

SPRING CREEK / COW CREEK SANITARY
DISTRICT MEETING MINUTES
MONTHLY MEETING
Wednesday, March 8, 2023

The regular monthly meeting of the Spring Creek/Cow Creek Sanitary District was held via videoconference on Wednesday, March 8, 2023. Chairman Schuh called the meeting to order at 6:04 p.m.

Chairmen Schuh, Bacon, Wiseman, Superintendent Zuber, Clerk Anderson and Attorney Miller were in attendance, along with 8 residents and 5 guests.

Schuh made a motion to approve the agenda as presented. Bacon seconded. All voted in favor. Motion carried.

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

Bacon made a motion to approve the 02/08/2023 meeting minutes. Schuh seconded. All voted in favor. Motion carried.

Wiseman made a motion to approve the 03/02/2023 Special meeting minutes. Bacon seconded. All voted in favor. Motion carried.

Superintendent Zuber presented his report to the Board. He reported that 500,000 gallons of water were used in February 2023, averaging 17,000 gallons per day. Zuber called the City of Pierre to run their cameras through the sink hole on Linnell Street after last month's meeting. They found that the sink hole was not a sewer issue. Zuber reported that he needed to replace surge protectors for the pump at a lift station due to a power outage. He also reported that he and a helper cleared trees at the water tower site to prepare for soil borings on March 14th. And he is waiting on the schedule to be released so he can register for his continuing education classes. He indicated he would be taking the Class 2 Wastewater for sure, and asked if the Board would rather he take the Class 3. Wiseman told Zuber to register for as many wastewater classes as he can.

Zuber also stated that R & W would be out in the next month or so to do the manhole work as requested by the District. He is waiting on Brosz Engineering for the as-builds on that project.

Wiseman presented the Treasurer's Report for month-ending February. He stated that we continue to spend more than we are bringing in for the short-term, until we can submit our improvement project expenses for reimbursement. Wiseman noted that we have a total of \$228,628 out of pocket expenses that will be reimbursed once we can move forward with the improvement projects. Schuh made a motion to approve the treasurer's report. Bacon seconded. All voted in favor. Motion carried.

Schuh asked Clerk Anderson to discuss the Clerk Position. Anderson reminded the Board that with the signing of her current contract in September 2022, she indicated this would be her last year serving as Clerk for the District. Wiseman asked Anderson to create a list of duties and time requirements for this position. Anderson reported that she would have this information at the May meeting. Anderson also reiterated that she would not leave the District without a Clerk, but wanted the Board to be aware of her intent.

Clerk Anderson presented the monthly Accounts Payable to the Board. These include: Anderson Nill & Associates - \$3,781.30; AT&T Mobility - \$90.44; Bartlett & West - \$17,210.00; City of Pierre - \$441.43; Envirotech Waste Services - \$24.03; Ferding Electric - \$244.90; Forrest Zuber - \$450.00; Lammers, Kliebacker, et al - \$312.50; Mid Dakota RWS - \$4,653.88; Midcontinent Communications - \$40.93; SD Public Health Lab - \$15.00; South Dakota 811 - \$2.10; US Postmaster - \$166.00. Bacon made a motion to approve the bills as presented. Schuh seconded. All voted in favor. Motion carried.

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Lyle Schumack with Bartlett & West was invited to provide an update on the Elevated Tank Project. Drillers will be out next week. He is currently putting a list together for the District to make some decisions on the final plans before going to bid. He indicated the surveyors are scheduled for this week, but he has no status on that yet. Clerk Anderson reminded the District to make public the approval letter from the SD Game Fish & Parks. Wiseman reported that the District will need to communicate with them during the construction process regarding tree removal and replacement, digging dates, etc. to accommodate the federal requirement for USACE to be on site.

Wiseman asked Schumack if it would be possible to have plans ready to submit to SD DANR for our April meeting. Schumack responded that he would have them available prior to the meeting to give the Board time to review. Once the plans are approved by the District, Bartlett & West would submit to DANR. DANR has 30 days to approve, then the bid process will start.

