

SPRING CREEK / COW CREEK SANITARY  
DISTRICT MEETING MINUTES  
MONTHLY MEETING  
Wednesday, August 14, 2024

The regular monthly meeting of the Spring Creek/Cow Creek Sanitary District was held at the Boat House Bar & Grill on Wednesday, August 14, 2024. President Schneider called the meeting to order at 6:00 p.m.

President Schneider, Bacon, Konda, Schuh, Superintendent Zuber, and Clerk Linn were in attendance, along with 51 residents and 4 guests. Attorney Miller, Bryant, 13 residents and 2 guests attended via Zoom videoconference.

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

Schneider nominated Connie Bryant as a board member. Konda seconded. All voted in favor. Motion carried. Schneider welcomed Bryant to the board and noted she was not able to attend in-person this evening due to an accident.

Schneider asked the Board to declare any Conflicts of Interest. None noted at this time.

Wiseman inquired as to why no other nominations were taken for the open board position. Schneider noted SDCL 35A-5-21.1 states: **Vacancies on board of trustees.** If a vacancy occurs on a sanitary district board of trustees, the remaining members shall appoint a replacement to serve the remainder of such term. Wiseman stated he had a nomination which he was going to bring forward tonight and informed Schuh of his intention. Schuh noted she did not nominate the individual as she has no knowledge or background on the proposed nominee. Schneider stated there will be another election in July and welcomes residents to submit a petition and run. A question was raised on where the position was advertised. Schuh noted notice is on the website and published in the paper. Schneider noted the petition notice is not mailed out due to cost.

Schneider requested action on the 7/10/2024 meeting minutes. Schuh made a motion to approve the 7/10/2024 meeting minutes. Bacon seconded. All voted in favor. Motion carried.

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

1. Schneider was a pilot and instructor in the Air Force and for United Airlines. With that he has always worked with a crew of people. Schneider considers this board now his crew and he is protective of his crew. And if we all can respect that I would appreciate that as we go along.
2. Everybody here probably got flyers or paperwork in their doors. The items were not approved nor given by any member on the board. The board attempted to have the person not do it to no avail. The board respects your privacy and you will notice on our slide show tonight there are no names associated with usage.

Schneider introduced Scott Gross, CEO of Mid-Dakota Rural Water System (MDRWS). Schneider inquired as to whether MDRWS would be willing to take over Spring Creek Cow Creek Sanitary District (District). Gross stated he preferred not to as they already sell the water to the District and do not have the manpower at this time. Gross stated it is a possibility in the future, yet it would take a lot of coordination before that would happen. Utech noted additional conversations should be held by the powers that be to pursue the possibility of MDRWS taking over SCCCSO as MDRWS has more means to attain grants and funding due to its size and connections which may benefit the District. Schneider stated talks can continue between the Board and MDRWS. Gross noted the District would be a huge undertaking due to the number of people.

Schneider requested Superintendent Zuber present his report to the Board. In July we used 1,647,000 gallons for the month with a daily average of 54,000, down 10,000 a day from last year.

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Other items noted by Zuber:

1. No update on Codger's Castaway this month.
2. The neighbor's farm irrigation flooded the backside of Codger's which could potentially cause future issues for the District system. Zuber stated the neighbor split the irrigation times up to make sure it does not happen again.
3. AGE finished up the inlet line for the water tower project. It went really well.
4. Dakota sky meter is scheduled to be replaced on Monday as long as its ok with the owners when I reach out to them. Just was notified this afternoon.
5. Lead and copper survey is all wrapped up. Just need to review it and get it sent in.
6. Two new applications this month.
7. Lift stations have been running well. Ferding Electric replaced a few floats on the county line lift station so it should be all up to speed.

Schneider requested Konda present the Treasurer's Report. Konda noted for the month of July: Unrestricted checking account - \$125,765. Restricted meter deposits - \$30,916. Restricted long-term developer fund - \$304,218. Accounts payable - \$295,399 of which a portion will be reimbursed by DANR. Schuh made a motion to approve the Treasurer's report. Bacon seconded. All voted in favor. Motion carried.

Schneider requested Konda present the second reading of the budget. Konda noted: 3% budgeted increase for water and sewer usage. Konda is not a fan of including hookup fees in our normal operating budget; however, the elimination would result in additional increases in rates to balance the operations budget. Schuh made a motion to approve the budget as presented. Bacon seconded. All voted in favor. Motion carried. Schneider noted the District will be analyzing a potential new software billing system in the future as the current system is no longer user friendly due to changes in customer support.

