

INSCRIPTION CANYON RANCH SANITARY DISTRICT

P.O. Box 215 Chino Valley, AZ 86323

~ PUBLIC SESSION MINUTES ~

March 14, 2019

Approved March 27, 2019

Date: Thursday, March 14, 2019

Time: 1:00 pm

Place: The meeting was held at the Granite Creek Unitarian Universalist Congregation, 882 Sunset Avenue Prescott, Arizona.

1. CALL TO ORDER.

The Governing Board for the Inscription Canyon Ranch Sanitary District convened into public session at 1:00 p.m.

2. ROLL CALL.

Present were: David Barreira, Board Chairman; Bob Summers, Board Member; Bob Hilb, Board Member; Bob Busch, District Manager; Stephen Polk, Legal Counsel; Bob Lynch, Legal Counsel; and Jeannine Yeager, Clerk.

Members of the Public: Alan Cocherell, Jeanette Summers, Mark Emanuele, Jimmy Stoner, Chris Stoner, John Terwilliger, Bob Klauer, Eileen McGowan, Roy Kneale, Derrill Fulkerson, Suzanne Terwilliger, Pat McDowell, Jim Taylor, Ray Damesek, Richard Brubaker, Anne Lynch, Rick Shrouds (CivilTec), Shem Hawes (on phone) (CivilTec), Tim Emberlin, and Derrick Scott (Operator from the plant).

3. CALL TO THE PUBLIC.

Mr. Barreira, Board Chairman, asked Mr. Hilb to read a statement from Mr. Poskanzer (see attached letter). Mr. Hilb read the letter to the public. Mr. Barreira stated that he wanted to respond to the letter and Mr. Polk stated that Mr. Barreira could respond to direct criticism. Mr. Barreira stated that there were incorrect statements in the letter from Mr. Poskanzer, especially in the statement about the amount of money spent on legal fees, that the amount is not "several hundred thousand dollars" and also regarding the discussions between Talking Rock and the District. Mr. Barreira stated that the Board has always wanted to sit down with Talking Rock and discuss the issue but that Talking Rock was the party to first file a lawsuit instead of having informal discussions. Mr. Barreira then called on Al Cocherell to speak, per the sign in sheet.

Mr. Cockerell stated that he felt that Mr. Lynch has been ineffective and that the letter from Mr. Poskanzer backs up that position. Mr. Cockerell stated that he also felt that Mr. Lynch was costing

the District money with the mileage that they have to pay Mr. Lynch to come to Prescott from Phoenix and Mr. Cockerell recommended that the Board get a local attorney.

A discussion ensued regarding Mr. Poskanzer's right to make a statement since he doesn't come to the meetings and he is no longer a member of the Board or the community. Mr. Polk stated that this issue was under dispute and that the meetings are legally open to the public and everyone is allowed to speak. Mr. Barreira stated that Mr. Poskanzer does own a lot in the community but there is no residence on the lot.

Mr. Mark Emanuele raised his hand and stated that from previous meetings, his understanding was that the Board had "plenty of money" to increase the capacity of the plant to 90-100K gallons per day and that there was just a statement made that there are not enough in the Capital Funds for the expansion. Then he asked what the amount was that has been spent on attorney's fees for Mr. Lynch so far in the litigations. Mr. Barreira referred to Mr. Busch for those figures. Mr. Barreira stated that the District does have the funds to increase the capacity of the plant to 90K gallons per day but that once that money is spent, it will be difficult for the District to pay for the operation of the plant per the amended agreement. Mr. Busch stated that for this fiscal year, the attorney's fees have been about \$175,000 and for the previous year it was probably about \$50,000. Mr. Emanuele stated then that the statement from Mr. Poskanzer of "several hundred thousand" is correct.

4. CONSENT AGENDA (routine items that may be approved by one motion)

*Public Meeting Minutes of February 4, 2019,
Executive Session Minutes for February 4, 2019,
reimbursement to District Manager for Spring Hill Suites meeting room (\$357.00), mileage-travel to Phoenix for the ADEQ meeting on February 26th (\$125.28), GoDaddy-SSL Certificate Renewal for cyber security for 1 year (\$79.99), Meeting room at the Unitarian Universalist Congregation on March 14, 2019 (\$79.00) and Walmart-copy paper and supplies (\$15.32).*

Mr. Barreira moved to approve these items, Mr. Summers stated "so moved", Mr. Hilb seconded. Then Mr. Hilb requested a discussion about the Public Meeting minutes talking about Mr. Barreira saying that the District would need \$800,000 to bring the plant to 250K gallon capacity and Mr. Hilb felt that this was incorrect. Mr. Barreira stated that was incorrect because the statement he made was that the discussion with Sunrise Engineering was that to build a new plant and to get it to 125K gallons per day was \$2 million but to take the existing plant from 125K to an additional 250K gallons per day would cost about \$800,000. Mr. Barreira also stated that this was with Sunrise Engineering and not with CivilTec.