Bacon asked Schumack how long the bid session is open. Schumack responded usually 3-4 weeks to advertise, but that is a Board decision. He also reported it could be up to 60 days before the District would be ready to open bids.

Schuh asked Schumack when he anticipated the tower construction to start. Wiseman responded that would be a District decision. Schumack responded that the completion date is up to the District, but it will most likely be completed by the end of 2024 at the soonest.

Schuh called on Schumack to update the Board on the revised Sewer Facilities Plan. Schumack introduced his colleagues, Jim Ross and Mark Baltzer to speak on this project. Ross reported on his conversation with Tina at SD DANR. She told them that there is current litigation with the EPA and the State of Hawaii that is causing review issues due to impending changes to requirements for permits. Any new submissions to the DANR will require a more detailed review.

Currently, a wetland doesn't require a discharge permit. The EPA lawsuit and the Clean Water Act is giving DANR reason to question a required permit for wetland discharge. Ross & Baltzer also discussed an acceptable seepage rate of ¼" per day with DANR, to which that answer is not known yet either. If the discharge to ground water could pollute nearby surface water, the discharge should be subject to permit. State agencies are rethinking discharge to ground water, especially in the District where the river is ½ mile from the wetland.

In the case of subsurface dispersal, the plan goes to EPA for a permit. We have previously received approval from EPA in Denver. Due to the lawsuit, that may be different today than was six months ago. No further follow up has been made on this yet.

Ross stated they at least better understand what DANR's hesitation is in the midst of us bringing the project almost to completion.

Wiseman stated that the District is most likely looking at a discharge system. How often is the permit renewed for that? Baltzer responded every 5 years, the same as our current permitting cycle. Wiseman stated if seepage rates get worse over time, or regulations change, we may need to redo this project in the future. Baltzer stated the DANR implied it would be 2030 before the District would be subject to rule changes by DANR.

Wiseman then asked if we have enough room to design the wetland for a 15-year expansion. If we look at a discharge system, similar to a Bio-Clere option, we do have room to expand when needed.

Wiseman then asked Baltzer if they had a cost estimate for the two different systems. Based on the options presented on the 3/2/23 Special Meeting, these options are a Bio-Clere type system discharging to wetlands (Option 5) and a Bio-Clere type system directly discharging to the river (Option 6).

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Option 5 is currently estimated at \$4.4 million, not including additional land purchase for expansion. This option is calculated on 850 Population Equivalent. Option 6 is currently estimated at \$5.3 million, calculated on 1,100 Population Equivalent. Option 6 would not require additional property for expansion.

Wiseman asked if we have enough flow during the winter to support Option 6 with the recommended 3 trickling system. Ross responded this was also a concern by DANR. Ross has proposed an equalization tank to help overuse in the summer instead of overdesign to accommodate summer usage. In the winter months, the system's recirculation pump would benefit the lower usage.

Wiseman recommended the Board pursue Option 6, giving us room to expand without purchasing more land.

Bacon stated he has reservations about this option since we don't know if it will work like it is supposed to. He reminded the Board of the discussions last fall when we reviewed this option. Wiseman responded that the new rules under DANR are forcing us to choose between Option 5 and Option 6. We know this is going to cost us more money and hopefully we can still get grant funding.

Bacon asked if the previous grant funding is still available to us, with the change in plans. Wiseman stated that we can amend our application to ask for more funding, but the original funding is still available. Bacon asked specifically about moving the entire lagoon to another site. Wiseman responded that the District only had one option for a land purchase, and the costs to move the entire lagoon would be similar to utilizing the current land to build the discharge systems. Schumack offered that a new location is not an option due to the new EPA requirements.

Schumack asked his colleagues what a potential Option 7 looks like. Ross responded that there are similar systems to utilize but most add to the cost, complexity and operational costs.

Wiseman asked if we decide to discharge to the river, can we open bid documents without naming a specific manufacturer. Ross responded that would be a design criteria in the bid.

