

INSCRIPTION CANYON RANCH SANITARY DISTRICT

PO Box 2344 Prescott, AZ 86302

~ Regular Meeting ~

April 13, 2021

Approved May 11, 2021

Date: Tuesday April 13, 2021

Time: 1:00 p.m.

Place: WingSpace Conference Room - 371 Garden Street, Prescott, AZ

- 1. CALL TO ORDER** *Mr. Summers called the meeting to order at 1:00 p.m.*
- 2. ROLL CALL** *Present were: Bob Summers, Board Chairman; Jerry DeSantis, Board Member; Jeff McLeod, Board Member; Bill Whittington, Legal Counsel; Bob Busch, District Manager; Isabel Yribe, Clerk*
- 3. Mr. Summers 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. § 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, or in conjunction with 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. Talking Rock Land, LLC vs ICRSD, Case No. P1300CV201800380 and Case No. P1300CV201900298** including, but not limited to: the remand to the lower court; possible mediation negotiations with Developer; Possible direction to the attorneys of the Inscription Canyon Ranch Sanitary District relating to the mediation and mediation -related issues
 - B. Legal advice regarding filing in Yavapai Superior Court by Allied World Insurance.**
 - C. Legal advice concerning possible cooperation with Water Company to include shared inspection services on infrastructure installations, possible appointment of a board member as the contact to work out details and present the arrangement to the board.**
 - D. Legal advice concerning possible actions and/or claims for past latent infrastructure defects***Mr. DeSantis seconded the motion. The motion passed unanimously without discussion.*

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

CONVENE INTO EXECUTIVE SESSION: 1:02 p.m.

RECONVENE INTO PUBLIC SESSION: 2:15 p.m.

1. CALL TO ORDER

Mr. Summers called the meeting back into order.

2. ROLL CALL

Present were Mr. Summers, Board Chairman; Jeff McLeod, Board Member; Jerry DeSantis, Board Member; Bill Whittington, Legal Counsel; Bob Busch, District Manager; and Isabel Yribe, clerk

Members of the audience: Bob Hilb, Bob Frisch, Ray Damasek, and Mark Arnold

3. CALL TO THE PUBLIC

Bob Hilb asked about the ability to meet in public for the regular meetings since Yavapai County has lifted it's restrictions. Mr. Hilb also asked if the post construction analysis for plant capacity had been done and if it was, he'd like to see that posted on the ICR Sanitary District website. Mr. Hilb also made a suggestion that all dead end links on the website be removed and checked periodically to ensure that the public receives updated and correct information. Mr. Mark Arnold asked about the status of the recovery efforts for the latent defects on the check valves that were installed in the District. He also wanted to know if there were more of the defective valves installed elsewhere in the District. Mr. Arnold asked about the details of the \$10,500 settlement that the Board accepted for the reimbursement of legal expenses. Mr. Summers gave a brief summary of what the \$10,500 represented in the reimbursement of legal fees.

4. REPORTS

Chairman's Report

Mr. Summers read the following:

As mentioned in our meeting in March, I am happy to report the Federal Judge dismissed the lawsuit brought by the District's insurance carrier against the Sanitary District. The ICRSD Board did move to recover legal fees for the dismissed case and was able through negotiations with the insurance company to settle with the insurance company for \$10,500p payable to the ICRSD. Unfortunately, the District's insurance company has chosen to refile their case against the District in Yavapai County Superior Court instead of moving to negotiate a settlement to the TRR suit. I am certainly disappointed in the District's insurance Carrier's choice and would like to see the TRR lawsuit resolved. Only the attorneys are profiting from this continued court action and the District is forced to expend more in legal fees. The planning committee met last Tuesday and is making progress on the next plant expansion. Cooperation received from the developers will help us properly size the plant for the future and allow the District to move in a financially responsible manner to meet the future capacity needs. I look forward to a discussion with the TRR developers as there may be an opportunity that would be mutually beneficial to both the District and the Golf course that utilizes the treated effluent. The county has moved up the timing on our annual budget submission to the County and we will be discussing the budget calendar later in this meeting. This year, legal fees have been greatly reduced compared to recent years. While legal fees are still excessive, mainly driven by the lawsuits by TRR and the District's own insurance carrier I hope we can get the suits resolved and return the District budget to a pre-lawsuit level soon.

Manager's Report

Mr. Busch reported that the plant output for March 2021 was 1,782,686 gallons. He said that it averaged 57,506 gallons per day. Mr. Busch stated that the highest usage day was on March 24,2021 at 73,300 gallons. Mr. Busch also stated that there were four days that were over 70,000 gallons. There are 725 active connectors and 51 connections that are pending, reported Mr. Busch. Mr. Busch stated that quarterly billing was sent out on April 1, 2021. He also stated that the District still had one ADEQ

compliance item that was due; the repurposing of the pond. Mr. Busch stated that the sludge bags were drying out and once dried, they would be hauled off. Soil tests would then follow.

