

SPRING CREEK / COW CREEK SANITARY
DISTRICT MEETING MINUTES
MONTHLY MEETING
Wednesday, October 12, 2022

The regular monthly meeting of the Spring Creek/ Cow Creek Sanitary District was held in the meeting room at the Boat House Bar & Grill in Pierre SD on Wednesday, October 12, 2022. Chairman Schuh called the meeting to order at 6:03 p.m.

Chairmen Schuh, Bacon and Wiseman, Clerk Anderson and Superintendent Zuber were in attendance in person. Also present were 20 residents of the District and one guest. Legal Counsel Cody Miller, one resident and one guest attended via videoconference.

Schuh asked for approval of the Agenda as presented. Wiseman asked for an addition to the agenda under item 9 to make a Rates Review presentation. Schuh made a motion to approve the agenda as amended. Bacon seconded. All voted in favor. Motion carried.

Schuh asked the Board to declare any Conflicts of Interest. No conflicts were declared.

Wiseman made a motion to approve the 9/14/22 meeting minutes. Schuh seconded. All voted in favor. Motion carried.

Schuh made a motion to approve the 9/22/22 Special meeting minutes. Bacon seconded. All voted in favor. Motion carried.

The Board addressed the winter meeting arrangements and how they planned to proceed. Wiseman noted that the meeting room at the Boat House Bar & Grill would be available for the District to hold its meetings, but many months during the winter, the Trustee's attendance in person would be sporadic. The Board decided to continue to hold Zoom meetings as per usual and to notify the public if a monthly meeting would be held via Zoom only (ie: no public venue.)

Wiseman also asked the Board's opinion on video-recording the monthly meetings and to publish the recordings with, or in place of, written minutes on the District's website. He stated he has received concerns that the written minutes do not always give readers a true way to read the room. With a video recording, the publication process would be much quicker to post and viewers would get a first-hand look at the meeting that took place. Trustees Schuh and Bacon both agreed. Trustee Bacon will research the Video-Camera options to facilitate a more professional recording.

Superintendent Zuber presented his report to the Board. He reported that September's water usage totaled 1,593,000 gallons, or 53,100 gallons per day on average. When comparing to the most recent readings, the District is currently averaging 35,000 gallons per day.

Zuber reported that his lead and copper test results came back this month and everything came back fine, as did the bacteria tests. He stated he has not solidified a date for SDARWS to pig the sewer line yet, but is still hopeful for late October. He also stated Beck's is scheduled to finish the Walleye Drive manhole repairs in the next few weeks. Zuber hasn't received an update from Bartlett & West regarding the updated GIS mapping, so he assumes they are still working on it.

As his final report, Zuber presented a quote from Core & Mail to implement the radio responder meters to detect leaks in real-time. As the Board reviewed the quote, Zuber reported that the first year cost to implement this metering system would be more than \$120,000. He could potentially cut \$25,000 from the quote by doing part

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of the installation himself. Discussion was held as to the cost versus benefit of the real-time reading for residents. The Board also discussed other metering systems that would work remotely without the real-time reading feature. The main concern with updating readers is the District growing like it is, only one person to read all meters and avoiding emergency situations.

Wiseman presented the Treasurer's Report for month-ending September. He stated that we are not seeing much changing with the financials every month. One change to 2023 is the required minimum surcharge for loan funding. He stated minimum residential rates will go up \$24.91 per month and commercial rates will go up \$28.61 per month. For each classification, \$23.05 of this increase is due to the required surcharge. Schuh made a motion to approve the treasurer's report. Bacon seconded. All voted in favor. Motion carried.

Wiseman presented the 2023 Budget for review. He stated the biggest change to the budget is the additional surcharge required for loan servicing. He also stated that he recommends looking for an office location inside the District in 2023. He is presenting within the budget the equivalent of \$1,500 per month for if or when the opportunity arises, the Board will not have to amend the budget to utilize funding not otherwise spoken for. Wiseman spoke briefly on the possibility of purchasing land in the 2023 budget year, but will not know at this time whether that will come to fruition. Schuh asked for clarification on discretionary spending allowed for Superintendent's repairs and maintenance budget. Wiseman stated he is proposing \$40,000 annually for Zuber to use, while reporting to the Board on a monthly basis. This allows him to schedule maintenance and repairs without coming to the Board every month for approval. Bacon asked for clarification on the Office Construction line item. He asked if this could be used as a rental expense instead of construction costs. Wiseman reported that the Board could make changes to the Budget, but it would take board action to amend. Wiseman made a motion to approve the 2023 Budget as presented. Schuh seconded. All voted in favor. Motion carried.