Baltzer stated their plan was to submit Option 5 and Option 6 to DANR as preliminary concepts in order to get DANR feedback. Ross stated DANR offered to review plans quickly to keep our project moving forward, knowing how far we've come on this project.

Schuh asked for clarification on the proposed costs for each option, questioning if the costs were all inclusive from start to finish. Ross responded that they were.

Wiseman reminded the Board that the DANR funding is subject to a minimum surcharge, stating that the sewer surcharge may increase with new plans.

Wiseman made a motion to allow Bartlett & West to submit Option 5 and Option 6 to the SD DANR for preliminary review. Schuh seconded. All voted in favor. Motion carried.

Schuh asked for a letter submitted to the Board from Neal Konda to be admitted to public record. See Attachment 1 to the minutes.

Schuh asked for the lead on Codger's Castaway discussion to present. Stacy Hegge, attorney for Codger's Castaway introduced herself. She provided a letter and petition to exclude certain real property on 2/22/23 to the District Attorney. This petition only includes portions of Section 34, not all properties as were previously petitioned. She also submitted a letter to Attorney Miller today from the Mid Dakota Rural Water system. In this letter, Mr. Gross of MDRWS indicated they were ready to move forward with the developer to provide water to his development as soon as all approvals were received. Hegge also stated that the development has been redesigned to accommodate septic tanks and she has submitted a letter from R&W Construction regarding septic

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systems in this development. Hegge also pointed the Board to Administrative Rules regarding lot size, setbacks, and governance on septic systems.

Hegge continued by stating her understanding that the District has previously taken the stance that they could potentially inherit a defunct system should the developer fail. She further stated that with this revised petition, the District carries no burden, should the development fail. The water system is stand-alone, and each lot owner will have their own septic system. She further pointed to the challenges the District is currently facing in its improvement projects, with no ability to expand the systems with either improvement project. Hegge respectfully asked the Board to approve this new petition to allow for a Public Hearing on this matter.

Wiseman started the discussion by asking if Mid Dakota was willing to take over the storage capacity at Codger's Castaway development if the need arises. He also asked to see the plats showing ½ acre lots. Wiseman suggested the developer starts by submitting his plans to DANR for approval before the District allows exclusion. He ended by stating the District has been including expansion plans in all of its discussions. The District would need the expansion to further help the whole District. Wiseman asked the Board to take the full 90 days to respond to this request. He offered that both parties want this to be done, but the District cannot rush to make a decision when the decision affects the entire system.

Bacon asked Hegge for clarification on the proposed excluded property. Is this only the property from Highway 1804 to Cow Creek Road? Mr. Utech responded that this only includes the Morris property. Bacon also asked how MDRWS will provide supply – would this be a direct connection to the development, or would they have to tie into the District's line. Utech responded that he would be responsible to expand the pipe size starting at the Grey Goose water plant into his development to increase capacity flow into his development. He will also provide a ground tank for capacity.

Bacon also asked if the lot sizes needed for septic tank requirements have been approved by SD DANR. Utech responded that yes, his lot sizes have been approved by DANR and he must receive a permit from Sully County on an individual basis. Bacon also asked Utech how he is handling camper wastewater. Utech responded that he has several options, but a standard home septic system will accommodate 12 campers.

Schuh was next to offer comment. She asked if Mid Dakota was servicing his existing lots outside of the District. Utech responded that yes, they are. He also added that he can add 75 houses on the system before he needs to add a storage tank. Schuh asked if Utech has received an email from Brian King asking for additional information for the District. She indicated she has not had ample time to review all communications and also recommended 60 days for a Public Hearing so all Board members could review all information before making the decision.

Utech responded, asking why the District needs his expansion. If he is not in the District, the District doesn't need to consider his development in expansion plans and potential expansion funding.

Wiseman responded that he doesn't completely disagree with Utech, but reiterated that the time needed to build the Codger's Castaway infrastructure falls in line with the District's water tower improvement. With the District's proposed lagoon improvement plan, it would be relatively easy to add Codger's Castaway's expansion to that location, eliminating the need for individual septic systems by owners. Wiseman also added that adding 200 more homes outside of the system would affect ambulance, fire and police, making it difficult to hold 2 separate systems when the number of new homes would necessitate a municipality.