Schneider requested Clerk Linn present the monthly Accounts Payable to the Board. AMCS - \$3,908.52; Anderson Nill & Associates - \$5,761.92; Aqua Tech Systems, Inc. - \$114,510.70; AT&T Mobility - \$91.24; Bartlett & West - \$85,783.25; Core & Main LP - \$1,093.97; Envirotech Waste Services - \$65.65; Ferding Electric - \$790.70; Forrest Zuber - \$450.00; Lammers, Kliebacker & Dawson, LLP - \$3,477.48; Maguire Iron, Inc. - \$121,500.00; Mid Dakota RWS - \$5,489.81; Midco Communications - \$53.15; Russell Tech, LLC - \$300.00; SD DANR - \$230.00; SD Public Health Lab - \$15.00; South Dakota 811 - \$7.35. Konda made the motion to approve the bills as presented noting the hold of AMCS and the hold of the reimbursable portion of Aqua Tech Systems, Inc., Bartlett & West, and Maguire Iron, Inc. pending receipt of the reimbursement. Bacon seconded. All voted in favor. Motion carried.

Schneider inquired to the Board as to whether the restricted development funds can be utilized to pay the Aqua Tech billing. Reimbursement from DANR will then refund the restricted funds balance. The board decided not to pursue the option as there was uncertainty as to the ability to do so.

Schneider requested Jim Ross update the District on the sewer facilities plan. Schneider requested clarification on Aqua Tech beginning the procedures when the executed contract was remitted and prior to funds being wired. Ross stated the signed contract and a copy of the draw request should get things kicked off. Ross has been in conversation with DANR regarding plan review and drawings that were submitted for design. DANR is still working through the environmental assessment part. DANR also requested information on the RFP that was put out to select Aqua Tech. These items are put in their records in case there is an audit. Ross is working with the Corp of Engineers for the final steps to follow to get the official discharge permit. The permit is taking longer than Ross would like, yet we are at their mercy. Ross is attempting to push that along. Ross stated as soon as we get the shop drawings back from Aqua Tech, if there are any changes that we need to make on the design drawings based on what they submitted, we will make those revisions. DANR is aware that those will be coming and then we would have a final review from them. Once reviewed we would be able to put it out for bid. They do understand the urgency to get this bid before the end of the year, so the District does not have a risk of losing the ARPA money. Our original schedule was to have it October 1, but we are still waiting for some of those pieces to come in. Ross stated he will personally go sit with Karin at DANR

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and walk through it if need be. We will cross that bridge of having it bid and a contract in hand before the end of the year when we come to it.

Schneider requested Nathan Danner update the District on the water facilities plan. Danner stated Forrest shared the big news of the pipeline being put in which justified the high pay application for this month. Disinfecting and pressure testing will occur before it is tied into the system. Additional fabrication is being done at the Sioux Falls location and shipping is scheduled to occur later in the fall. The logo has been finalized and is ready for approval. Schneider requested a motion to approve the water tower design. Konda made the motion to approve. Bryant seconded. All in favor. Motion carried.

Schneider requested Utech provide an update on Codger's Castaway development. Vic noted R&W is currently tied up on another project, yet he will inform Bartlett & West when additional inspections are needed. Schneider inquired as to what they have left to complete besides testing. Utech stated once pressure testing has completed, we will backfill. In the meantime, we will remit our water quality test. Utech estimates a couple of weeks, and everything should be done. A resident inquired as to who was doing the inspecting. Schneider noted Barlett & West will conduct the inspections. Schneider stated Forrest has also inspected the development.

Schneider requested Wiseman come forward for his presentation. Items noted by Wiseman:

Wiseman made a lot of effort to let everyone know what is going on with the surcharge. We do have quite an undertaking. The bill is a lot bigger than they thought four years ago. The District brings in about \$19,000 per month with their base rate which is a usage charge. The water needs to be updated to prevent running out of stored water and the EPA has been after us for years to upgrade the sewer system. The new system loans will total over \$5 million and monthly debt service will be approximately \$25,326 per month. Wiseman stated his proposal is based on Users and not Usage. Wiseman reviewed the 4 options provided in his presentation:

A - no change - Total monthly fee including surcharge and base rate - \$155.80 per month per user.