Clerk Anderson presented the monthly Accounts Payable to the Board. These include: Anderson Nill & Associates - \$4,434.36; AT&T Mobility - \$88.11; Core & Main - \$2,086.47; Forrest Zuber - \$450.00; Lammers, Kliebacker, et al - \$57.00; Mid Dakota RWS - \$5,069.92; Midcontinent Communications - \$40.53; South Dakota Public Health Lab - \$346.00; South Dakota 811 - \$8.40; TAK Technology - \$75.00. Wiseman made a motion to approve the bills as presented. Bacon seconded. All voted in favor. Motion carried.

Wiseman updated the Board on the Archeology Study and Improvements Projects. He stated he received notice from Sean Blanchette at SD GF&P on 9/22/22 that the first of the review letters have been received. They have a mandatory comment period before final approval. Mr. Blanchette indicated it could be late November or early December before we know if the new site location is approved. The next step after site approval is to undergo soil borings to start the design phase. Based on the preliminary schedule, it looks like it will be early spring before the District goes to bid on the new water tower.

Wiseman presented his "New Rate Structure Proposal for Funding the Future" report. Because of the questions and confusion he has received in relation to the Ordinance revisions, he wanted to address the methodology behind the changes to the Ordinances. The report is attached to the meeting minutes as Attachment 1.

Schuh made a motion that ORDINANCE NO. 6, REGULATION OF SYSTEM EXPANSION, an Ordinance of the Spring Creek / Cow Creek Sanitary District to REPEAL ORDINANCE NO. 2020-3 AND RE-ENACT THE SAME AS AMENDED ESTABLISHING REGULATIONS RELATING TO THE EXPANSION OF THE EXISTING WATER DISTRIBUTION, WASTEWATER COLLECTION AND TREATMENT SYSTEM, AND PROVIDING FEE STRUCTURE AND PENALTIES FOR VIOLATIONS THEREOF be given a NEW FIRST READING. Wiseman seconded. All voted in favor. Motion carried.

Schuh made a motion that ORDINANCE NO. 7, REGULATION OF WATER USE, an Ordinance of the Spring

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Creek / Cow Creek Sanitary District to REPEAL ORDINANCE NO. 4 AND RE-ENACT IT AS AMENDED HEREIN ESTABLISHING REGULATIONS RELATING TO WATER USE, WATER RATES, FEES, REGULATIONS, AND PENALTIES FOR VIOLATIONS THEREOF
be given a NEW FIRST READING. Bacon seconded. All voted in favor. Motion carried.

Schuh made a motion that ORDINANCE NO. 8, REGULATION OF SEWER USE, an Ordinance of the Spring Creek / Cow Creek Sanitary District to REPEAL ORDINANCE NO. 5 AND RE-ENACT IT AS AMENDED HEREIN REGULATING THE USE OF PUBLIC AND PRIVATE SEWERS AND DRAINS, PRIVATE WASTEWATER DISPOSAL, THE INSTALLATION AND CONNECTION OF BUILDING SEWERS, AND THE DISCHARGE OF WATERS AND WASTES INTO THE PUBLIC SEWER SYSTEMS AND PROVIDING USER RATES, AND PENALTIES FOR VIOLATIONS THEREOF
be given a NEW FIRST READING. Bacon seconded. All voted in favor. Motion carried.

The Board was presented with a contract from American Engineering Testing to perform the Soil Borings necessary to begin design of the new elevated water tower. With approval of this contract, work can begin shortly after site approval is received. Schuh made a motion to approve this contract for soil borings. Wiseman seconded. All voted in favor. Motion carried.

