

INSCRIPTION CANYON RANCH SANITARY DISTRICT

PO Box 215 Chino Valley, AZ 86323

~ Special Meeting ~

Thursday June 18, 2020

Date: Thursday June 18, 2020

Approved July 10, 2020

Time: 2:00 p.m.

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

1. CALL TO ORDER by Board Chairman, Bob Summers at 2:00 p.m.

2. ROLL CALL

Present were: Bob Summers, Board Member; Jerry DeSantis, Board Member; Bill Whittington, Legal Counsel; Bob Busch, District Manager; Isabel Yribe, Clerk. Mr. Jimmy Stoner and Mr. Roy Kneal were present via teleconference.

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 appointment of a mediator. Possible direction to the attorneys of the Inscription Canyon Ranch Sanitary District relating to the mediation and mediation -related issues; issue relating to pending judgment for attorney's fees.
- B. Possible direction to legal counsel relating to declaratory action filed by Allied World Specialty Insurance Co., relating to insurance coverage in the Talking Rock litigation; correspondence received from Allied World Specialty Insurance Co., re: same.
- C. Possible revision of Amended and Restated Development Agreement.
- D. Status and possible direction concerning Quo Warranto case.
- E. Possible demand for reimbursement of repair costs caused by line blockage at 15345 Chloe Trail.
- F. Possible ratification of actions taken since November 2018 by less than a quorum of valid Board Members; possible approval of ratification resolution 2020-3.
- G. Process for approval of estimated legal expenses to be incurred by Robert Lynch, legal counsel for the District.

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 room until the general session is reconvened.

CONVENE INTO EXECUTIVE SESSION AT APPROXIMATELY 2:03 PM

RECONVENE INTO PUBLIC SESSION AT APPROXIMATELY 4:00 PM

4. ROLL CALL OF THE AUDIENCE MEMBERS. (This meeting was via teleconference)

Jimmy Stoner, Alan Cockrell, Jim Cooper, Roy Kneal, Mark Arnold, Mark Emanuele, Charles Lehr, Jeff McLeod, and Cheryl Ibbotson were present.

5. REPORTS

Manager's Report

Mr. Busch reported that the Budget and Rate Hearing is set for June 30, 2020 at 1:00 pm at Gabby's Kitchen in Chino Valley, Arizona.

Regarding the plant upgrade, Mr. Busch stated that Eric Ness of Santec visited the plant on June 10, 2020. Mr. Ness provided startup and training for the sludge system and reviewed the plant operation. Mr. Ness completed minor adjustments and repairs as needed. He also submitted as-built drawings and the lien release. Mr. Busch stated that the final payment of approximately \$61,000 has been approved as the plant upgrade is now completed. Mr. Busch stated that the district is waiting for APP from ADEQ.

Mr. Busch also reported that there was a repair of a line on Spiral Dancer in The Preserve for a leaking valve. Mr. Busch estimated the cost to be approximately \$2,000.

Mr. Busch stated that the Call of Election has been published for June 26 and July 7, 2020.. Mr. Busch stated that the transition from MDI Taxes and Accounting to Wallace Utility Billing has been made and the district website has been updated and all the new contact information. He stated that signature cards would be updated at 5:00 pm at Chase Bank.

Accountant's Report

Ms. Cheryl Ibbotson was present to report on behalf of Wallace Utility Billing. Ms. Ibbotson stated that the database is up and running and is being reviewed to compare residents, parcels and collected or outstanding fees. She also stated that the accounting for May 2020 is now complete. Ms. Ibbotson stated that the firm is answering all title requests on the district's behalf.

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

Minutes of Meetings

- **Minutes of Public Board Meeting – June 4, 2020**
- **Minutes of Executive Session – June 4, 2020 Reimbursement to District Manager (\$ 191.10)**
- **Prescott Courier- Publication of Notice of Budget & Rate Hearing (\$191.10)**

Mr. Summers made a motion to approve the consent agenda. Mr. DeSantis seconded the motion. The motion passed unanimously without a discussion.

7. OLD BUSINESS - DISCUSSION & POSSIBLE ACTION RE:

A. Talking Rock Land, LLC vs ICRSD, Case No. P1300CV20180038 and Case No.

P1300CV201900298 including, but not limited to participation in mediation negotiations with Developer. Possible direction to legal counsel re: formal mediation with a mediator. Possible directions to legal counsel relating to said mediation and mediation related issues; issue relating to pending judgment for attorney's fees. Selection of Board Member to represent the District at formal mediation with Talking Rock Land, LLC.

Mr. Summers stated that a mediation was scheduled for July 14, 2020. There was nothing else to report on this agenda item.

B. Status and possible action concerning Quo Warranto case.

Mr. Summers made a motion that legal counsel proceed as directed as stated in the executive session and to authorize Mr. DeSantis to approve the final draft and submit it to Mr. Whittington for distribution. Mr. DeSantis seconded the motion. The motion passed unanimously without discussion.

C. Possible preparation of newsletter for distribution to property owners.

Mr. DeSantis stated that he would address this agenda item in about six weeks. He also stated that there was nothing else to report at this time.

D. Possible appointment of legal counsel to respond to, and possible directions to legal counsel relating to declaratory action filed by Allied World Specialty Insurance Co., seeking a declaratory judgement relating to insurance coverage in the Talking Rock lawsuit; possible response to letter received from Allied World Specialty Insurance Co., re: coverage issues.