The Board agreed to take the Public Meeting Minutes for February 4th off of the Consent Agenda until corrections could be made. Then Mr. Summers modified his motion to approve the Consent Agenda minus the Public Meeting Minutes until they are amended and then they would be put on a future agenda. Mr. Hilb seconded, Mr. Barreira asked if there was any discussion and then all Board members stated "aye".

5. SPECIAL REPORTS AND POSSIBLE ACTION:

- A. Report and review of wastewater treatment plant operating status and capacity and status of plans for expansion by CivilTec Engineering with possible Board action.

Mr. Rick Shrouds from CivilTec Engineering stated that he could connect with Shem Hawes by telephone, if the Board wished, so that they could discuss the report and review. Mr. Barreira gave the go ahead to contact Mr. Hawes by phone. Mr. Summers stated that the Board had just received the report about a day and a half ago and that it is 151 pages which included engineering calculations and historical data and it has been difficult to go through the whole report in such a short period of time. Mr. Barreira stated that the body of the report is 27 pages, not including appendixes. Mr. Barreira stated the different sections of the report and that the Board intends to post the whole report on the website. Mr. Hilb stated that the report is already on the website.

Mr. Hawes is connected on the phone and Mr. Barreira asked him to run down the report in layman's terms. Mr. Hawes discussed the report items regarding the expansion of the plant and increasing the flow of the plant. Mr. Busch requested that Mr. Hawes explain how many homes can be serviced by the 62.5K gallon capacity as opposed to the 90K gallon capacity. Mr. Barreira asked Mr. Hawes to explain that in two ways; one, with the average daily flow and the other number at the "peak flow" times. Mr. Hawes explained that the average daily flow for the current 62.5K gallon capacity can accommodate 798 homes and that the District currently has 605 connected homes. The report also mentioned the number of homes that can be listed at 80% of capacity and that is 638 homes and that is the point where the District is starting to plan and design a larger plant, which the District is currently doing.

Mr. Hawes stated that at 90K gallons per day, they could add an additional 350 homes for a total of 1148 homes. Mr. Barreira asked if that was at 80% or 100% and Mr. Hawes stated that it was at 100% and at 80% the number of homes would be 919 and that's when they would have to start engineering and design for another expansion. Mr. Barreira asked Mr. Busch what their connections are now and Mr. Busch responded that they are at 625 connections at this time.

Derrick Scott, the operator from the plant, asked about the clarifier and Mr. Barreira stated that there are three limiting factors in the report. Mr. Scott stated that the current clarifier at 100% of the 62.5K will not process that amount because it is undersized and the way it sits right now it will not do 638 homes. Mr. Barreira stated that the three areas of the plant that are being overstressed and they are being operated above manufacturer's recommendations for the equipment. The operator is doing exceptional things to get the plant to process volumes and without Mr. Scott's extraordinary efforts, they would be in trouble.

Discussion ensued regarding making the expansion as soon as possible because of the equipment capacity and the chlorine dosing and using the chlorine tank as a clarifier. Mr. Hilb asked why they are still discussing the past and that they should just go ahead and approve the expansion. Mr. Summers discussed the rain water going into the plant and contaminating it.

Mr. Barreira stated that he and Mr. Busch attended a meeting at ADEQ with Mr. Hawes and they discussed the 62.5K capacity rating and the reality of what the flow amounts are on a daily basis. There was a discussion about how the rating is determined from the information provided by the engineers.

Mr. Lynch discussed the capacities per the industry standards and that there isn't really a State law regarding the capacities. Mr. Bob Klauer asked about the overages on the operating capacity and he also wanted to know why the Board used the same engineering firm to determine what the capacity is and also to do the expansion because it appears to be a conflict of interest. Mr. Jimmy Stoner asked what information was obligated to be reported to ADEQ regarding the operations at the plant. Mr. Barreira stated that the plant is required to submit 4 samples out of 7 days for testing. Mr. Summers asked about the current plants condition and life span. Mr. Hawes stated that everything is in working order and based on their experience, the plant has a possible 40 year lifespan if things are maintained.

