

INSCRIPTION CANYON RANCH SANITARY DISTRICT

P.O. Box 215 Chino Valley, AZ 86323

PUBLIC SESSION

~MINUTES~

December 29, 2011

Date: Thursday December 29, 2011

Time: 9:45 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 9:45 a.m.

2. ROLL CALL.

Bob Hilb, Chairman; Brian Ray, Board Member; Scott Robbins, Board Member; Bob Busch, District Manager; Isabel Yribe, District Clerk; Bill Whittington, Legal Counsel; and the following audience members according to the sign in sheet:

Bruce Eldredge	Charles O'Brien
Harvey Roberts	Paula Green
Gene Leasure	Barb Hilb
Clint Poteet	Tom Sullivan
Chris Stoner	Jimmy Stoner
John Freeman	Dayne Taylor
Phil Brand	Stan Steiner

3. CALL TO THE PUBLIC

There were no comments from the members of the audience.

4. MANAGERS REPORT

Mr. Bob Busch started by stating that he had sent out the ICRSD Newsletter to about 950 property owners throughout the district. He also mentioned that there was a form interested parties could fill out on the website to be signed up for email notifications of upcoming meetings and for future newsletters.

Financial reports up until October are now available on the website. Mr. Busch checked into the Districts Escrow account. He stated that the balance was approximately \$566,000 in cash. There are two CDs in the amount of \$224,000 and one for \$248,000. There was also a Money Market account for \$68,000. In addition to that, Mr. Busch stated that there was another \$41,000 in Deeds of Trust. Mr. Busch told the Board Members that they might want to consider the Deeds of Trust and how they relate to the MOU. Mr. Hilb stated that the MOU would require the District to come up with a new Development agreement and they would be taken into account when we're doing the development agreement.

5. FINANCIAL REPORT

After providing the Board Members and members of the audience with the Income Statements, Balance Sheets and Budget Reports, Bruce Eldredge went through the financials for the District line by line and explained the amounts and their values. *There was a brief discussion regarding the breakdown of Mr. Whittington's fees into categories that would be better understood on the documents. Mr. Eldredge stated that he would look into how he could make those changes.*

- **Gene Leasure** wanted some clarification on what **Special Projects** were. *Bruce Eldredge gave him an example. He stated that recently he had sent out a mailer for the District and that the charges incurred were beyond his scope of work and so he put that fee into the Special Projects category.*
- **Dayne Taylor** asked if Mr. Eldredge would break down this category into specific projects. *Mr. Eldredge stated that he had the invoices for each project and if the Board wanted to, he'd provide those. Mr. Taylor stated that that would be "advantageous". Mr. Hilb thanked him for his comment.*
- **Harvey Roberts** stated that the plant was running efficiently and wanted to know if Mr. Busch would tell him why. He asked if anything was done to the plant. *Mr. Busch stated that the operators had done some fine tuning and minor changes to the physical plant. He stated that it would save on Electrical and Chemical costs. Mr. Busch also stated that those savings have not yet been reflected in the expenses so far but would in the future. Bruce Eldredge also gave some clarification on how expenses were dealt with on budgets.*
- **Gene Leasure** wanted to know how the carryover expenses from the previous year were being addressed. *Mr. Hilb stated that the budget for an expense item that didn't occur last would be carried over into the new budget if it was still valid. The current budget would be used as a guide for the next budget. Mr. Eldredge also gave some clarification and stated that Alyx Cohen, CPA would be doing an audit and would let the Board Members know her findings in regards to this matter. Mr. Eldredge also stated that he was unsure of the manner in which the previous accountant did things. Mr. Leasure made a comment about the length of time Mr. Eldredge had been responsible and asked why he didn't know at this point. Mr. Eldredge stated again that he was not responsible for last year's budget and would have to wait for Ms. Cohen to provide him with the audit.*
- **Charles O'Brien** had concerns about the amount of legal fees. He wanted to know if those fees could be broken down so that it could be known exactly what was being paid out and for what specific reason. *Mr. Hilb stated that he was aware of start up fees and prior litigations that District Counsel was involved with. Mr. O'Brien asked if it could be broken down. Mr. Hilb stated that it was not planned on at the moment. He also stated that the subject would have to wait for discussion at a later time.*
- **Dayne Taylor** asked when Mr. Eldredge began his contract with the District. *Mr. Eldredge stated that he began in August. Mr. Taylor wanted to know if he started at the beginning of the fiscal year. Mr. Eldredge stated that Wallace and Associates had control of the finances prior to his beginning service in August.*
- **Gene Leasure** stated that the statement wasn't true. He stated that Wallace and Associates terminated their contract on June 30, 2011. *Mr. Hilb stated that in fact Wallace and Associates had extended their contract until July 31, 2011 while the District was making a decision on an accounting firm.*

6. **EXECUTIVE SESSION** Chairman Bob Hilb made a motion to 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 and instruct its attorneys 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. Missing and unaccounted for records and documents, property of the District, that has not been produced by the previous District Board members.
- B. Proposed procedure for collection of unpaid user fees, late fees and interest charges in connection with user fee billings of September and October 2011
- C. Insurance coverage claim for attorneys fees.
- D. Possible accommodations under the Americans with Disabilities Act as a result of a request by Mr. Charles O'Brien.