5. CONSENT AGENDA (Routine items that may be approved by one motion) *Mr. Summers made a motion to approve the consent agenda, as follows. Mr. DeSantis seconded the motion. The motion passed unanimously without discussion.*

Minutes of Meetings

- **Minutes of Executive Session – March 9, 2021**
- **Minutes of Public Meeting- March 9, 2021 (With changes to “Mark Armstrong”)**
- **Minutes of Public Meeting – March 23, 2021 Reimbursement to District Manager (\$95.00)**
- **Wingspace- Conference Room and Speaker Phone rental (March 23rd, April 13th) (\$80.00)**
- **Wingspace – Conference Room rental-Development Group- March 23rd(\$15.00)**

6. OLD BUSINESS

- A. Discussion and possible action re: Talking Rock Land, LLC vs ICRSD, Case No. P1300CV201800380 and Case No. P1300CV201900298 including, but not limited to: the remand to the lower court; possible mediation negotiations with Developer; Possible direction to the attorneys of the Inscription Canyon Ranch Sanitary District relating to the mediation and mediation -related issues.** *Both 6A and 7B were included in one motion. Mr. Summers made a motion to proceed as instructed by legal counsel in the executive session. Mr. DeSantis seconded the motion. The motion passed unanimously without discussion.*
- B. Discussion and possible action concerning cooperation with Water Company to include shared inspection services on infrastructure installations, possible appointment of a board member as the contact to work out details and present the arrangement to the board.** *There was nothing to report for this agenda item at this time.*
- C. Discussion and possible action or claims concerning past latent infrastructure defects.** *There was a brief discussion regarding the possibility of eight more residences in the District having defective check valves. Mr. Summers stated that the Board was currently working on this matter and should have more to report next month.*

7. NEW BUSINESS

- A. Discussion and possible action re: Approval of financial reports for February & March, 2021.** *Mr. Busch stated that there was a correction/revision to the Profit and Loss report for Marcy. The User Fee Revenue is not split between Residential and Commercial The amount of \$32,264 was for residential buildings and \$1,470 was for commercial buildings. He stated that the totals were the same and the corrections reflected the revision. Mr. McLeod stated that the Year to Date for the Contingency account showed to have \$27,123 but did not reflect the settlement of \$75,000 to Talking Rock Ranch. He stated that he would like clarification before the financial report was approved. Mr. Busch stated that he would check into this matter with Cheryl Ibbotson, the District's accountant. No action was taken on this agenda item at this time.*
- B. Possible action regarding a filing in Yavapai Superior Court by Allied World Insurance.** *Both 6A and 7B were included in one motion. Mr. Summers made a motion to proceed as instructed by legal counsel in the executive session. Mr. DeSantis seconded the motion. The motion passed unanimously without discussion. Furthermore, Mr. DeSantis made a motion to approve Mr. Summers as the contact person for Mr. E.J. Kotalik in order to advise on options that are consistent with the Board's/District's objectives. Mr. McLeod seconded the motion. The motion passed without further discussion.*

C. Discussion and possible action re: Report and recommendations from the Planning Committee

Mr. DeSantis stated that the Planning Committee is expected to have further discussions with Talking Rock Ranch about their projected buildout over a fifteen year period. Mr. DeSantis stated that there would be more information to report within the next month.

D. Possible approval of Engagement of CPA firm to prepare Financial Review for FYE 2021. *There was no action taken on this agenda item at this time.*

E. Discussion and possible action concerning the location of future Board Meetings. *There was a brief discussion about future meetings being held face to face instead of telephonically. Locations were also briefly discussed. Mr. Busch stated that he would research possible future locations and suggested that one more meeting be held telephonically in order to give him more time to research. No action was taken on this agenda item at this time.*

F. Discussion and possible action concerning upcoming 2021-2022 budget approval calendar and budget assumptions. *Mr. Busch stated that tax levy information was due to Yavapai County on June 16, 2021. He stated that the District had to publish a budget at least 20 days but not more than 30 days in advance of a public hearing. He also stated that the regular, June 11, 2021 meeting and Budget and Rate Hearing Meeting could be held at the same time. Mr. Busch stated that the Board could approve the publishing of the proposed budget at its regular, May meeting. Mr. Busch provided a rough draft of the proposed budget for the Board to discuss.*

8. ADJOURNMENT

Therefore, the meeting was adjourned at approximately 3:15p.m. .

Board Clerk

Date