

ICR SANITARY DISTRICT
PO Box 215 Chino Valley, AZ 86323

~ Regular Meeting ~

March 9, 2021

Revised 3/20/21

Date: Tuesday March 9, 2021

Approved 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 Yrube, 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. Discussion and consultation concerning the dismissal by the federal court, the action filed by Allied World Specialty Insurance Co., relating to insurance coverage in the Talking Rock litigation, and the District's filing a claim for attorney fees. ICR Sanitary District – Notice & Agenda- March 9, 2021**
 - C. Legal advice regarding possible ratification of the Finance Committee's February 3, 2021 discussion and actions in regard to its telephone conference with a member of WIFA (Water Infrastructure Financing Authority)**
 - D. Legal advice concerning the possible dissolution of the subcommittees of the Planning Committee.**
 - E. Legal advice concerning an ICRSD response to an ICRSD User's objection to the User Fee implemented**
 - F. 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.**
 - G. 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: 2:45 p.m.

1. CALL TO 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

3. CALL TO THE PUBLIC

There was no response from the public at this time.

4. REPORTS

Chairman's Report

Mr. Summers read the following:

With all we have to discuss in today's meeting, I will be brief. I am happy to report the federal Judge has dismissed the lawsuit brought by the District's Insurance carrier against the District. Hopefully, the insurance company will focus on settling the Lawsuit filed by Talking Rock Land LLC against the District and not refile a suit in State court or appeal the federal judge's ruling. The planning committee continues to move forward, with calls to public and private agencies, a sanitary plant visit, and requests for more information and recommendations. With the rapid growth occurring in the District, it is beneficial to be addressing plant capacity before it is required by the State and while there is time to properly plan the next capacity expansion.

Manager's Report

Mr. Busch reported that the plant output for February, 2021 was 1,957,328 gallons. He said that it averaged 69,905 gallons per day. Mr. Busch stated that the highest usage day was on February 22, 2021 at 79,000 gallons. Mr. Busch also stated that there were five days that were over 70,000 gallons. Mr. Busch reported that two lateral lines were repaired on Harmony Rd. in the Whispering Canyon subdivision. He stated that the repairs were due to check valves that were installed backwards. He also stated that repairs required locating the blockage, excavating at street level and repairing the line. This cost the District \$10,146. Mr. Busch stated that Whispering Canyon, Phase 5, currently has infrastructure construction underway. He stated that Civiltec Engineering is under contract with the District for construction inspections. He has contacted Civiltec and they responded that they had performed some inspections and the Contractor, Earth Resources, is cooperating. Regarding User Fee Billing, Mr. Busch stated that the First quarter bills will be sent the last week of March. He stated that they will include notices advising residents that payments received after April 20, 2021 will be charged interest from the due date (April 20, 2021) and if residents are fifteen days past the due date, they will be charged an additional late fee of \$5.00. Mr. Busch stated that delinquent accounts will receive a reminder bill with late fees at the end of May 2021. Mr. Busch stated that according to the current past

due report, there are 74 past due accounts. He also stated that there are 39 pending connections to the sanitary system. Mr. Busch reported that, as of March 1, 2021, there are 721 connections to the sanitary system, not including the 39 pending connections, bringing the total to 760 connections. Mr. Busch stated that he received a reminder from Yavapai County regarding the tax levy for 2021. He stated that it must reach the County by June 16, 2021. He also stated that the District will need to publish the proposed budget by the second week of May and hold a budget hearing by June 8, 2021.

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. McLeod seconded the motion. The motion passed unanimously without discussion.*

Minutes of Meetings

- **Minutes of Executive Session – February 10, 2021**
- **Minutes of Public Meeting- February 10, 2021**
- **Minutes of Public Meeting – February 17, 2021**
- **Minutes of Public Meeting – March 2, 2021**
- **Minutes of Executive Session – March 2, 2021 Reimbursement to District Manager (\$140.00)**
- **Wingspace- Conference Room and Speaker Phone rental (Feb 17th, March 2nd,, March 9th) (\$125.00)**
- **Wingspace – Conference Room rental-Development Subcommittee- March 8th (\$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. *Mr. Summers moved that legal counsel proceed as instructed in the Executive Session for Agenda Items 6A and 6B. Mr. McLeod seconded the motion. The motion passed unanimously without further discussion.*

B. Discussion and possible action concerning the dismissal by the federal court, the action filed by Allied World Specialty Insurance Co., relating to insurance coverage in the Talking Rock litigation, and the District's filing a claim for attorney fees. *Mr. Summers moved that legal counsel proceed as instructed in the Executive Session for Agenda Items 6A and 6B. Mr. McLeod seconded the motions. The motions passed unanimously without further discussion.*