There was a discussion regarding the bagging of the solids and the use of the liner. Mr. Summers was concerned about what would happen if the plant is abandoned in the future and if the machinery could be resold or repurposed. Mr. Barreira discussed the large amount of money that would have been necessary to build a larger plant originally. Mr. Barreira also discussed their investigation in trying to get a bond to help finance a new plant. Mr. Barreira felt that what the Board is doing now is basically a bandaid. Mr. Hilb and Mr. Barreira discussed the differences in the future expansions and the cost of that. They also discussed connection fees and spreading the cost across time to support the costs of future expansions. Mr. Summers mentioned that as of today, a lot in Talking Rock pays \$3250 in fees and a lot in ICR pays \$7000 in fees.

Discussion ensued about the improvements to the plant and the process of submitting an application to ADEQ and how long that takes, approximately 18 months, and that if the Board feels confident that the application will be approved by ADEQ, then they could start construction on the improvements without the permit. Also, there would be a letter of Financial Assurance submitted to ADEQ for the decommissioning of the old plant. Mr. Barreira stated that they will have to get a letter from Talking Rock to add to the application. Mr. Hawes asked if the engineering firm is authorized to move forward with the 60% design and so Mr. Barreira moved to authorize Civilec to move forward with the application to ADEQ for the 60% engineering stage. Mr. Hilb seconded the motion. Mr. Barreira stated aye and Mr. Hilb stated aye. Mr. Summers abstained.

Mr. Barreira moved to adjourn the public session to hold the Executive Session. Mr. Summers seconded the motion and all Board members stated aye. Mr. Polk requested that Mr. Barreira read the items to be discussed in the Executive Session which Mr. Barreira read. Then the Board decided to the case number in item 6B which was listed as VC201800380 and modify it to CV201800380. Mr. Barreira made a motion to modify that and Mr. Summers seconded the motion and all stated aye.

Mr. Jim Taylor asked why the Executive Session is in the middle of the meeting and Mr. Barriera discussed why the Executive Session is in the middle and that they cannot give an estimated time for the Executive Session section. Mr. Summers stated that the Board members cannot meet outside of the meeting to have discussion and Mr. Hilb stated that all of the estimates of how long the Executive sessions will take have been difficult to estimate.

Public Session adjourned at 2:29 p.m.

RECONVENE INTO PUBLIC SESSION AT 3:58 P.M.

7. REPORTS

Mr. Barreira asked Mr. Busch to go over the latest reports. Mr. Busch discussed the cost of repairs for where a truck ran over a flushing station (\$5300), packrats chewed up some wiring on the generator that is going to be replaced (\$700) and the pump that failed in the FEQ tank was repaired (\$1000). Daily averages for February were 46,056 gallons per day with three days over 60K: 2-15-19 was 65,900, 2-18-19 was 61,000 and on 2-16-19 it was 61,000. Not much intrusion during and after the snow storm. Phase I improvements are still ongoing and they have been waiting on APS for about four months to do the cut over for the new generator. Mr. Hilb asked how high up the ladder at APS have they gone to get a resolution to the hold up. Mr. Busch responded that he has talked to two different Supervisors over the past few months. There was a scheduled change out for February 25th but that was postponed due to the snow and that is rescheduled for March 26th so hoping that everything goes well for that date.

Mr. Busch looked into the security measures for the website and he checked with GoDaddy and there is an SSL (Secure Socket Layer) in place to protect information on the website. Talking Rock's Phase 6 will require documents for the District and Mr. Busch feels they will have those in a few weeks. Mr. Busch stated that the storage unit for past records has increased their rates and so he moved the records to a less expensive storage unit.

8. OLD BUSINESS-DISCUSSION & POSSIBLE ACTION

Item A. Setting a date and time for future ICRSD Board Meeting

Mr. Barreira stated that there will be another meeting on Monday, March 18th and that Mr. Busch will secure a place and time for that meeting and notify everyone.

Item B, C, D, and E Litigation and Talking Rock claims.

Mr. Barreira requested that Mr. Lynch address these issues. Mr. Lynch stated the decision from the court for the award of \$50,000 for attorney's fees for the plaintiff and the Board has 30 days to appeal. The claim of Talking Rock has had no changes to that and the first move would be to go to mediation but Talking Rock has not agreed to do that. Mr. Lynch stated that he has been in contact with the insurance claims adjuster multiple times and they have not contacted him back and so he will contact the insurance adjuster to discuss with them that this is costing the District money because the adjuster is not moving forward in a timely manner but they want to keep the

insurance in place for the district and its residents. Mr. Lynch drafted a response to Mr. Berger regarding their proposal and sent it to the adjuster for their approval before having it sent to Mr. Berger.