The Board reviewed third-party engineering services as was tabled during the September meeting. Bacon reported he reached out to two other firms and heard back from one of the two. He stated his reasoning for requesting time during the September meeting. The one firm he heard from disclosed their rates to Bacon. He found them to be comparable from an hourly rates perspective. He could not get total-cost comparison. Wiseman stated he recommends the Board approve a contract with HDR Engineering Inc., not only for the benefit of the District, but this company has also been hired by the Sully County Planning & Zoning Commission. Because the District works very closely with the Commission, he feels that using the same firm would also save on costs.

Bacon stated he has received a comment from a resident concerning the utilization of a third-party engineer to review plans presented to the District. That resident asked why this service is needed when all plans have to receive approval from an engineer, and also approval by SD DANR. Wiseman stated that due to the growth anticipated in this area, by using an outside engineer to review plans and be familiar with not only the District Ordinances, but those of each County, we may be able to avoid unforeseen issues as the area continues to grow. Another concern was why the Developer was being asked to pay for this service. Should the District share that cost with the Developer? Wiseman stated he did not feel it fair for existing residents to pay for developer's cost.

One resident asked for the floor for a few comments in relation to this contract. He asked why the District needed a fourth engineer to oversee development. Wiseman stated that he personally did not have time to review plans on behalf of the District, and he is not an expert in this. He feels it is a benefit to the whole District to utilize an expert for items that SD DANR does not review. This resident asked if the District review could occur after SD DANR approval and not before. The Board agreed. Wiseman made a motion to require the third-party engineer review after the SD DANR provides its approval for the project. Schuh seconded. All voted in favor. Motion carried.

With no further discussion, Wiseman made a motion to approved HDR Engineering, Inc. to act as a third-party engineering service when working with developers. Schuh seconded. All voted in favor. Motion carried.

Schuh addressed the next order of business being further discussions with Codger's Cove Development. She stated that the Board would like to share their response to Mr. Utech and his attorney regarding the September proposal aloud so they could provide full transparency to the residents. Schuh and Wiseman read the 3-page letter aloud. At this point in the discussions, Mr. Utech and his attorney Stacy Hegge came forward to address their response letter dated October 7, 2022 which address the points presented in the Board's letter. She asked if

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the Board has any feedback or position on this letter. In reference, Ms. Hegge highlighted the key points of their 10/7/22 letter to the Board. She began by stating that Mr. Utech has talked to the landowner recently and confirmed that land is still available for purchase by Mr. Utech. He would then do the dirt work to prepare the site for expansion of the lagoon system. He would also put additional funds in escrow to be available to the District when the lagoon expansion is necessary. In exchange, Mr. Utech is proposing a step-increase for hookup fees relative to his development.

Mr. Utech also added that his intention with this portion of his proposal was to keep this project simple and cost-effective as he intends to do all of the dirt work himself. And as stated, when the project is ready to move forward, he would have money set aside in escrow to be accessible by the District to pay for the liners and other construction costs, as engineered by Bartlett & West and approved by SD DANR.

Wiseman stated that he has talked to DANR in regards to the lagoon expansion. DANR asked how long it would be until the District needed to expand – 3 years, 10 years? DANR asked the Board to consider what the rules may be in that time frame. No one can anticipate the rules. In order for the District to receive funding for the expansion (estimated at \$2.1 million), the District has to own all of the property. Wiseman stated he felt it was in the District's best interest to purchase the land as a District, not to rely on one person to pay for the whole system. Wiseman referenced his Rate Structure Proposal which includes new Developer Fees in addition to hook-up fees. Each developer would be subject to Developer Fees to help pay for expansion.

Bacon asked for the floor with questions regarding Mr. Utech's 10/7/22 letter. His first question asked Mr. Utech when the property would be transferred to the District. Utech responded that it could be as early as 45 days, weather permitting. Bacon also asked for clarification on the proposed escrow account. Whose account is it, and where is it held? Ms. Hegge stated it would be an escrow account held under certain terms, available to the District when needed for expansion. Bacon asked if Utech has determined the location is acceptable for future lagoon needs. Mr. Utech responded that they were looking for joint participation to submit the concept plan for DANR's preliminary approval. Wiseman interjected that DANR has already indicated that they would not look at a preliminary plan for approval until the District needs the expansion. Ms. Hegge asked if the Board would reconsider if she reached out to DANR for an exception to this rule. The Board indicated they would be interested to know her findings.