B - 1101 users - Total monthly fee including surcharge and base rate - \$86.70 per month per user.

C - 787 users - Total monthly fee including surcharge and base rate - \$95.64 per month per user.

D - 605 users - Total monthly fee including surcharge and base rate - \$105.56 per month per user.

Wiseman stated the Board did not want him to hand out this information. Konda clarified the Board did not want him to hand out personal user information.

A resident stated the board resolution 2024-2, their own language says under Initial Surcharge – All users within the District which benefit from the Project, current and future, shall be charged the special charge or surcharge.

Wiseman noted the resident is Steve Lee, whom he was going to nominate tonight, but you guys wouldn't let me. Schuh noted Wiseman cannot nominate and informed Lee that she was sorry, yet she did not know anything about Lee and next year we will have an open seat, so please reach out. Lee noted his concern as to the timing of posting draft and finalized minutes. Linn explained the process as required by law of which the District follows. Lee noted the complexity of the website. A discussion ensued regarding notice of meetings. Linn noted the current billing software does not do bulk emails.

Schneider thanked Bryan for his presentation while noting we all have differences of opinion. Schneider made a point of clarification that usages are not available on the District website and the Board considers such information as private. Schneider also noted Wiseman did great service for the Board over the last four years, yet he has been off the Board for one month.

Schneider noted the following in regard to the Board presentation:

The Board presentation was based on financial and legal advice.

The Board gets proposals in resolutions that we have to put forward to qualify for the loans and grants.

The resolutions, as approved by DANR, regulate the process. In this process the following is noted:

1. We have to collect the money and repay each loan in a manner that DANR and our bonding agency have agreed upon for the repayment of the loan.
2. 3 of the 4 loans have closed and the surcharge process has been approved by DANR and are established. A change in the surcharge process, which this board voted to approve two years ago, could allow DANR to reassess these loans and potentially increase the current interest rates of: Loan

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1 – 2.25%, Loan 2 – 2.75%, Loan 3 – 3.50%. Loan 4 is the loan we are discussing tonight at 3.75%. Mehlhoff noted there are two loans in which the users have already been paying a surcharge on which the number of users can be increased that in turn would decrease the amount of the surcharge per user. For this final loan the Board is looking at something very similar to what Wiseman proposed. The Board proposal does not just allocate the surcharge over the 275 people that have homes here as was done in the previous three loans, but also the non-residential side of the community. This loan is the first methodology that the Board has ever done that. The Board has been advised by our legal attorney to not open up the other loans. We have been advised by Mehlhoff to not open up the other loans. Mehlhoff stated the Board, on the 3 previous loans, applied to the Board of Natural Resources (BNR) with the District intent to utilize a surcharge rate based on the users. The reason the District can look at an alternative process for Loan 4 is the Board still has to go to BNR for approval of the repayment process.

Past loans are as follows:

DW-01 (April 2022) \$440,000 – Current surcharge - \$7.85 per month per user.

CW-01 (April 2022) \$863,002 – Current surcharge - \$15.20 per month per user.

DW-02 (January 2024) \$300,000 – Current surcharge - \$5.20 per month per user.

Total amount of past loans - \$1,603,002. Total past loans surcharge - \$28.25 per month per user.

The first three loans are calculated using a per user basis. Each user, regardless of the amount of usage, is charged the same.

Current Loan is as follows:

CW-02 (April 2024) \$3,627,880.

- The district has been exploring options to more evenly distribute the cost of the system upgrades based on a blocked usage scale.
- The proposed blocked usage scale would apply only to loan CW-02.
- Proposing to split the total metered usage into residential and non-residential classes utilizing the month of July usage.
- Proposing to establish two residential classes and five non-residential classes.

