

SPRING CREEK / COW CREEK SANITARY
DISTRICT MEETING MINUTES
MONTHLY MEETING
Wednesday, November 20, 2024

The regular monthly meeting of the Spring Creek/Cow Creek Sanitary District was held at the Boat House Bar & Grill on Wednesday, November 20, 2024. President Schneider called the meeting to order at 6:01 p.m.

President Schneider, Bacon, Konda, Kopman, Schuh, and Clerk Linn were in attendance, along with 7 residents and 2 guests. Attorney Miller, Superintendent Zuber, 8 residents and 2 guests attended via Zoom videoconference.

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

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

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

1. Meeting Etiquette. Public comment will be taken at the end of the meeting allowing three minutes per presenter with the ability for another party to yield them their time.

Schneider requested action on the 10/9/2024 meeting minutes. Schuh made a motion to approve the 10/9/2024 meeting minutes. Bacon seconded. All voted in favor. Motion carried.

Schneider requested Superintendent Zuber present his report to the Board. Things have been pretty quiet around the District. Not many contractors starting anything at this time. In October the District was just over the one million gallons for the month with a daily average of 34,000. Will start seeing more of a drop off down to approximately 25,000 daily average.

Other items noted by Zuber:

1. The District passed the disinfection byproducts testing. Forrest will provide to JJ for publication on the website.
2. One of the doors on a lift station blew off today in the heavy wind.
3. Forrest and Andrew tracked down a substantial leak in a hydrant that should substantially affect their usage.
4. All state parks are shut off for the year.
5. Bruce Peterson's shop is shut off for the year.

Schneider requested Konda present the Treasurer's Report. Konda noted for the month of October: Unrestricted checking account - \$127,150. Significant decrease from last month as reimburse funds were pending payout at last month's meeting. Restricted meter deposits - \$31,055. Restricted long-term developer fund - \$305,926. Accounts receivable decreased to \$23,810. Quite a few bills to pay including some odd ones. As far as the budget for the year the District exceeded the budgeted hookup fees. Bacon made a motion to approve the Treasurer's report. Schuh seconded. All voted in favor. Motion carried.

Schneider requested Clerk Linn present the monthly Accounts Payable to the Board. AMCS - \$3,908.52 (held); Anderson Nill & Associates - \$5,429.47; Aquatech Systems, Inc. - \$572,553.50 (held); AT&T Mobility - \$91.28; Bartlett & West - \$85,614.25 (\$81,420.00 held, \$3,144.25 held pending reimbursement, \$1,050.00 held pending remittance and reimbursement); Capital Journal - \$544.73; Core & Main LP - \$85.18; Envirotech Waste Services - \$56.94; Forrest Zuber - \$450.00; Hi Plains Storage - \$110.00; Lammers - \$5,775.00; Maguire Iron, Inc. - \$104,643.00 (held pending reimbursement); Mattheis Plumbing - \$4,953.33; Mid Dakota RWS - \$5,099.41; Midco Communications - \$53.31; Oahe Electric - \$576.23; SD Public Health Lab - \$181.00; SDML Workers Comp Fund - \$1,518.00; South Dakota 811 -

11/20/2024

\$23.10. Konda made the motion to approve the bills as presented noting the hold on AMCS, Aquatech, Bartlett & West and Maguire Iron, Inc. Bacon seconded. All voted in favor. Motion carried.

Linn noted the letter mailed with the Appendix As should have referred to DW-02 instead of CW-02. Konda noted the CW (clean water) has not been drawn on as of yet, but the DW (drinking water) has. Schneider noted the surcharge amount will still be \$5.20.

Schneider requested Jim Ross update the District on the sewer facilities plan. Ross stated bid opening were yesterday. One bid was submitted which was over the District budget. We will go back to the drawing board to clean up a few things and see if we can find ways to reduce the cost. Therefore, the recommendation is to rebid with a 10-day required advertisement. The plan is to get the bid opening scheduled before the next board meeting. Ross and the board continued to discuss options as far as timing and potential changes to the bid request. Ross noted he believes the District can retain a bidder within budget once clarification regarding the project is provided to parties interested in bidding. Schneider stated the current plan is good; break it out and clarify it; send it back out on a shorter timeframe as Jim has already done some of the legwork with other contractors. Mehlhoff commented the Board doesn't have much of another option except to reject the bid and he updated the Board as to the statute timeline requirements to be met for a rebid. Konda made a motion to reject the bid from Sharpe Enterprises and authorize the Board to rebid as soon as possible. Schuh seconded. All voted in favor. Motion carried.

Schneider noted DANR approved the plans and specifications for the Wastewater Treatment Improvement Project as noted in the letter received 11/06/2024.

