for the court to force the District to sign incorrect documents.

Question: What is all this litigation costing?

Answer: Plenty! From January 1, 2018, thru the end of November, the District spent nearly \$273,000 on legal fees. That is more than the entire operating expense budget for last year. It is the main reason why the property tax bills for this coming year will be much higher than the current year. The District has no choice but to use attorneys to defend itself against these claims, and unfortunately, the the only source of funds are fees levied against District property owners.

Question: Wasn't the District sued a few years ago for the same thing?

Answer: The District was sued nearly ten years ago for an illegal moratorium and for violations of the Open Meeting Law. The case was settled in 2012.

Question: Isn't there a contract between the District and Talking Rock that calls for mediation before litigation and why wasn't it followed?

Question: There is an agreement between the District and Talking Rock Land, LLC and Old Capitol Investments (developers of Whispering Canyon Ranch). Paragraph 12 of that agreement calls for alternative dispute resolution, first by mediation, then by arbitration. The reason(s) that provision has not been followed are not forthcoming.

NO LONGER OWN PROPERTY IN ICR SANITARY DISTRICT?

If you no longer own property in the District, please let us know so we can update our records!

Go to: www.icrsd.net and click on "Contact Us" and give us your former property address.

Thanks You.

Backup Generator Project Near Completion

A project to replace the ancient backup generator at the treatment plant with a new, larger unit is nearly complete. In addition the the new generator, air conditioning is being added to cool the pumping equipment at the plant. The project will cost about \$150,000, half qualifying for reimbursement by developers under an agreement with the developers signed in 2012.

ICR SANITARY DISTRICT

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We're on the Web!

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