Item 8F-Amendment to the District By-Laws and notice to the Public about Board seats

Mr. Barreira read the By-Laws regarding open seats and elections and the amendment. Mr. Barreira moved to approve the amendment to the By-Laws, Mr. Summers seconded and all stated aye.

9. NEW BUSINESS

Item A-Mailing newsletter to property owners and responses to comments and emails from Talking Rock

Mr. Barreira moved to mail the three newsletters that were posted on the website to the property owners and they would include rebuttals to Talking Rocks emails and comments. There was no second and Mr. Summers made a motion to put this item on the agenda for the Monday meeting because he had not had a chance to read the newsletter yet. Mr. Barreira asked Mr. Busch to put the items on the agenda for Monday and Mr. Hilb made a comment that he finds the newsletters repetitive and redundant. Ms. Eileen McGowan asked to speak to this issue.

Ms. McGowan stated that she had received an email from Mr. Berger regarding this issue and she was upset that her email and about 90% of the other resident's emails had been given out to Mr. Berger by someone. She felt that someone gave out these addresses illegally and that Mr. Berger should be made to delete all of the resident's email address from his email account. Mr. Barreira recommended that Ms. McGowan and other members in her community can send letters to Mr. Berger to tell him to stop sending emails to them.

Mr. Barreira and Mr. Summers deferred that Item B be put on the Monday agenda.

Item C- Financial Reports for January and February 2019

Mr. Busch stated that he would skip the January reports and go right to February and that the financials are at 67% of the year. They have collected over \$6000 in inspection fees, the application and transfer fees are also above what was expected, interest is above what was expected, and there was a reimbursement of \$1568 for the review of lands for Sterling Ranch. \$26,000 in lot fees has been collected to date and the hookup fees are at \$11,750. As far as expenses, repairs and maintenance fees were a little over \$16,000, consulting fees/attorneys fees were \$90,000 for the District and on accounts 7722 & 7723 there are almost \$86,000 there. Repayment of infrastructure is \$42,185 and so far this year they have spent \$89,425 for Capital expenditures. Mr. Busch did a projection for the taxes from now until November and came up with

operations funds of \$313,000 and approximately \$40,000 in expenditures each month. The District will be short \$46,315 in November.

Mr. Hilb stated that it was a little early to do the projection and that they should wait until June to do this. Discussion ensued about collecting user fees and possibly transferring funds from the unrestricted account and replacing with taxes. Mr. Barreira moved to approve the financial report, Mr. Hilb seconded and all members stated aye.

Item D will be put on a future agenda.

Item E-Code of Ethics

Mr. Barreira asked Mr. Summers to discuss this since he was the one to ask that it be put on the agenda. Mr. Summers moved to have a Code of Ethics for the Board of Directors Members. Mr. Barreira seconded and recommended that Mr. Summers take the lead on this issue and then all Board members stated aye. Mr. Lynch suggested that Mr. Polk could assist in helping Mr. Summers to draft the Code of Ethics to coordinate with State statutes. All members stated aye to designating Mr. Summers to draft the Code of Ethics for the Board.

Item E(2) Approval of Engagement of Alyx Cohan CPA

Mr. Busch stated that Ms. Cohan had been contracted for the past few years to prepare the financial review for submittal to the Board and then the County. Mr. Barreira moved to approve Ms. Cohan for this task, Mr. Hilb seconded and Mr. Summers stated that he would go along with this since the other two Board members had dealt with Mr. Cohan before. Then all members stated aye.

Item D(2) Executive Session Minutes and Recordings

Mr. Summers moved to appoint Mr. Busch to handle the Executive Session minutes and recording to file them. Mr. Hilb seconded and all members stated aye.

Item F Open Meeting Law Violation

Mr. Barreira moved to direct Mr. Polk to respond to the complaint and Mr. Summers seconded the motion. Mr. Busch was not sure about posting the Attorney General's office complaint. Mr. Barreira and Mr. Summers voted aye and Mr. Hilb abstained because he stated that he was not on the Board at that time.

Mr. Barreira adjourned the meeting at 4:37 p.m.

Board Clerk

Date