At this time, Wiseman stated that discussions have been primarily centered around sewer requirements. At this time, the District has absolutely no water available. Without the new water tower, the District is pushing its limit on water capacity. Wiseman offered to table the development until we know when the water tower will be in place. Mr. Utech rejected that offer, stating he doesn't want to wait another year. Based on his construction season, if he starts in the Spring of 2023, he will still not have water usage needs until the Spring of 2024. If the Board delays his development for the new water tower, he is looking into Spring of 2025. Mr. Utech offered to rent a 20,000 gallon potable water tank in the interim to satisfy high-water level needs of the District, not just his development.

Bacon interjected that if the District approves the use of a temporary water storage tank and the tank is needed for multiple years, would Mr. Utech be willing to escrow long-term rental needs to protect the District's use of the temporary tank. Mr. Utech stated he would be more than willing to set aside funding to provide for longer-term rental of the water tank.

Ms. Hegge asked the Board to clarify the contradictions noted in Ordinance No. 6 as it relates to new developer fees and also asking the developer to pay for a hydraulic study. Schuh noted she has discussed this with the District's Attorney and they will provide clarity. Ms. Hegge also asked for clarification on the proposed fees for developers and questioning if these fees are excessive as they compare to Mr. Utech's offer to fund the full lagoon expansion.

Mr. Utech stated, as his final observation, if the rental of a water tank was the current hang-up to moving his

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development forward, would the Board allow him to pursue the tank rental and discussions on how much tank rental expense they would like held in escrow until the water tower is completed. The Board agreed to allow Vic to pursue a temporary tank rental and find out from Bartlett & West how to tie-in a second tank. The Board also agreed to move forward with Utech presenting his phased-in plans and approved by SD DANR.

Lyle with Bartlett & West interjected via Zoom regarding the portable water tank. He stated this is a viable option, but they would need to figure out how to tie it into the existing system. He also asked if Mid-Dakota would be willing and able to increase inflows by 20 gpm during June, July & August.

Ms. Hegge asked if we could add language to the proposed Ordinance No. 6 to include those agreements already in process, or allow the Board to pursue other alternatives. The Board directed this question to Atty. Miller. He came online via Zoom to address this concern, stating the Board is willing to work through that language.

Schuh addressed the meeting attendees with some reminders of Public Comment protocol. Each speaker is asked to come to the front table; address the Board of Trustees, not the audience; each resident has 2 minutes to speak; and please be respectful and civil when addressing the Board.

Resident 1: Expressed her gratitude to all parties in tonight's decisions and the willingness to keep moving forward. Her only question to the Board was relative to Ordinance No. 6, asking when is the Developer Fee going to be due – when submitting the plat? Wiseman stated that when plans are approved and submitted to the Board, and prior to turning dirt, the Developer Fee is due to the District.

Resident 2: Asked for clarification on the discussions with Codger's Castaway and what the end result was. Wiseman stated that Mr. Utech has been allowed to pursue the rental of a temporary 20,000 gallon water storage tank. He has not been approved for anything relative to his Development at this point.


Resident 3: Asked for clarification of table attached to Ordinance No. 7, stating sewer usage rates begin at 1,000 gallons instead of the previously presented 5,000 gallons. Schuh told resident this is truly a typographical error and would be fixed prior to the second reading. Resident also questioned the need for the District to have a daily read on a monthly bill, stating that there are devices available to residents to install on their own property to monitor water usage. The burden of leak detection should be on the resident, not the District. This resident also expressed appreciation for the constructive conversations held in regards to Codger's Castaway and the District. And finally, the Draft form of Ordinance No. 6, states that all approved plans are subject to Developer Fees, without a phase-in option. He suggested the Board review this with its attorney and find clarification.

Resident 4: Asked if it would be in the Superintendent's best interest to split the read dates and prepare a portion of the District's billings twice a month instead of reading the whole District monthly.

Being no further public comment and no further business, Wiseman made a motion to adjourn the meeting at 8:40 p.m. Bacon seconded. All voted in favor. Motion carried.


Kathleen Schuh, Board Chairman

ATTEST:


Jennifer Anderson, Clerk