

SPRING CREEK / COW CREEK SANITARY
DISTRICT MEETING MINUTES
MONTHLY MEETING
Wednesday, April 10, 2024

The regular monthly meeting of the Spring Creek/Cow Creek Sanitary District was held at the Boat House Bar & Grill on Wednesday, April 10, 2024. Chairman Schuh called the meeting to order at 6:00 p.m.

Chairmen Schuh, Bacon, Konda, Schneider Superintendent Zuber, and Clerk Linn were in attendance, along with 4 residents and 4 guests. Wiseman, Attorney Miller, 5 residents and 4 guests attended via Zoom videoconference.

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

Schuh asked the Board to declare any Conflicts of Interest. Konda declared he is also on the Dakota Landing Road District Board.

Schuh noted the following items in the President's message:

- The SCCCSO board is trying to do what is best for the community as a whole. We have the best interests of our members in mind when making decisions, even though it may not seem reasonable to everyone. We would appreciate your respect on matters regarding our decisions. We understand you are entitled to your opinion but voicing your opinion in a belligerent tone or action will not be tolerated. Idle threats will be taken seriously and reported to authorities. So, I am asking members of this community to keep their emotions in check when addressing the board.
- We also want members to keep in mind when reaching out to us, we all have families as you all do and most of us have full-time jobs. Please respect our time.

Schuh requested action on the 3/13/2024 meeting minutes. Konda made a motion to approve the 3/13/2024 meeting minutes with the following change: Colorful claim changed to colorable claim. Schneider seconded. All voted in favor. Motion carried.

Schuh requested Superintendent Zuber present his report to the Board. Zuber reported that total gallons of water used in March were approximately 783,000, or roughly 25,000 gallons per day. Still higher than last year but follows the same trend at the same time of year it seems. Seems we have more full-time residents.

Other items noted:

1. No issues to report on any lift stations. Still waiting to be scheduled for repairs. Requested an update on Tuesday yet have not heard back from them at this time.
2. Forrest completed some training on the new lift station.
3. Locator arrived. Training will occur tomorrow.
4. Application came in on Spring Creek Trail.
5. Bothwell is the only delinquent account at this time. Beck informed the board he will take care of the outstanding balance and will show Forrest where the accessible shutoff is located.
6. Forrest informed the board as to the class and exam he will be taking May 21-23.
7. Discussed cleaning out water shutoffs that have damage or materials blocking access. Forrest already has it scheduled to address.

Wiseman noted he discussed with Jim Ross and others the fact that the lift stations pumps should be stored in a controlled environment.

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Schuh requested Wiseman present the Treasurer's Report for month-ending March. Wiseman noted:

1. Everything appears to be running pretty good this month. Payables are higher as we are awaiting reimbursement from ARPA monies prior to payment. Incomes appear reasonable for the time of year.

Konda noted the funds from the tractor sale should be credited to the maintenance fund.

Schuh requested action on the Treasurer's report. Konda made a motion to approve the Treasurer's report.

Bacon seconded. All voted in favor. Motion carried.

Schuh requested Clerk Linn to present the monthly Accounts Payable to the Board. AMCS Group Inc. - \$1,800.00; American Engineering Testing Inc. - \$1,850.00; Anderson Nill & Associates - \$4,054.44; AT&T Mobility - \$90.50; Bartlett & West - \$98,000.00; Locators & Suppliers, Inc. - \$4,980.40; Maguire Iron, Inc. - \$258,215.34; Mid Dakota RWS - \$4,905.43; Northwest Pipe Fittings, Inc. - \$115.32; SD Public Health Lab - \$15.00; SDML Workers Comp Fund - \$56.00; South Dakota 811 - \$1.05; Bacon made the motion to approve the bills as presented. Konda seconded. All voted in favor. Motion carried.

