

Deer Mountain Sanitary District Meeting

201 W. Main Street Suite 301 & via Zoom

March 3, 2023

President Oz Enderby called the meeting to order at 5:00 p.m. Trustees Enderby, Dan O'Connor, Joe Kosel and water operator Steve Ryan were present at the district office. Attorney Talbot J. Wieczorek and Secretary Shari Kosel all appeared via Zoom.

Enderby asked for a motion to approve the agenda. Motion by O'Connor to approve the agenda & format, second by Enderby. Motion approved 3-0.

Enderby asked for a motion to approve the minutes of 2.3.23. Motion by O'Connor to approve the minutes, second by Kosel. Motion approved 3-0.

Enderby asked for a motion to approve the Treasurer's report/account Receivables/Payable. Account balance of \$272,282.17. Motion by Kosel to approve the report, second by O'Connor. Motion approved 3-0.

Approval of [Bond Resolution 2023-02](#). 1st Reading of [Ordinance 2023-01](#). Enderby noted Wieczorek has concerns about some of the language. Enderby opened the discussion with Wieczorek regarding mention of a tax levy. Enderby noted we aren't proposing a tax levy, but rather a special assessment. Under SDCL, Sanitary Districts have the power to impose a tax levy or a special assessment. Wieczorek noted if we are opening bids on the 1st, we will need this done before we commit to the debt. The resolution has that you will levy an ad valorem tax, which is based on value. The Ordinance also provides that you will do an ad valorem tax, to pay back the debt. What the district can do is do the 1st reading of the ordinance, and amend at the 2nd reading. 1st and 2nd reading must be within 10-30 days apart. Kosel inquired that we talked about the special assessment one month ago, why are discussing this again now? Wieczorek replied when the application was done for the loan, it was talked about as an ad valorem according to Bond Counsel. Enderby corrected that when we applied for the loan, the documents included a special assessment added to current water users only. Wieczorek said the difference is a surcharge to current water users, as opposed to a special assessment. A surcharge, under the law, has less requirements than a general tax levy obligation. If the district goes with a surcharge, the language will also need to be changed. A special assessment is also a tax, but not an ad valorem tax. Wieczorek referred back to Kosel's comment and timing, at the last meeting, and said he has concerns about that and had a special meeting with Bond Counsel. Kosel asked what the result of the two-hour call. Wieczorek said as to the special assessment, there are additional steps that we should walk through it in executive session. To keep the timing going, the district should do the 1st reading of the ordinance and then amend it before the 2nd reading. Kosel inquired if we could do the 1st reading with the amendments now, where Wieczorek stated it's more complex than that. In the SDCL 9-41 chapter, you have an obligation to hold a public hearing and set a special assessment with certified mailed notice to the landowners. Wieczorek said you never amend at a 1st reading. The 1st reading is to get it out to the public for input, so you can offer amendments from the board and public during the 2nd reading. Enderby read the ordinance caption into the record (linked above). Enderby noted the timing for the 2nd reading should be March 13 at 3:00 p.m. Kosel asked if the ordinance needs to be completed before we put out bids? Wieczorek stated the ordinance needs to be in place to secure final financing. It does not prevent the district from soliciting bids. O'Connor inquired who has final say? Wieczorek stated the Bond Counsel will have to sign off on this. Kosel inquired if the special assessment was discussed. Wieczorek confirmed it was discussed with the Bond Counsel earlier. Kosel motioned to approve the 1st reading of the ordinance, second by O'Connor. All approved 3-0.

Easement documentation completion Update/BH Properties. Enderby said there has been some discussion with Kashmitter and the Powder House Pass group and final documentation should be in the works and we should have it very soon.

Permit with Lawrence County for Waterline installation at Brownsville Road/AE2S. Enderby & Joe Noble met with the commission and after extensive discussion, everything was approved with no special stipulations or bonds. Enderby noted the Noble did an outstanding job of presenting to the commission. In addition, Bruce Outka, the county attorney was very helpful.

Update of System Wide Improvements/ Final Plans/Bidding/Timeline/DMV/AE2S. Enderby updated the current timeline for bidding. March 13 the bidding will be in the BH Pioneer, and we will have a pre-bid meeting on March 23 tentatively at Rec Springs. Right now we know of three contractors that will be bidding. Bidding will open on March 30, and award the bid on March 31 at a trustees meeting. A substantial completion is scheduled for October 2024. The lead time for the pumphouse and booster pump station is 10-12 months. We can do everything else in the meantime. Final completion is scheduled for November 2024. This is when everything is done, and the roads are finished. O'Connor inquired if there is a penalty if they don't complete by the scheduled time. Enderby noted we'll need to review this with AE2S. Kosel noted we'll want to see the contract and we'll want a penalty clause included. Kosel motioned to approve the bid schedule as presented at this time, O'Connor second. All approved 3-0.

Status of agreement with Sugarloaf Development/Water rate. Wieczorek noted there has been no further communication.

Milt Morris/Odenbach letter/documents. Wieczorek sent an email to the trustees just now. The email essentially says they did not provide any new information in their claim. Kosel asked where do we want to go with this? Enderby noted the current plans are L-D Sanitary will terminate the access to the current pumphouse and they would need to form their own sanitary district because of the number of homes supplied water. The current lines in use now will be abandoned and the easements that he has will be abandoned. In Enderby's opinion, there is nothing for him to own.

Keating Resources/DMV. Enderby noted there is nothing new to mention. Supposedly his new water lines are complete. They have purchased 96 meter pits. AE2S has emphasized that their meters & pits must be the same as ours.

SRF Future Loan payment options/Special Assessment. Enderby stated we're trying to come to an assessment based on current and future curb stops. Enderby stated every future user curb stop will have an assessment.

Discussion only items:

Items from the public. A resident in attendance asked about the size of the lines. Enderby stated the main water line is 6 inches and branches out to different areas with a two-inch line being the smallest. The resident asked if there will be fire hydrants, to which Enderby commented no, they are not required but we may have a couple hydrants. Wieczorek noted there will be flush hydrants that can be filled by tender trucks. A resident inquired about future pricing. Enderby stated they have researched every city in the state, but are not at the point of making final water rates.

Items from the trustees. Next Meeting March 13 at 3 p.m. for 2nd ordinance reading. Enderby thanked everyone for attending.

Motion by O'Connor, second by Enderby to adjourn to executive session at 5:45 p.m. All approved 3-0.

Motion by O'Connor, second by Kosel to go out of executive session at 6:21 p.m. All approved 3-0.
Motion by Enderby, second by Kosel to adjourn the meeting at 6:21 p.m. All approved 3-0.

ADJOURN

Posted 3.7.23

Approved 3.13.23

Shari Kosel

Secretary/Clerk