

# Apple Springs Water and Sanitation District

## Meeting Minutes of May 10, 2024

Started at 9:30 to 11:30AM May 10<sup>TH</sup> 2024 – Microsoft Teams

Members Present: Dan Carlson, John Miller, Chris Vinich

**Guest:** Benesch Group Faith Lamb and Anthony Theodorou

### **AGENDA**

1. Review agreement with Clear Water Legacy
2. Non-Compliant Septic Update
3. Data Gathering on Existing WWTP
4. Review Comments on LOU with H2O Clear Solutions LLC
5. Sewer Agreement – sign-up fee
6. Budget Structure
7. Can district receive interest income from Money Market/Savings Account
8. Real Estate Tax Exempt Resolution Update
9. Does the Sanitary District need to be Federal income taxed
10. Treasurer's Report
11. Other Business

A special meeting of the Apple Springs Water and Sanitation District was convened by President, Dan Carlson at 9:30 AM on May 10, 2024, via online TEAMS. Present on the call were Dan Carlson, John Miller, Chris Vinich and guests Faith Lamb and Anthony Theodorou from Benesch.

#### **1. Review agreement with Clear Water Legacy**

Together the board and the Benesch group reviewed the Clear Water Legacy Partnership Agreement to get a better understanding of the responsibilities and roles that the EPA will require during the course of the federal grant. A joint CPA firm will be used between Apple Springs Water Works Sanitary District (ASWWSD) and Clean Water Legacy (CWL) in the event of any audits.

Dan motioned that ASWWSD get a more solid quote of the cost within the 3-year term of CWL services. John 2<sup>nd</sup> the motion. The team agreed on some terminology corrections and how the agreement with CWL needs to be spelled out before signatures.

#### **2. Non-Compliant Septic Update**

Chris has been reaching out and distributing fact sheets to the homeowners in the Boulder Canyon area to achieve some positive input from those that are interested in abandoning their septic systems and tying into the proposed sanitation system. So far, the residents in the Valhalla addition seem to be the most interested. It has been a struggle contacting the non-compliant property

owners due to work schedules, nobody being around or held up by private property no trespassing signs.

**Solution:** Install a public notification box or posters of the fact sheet at the mailbox locations in the area. Dan Motioned to build a website to expose the grant program. Chris 2<sup>nd</sup> the motion.

### **3. Data Gathering on Existing WW**

Benesch is working with Black Hills Technology to better the operations of the current operating system, to further optimize if the grant is not approved or if grant is approved and provide data for future sale of equipment.

H2O Clear is asking for a \$17,000 Loan from the District to provide for the capacity study. The cost of this study will be covered by the EPA grant if ASWWSD is awarded the grant. With a contract John motioned to meet H2O Clear halfway with a loan of \$8,500 until the awarded results before loaning the remaining \$8500. Chris 2<sup>nd</sup> the motion.

### **4. Review Comments on LOU with H2O Clear Solutions LLC**

The district discussed and corrected some minor details in the Letter of Understanding. Dan completed the terms in the LOU to present to H2O Clear and motioned to send it off for acceptance. John 2<sup>nd</sup> the motion.

### **5. Sewer Agreement – sign-up fee**

Legal counsel suggested that all users of sewer sign an agreement with the District. It is standard procedure to a signed agreement between users and WWTP provider. At this time, it is suggested to have a one-time fee to establish operating reserve when the District takes ownership. At this time have the current users and owners that have paid hookup fees pay the one time fee with agreement (Budget has \$200 right for Now with 70 Users)

### **6. Budget Structure**

It has been recommended that the district use the Tax Levy Income to cover admin costs + unexpected expenses.

Use the monthly fee to cover actual costs (Utilities, Chemical, Maintenance, Operations, etc.)

Dan has restructured the budget format to follow this guideline.

Review budget at next meeting. Needs to be submitted by Sept 1 to Lawrence County

### **7. Can district receive interest income from Money Market/Savings Account**

**Answer:** Yes – Per South Dakota Statue. (The District plans to explore avenues for the best interest income rates.)

#### **51A-17-2.8. Investment limits.**

Unless permitted by the director by rule or by order to exceed the limit as set forth in this section, the following investments are permissible under § [51A-17-10](#) to the extent specified:

- (1) Receivables that are payable to a licensee from its authorized delegates in the ordinary course of business that are less than seven days old, up to fifty percent of the aggregate value of the licensee's total permissible investments. Receivables that are payable to a licensee from a single authorized delegate in the ordinary course of business may not exceed ten percent of the aggregate value of the licensee's total permissible investments;
- (2) The following investments are permissible up to twenty percent per category and combined up to fifty percent of the aggregate value of the licensee's total permissible investments:
  - (a) A short-term investment bearing an eligible rating. For purposes of this subsection, the term, short-term investment, means an investment made in the previous six months;
  - (b) Commercial paper bearing an eligible rating;
  - (c) A bill, note, bond, or debenture bearing an eligible rating;
  - (d) U.S. tri-party repurchase agreements collateralized at one hundred percent or more with U.S. government or agency securities, municipal bonds, or other securities bearing an eligible rating;
  - (e) Money market mutual funds rated less than "AAA" and equal to or higher than "A-" by Standard & Poor or the equivalent from any other eligible rating service; and
  - (f) A mutual fund or other investment fund composed solely and exclusively of one or more permissible investments named in this section.
- (3) Cash, including demand deposits, savings deposits, and funds in such accounts held for the benefit of the licensee's customers, at foreign depository institutions are permissible up to ten percent of the aggregate value of the licensee's total permissible investments if the licensee has received a satisfactory rating in its most recent examination, and the foreign depository institution has an eligible rating, is registered under the Foreign Account Tax Compliance Act, is not located in any country subject to sanctions from the Office of Foreign Asset Control, and is not located in a high-risk or non-cooperative jurisdiction as designated by the Financial Action Task Force.