There was nothing to report on this agenda item at this time.

E. Possible revision of Amended and Restated Development Agreement.

There was nothing to report on this agenda item at this time.

F. Possible demand for reimbursement of repair costs caused by line blockage at 15345 Chloe Trail.

Mr. Summers made a motion that legal counsel proceed as instructed in the executive session and to authorize Mr. DeSantis to approve the final draft and submit it to Mr. Whittington for distribution. Mr. DeSantis seconded the motion. The motion passed unanimously without discussion.

G. Possible ratification of actions taken since November 2018 by less than a quorum of valid Board Members; possible approval of ratification resolution 2020-3.

Mr. Summers reported that both board members will work diligently on reviewing the items that require resolution. There was nothing more to report on this agenda item at this time.

8. NEW BUSINESS - DISCUSSION & POSSIBLE ACTION RE:

A. Possible appointment of third member to Board of Directors.

Mr. DeSantis stated that the two applicants for the vacant seat on the district board both possessed the necessary experience to serve on the board. Mr. DeSantis made a motion to approve Charles Lehr to fill the vacancy on the board of directors. Mr. Summers seconded the motion. Mr. Summers stated that he still would like to see five board members on the board of directors. The following discussion ensued: Mr. Alan Cockrell asked for an explanation for agenda item E above. Mr. Summers gave him a brief synopsis. Mr. Mark Emanuele asked for an explanation of what the process was to expand the board members to five. Mr. Summers explained the process to Mr. Emanuele. Mr. Emanuele also asked Mr. Summers when the plant expansion would become ready for use. Both Mr. Summers and Mr. Busch stated that the plant was currently being used by the district. Mr. Emanuele asked if the board was currently operating the plant without a permit. Mr. Busch confirmed that the district was operating under the permit issued in 2010 for a plant that was never constructed. Mr. DeSantis explained that due to Covid-19, the permitting had been delayed. The motion passed unanimously

B. Process for approval of estimated legal expenses to be incurred by Robert Lynch, legal counsel for the District.

Mr. Summers made a motion to allow board members, the district manager, Bob Busch, and legal counsel Mr. Whittington to contract Mr. Lynch and then report back to the board after having done so. Mr. DeSantis seconded the motion. Mr. Jeff McLeod stated that the board recently spoke about open communication and transparency with its district, especially when it came to legal expenses. Mr. McLeod stated that if the board posted the courts orders regarding the district's legal cases on the district website, the residents would have a better understanding of the legal matters and finances associated with them. Mr. Summers stated that he was unable to respond as it was not an item on today's agenda. Mr. Summers stated that it was a good discussion to have in a future agenda. Mr. Busch stated that the courts orders were on the district's website. Mr. Summers stated that the board would check to see if the documents were on the district's website. Mr. Mark Emanuele asked why the board was approving estimated expenses as opposed to building expenses. Mr. Summers stated that at the previous board meeting, the board approved Mr. Lynch with the caveat that the board meet and approve the actions requiring contact with Mr. Lynch. Mr. Summers stated that the decision was later reviewed and proved to be unrealistic. He stated that the board could possibly have a legal issue and a meeting could be a couple of weeks out. He stated that the issue may need immediate counsel. Mr. Emanuele asked whether there was a process in the past. He also asked if Mr. Lynch was on retainer with the district. Mr. Summers stated that Mr. Lynch was and is currently a member of the district's legal team for quite some time. Mr. Emanuele stated that Mr. Lynch has cost the district an extensive amount of money and was curious as to why the district continued to use his services as well as have him on retainer. Mr. Whittington stated that the board could put this on a future agenda if they would like to as this was getting further away from the topic at hand. Mr. Emanuele stated that it was on topic as it referred to expenses, specifically having Mr. Lynch on retainer. Mr. Summers stated that Mr. Lynch was not on retainer. Mr. Summers explained that the previous agreement with Mr. Lynch required the board to approve legal expenses before having Mr. Lynch preform them. Essentially, Mr. Lynch would have to estimate the cost of services and if he exceeded that amount, Mr. Lynch would return to the board for another approval. With Mr. Lynch being the litigator for the board, that has already proven to be an issue. Mr. Summers stated that the board could not always wait for the next board meeting to discuss any legal issues. Mr. Summers stated that this agenda item was to potentially approve the board members, Mr. Busch, and Mr. Whittington to contact Mr. Lynch and then report to the board at the next meeting the time spent in that contact. Mr. Summers stated that the board was trying to control its legal expenses. Mr. Busch stated that Mr. Lynch was not on retainer with the district and was charging the district on an hourly basis. Mr. DeSantis seconded the motion. The motion passed unanimously without further discussion.

C. Discussion and review of proposed budget details for fiscal year ending June 30, 2020.

Mr. Summers confirmed that Mr. Busch has scheduled the Budget and Rate Hearing for June 30, 2020 at 1:00 pm at Gabby's Kitchen in Chino Valley.

D. Discussion of social distancing requirements for Hearings and Public Meeting June 30th.

Mr. Summers encouraged all to wear masks and observe the social distancing guidelines. Mr. Busch stated that there was enough room at Gabby's Kitchen to keep everyone safely distanced from one another.

9. ADJOURNMENT

Therefore, the meeting was adjourned at approximately 4:25 p.m.

Board Clerk

Date