Brian Ray seconded the motion. There was no discussion and the motion passed unanimously.

Members of the audience were asked to leave and Executive Session commenced at 10:15 a.m.

7. **RECONVENE INTO PUBLIC SESSION** at approximately 11:10 a.m.

A. Missing and unaccounted for records and documents, property of the District, that has not been produced by the previous District Board members. Chairman Bob Hilb made a motion that Counsel Whittington contact the attorney's for the previous board members to require them to produce all records in their possession including executive session minutes and correspondence from their attorney's by January 9, 2012 or he is authorized to take appropriate action. Brian Ray seconded the motion. The motion passed unanimously without discussion.

B. Proposed procedure for collection of unpaid user fees, late fees and interest charges in connection with user fee billings of September and October 2011. *There will be no action on this item as a draft is being reviewed by legal counsel.*

C. Insurance coverage claim for attorneys fees. *Chairman Hilb asked Mr. Busch if he had completed the previous action item on this item as directed in a previous meeting. Mr. Busch stated that he did and turned that information over to Counsel E.J. Kotalik except for invoices from Boyle, Pecharich, Cline, Whittington and Stallings. There was a brief discussion over the break down of the invoices from Counsel Whittington. Mr. Busch stated that he would be able to do that and if he ran into any issues, he would contact Mr. Whittington.*

D. Possible accommodations under the Americans with Disabilities Act as a result of a request by Mr. Charles O'Brien. *Mr. Hilb stated that this has been turned over to*

legal counsel for research and advice and therefore doesn't require any action at this time.

8. NEW BUSINESS

A. District Financial Report for November 2011. **Chairman Hilb** made a motion to approve as recorded. Brian Ray seconded the motion and the following discussion ensued.

- **Bob Hilb** stated that it had been requested that this item be broken down into smaller categories. He stated that he felt it was inappropriate to break down items in the reports any further than they already had been, and incur more costs of having to do so. *Counsel Whittington reminded him that the other board members hadn't weighed in on his feelings and the matter would have to be discussed with them. Mr. Hilb asked Mr. Ray and Mr. Robbins if they felt comfortable with the level of detail on the reports to which they responded that they were.*
- **Charles O'Brien** asked that a further break down of these items be made available to the public as they could be requested under public records law. *Mr. Hilb stated that the break down is at a level that is being used and has been approved. He also stated that there was no plan to break it down any further. Mr. O'Brien then asked why Bob Busch had broken down other items and couldn't do it for this one. Mr. Hilb stated that that was done for a specific reason which could not be discussed as it was talked about in an executive session.*
- **Bill Whittington** stated that the contents of the invoices might reveal confidential information or references to confidential communications that were prohibited from sharing even if requested by a public records request. Regarding a public records request, Mr. Whittington stated that one may be submitted but certain information might have to be redacted before it was given.
- **Charles O'Brien** stated that he did not want the details but simply wanted to know what was being paid out and for what specific reason. *Mr. Whittington stated that the District and its Board Members were under no obligation to produce any financial records beyond that of what normally was expected in the industry. Mr. Robbins suggested that it be broken down into District legal work and litigation work. Mr. O'Brien stated that it would be a start. Mr. O'Brien reiterated that he wanted to know specifically what monies were being paid out and why. He stated that the previous Board spent significantly less than the present Board on general legal advice.*
- **John Freeman** suggested some fine tuning with a break down of specific items regarding attorney's bills. He stated that a breakdown of legal fees for District business would be helpful in developing next year's budget process.
- **Bill Whittington** reminded the Chairman that certain items were outside the scope of the agenda item regarding Financial Reports. He suggested that the Board decide on whether to approve the motion and table the rest for another meeting. *Bob Hilb stressed that it would cost more money to break these items further down. Bruce Eldredge suggested that if the postponed approving the reports as they were and Mr. Busch broke these legal fees down he then could come back with the new figures on the report. Mr. Hilb wanted to know what the least expensive and easier way to go was. Mr. Eldredge stated that postponing this item*

for a future time would be easier if they wanted November to reflect a breakdown of legal fees into litigation fees and District fees.

