

INSCRIPTION CANYON RANCH SANITARY DISTRICT

P.O. Box 215 Chino Valley, AZ 86323

~SPECIAL PUBLIC SESSION MINUTES~

May 24, 2018

Approved June 21, 2018

Date: Thursday May 24, 2018

Time: 1:00 p.m.

Place: The meeting was held in the Conference Room at The Days Inn, 688 Fletcher Ct., Chino Valley, Az

1. CALL TO ORDER.

As the Chairman, Dave Barreira was in attendance via telephone, he asked Mr. Dickrell to chair the meeting. Mr. Dickrell opened the meeting at 1:00 pm.

2. ROLL CALL.

Present were Bill Dickrell, Board Member, Al Poskanzer, Board Member, Bill Whittington, legal counsel, Hans Clugsman, associate legal counsel and Bob Busch, District Manager. Mr. Dave Barreira, Board Chair and Mr. Robert Lynch, legal counsel, attended via telephone conference.

Mr. Cole Johnson and Mr. Sterling Johnson were present as members of the public.

3. CALL TO THE PUBLIC

There were no comments from the public.

4. POSSIBLE VOTE TO GO INTO EXECUTIVE SESSION:

Mr. Dickrell moved that the board go into EXECUTIVE SESSION for: discussion or consultation for legal advice with the attorneys of the Inscription Canyon Ranch Sanitary District pursuant to A.R.S. Section 38-431.03.(A)(3) and discussion or consultation with the attorneys of the Inscription Canyon Ranch Sanitary District in order to consider its position regarding the District's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation pursuant to A.R.S. Section 38-431.03. (A)(4) re:

- A. Legal advice concerning possible Resolution authorizing the posting of a notice of hearing in connection with a possible declaration of a moratorium on connections to the sanitary system.
- B. Legal advice regarding pending litigation with Talking Rock Land, LLC, and future proceedings and filings, additional litigation, and Notice of Claim by Talking Rock Land, LLC.
- C. Legal advice concerning the possible designation of a member of the Governing Board to meet with District legal counsel and representatives of Talking Rock Land LLC to discuss possible settlement of the dispute between the parties.
- D. Legal advice concerning waiver of personal service by the District and Board Members in order to permit Robert S. Lynch, as counsel to parties, to receive service of notice of claim from Talking Rock Land, LLC.

Mr. Barreira seconded the motion. The motion is passed unanimously without discussion.

During the Executive Session, the public will be asked to leave the Board meeting room until the general session is re-convened

CONVENE into Executive Session at 1:06 p.m.

RECONVENE from Executive Session at approximately 2:10 p.m.

5. CONSENT AGENDA (Routine items that may be approved by one motion)

Reimbursement to District Manager - \$74.99

(GoDaddy- Website Secure Sockets Layer for website security (\$74.99)

Mr. Poskanzer moved to approve the consent agenda. Mr. Barreira seconded the motion. The motion passed unanimously.

6. NEW BUSINESS - DISCUSSION & POSSIBLE ACTION RE:

- A. Approval of a Resolution authorizing the posting of a notice of hearing in connection with a possible declaration of a moratorium on connections to the sanitary system.

Mr. Lynch explained that the attorneys have prepared the resolution form that will have the legal effect of setting in motion the moratorium process as called for in the process. Mr. Whittington explained that the form under discussion has been labeled "Resolution 2018-2."

Mr. Barreira moved that the Board approve Resolution 2018-2 authorizing the posting of a notice of hearing in connection with a possible declaration of a moratorium on connections to the sanitary system. Bill Dickrell seconded the motion. Motion passed unanimously.

- B. Report on pending litigation with Talking Rock Land, LLC, and future proceedings and filings, and additional litigation (no action).

Mr. Lynch stated that Talking Rock Land, LLC filed a complaint on April 24th against the District and the Governing Board members in their representative capacity and also sought an Order to Show Cause, for which an initial hearing has been held and a subsequent hearing is scheduled for the morning of June 19th. The attorneys will keep the Board informed.

- C. Designation of a member of the Governing Board to meet with District legal counsel and representatives of Talking Rock Land, LLC to discuss possible settlement of the dispute between the parties.

Mr. Lynch stated he has been approached by opposing counsel, suggesting that representatives of each side get together to discuss settlement possibilities. One Board Member would be advisable to avoid Open Meeting Law violations. He recommended that the Board designate a member to participate in these discussions.

Mr. Poskanzer commented that he received a phone call about a week ago from Peter Berger, CEO of Symmetry Companies, asking if this dispute could be settled, principle to principle. Mr. Poskanzer said he told Mr. Berger he, Mr. Poskanzer, could not speak for the Board, and could make no commitment as a Board Member. It was a friendly and cordial conversation. Mr. Poskanzer asked if Mr. Berger had contacted other Board Members and was told "no". Mr. Poskanzer speculated that he might have been sought out because he has done business with a

division of Fennemore-Craig over the years, Mr. Poskanzer said he told Mr. Berger it would be great if the matter could be settled without further litigation. Mr. Poskanzer stated that as A Director of the District, he just yesterday, signed a check for \$25,000 for legal services.. That money is not available toward expanding the plant, on which, over the past two years, we have spent \$130,000. We need to sit down with Talking Rock as a team and figure out how we are going to get an expanded plant, so that Talking Rock can get on with their development plans. We need to have principle to principle discussions to resolve this situation.

Mr. Whittington asked if Mr. Poskanzer was making his statement in support of Item C. on the agenda. Mr. Poskanzer stated yes, he was in favor of the matter. If he were the designee, he would, with all due respect, ask the other side to have our respective attorneys “stand down” and have principle to principle discussions.

Mr. Lynch pointed out that on April 24th, he sent a memo to the opposing counsel to solve the situation, outlining a proposal to sign the capacity forms and entering into a side agreement that would address financing issues. Meanwhile, they were filing a lawsuit. We continue to get mixed signals from the other side.

Mr. Poskanzer stated he was told by Mr. Berger that they were pursuing two tracks in the matter: One a cordial track, the other, pursuing the legal course.

Mr. Dickrell directed Mr. Barreira to serve as the Board’s designated representative. Mr. Barreira accepted.

D. Setting of a time and place for a public hearing in connection with considering a declaration of a moratorium on connections to the sanitary system.

Mr. Barreira moved that the date and time for the hearing be set as Wednesday, July 18, 2018 at the Days Inn, Chino Valley, beginning at 130 pm. Mr. Dickrell seconded. Motion passed unanimously.

E. Waiver of personal service by the District and Board Members in order to permit Robert S. Lynch, as counsel, to receive service of a of claim from Talking Rock Land, LLC.

Mr. Lynch explained that he requested that the item be placed on the agenda. It will expedite service to the District. He recognized that Mr. Poskanzer and Mr. Dickrell was served today with the Notice of Claim.

Mr. Barreira moved that the District and Board Members waive personal service in order to permit Mr. Robert S. Lynch, as counsel, to accept service on behalf of the District. Mr. Poskanzer seconded. Motion passed unanimously.

Mr. Barreira stated that he waived personal service of the Notice of Claim, and Mr. Lynch could accept service for him.

7. ADJOURNMENT

There being no further business, the meeting was adjourned at approximately 2:34 p.m.

Date

Board Clerk