C. Discussion and possible action concerning a proposal for engineering services from Civiltec Engineering for the repurposing of the holding pond at the wastewater treatment plant. The repurposing is a compliance item associated with the recent amendment to the Aquifer Protection Permit (APP). The proposal consists of an inspection of the basin along with sampling and testing and a subsequent amendment to the APP. *There was a brief discussion regarding the cost of the proposal submitted by Civiltec Engineering and the possibility of contracting with Ninyo and Moore Geotechnical and Environmental Sciences Consulting, directly. There was also a brief discussion concerning the current planning for an expansion and the possible impact on repurposing the pond. There was further discussion as to whether the District was able to procure soil testing first, then moving forward once the results were known. Mr. DeSantis made a motion to authorize Mr. Busch to contact Ninyo and Moore Geotechnical and Environmental Sciences Consulting asking for a quote/proposal not to exceed \$8,800 for soil testing as well as the authority to sign and execute said proposal. Mr. McLeod seconded the motion. The motion passed unanimously.*

- D. Consideration of motion tabled on February 10th for possible action concerning access and security of District records in electronic form.** *Mr. Busch stated that approximately 34,800 documents (approximately 17.4 gigabytes) were uploaded to the District's OneDrive. He also stated that all three Boards members have been given passwords/access to that drive. There was no action necessary for this agenda item.*

7. NEW BUSINESS

- A. Discussion and possible action re: Approval of financial reports for January, 2021. ICR Sanitary District – Notice & Agenda- March 9, 2021** *Mr. Summers made a motion to approve the financial reports for January 2021. Mr. DeSantis seconded the motion. The motion passed unanimously without discussion.*
- B. Discussion and possible action re: dissolution of the subcommittees of the Planning Committee.** *Mr. DeSantis made a motion that the subcommittees of the Planning Committee be dissolved effective March 19, 2021 at 5:00 p.m. He wanted the record to show that his motion included a caveat to allow groups to work on specific areas as they pertained to the planning process. Mr. McLeod seconded the motion. The motion passed unanimously without further discussion.*
- C. Discussion and possible action concerning an ICRSD response to an ICRSD User's objection to the User Fee implemented in 2020.** *Mr. McLeod briefed the Board on the reason this item was put on the agenda. He stated that a resident of the District complained that the District was improperly using User Fees for legal costs. He also gave a brief breakdown of the budgeting process, and how the total anticipated expense for the District is developed and approved. He commented that the District decided last June that the money raised for expenses would come from a combination of User Fees and Ad Valorem taxes, without a determination of which expense would be paid from either source. Mr. Summers also added that the implementation of User Fees was to aid/improve the District's cash flow, since funds would be received early in the fiscal year, before tax payments are received in the fall. He stated that the User Fees were NOT additional costs implemented by the District and hoped this would address the concerns brought forth by the resident who made his complaint to Mr. McLeod.*
- D. Possible approval of Ratification Resolution 2021-2 ratifying the Finance Subcommittee's discussion and action on February 3, 2021 in a telephone call to a member of WIFA (Water Infrastructure Financing Authority) without posting of a notice.** *Mr. Summers made a motion to approve Ratification Resolution 2021-2. Mr. DeSantis seconded the motion. The motion passed unanimously without any further discussion.*
- E. 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.** *Mr. McLeod made a motion to appoint Mr. Summers as the contact person to communicate with Mr. Mark Armstrong/Inscription Canyon Water Company in the pursuit of possibly sharing inspection services/costs from Civiltec Engineering to be approved by the Board. Mr. DeSantis seconded the motion. The motion passed unanimously without further discussion.*
- F. Discussion and possible action or claims concerning past latent infrastructure defects** *Mr. Summers made a motion to authorize Mr. Whittington to proceed as instructed in the executive session. Mr. DeSantis seconded the motion. The motion passed unanimously without further discussion.*

G. Discussion and possible action concerning establishing a future Planning Committee Meeting.

By way of consensus, Mr. Busch was instructed to gather possible dates and times and submit them to the Planning Committee in order to plan a future Planning Committee Meeting. Mr. McLeod stated that he would inquire about the possible use of The Windmill Room at Talking Rock Ranch for future Planning Committee Meetings and let the Planning Committee know what he finds out.

8. ADJOURNMENT

Therefore, the meeting was adjourned at approximately 3:30 p.m. .

Board Clerk

Date