

SPRING CREEK / COW CREEK SANITARY  
DISTRICT MEETING MINUTES  
MONTHLY MEETING  
Wednesday, April 12, 2023

The regular monthly meeting of the Spring Creek/Cow Creek Sanitary District was held at the Boat House Bar & Grill on Wednesday, April 12, 2023. Chairman Schuh called the meeting to order at 5:32 p.m.

Chairmen Schuh, Bacon, Wiseman, Superintendent Zuber, and Clerk Anderson were in attendance, along with 32 residents and 1 guest. Attending via Zoom teleconference were Attorney Miller, 1 resident and 5 guests.

Schuh made a motion to approve the agenda with an additional item regarding the upcoming election. Bacon seconded. All voted in favor. Motion carried.

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

Schuh made a motion to approve the 03/08/2023 meeting minutes. Bacon seconded. All voted in favor. Motion carried.

Superintendent Zuber presented his report to the Board. He reported that 518,000 gallons of water were used in March 2023, averaging 16,700 gallons per day. Zuber reported that he received water testing results and all tests passed. He reported another leak on Linnell from a frozen water heater. Zuber was able to shut the water off at the curb stop without incident. His plans for this Spring is to mark all curb stops in the District and record serial numbers for each meter to be added to the District's master list. Further assessment of the extra pump submitted for repairs determined it was going to be cheaper to replace the pump. This pump will be salvaged and the Board will determine at a later date whether to replace the pump. Zuber reported he has plans to jet and camera the sewer system, but that is on hold for funding. He also requested permission to send letters to 2 residents to advising of violations of ordinances. The Board advised that all letters of this type should go through Attorney Miller. Clerk Anderson will forward the letters to Atty Miller to handle with the residents.

Wiseman presented the Treasurer's Report for month-ending March. He noted nothing abnormal in the financials during March, stating that engineering bills from Bartlett & West are continuing. Wiseman asked permission from Bartlett & West to hold current bills for 30-60 days until the District's funding reimbursements are available. At this point, we are close to \$250,000 worth of expenses eligible for reimbursement. Schuh made a motion to approve the treasurer's report. Bacon seconded. All voted in favor. Motion carried.

Clerk Anderson presented the monthly Accounts Payable to the Board. These include: Anderson Nill & Associates - \$4,128.00; AT&T Mobility - \$90.44; Bartlett & West - \$12,912.00; Dakota Pump & Control - \$612.38; Envirotech Waste Services - \$24.03; Forrest Zuber - \$450.00; Lammers, Kliebacker, et al - \$4,237.50; Mid Dakota RWS - \$4,655.06; Midcontinent Communications - \$40.93; SD Public Health Lab - \$15.00; South Dakota 811 - \$3.15; The Onida Watchman - \$61.02. Schuh asked for clarification on The Onida Watchman's bill, asking if that would be reimbursed by Codger's Castaway. Clerk Anderson noted that it will be reimbursed since it was for the Notice of Public Hearing on Proposed Exclusion of Real Property. Wiseman made a motion to approve the bills as presented, excluding the Bartlett & West bill for \$12,912.00. Schuh seconded. All voted in favor. Motion carried.

Schuh asked Clerk Anderson to report on the upcoming election. Attorney Miller's office is handling the election publications and coordination this year. Miller asked the Clerk for clarification on two items. Because our normal election date falls on July 4, 2023, is it the Board's intent to hold the election on the following Tuesday, July 11? Board responded that would be acceptable. How does the Board plan to handle the addition of 2 more Trustee seats and their corresponding term of service? There is currently no clear way to handle new



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seats, specifically if no election needs to be held due to only receiving 3 petitions. The Board discussed options, such as “drawing straws” or “drawing numbers.” Because the decision does not have to be made immediately, the Board tabled this until the May meeting. Petitions are due to the Clerk’s office no earlier than June 1 and no later than June 21, 2023.

Wiseman indicated that the Board has received bid documents for approval as provided by Bartlett & West. Wiseman asked Lyle Schumack with Bartlett & West provide a status update for the Board. Lyle noted that some clarifications are needed by the Board before the bid is ready for final approval. Wiseman responded that he and Zuber would get Lyle the requested clarifications. Schumack also stated the soil and environmental reports are still pending. Once these are received, the entire packet will go to SD DANR for final approval. When asked how soon this could happen, Wiseman responded potentially mid-June. Wiseman made a motion to approve Bartlett & West to move forward with Bid Documents on the elevated tank project. Schuh seconded. All voted in favor. Motion carried.

With time being of the essence, and to respect the published time for the Public Hearing on Proposed Exclusion of Real Property, the Board agreed to move the update on the revised Sewer Facilities Plan to the end of the meeting.