Utech responded that he feels like the District is a long way from forming a municipality, knowing that the counties will not gladly give up property taxes. He also stated he knows the District has been given a difficult decision when looking at new lagoon improvements. He stated that we would not likely have an answer in the near future. He further indicated the District doesn't need him, he doesn't need the District, and he asked the District to let him do his job and move forward with his development. He wouldn't need to offer plats to the

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District for approval and would be required to seek permits as needed through the proper authorities. Hegge offered clarification to the Board regarding the approval process. The District will need to file an intent to exclude real property first, before Sully County can approve it. She also stated that there are other developers in the area that can utilize any sewer expansion.

Attorney Miller clarified that the Board can accept the petition and state intent to exclude property, setting a public hearing as the Board deems fit. This process allows Codger's Castaway to move forward with Sully County.

Wiseman asked if the Board can add exceptions based on information we should receive in May from the DANR. Miller responded that is not appropriate, we will still need a public hearing and the Board makes their decision after the public hearing.

The Board is in receipt of the petition, which appears to be in proper form, signed by 10 residents of the District, requesting the Board to declare its intention to exclude property consistent with the submitted petition and notice the same for the public hearing. Schuh moves that the Board does declare its intent and notices this matter to be addressed following the public hearing on May 10, 2023 at 6:00 pm. Bacon seconds. All voted in favor. Motion carried.

Hegge asked for clarification of the meeting location. Schuh stated we should be at the Boat House. Wiseman asked for approval of location from Tim Forsch. Without confirmation, Hegge stated they would wait to publish the notices until we can confirm the location, hopefully by next week.

Wiseman made a motion to move into executive session, pursuant to SDCL 1-25-2 (3) at 7:48 pm. Schuh seconded. All voted in favor. Motion carried.

Wiseman made a motion to exit executive session at 8:18pm. Schuh seconded. All voted in favor. Motion carried.

Due to technical error, Schuh was dropped from the videoconference. At 8:22 pm, Wiseman called the meeting back into Regular Session. Schuh seconded. All voted in favor. Motion carried.

Wiseman made a motion to strike the prior motion on the petition for Codger's Castaway Exclusion for the Public Hearing to be held at the May meeting. Schuh seconded. All voted in favor. Motion carried.

Schuh asked to reread the legal petition, making a motion that the Board does declare its intent and notices this matter to go to public hearing on April 12, 2023 at 6:00 pm. The Board reserves the right to address the petition at the May 10, 2023 meeting at 6:00 pm if more time is needed. Wiseman seconds. All voted in favor. Motion carried.

Hegge asked for confirmation that the public hearing will now take place on April 12, 2023 at 6:00pm at the Boat House meeting room.

With no further business, Schuh opened the floor to public comment, asking every speaker to state their name and follow the 3-minute allowance.

Resident 1: Still feels like we are working with skewed numbers. He doesn't feel like the District is designing the sewer improvement for its maximum capacity. According to his calculations, the District maximum should be a population equivalent of 2,325, not the current design for 800 population equivalents. Ross with Bartlett & West responded that the DANR has considered seasonal usage in their P.E. requirements.

Resident 1 asked if the average usage will handle max capacity. Ross stated the maximum capacity will be

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handled with an equalization tank.

Resident 1 also asked if we should be asking landowners for other options to purchase land, stating he is willing to have those conversations. The Board has given him permission to talk to landowners, but not as an agent of the District.

Resident 2 offered growth rate statistics in the District, based on his own personal research. Building permits provided by each county show a potential for 220 homes in the next 15 years. While our discussions are being held to accommodate substantial growth in the District, realistic data does not support that projected growth.

With no further comments, Schuh made a motion to adjourn the meeting at 8:41pm. Bacon seconded. All voted in favor. Motion carried.


Kathleen Schuh, Board Chairman

ATTEST:


Jennifer Anderson, Clerk