Usage Classes - Residential:

- Two User Classes
  - Users up to 3,000 gallons (July usage).
    - 225 users
  - Users with more than 3,000 gallons (July usage).
    - 65 users

Usage Classes – Non-Residential

- Five User Classes
  - 0-50,000 gallons
    - 10 users
  - 50,001 to 100,000 gallons
    - 1 user
  - 100,001 to 150,000 gallons
    - 1 user
  - 150,001 to 200,000 gallons
    - 1 user
  - Greater than 200,000 gallons
    - 1 user

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- 2025 Proposed Rates Class 1
  - Base Water \$38.79
  - Base Sewer \$26.82
  - DW-01 \$7.85
  - DW-02 \$5.20
  - WW-01 \$15.20
  - WW-02 \$30.34
  - **TOTAL \$124.20**

- 2025 Proposed Rates Class 2
  - Base Water \$38.79
  - Base Sewer \$26.82
  - DW-01 \$7.85
  - DW-02 \$5.20
  - WW-01 \$15.20
  - WW-02 \$40.34
  - **TOTAL \$134.20**

- 2025 Proposed Rates Class 1
  - Base Water \$78.21
  - Base Sewer \$118.31
  - DW-01 \$7.85
  - DW-02 \$5.20
  - WW-01 \$15.20
  - WW-02 \$215.00
  - **TOTAL \$439.77**

- 2025 Proposed Rates Class 2
  - Base Water \$78.21
  - Base Sewer \$118.31
  - DW-01 \$7.85
  - DW-02 \$5.20
  - WW-01 \$15.20
  - WW-02 \$630.00
  - **TOTAL \$854.77**

- 2025 Proposed Rates Class 3
  - Base Water \$78.21
  - Base Sewer \$118.31
  - DW-01 \$7.85
  - DW-02 \$5.20
  - WW-01 \$15.20
  - WW-02 \$1,245.00
  - **TOTAL \$1,469.77**

- 2025 Proposed Rates Class 4
  - Base Water \$78.21
  - Base Sewer \$118.31
  - DW-01 \$7.85
  - DW-02 \$5.20
  - WW-01 \$15.20
  - WW-02 \$2,060.00
  - **TOTAL \$2,284.77**

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- 2025 Proposed Rates Class 5
  - Base Water \$78.21
  - Base Sewer \$118.31
  - DW-01 \$7.85
  - DW-02 \$5.20
  - WW-01 \$15.20
  - WW-02 \$3,075.00
  - **TOTAL \$3,299.77**

Looking to the Future:

- Total loan amount of all loans is \$5,230,882.
- The district has been growing rapidly.
  - Approximately 15 new connections per year.
- Rates may be adjusted on an annual basis.
  - Anticipated to adjust based on additional users as the district grows.
  - Additional users will spread the costs of the existing debt service to more users.

The Board noted during the presentation:

Users who requested meters prior to the fee going up will be charged a surcharge.

Residential users used 50.6% and non-residential users used 49.4% of the water in July of 2023.

Therefore, the type of users, residential and non-residential, will pay a percentage equal to their usage stated above of the debt service for loan 4. The allocation is reviewed every year for assessment.

The surcharge will not be assessed on empty lots. None of the Board members are opposed to charging empty lots, yet the cost to set up and collect outweighs the benefit. The estimated cost to set up empty lot billing is \$2,400. The estimated monthly cost increase is \$600. The additional software charge is unknown at this time. In addition, Anderson Nill will not do collections on delinquent accounts.

Empty lots pay a hookup charge of \$6,500 when they request service. Developers pay a developer fee of \$4,000 per lot. Currently there are between 285 and 300 users in the District. The current system is at the end of its service life. Upgrades are extremely expensive. There is a lot of infrastructure that is required to be maintained. There are multiple lift stations. There are two openings on the Board next year. By all means run for a position if you have grand ideas for the District.

Schneider opened the floor to public comment and questions.

-Will an Airbnb pay the residential class 2? Schneider stated they will pay in the class according to their usage.

-Bryan Wiseman stated the calculation of 225 residential users x \$124.10 and 65 residential users x \$134.20 is \$23,000 per month. Why would you only charge the campground \$2,000 per month as you only need to raise \$25,000 per month? The Board explained the allocation was almost 50/50 and your math is incorrect as you are utilizing the entire monthly bill instead of the surcharges and the Board presentation is only about Loan 4.

-Ann Wiseman inquired as to how it is fair to utilize one process for loans 1-3 and a different process for loan 4. She feels the same process should be utilized for all loans. Schneider stated the prior approved method will be utilized for the loans 1-3 as the board is not willing to reopen the previous method as DANR has already approved. We only can change the number of users, but not the methodology of how it is calculated. Loan 4 proposal is utilizing usage.

-Bob Berg is in favor of changing the number of users for all loans to include empty lots.

-An unidentified resident inquired as to combining of lots. Schneider noted we are not looking at empty lots at this time for allocation of the surcharge due to cost of setup and collection.