Schuh requested Jim Ross to update the District on the sewer facilities plan. Bartlett & West (B&W) had a discussion with DANR requesting additional grant monies. DANR denied the request. B&W is in the process of scheduling a follow up meeting with the Corp of Engineers regarding the timeline for the environmental assessment mostly consisting of the discharge location into the river. B&W awaiting a response to the proposal submitted March 1 to DANR allowing for the RFP advertisement to be published for the equipment preselection.

Schuh noted the loan funding offer was \$3,627,880 Clean Water SRF loan at 3.75% for 30 years. At the proposed amount the surcharge rate would be \$67.10. Schuh also noted she has created a task force consisting of Wiseman and Bacon to review the potential surcharge increase resulting from the DANR denial of additional grant monies with findings to be presented at the May meeting.

Schuh requested Lyle Schumack to update the District on the water facilities plan. B&W noted the foundation is pretty much complete. The next steps will depend on Maguire Iron, Inc.'s (Maguire) schedule as to the erecting of the structure. No fabrication of the steel has occurred at this time. Last communication with Maguire noted the erecting to begin in the fall and continuing over the winter with painting scheduled spring 2025. Schuh noted Lyle is retiring May 1. Schuh expressed her and the board's congratulations and thanked him for his service to the District.

Schuh requested Vic Utech provide the District with an update on Codger's Castaway Development. Stacy Hegge came forward as a representative of Utech. Hegge noted she has been in discussion with Attorney Miller as to options:

1. Allow Codger's Castaway to operate as a private system. Hegge noted the board is not in favor. The board noted the Ordinance does not allow for private operations prior to the system being placed into service.
2. As the approval to be placed in service is being delayed by the sewer system, is the board willing to approve the water system be placed in service and the development will provide holding tanks for sewer until the entire system is approved. Utech provided clarification that only one holding tank is needed at this time and that an agreement would be reached in the near future with the land so this would not be a long-term deal. Utech noted that plugging manhole 3 would allow that portion of the system to be utilized for a holding tank. Utech also noted the developer would pay to have the system pumped if the system becomes full prior to the system being placed into service.
3. A conditional approval contingent on the receipt of an agreement being in place for the contested property.

Schuh opened board discussion. Schneider inquired to Jim Ross as to the status of the outstanding items noted in the as-built draft letter. Ross noted all items have been addressed by the developer except for the list of lift station items. Schuh requested Utech follow up as to the lift station status. Utech stated we are aware of the outstanding

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lift station items yet does not plan on addressing them until the property dispute is resolved as they may elect to move the lift station. Schneider inquired if Utech had discussed the previously offered option of \$2500 credit for Landing Avenue or had been in contact with the Dakota Landing road district. Utech stated this has nothing to do with the District except for the easement which has been provided. Schneider reminded Utech that Schuh on Dec 13 had informed Utech that this matter had to be taken up with the road district. Konda noted there is some precedent for utilizing a manhole as storage, yet he believes it requires approval from the state to do so. Bacon noted the concern for liability if there is any issue with the temporary storage. Wiseman noted the slippery slope the board is going down by approving any of the options prior to placing the system in service. Schuh expressed her preference of having the lift station contested property resolution in hand prior to approving the system.

Wiseman made a motion to deny turning the water on at this time. The motion died for the lack of a second.

Schuh requested a motion to turn on the water system and utilize the sewer to manhole 3 as a holding tank. Konda made a motion to turn on the water system and utilize the sewer to manhole 3 as a holding tank pending approval from the state. Schuh seconded. Ayes 1. Nays 4. Motion failed.