- **Bob Hilb** withdrew his motion and tabled the approval of the Financial Reports.
- **Harvey Roberts** mentioned that the previous Board two years ago had a \$13,000 budget for legal fees for District Operations and nothing last year. The present Board might want to consider this for the future. *Mr. Hilb thanked Mr. Roberts for the information.*
- **Bill Whittington** suggested to Mr. Hilb that he might want to include in a future agenda, a packet that he could put together of what is typical District legal fees around the state regarding this item. *Mr. Hilb agreed.*

B. Discussion of a possible Amendment to Ordinance 2008-1 adopting a policy for posting public documents on the District website and changing copy fees and a collection mechanism. Mr. Busch read the proposed changes to the Ordinance. *Mr. Hilb stated that he was inclined to remove the "payment in advance" part of the ordinance. There was a brief discussion as to what would be most prudent and reasonable for the District. The Board agreed to have the payment in advance language removed. Failure to collect these fees was also discussed and it was noted that this is pending review from Counsel. Board members then discussed deferring approval and reconsider after Mr. Busch had made changes discussed. Mr. Whittington suggested that Mr. Hilb direct Mr. Busch to include Commercial Fees as well. By consensus of the Board, Mr. Hilb directed Mr. Busch to make the necessary changes to the proposed Ordinance that were reflected in the discussion and bring it to a future meeting.*

- **Harvey Roberts** asked about posting this item on the website. *Mr. Hilb stated that it was the next item to be talked about.*
- **Dayne Taylor** asked how the Board was going to make the public records requests available. *Mr. Hilb stated that it would be available on the website. Mr. Busch added that they could call the district office for them as well. Mr. Hilb asked Mr. Busch to add that process to the proposed Ordinance.*

Regarding the consideration of posting public documents on the District website, Mr. Hilb asked Counsel if there were any legal ramifications regarding putting documents on the website as documents are approved. *Mr. Whittington stated that it would be fine and that future changes to the law would require these anyway. Mr. Hilb then directed Mr. Busch to look at the ordinance and come back with some proposed language that could be reviewed at the next meeting.*

- **Harvey Roberts** suggested that there must be a policy in place. He stated that the previous Board had their documents posted on a website. *Mr. Hilb responded by stating that some of their documents were posted and some were not posted. He also stated that the previous Board made a decision at some point what would be put into the public documents category. He stated that Bob Busch would have to research the Ordinance for clarification.*
- **Dayne Taylor** stated that as of this morning, there was nothing in that regard on the District website. *Mr. Hilb stated that it would be looked in to.*

By consensus, the Board instructed Bob Busch to move forward with his proposals and his research into this item.

C. Adoption of an amendment to Ordinance 2008-1 adopting rates and charges for the District as authorized by Statute and as discussed in the preceding Rate Hearing. Such fees include Activation/Transfer Fee, Administrative Fee, Hookup Fee, Interest Rate, Late Fee, Permit Fee, Returned Check Fee, and User Fees. *Bob Hilb stated that since the posting of the Hearing Notice, Counsel researched the matter of user fees and that it there appears to be no justification and it is possibly illegal to have Residential user fees at \$0 and Commercial Fees at anything above \$0. The research into this matter would continue and as suggested in the Rate Hearing meeting, the District will come up with a plan for the use of taxes, use of user fees, the appropriate level of user fees, and take into account the suggestions made.*

Bob Hilb made a motion that the Board adopt the fees as described in the Notice of Public Hearing with the change that all user fees will be \$0. Mr. Whittington asked if that meant we were approving the Resolution that Mr. Busch prepared for consideration. Mr. Hilb changed his motion to approve Resolution 2011-4 Amendment No. 1 to Ordinance 2008-1 with the following change to Exhibit A fees as previously discussed in the Public Hearing with the change that User Fees will be \$0 for residential and commercial users. Brian Ray seconded the motion and the following discussion ensued:

- **Dayne Taylor** asked if the Commercial Fee was at \$0. *Bob Hilb stated that both would have to be the same amount until further researched showed otherwise. Until the Board found a ruling that allows them to do different, we were adopting the conservative way to avoid possible legal problems. Mr. Taylor made reference to the City of Prescott and Title 18 Chapter 9. Mr. Hilb stated that he was going by the Chapter that governed our District as advised by Counsel. This issue would be reviewed at the next Rate Hearing meeting.*

The motion passed unanimously.

- **Jimmy Stoner** stated that if the User Fees were taken to \$0 it would have a significant impact on the Budget. He asked if the Budget would be republished. *Mr. Hilb stated that the impact of the Budget's bottom line wasn't significant enough to take back to the county. Mr. Stoner asked if the Budget was going to be changed and republished. Mr. Hilb stated that the Budget was used as a guide and if it later determined that there were significant enough changes to be made, the Budget would be republished. Mr. Hilb stated that a few numbers would be changed around but that the bottom line would remain the same. Mr. Stoner asked if the Board intended to let the District members know about those changes. Mr. Hilb stated that when they had the next Budget report it would reflect those changes.*

9. ADJOURNMENT.

Thereafter, the public session adjourned at approximately 11:50 a.m.

Date

Board Clerk

DRAFT - UNAPPROVED