-Wiseman stood up and wanted a public vote for the surcharge as opposed to the board voting on it.

-Schneider asked Attorney Miller to expand on Wiseman request to bring it to a vote. Attorney Miller stated initiated measures are not applicable to sanitary districts.

-An unidentified resident inquired why the surcharge to campgrounds cannot be prorated for the entire year. Schneider noted they are already assessed the fee for 12 months.

-McConnell stated a user that uses the same amount of water as he does should pay the same amount he does. A

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user that uses twice as much water as he does should pay more because you are part of the reason we have to improve this system.

-Schneider noted multiple scenarios were looked at and analyzed by the Board. The goal of the board is to not drive any residents or businesses from the District.

-Konda noted the basis of the split utilizes July, yet the fee as assessed is paid by all users year-round.

-Konda noted it is very complex on how to assign a number of users to a restaurant...to a future motel...a fish cleaning station. He inquired to the attendees on how they recommend it is determined. In addition the amount of time and complexity in determining the number of lots every year. Due to the complexity of these unknowns, the Board has elected to utilize usage in the month of July to determine allocation of surcharges for loan 4.

-Schneider noted the first three surcharges were set by previous members of the Board and stated he cannot emphasize that enough. Additionally, those decisions were made with very little public discussion. This is the third month we have discussed this surcharge. And that was with no discussion on those previous three surcharges. It was mentioned in the budget. Schneider went back and went through the minutes from the last three years. It was a motion and it was done. No explanation to the public. Now the Board is working to spread it out evenly utilizing usage. That is all the Board is trying to do.

-An unidentified resident stated the current users will pay through the surcharge and the newly developed lots will pay through hookup fees and developer fees. Schneider added those lots will become users, and assessed the surcharge, once they ask for a meter.

-Panzer inquired whether a user would be included in the assessed surcharge if they attain a meter after the July allocation is completed. The Board is not able to set a cutoff at this time but will make every effort to include users who apply late in the year in the annual calculation.

-An unidentified resident requested the presentation be published on the website. The Board stated it will be published on the website.

-An unidentified resident requested the meeting notification monthly. Linn requested anyone interested in being added to the monthly email list contact him through the website or via email. Linn attempted to pull all the email addresses from the billing system, yet that process does not take into account those that do not want to get an email each month. The office will also attempt to add the notification on the monthly billings.

-An unidentified resident inquired why the number of users cannot be increased for loan 1-3 if you can add new users to the calculation. The Board reiterated it is not willing to jeopardize the low interest rates on loans 1-3 for a chance to change what the calculation is currently utilizing as users.

-Konda reiterated the challenge of assigning a number of users to a meter.

-Konda noted the information in the application which was utilized to attain the water tower grant had to be utilized when requesting funding on the sewer grant/loan. In addition, the system was designed with growth in the calculation. The presentation tonight is the best option available to the Board at this time.

-Utech inquired as to whether the Board would look at additional options if a better proposal is attained after tonight. Schneider stated the window for proposals is closing rapidly due to time constraints, yet the board would consider time permitting.

Hearing no further comment Schneider closed public comment and requested action from the Board. Konda made the motion to move forward with the Board proposal as presented. Schuh seconded. All in favor. Motion carried.

Schneider inquired as to whether there was any public comment. Hearing none the public comment was closed.

Schneider requested a motion to move into Executive Session at 8:34 p.m. pursuant to SDCL 1-25-2(3). Schuh made the motion. Konda seconded. All voted in favor. Motion carried.

Schneider called the meeting back into Regular Session at 9:16 p.m.

Konda made the motion to approve the Anderson, Nill & Associates contract in the amount of \$4,260 per month. Schneider seconded. All voted in favor. Motion carried.

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Konda made the motion Schneider sign any forms as related to the Anderson, Nill & Associates contract. Schuh seconded. All voted in favor. Motion carried.

Being no further business, Schuh made a motion to adjourn the meeting at 9:20 p.m. Bryant seconded. All voted in favor. Motion carried.

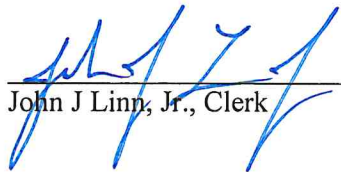
\*\*\*SIGNATURES TO FOLLOW\*\*\*



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Todd Schneider, Board President

ATTEST:



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John J Linn, Jr., Clerk