Schneider requested Ross update the Board as to Aquatech. Ross stated the manufacturer is very aware of where we are at with things and noted Aquatech volunteered to speak with bidders for clarification on the equipment installation. Ross noted Aquatech requires the deposit prior to beginning manufacturing the equipment, yet they understand the bid schedule the Board is on at this time. Ross stated there is a potential price increase if the Board is not able to lock themselves in line for manufacturing prior to the end of the year. Schneider inquired if the December Board meeting meets the timeline for locking the Board into a manufacturing contract. Ross stated yes. Konda noted the Board would not be able to receive reimbursement for the down payment until approximately February 2025. Ross stated realistically the timeframe for getting the paperwork done and closing the loan is when the reimbursement happens. It is going to be 45-60 days and the manufacturer is aware of the timeline of what we are trying to accomplish.

Schneider thanked Ross for coming up this week and for everything he has done.

Schneider requested Nathan Danner update the District on the water facilities plan. Danner noted Bartlett & West has finished their review of the fabrication submittal this week and currently as of today through Friday they are doing the shop priming, shop blasting and painting at the facility in Sioux Falls. Their plan, obviously weather pending, is to start shipping steel to the site next week. They are also going to start shipping their equipment and rigging next week as well. The current plan is for, I think, the first week in December to have crew onsite to start erection and welding steel in the field. One of our field inspectors is currently at Mid-Dakota. We'll have him shipped over when the crew is on site. Schneider thanked Danner for his update.

Schneider requested Linn update the Board on the Ampstun software contract. Linn requested approval for Schneider to execute the Ampstun contract in the amount of \$13,050.00 and pay the 25% down payment in the amount of \$3,262.50. Linn also noted the balance on the prior month comparison worksheet stated \$12,050.00, yet the District will not qualify for the onsite training discount as training will occur at Anderson Nill. Konda requested the District name be updated prior to executing the contract. Konda made a motion to approve signing the contract and paying the down payment. Bacon seconded. All voted in favor. Motion carried.

Schneider requested Vic Utech provide an update on Codger's Castaway development. Schneider also inquired as to whether the easements for the hydrants have been secured. Vic stated the easements are not completed as of today. The surveys have been completed, yet they are awaiting confirmation on the legal descriptions. Schneider inquired as to whether Utech has seen the development fee agreement that was written up. Utech stated he has not seen anything

11/20/2024

come from anybody. Schneider inquired with Cody as to whether it was sent. Cody did not believe it had been sent. Schneider requested the agreement be sent and to table the item until the next meeting. Schuh made a motion to table the Codger's Castaway Development Fees Agreement and Easement until the December meeting. Kopman seconded. All voted in favor. Motion carried.

Schneider requested Konda introduce Resolution 2024-5 Extension of Public Sewer and Water. Konda introduced Resolution 2024-5 as A RESOLUTION OF THE SPRING CREEK/COW CREEK SANITARY DISTRICT REQUIRING ALL PREMISES TO HAVE WATER AND SEWER SERVICE AVAILABLE TO THE PREMISES THROUGH THE SPRING CREEK/COW CREEK SANITARY DISTRICT. Konda stated it is basically a resolution to require properties to connect to the system. Current ordinance has if you are within 400 feet. Kopman inquired as to why it was decided to do this. Konda stated efforts were made in the past to remove portions from the peninsula. The Board at that time voted those down. There have been discussions on potentially having private systems installed within the District. The District is spending a significant amount of money to upgrade the water and sewer systems, and we want to make sure, with those upgrades, that individuals actually connect to the system to justify the significant cost of those upgrades. Schneider added we felt we should bring this out right away as there would be money spent through engineering for wells and septic systems. The Board did not want the developer to incur the cost and then the Board say this. Kopman noted the guy that wants to do this is the guy that is putting in the system. If this costs him more is there a liability on us doing this in arrears. Konda noted there have been no formal plans submitted. State law currently requires that if you are within 400 feet of a public sewer you have to connect if that body tells you to connect. Schneider stated if we allow any individual to take an area of land and make it their own within the District, how does that benefit the community. How does that benefit the people out here that are probably going to have to pay a higher percentage of the sewer lagoon, of the water tower, of everything else. We need to represent the people here of which the developer is also a person. I understand that. But by doing this and cutting off the District from supplying sewer and water...how is that helping the people of the community if we allow that to happen. Schneider continued on to reference SDCL 34A-5-35: The board of trustees may require by ordinance or resolution that all dwellings or structures within the district, or within a defined area, shall be connected with the sewers of the district. Also noted in this section: The board of trustees shall have exclusive jurisdiction to establish by ordinance or resolution standards for construction and inspection of private sewer systems within its boundaries, in conformity with state county laws and regulations. Bacon inquired as to whether the Board was backtracking or saying this will take effect for developments that are going to be done. Konda stated this (the trailer park) has been talked about before. Most recently in the last month or two. Andrew Utech requested clarification as to when first discussions took place. He also noted he requested an application from Linn yesterday. Konda stated Vic and Andrew asked me to meet on another item and there was discussion on a potential new campground. And prior to that there were discussions on removing variances before I was on the Board and before most people sitting here were on the Board. I don't believe there is any municipality in the District that would say you are on the edge, so you can do what you want. I do believe there is merit in allowing that in certain cases and the resolution does have that in there where the District may deviate from that but it would be default that the District would require connection to the system. Schneider clarified that would be for existing systems and not future developments. Konda reiterated the resolution would be our default position. Kopman inquired if there is any legal liability if someone applied for something and then the Board changed it. Miller stated he does not see where that is the case as no developers are currently putting in to be approved for any private systems to be installed. Kopman stated then there is no need for this. Schneider stated it is to clarify the Board's position. Kopman noted we have one developer out here and I would try and work with him. Schneider agreed. Bacon requested confirmation that no official application has been received and that he believes that is a benefit to everyone who lives here that everyone connects to the system. Kopman noted his concern for a possible lawsuit. Schneider inquired to Miller whether we have authority per SDCL 34a-5-35. Miller confirmed that is correct and noted it is not whether a lawsuit can come, yet whether we are in a defensible position and whether that lawsuit has any chance of success. There is currently a pending lawsuit that has not been dismissed by Vic or his attorney involving the matter of contesting the refusal to allow certain portions out of the District. Those costs and those risks always come with this type of thing. Andrew Utech requested it be put into record that they sent an email to all Board members in regards to an RV park and that he requested an application from JJ for a private system for the RV park. Schneider noted there has not been a formal application submitted or formal action taken by the Board in regards to the RV park. Kopman inquired whether the resolution changed the 400-foot requirement. Konda argued it did as the law requires a maximum of 400 feet. Schneider stated the codified law states the Board has total responsibility within our District. Andrew Utech inquired to Miller whether the resolution eliminates the 400-foot maximum. Miller stated the 400 foot