## **8. Real Estate Tax Exempt Resolution Update**

**Per Erika Olson:** Submitted to Lawrence County equalization department but not have heard back.

*On property tax exemption (esp. real property) for the district:*

*Apple Springs Water Works Sanitary District is a sanitary district created under the authority of SDCL 34A-5. As a result, it is a governmental subdivision and a public entity of the state of South Dakota:*

[34A-5-14](#). *District as governmental subdivision and public body.*

*Any sanitary district established under this chapter is a governmental subdivision of this state and a public body, corporate and politic.*

*ASource: SL 1947, ch 226, § 17; SDC Supp 1960, § 45.3817; SDCL § 34-17-14; SL 2011, ch 165, § 88.*

**Pursuant to Article XI, Section 5 of the SD Constitution, property owned by governmental entities is exempt from taxation:**

*The property of the United States and of the state, county and municipal corporations, both real and personal, shall be exempt from taxation, provided, however, that all state owned lands acquired under the provisions of the rural credit act may be taxed by the local taxing districts for county, township and school purposes, and all state owned lands, known as public shooting areas, acquired under the provisions of § 25.0106 SDC 1939 and acts amendatory thereto, may be taxed by the local taxing districts for county, township and school purposes in such manner as the Legislature may provide.*

*S.D. Const. art. XI, § 5*

**South Dakota caselaw states that “[w]hen public property is involved, exemption is the rule and taxation the exception. *National Surety Co. v. Starkey*, 41 S.D. 356, 170 N.W. 582.” *Egan Indep. Consol. Sch. Dist. No. 1 of Moody Cnty. v. Minnehaha Cnty.*, 65 S.D. 32, 270 N.W. 527, 529 (1936)**

***It is Erika’s opinion, that the District is a public, governmental entity, and any real property owned by Apple Springs Water Works Sanitary District would not be subject to property taxOn property tax exemption (esp. real property) for the district:***

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## **9. Does the Sanitary District need to be Federal income taxed?**

**Answer: No**

*Federal and state governments are established and recognized by the U.S. Constitution and state constitutions. Federally recognized Indian tribal governments are recognized by the U.S. Constitution, treaties, statutes and court decisions. Other entities may be recognized as governments by state law, court decision, or an examination of facts and circumstances that indicate it has the characteristics of a government, such as powers of taxation, law enforcement and civil authority.*

*Many tax laws apply differently to government entities than to other organizations and individuals. The primary tax difference from other taxpayers is the general exemption from income tax. IRC Section 115 excludes from gross income any income derived from the exercise of or administration of any public function.*

## *Federal tax obligations*

### Employment taxes

*Also known as **payroll taxes**, government entities must withhold federal income tax from employees' wages.*

### Social Security & Medicare

*Government entities may be required to withhold social security and Medicare taxes from employees' wages and pay a matching amount.*

### Section 218 Agreements

*State and local government entities may be covered by Section 218 agreements that affect their social security & Medicare withholding requirements.*

### [Retirement plan reporting](#)

*Retirement plans must file certain forms and reports with the IRS and the Department of Labor and send out notices to plan participants and certain others.*

## **10. Treasurer's Report**

### **ASWWSD Income Statement 2024**

Beginning Balance	\$90,884.34
Current Balance	\$75,479.52
<u>Projected Year End Balance</u>	<u>\$44,929.52</u>

### **Actual Revenue**

Lawrence County	\$6,755.00
Interest Income	\$ N/A
<u>Total Revenue</u>	<u>\$6,755.00</u>

### **Projected Revenue**

Lawrence County	\$19,700.00
<u>Total Projected Revenue</u>	<u>\$19,700.00</u>

### **Actual Expenses**

JKL Engineering	\$18,450.00
Office Supplies	\$167.02
Black Hills Technology	\$3,542.80
<u>Total Actual Expenses</u>	<u>\$22,159.82</u>

### **Projected Expenses**

Booster Pump	\$30,000.00
Legal Support	\$10,000.00
Capacity Study	\$8,500.00
Insurance	\$500.00
Office Supplies	\$250.00
Website	\$1000.00
<u>Total Projected Expenses</u>	<u>\$50,250.00</u>

### **11. Scheduled Board Meetings**

Agenda: To Be Determined  
Location: To Be Determined  
Notice: To Be Restructured

Dan Motioned to create a ASWWSD website to expose the board meeting minutes. John 2<sup>nd</sup> the motion.

**Other Business:** Meeting was adjourned at 11:20 AM

Minutes prepared by Chris Vinich

**Attest:**

Dan Carlson

5/14/2024

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**Dan Carlson, President**

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**Date Approved**