Schuh requested a motion for conditional approval. Konda made a motion for conditional approval with an additional item to the March 14th draft letter pertaining to the land ownership dispute that the appropriate deed be recorded or provided to the District with the other pending conditions as provided in the March 14th draft letter. Schuh provided clarification that the motion would allow approval without calling a special meeting once the resolution to the contested property dispute has been received by the District. In addition, the 45-day window to complete the items on the As-Built Approval Letter would begin on the date the board receives confirmation the contested property dispute has been resolved. Schuh seconded. The Board discussed the current draft of the As-Built Approval Letter not addressing the current concerns of the Board if the contingent approval was granted. Wiseman called the question. Motion died for a lack of a second. Discussion continued on the motion. Board noted they would call a special meeting if the Board felt waiting for the next monthly meeting would be an excessive delay. Wiseman inquired as to Attorney Miller's position. Miller stated there are a lot of conditions that need to be on paper, but if the Board is to do a conditional approval the board could consider adding in the condition that Utech obtain a quit claim deed from Milton Morris for the Codger's Castaway property as newly described or, as stated in my previous correspondence as counsel, that the District received easements from both individuals for the same portion. One easement would be basically ineffective, yet the second easement of whoever has legal title would be effective. If approval then goes through, as one of the items is satisfied between now and the next meeting, the system could go live. Konda noted the March 14th letter was a draft and a portion of the pending items have already been satisfied by Utech. Konda made a motion to cease discussion. Schneider seconded the motion. Motion to cease discussion carried. Action on the motion. 2 Ayes. 3 Nays. Motion failed.

Schuh inquired if Utech has any further items.

-Utech requested approval from the Board to move the lift station back to its originally approved location. The Board stated the prior location is still approved per previous board action. Miller noted a survey or overhead view be provided to confirm the prior location is not on the disputed property and an easement provided for the new route. Utech agreed with Miller's notes.

-Utech requested permission to install the pig port as noted in the As-Built letter when the new treatment plant is brought in. The Board denied the request.

-Utech reviewed the remaining items on the As-Built letter.

-Utech inquired as to the timing of the Bond and the takeover of the system. Ross clarified the system is taken over at the time of approval. Utech inquired as to why a bond is required if the District is taking the system over and Utech is providing a one-year warranty. The board agreed a bond would not be required to be in place once the development is taken over by the District. Schuh noted future developments regulated by Ordinance #10 will require a bond.

Schuh requested Leonard Kopman provide details on the proposed private system to the Board. Kopman stated

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he is requesting approval for a private system as a backup plan to the potential denial of timely development approval. Konda stated the Board would be required to remit written notice to DANR allowing a private system. In addition, the proposal would be regulated by Ordinance 10 requiring the designs to be completed by a licensed professional engineer. Schuh stated the potential approval is within our guidelines. Konda stated this does happen in other developments and the system would be required to be removed or filled in once the development is approved. Konda made a motion to grant the Kopman property variance should it be requested by the state for a private system. Bacon seconded noting the temporary system has to be removed or filled in compliant with regulations once the development is put into service. Additional discussion as to precedent and process ensued. Schuh initiated a vote. 4 Ayes. 1 Nay. Motion carried.

Schuh noted the board received a letter from DANR noting the District has met the requirements of the Safe Drinking Water Act for 23 consecutive years. Schuh presented Forrest Zuber with his certificate and noted the District also received a certificate.

Schuh opened the floor for public comment. Darrel Beck stated he has worked on each of your properties and each person has gone through the headache of dealing with entities to finalize your building process. Currently there are 30 more people out there in line to purchase lots and generate income for the District. What happens in this meeting will have a direct effect on the outcome of the decision on whether individuals will follow through on the purchase of the lots. Please keep the approval of the development moving forward and get this thing done.

With no other public comments, Schuh noted there is not a need for executive session this evening.

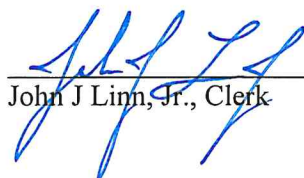
Konda noted the Board should request the As-Built letter be updated by Ross taking into account tonight's actions of the Board. Ross stated he will update the letter.

Being no further business, Schneider made a motion to adjourn the meeting at 8:03 p.m. Konda seconded. All voted in favor. Motion carried.

SIGNATURES TO FOLLOW


Kathleen Schuh, Board Chairman

ATTEST:


John J Linn, Jr., Clerk