At 6:00 p.m., Chairman Schuh opened the meeting for the Public Hearing on the Proposed Exclusion of Real Property as presented by Codger’s Castaway and their attorney. Schuh reiterated the public comment period being 3 minutes and that all comments need to be addressed to the Board. Schuh invited Vic Utech and his attorney to speak first. Mr. Utech recapped his intent to be excluded from the District, stating that it would be in the best interest of the District to allow his exclusion. His removal from the District would not be a burden to current District users, as expansion of the existing system would be necessary to accommodate his development if he remains in the District. Mr. Utech also restated his intention of utilizing his own water source from Mid-Dakota Rural Water and individual septic tank systems.

Wiseman addressed his concerns regarding removal from the District on the sewer side. Wiseman asked if any of the proposed exclusion was under the control of SD GFP or US Corps of Engineers. Codger’s Castaway’s Attorney stated she has provided approval by SD Game Fish & Parks to the District Attorney. Wiseman asked if Utech planned to provide Concept Plans to the SD DANR and would he provide those to the District as well. Utech responded that he had no intention of spending additional funds to provide concept plans to District. If his development is excluded, those plans are not part of the District’s decision. Wiseman also stated that with the new DANR sewer requirements, the District’s Facilities Plan has changed since December, which allows for 15-year growth of District. What happens if DANR denies Codger’s Castaway’s request due to the District’s existing system being able to accommodate the development? Will Codger’s Castaway ask to be back in the District? Utech responded that if excluded, that issue becomes his as the developer, not the District’s issue.

Bacon spoke on the Board’s focus needing to be given to what is in the best interest of the District. Details on the developer’s design are not a District concern right now. The primary issue at hand is whether the Board will approve or disapprove of the exclusion.

Wiseman addressed his concerns regarding the water system maintenance at Codger’s Castaway. Based on his understanding from prior discussions, Mid Dakota would bring the water to Codger’s Castaway and be distributed from a main meter to the individuals within the development. Based on SD State Law, once a certain number of users are reached, a Water District will need to be formed for system maintenance. Wiseman asked Utech what his plans are for that. Utech indicated that Wiseman’s understanding was incorrect as to the distribution of the water system in his development. Every individual in his development would be responsible for their own hookup directly to Mid Dakota. Utech would not serve as a middle-man like the Sanitary District does currently. This arrangement eliminates the need for system maintenance and a formal Water District. Wiseman noted he had calculations from the District engineers stating that with the new tower capacity and supply, the District could handle an additional 150 homes.



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Bacon spoke again to the Board stating the District's focus needs to be on the best interest of the District, the details are irrelevant. Wiseman countered stating that the details are relevant as the District makes the decision to exclude the property.

Schuh vocalized her concern that if the District allows the exclusion now, what happens in the future if the District has to add the development back for an unforeseen reason.

Schuh opened the floor to the Public for comment.

Resident 1: Told the Board he has been to many Sully County, Planning and Zoning and District meetings in the past two years and asked the Board if they have done the same. He stated that this Board needs to be community-minded as they make decisions. This area could ultimately be a true town. Multiple systems within a town do not exist. Resident asked for Board to deny the request to exclude.

Resident 2: Asked for Wiseman and Utech to continue to work together. He sees a win-win for both in this situation. Granting an exclusion would set a precedent. He asked to keep the District intake and for the Board to deny the request to exclude.

Resident 3: District has developed rules and regulations. How did this conversation start? He suggested a vote to deny the exclusion for multiple reasons. 1. Income source stays in the District; 2. If asked to take back the development, may have substandard development and maintenance; 3. An exclusion sets a precedent for other developers.

Resident 4: Fully believes Mr. Utech should have a voice for his development, as long as it falls under the current ordinances. Resident stated the legalities with master water meters and septic tanks. The voters in this District have already voted on the boundaries and he asked the District to follow the will of the voters in the District by denying the exclusion of property and utilizing the ordinances for expansion as published by the District.

Attorney for Codger's Castaway asked to address the sewer system comments. During the first petition, there was no sewer system to hook up to. There is still no sewer system to hook up to. As for setting a precedent, the future sewer system will be able to accommodate new development. This petition to exclude currently does not have the option. Ms. Hegge asked that the Board be mindful of this fact when making their decision.

Schuh made a motion to close the Public Hearing at 6:52 p.m. and move back to regular business. Bacon seconded. All voted in favor. Motion carried.

In the final order of regular business, Wiseman invited 2 engineers with Bartlett & West to update the Board on the revised Sewer Plan and to discuss their meeting with SD DANR regarding the two plans relative to a discharge system as previously submitted for review. Mr. Baltzer stated their meeting with DANR was productive. They were open to both discharge options, but still had a few questions needing a response. DANR has asked Bartlett & West to develop a plan for both options as soon as possible. DANR also promised a 30-day decision. Mr. Baltzer noted that there are pros and cons for each decision, but the DANR is willing to work with the District on the seepage rate and current flows to accommodate the District's needs.