11/20/2024

is irrelevant if you are within the District bounds you are required to hook up to the system. Vic Utech inquired whether the District is giving any consideration to the cost to do this. Vic added the Board was notified via email, he had discussed at a meeting with Kathleen and Neal, and Andrew requested an application for this, which does not exist, prior to the meeting. The current Ordinances allow us to do this as they state if it is over 400 feet you are not required to hook up. So to answer Scott Bacon's question this is in arrears. Schuh clarified you notified her and Neal in an informal meeting. Schuh inquired why the existing line cannot be utilized. Vic Utech noted it is a 1" line and he believes the ordinances state you cannot share services. Vic Utech expressed his concern about not being placed on the agenda, the cost of the line to connect and developer fees. Schneider noted Vic is on the Agenda next. Vic noted this is their scapegoat, so this is not in arrears. Schneider requested action from the Board. Schuh made a motion to approve Resolution 2024-5. Konda seconded. 4 ayes. 1 nay. Motion carried.

Schneider opened the floor to Vic Utech on his agenda item. Vic Utech requested the Board coordinate with him in the future on any site visits to his property. Vic Utech asked if the final version of the final lagoon treatment facility plan submitted to DANR is dated December 22, 2021, updated 6/2023. Ross will verify for Vic. Vic Utech requested Ross clarify some items in the bid in which Ross obliged. Vic Utech noted he sent a detailed email to the Board and the attorneys to discuss the surcharge rate structure. Discussion ensued. Vic Utech raised the question whether the District charged a customer enough who had a broken meter. The Board noted the customers usage will be reviewed on an annual basis for any adjustments their surcharge rate. It was also noted it is tough to assess an amount when you are not sure how much was utilized when the meter was not working. Vic Utech thanked the Board for their time. He knows it can get temperamental at times on both sides, and he appreciates the time. Schneider agreed and stated we need to work with courtesy with each other.

Schneider opened the floor to public comment.

Maxine Lingeman thanked the Board for all of their hard work and appreciated each and every one of you. In addition, please be careful when setting a precedent, keeping in mind what is good for each and every one of us.

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


Schuh made a motion to go into executive session pursuant to SDCL 1-25-2(3) at 7:53 pm. Konda Seconded. All voted in favor. Motion carried.

Schneider called the meeting back into session at 8:37 pm.

Schneider requested a motion on the Bartlett & West contract. Konda made a motion to authorize the president to sign the contract with Bartlett & West. Bacon Seconded. All voted in favor. Motion carried.

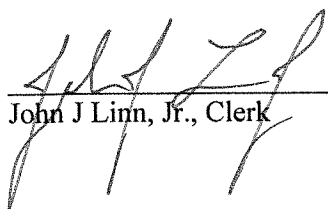
Being no further business, Schuh made a motion to adjourn the meeting at 8:39 p.m. Konda seconded. All voted in favor. Motion carried.

SIGNATURES TO FOLLOW



Todd Schneider, Board President

ATTEST:



John J Linn, Jr., Clerk