Wiseman asked about the original status with the discharge system showing concerns for inadequate flow rates going into the system during the off-season months. Now that the District has more accurate flow readings, is this still an issue for the District? Baltzer responded that is not a current issue. The updated information obtained through the course of the application process shows adequate off-season flows to properly operate a discharge system. The peak summer flows are more of a concern now since the system will be designed around average usage. To design the system around peak flows would be considered an over-build. Baltzer has discussed options with DANR including an equalization basin. These options are acceptable to DANR so far.

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Wiseman asked what the footprint of this system design would be. Baltzer answered approximately 2 to 2.5 acres for this system, currently owned by the District.

Bacon asked if this system was expandable. Baltzer responded that they were expandable. They would look to build at 50% now, 25% in another 15 years, depending on development.

Ms. Hegge asked for clarification regarding current capacity of the District now. Discharge to the river would not require additional acreage. Local discharge would require additional 10 acres to treat discharge. Current capacity will accommodate 450 lots with an additional 450 lots as expandable in the future.

A resident came forward to ask what the environmental impact would be if the system discharged into the river. Baltzer responded that DANR mandates testing discharge on a regular basis. He stated that the discharge is treated prior to its transfer to the river. If the mandates change in the future, the system may have to be amended to treat at different capacities.

Wiseman asked for comment on the best option for future growth. Baltzer responded that any potential growth can be accommodated by either option. The river discharge system does hold a smaller footprint, but if additional acreage is available adjacent to the system, the wetland discharge option is viable as well.

Another resident came forward to ask for clarification of the total acreage needed to pursue the wetland discharge system. Baltzer responded that the District would need to purchase an additional 10 acres adjacent to the sewer system in the future to accommodate the full expansion and wetland needs. Resident also asked if DANR would also regulate the seepage rate of the wetland discharge. Baltzer stated that due to a new ruling on the Federal level, ground water discharge is causing State DANR concerns. Baltzer also stated that the treatment discharge on either system will most likely be the same, although the river discharge will require another step in the treatment process. This resident also asked to provide his opinion that the river discharge option may be the best option for the District. A closer location to the river may also be an option to utilize gravity instead of lift pumps.

Resident 3 came forward to ask if the District can ask for more grants from the DANR as we expand. It was noted that the decision would have to be made by DANR. Wiseman also stated that with our increased hookup fees and developer fees, future expansion could be paid for without needing grant or bond funding.

Resident 4 asked how long to expect completion of the sewer system upgrade. Wiseman stated 12 months for sure, maybe longer due to the permit, funding and bid process. Baltzer also interjected that in the current economy, it is very difficult to get a quick turnaround on projects without costing an exorbitant fee. Wiseman also stated that with our current funding, we have until 2026 to complete each project.

Ms. Hegge asked if the District has capacity for additional users today. Wiseman stated that as long as the District is moving forward with upgrading the systems, the District can handle additional users, but cannot state a specific number.

Wiseman made a motion to approve submittal of the revised State Facilities Plan, including project 5 and project 6 to the SD DANR by Bartlett & West as soon as it is available. Schuh seconded. All voted in favor. Motion carried.

Schuh made a motion to move into Executive Session, pursuant to SDCA 1-25-2 (3) at 7:35 p.m. Bacon seconded. All voted in favor. Motion carried.

Wiseman made a motion to move out of Executive Session and into regular business at 8:42 p.m. Schuh seconded. All voted in favor. Motion carried.

Chairman Schuh announced that the Board would be tabling the decision to approve or deny the Proposed



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Exclusion of Real Property until the May meeting. Wiseman asked Mr. Utech if he would entertain an option to present a full set of plans for a "Phase 1" of 75 homes, or camper equivalents, to the District's engineer (HDR) and SD DANR for approval. If willing and so approved by the relevant agencies, the District will approve the Phase 1 development.

Mr. Utech accepted the option and agreed to work with the District engineer, HDR, and SD DANR to gain approval for a phase-in of his development.

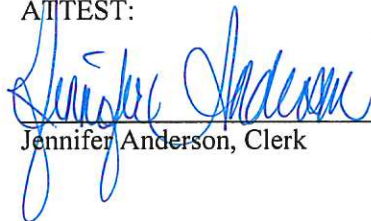
Mr. Utech asked for clarification of the Board's definition of "Full Set of Plans." Does this include the full development or just the initial Phase. The Board responded that it was just for Phase 1. Mr. Utech also asked how the District's engineer, Mr. Brian King of HDR fit into the District's plan. The Board responded that Mr. King was hired to review developer's plans to confirm compliance with the District Ordinances. Wiseman responded that no one on the Board is equipped to review these plans.

A resident came forward to ask for clarification on the difference between a "State-Approved Plan" and an engineered "Full-Set of Plans," stating that a 30-day approval for a "State-Approved Plan" is not feasible. Which plan is the District expecting? Wiseman noted that once the District engineer approves of the plan, he is authorized to submit those plans to SD DANR on behalf of the District.

Schuh made a motion to adjourn the meeting at 8:57 p.m. Bacon seconded. All voted in favor. Motion carried.

  
Kathleen Schuh, Board Chairman

ATTEST:

  
Jennifer Anderson, Clerk