

July 1, 2024

To: Cooke City – Silver Gate – Colter Pass Sewer District Board  
From: Concerned Citizens of the Valley  
Re: Written Public Comments on the Draft By-Laws – Rewrite V (Brent Brooks version) and the Discussion Draft Memorandum from Brent Brooks May 16, 2024

Dear Members of the Cooke Pass-Cooke City- Silver Gate Sewer Board:

Concerned Citizens of the Valley 838 (Concerned Citizens or CCV) is a registered non-profit organization in the State of Montana. Our purpose is to promote environmentally and fiscally sound solutions to infrastructure challenges faced by the communities of Colter Pass, Cooke City, and Silver Gate in the Upper Soda Butte Valley. Our members and supporters come from all walks of life and have deep roots in the communities in the Soda Butte Valley. The well-being of all the communities and the valley is our focus.

Thank you for the opportunity to review and submit written comments on the Draft By-Laws – Rewrite V [Brent-Brooks-Comments version](#) and the Draft Memorandum from Brent Brooks regarding legal meeting requirements, agenda formats, parliamentary rules, and possible meeting rules. We have reviewed both documents individually and considered how, taken together, the two documents might work together. We provide comments below.

**Draft By-Laws – Rewrite V [Brent-Brooks-Comments version](#)**

Concerned Citizens largely supports the proposed revisions and track changes as reflected in the Rewrite V version containing “Brent-Brooks-Comments” in the file name published on the Board’s website, although we draw your attention to the following:

- Section 1.3. BOUNDARIES.
  - [Appendix A](#) is the legal description of the District boundary filed with Park County at the time the special district (Water and/or Sewer District) was first formed years ago. Neither the current or prior Sewer Board has ever formally created an accurate map of the actual private properties encompassed by the legal description. In fact, the prior Sewer Board and their contractors/subcontractors created and published to the website inaccurate maps just prior to the May-2023 Sewer Board Director elections. To our knowledge, the current Sewer Board has yet to address this issue even though it acknowledged the problem and the public has commented about it on multiple occasions.
  - [Appendix B](#) is a map of the Cooke City Water District. The current Sewer Board has discussed discrepancies about the disposition of individual properties even with this map. The Sewer Board can’t even begin to address comments and questions from District members in Cooke City about the project, costs, connectivity requirements, and the myriad of issues affecting them without an accurate map of the properties in this “initial sewerage project.”
  - These issues do not materially affect adoption of revised By-Laws, and the Board should still move forward.

- However, the Sewer Board should re-dedicate itself to determining the exact boundaries of the proposed “initial sewerage project” and the District as a whole. The Board is presently exercising its authority on behalf of District members who are not explicitly known or defined as being within the scope of the “initial sewerage project” or even the District.
- Section 2.8. MEETING AGENDAS.
  - Concerned Citizens appreciates the explicit reference to making agendas and meeting materials available at least 48 hours prior to meetings. We note that 48 hours is generally understood as the bare minimum and strongly encourage the Board to place greater emphasis on the “at least” phrasing in practice.
  - Park County Commissioners notwithstanding, many public bodies make meeting materials available more than 48 hours in advance (e.g., 5-14 days or longer in many cases). With that brief time span, the public must check the Sewer Board’s website practically every day to determine whether a new meeting has been scheduled between regular meeting dates ordinarily set for once per month and announced in the Community Newsletter.
  - We recommend the agenda and meeting materials be published to the website a minimum of 5-7 days prior to the meeting date. Meetings are more orderly and public comment is more relevant, constructive, and focused when the public has more than 48 hours notice to review the agenda and meeting materials.
- Section 2.11 F. CONDUCT OF BUSINESS.
  - Section 2.11F requires the Board to enact its own rules of procedure for meetings and the conduct of business. To our knowledge, the Board has yet to do so. To the extent that the Draft Memorandum dated May 16, 2024, is intended to cover these vital functions, see below for additional comments.
  - The “Meeting Ground Rules” previously adopted by the Board, while valuable in their own right, speak to behaviors, not actual practices and procedures the Board follows to conduct the business of the Board and the District.
  - The Board should adopt the By-Laws after minor suggested revisions and then develop a more complete document explaining its practices and procedures.

**Discussion Draft Memorandum from Brent Brooks May 16, 2024, (1. open meetings/public participation laws in Montana; 2. agenda formats; 3. parliamentary rules; and 4. suggested possible meeting rules)**

- The stated purpose of this document is to provide a summary of several topics. However, it’s not clear whether this document is intended as *the* document stating rules of procedure for meetings and the conduct of business referenced in Section 2.11F of the draft By-Laws. Contents of the Draft Memorandum instead appear to be an initial starting place.
- We encourage development of a “Rules and Procedures” document, as called for in the Draft By-Laws. Committing these topics to paper, including internal protocols, will ensure continuity of Sewer Board operations and conduct of business.
- The “Rules and Procedures” document should explicitly address additional topics not currently included in the Draft Memo. It should include at a minimum:
  - internal procedures for developing agenda items for all Board members;

- distribution of agenda and meeting materials to the Board to allow adequate time for the Board to prepare;
- publishing the agenda, meeting materials, and other relevant documents to the website;
- meeting minutes and what makes for adequate documentation; disposition of the video recordings of Board meetings;
- tracking District property; and
- where and how the Board's records, financial records, reports, documentation, data, communications, and formal correspondence, etc. will be stored long term.
- Doing so will avoid replicating the current Board's experiences when first taking office – there were very few records, and what little documentation that did exist was inadequate. The Board started with a blank slate and so did the public, yet key decisions had already been made.
- Section 1: Open Meetings/Public Participation Laws
  - Concerned Citizens appreciates the high-level reiteration of legal requirements. The Board's training materials were more inclusive and comprehensive. We encourage at least the materials from Mr. Brook's memo in the eventual "Rules and Procedures" document, if not more from the training materials. The Board should retain the more comprehensive materials in the files for future use by subsequent Directors.
  - C) – Private or Serial Electronic Meetings
    - This topic is important to include in the "Rules and Procedures" document. We agree that a public governing body should avoid private/serial electronic meetings.
    - However, we also caution that this should not be taken as a reason that any individual Director can withhold information from distribution to fellow Directors or otherwise make decisions that represent a position, commit, or otherwise bind the Board (and possibly the District and its members) in the name of efficiency, to avoid an electronic meeting or the risk thereof, or to avoid bringing it to the full Board during a properly noticed meeting. At times, CCV sensed decisions were impliedly already made and without that topic ever appearing on an agenda for full Board's deliberations and agreement.
- Section 2: Agenda Formats
  - The June 19<sup>th</sup> agenda format seemed to mirror the example provided in the Draft Memorandum. This generated confusion from the start as the public anticipated a later opportunity to provide comments associated with and contemporaneous to the actual agenda item (both action and non-action items). This is exactly how prior meetings were conducted. But none was provided and the public endeavored to comment at the end.
  - While accepting public comment is required prior to final decisions (or taking "executive" action), in CCV's experience most public bodies also provide an opportunity for public comment on non-action items of an ongoing nature that the body is discussing in anticipation of a decision at a future meeting – and which draws significant public interest. Items appearing regularly on the Board's agenda like Engineering Updates constitute "business" of the District that is of significant interest to the public, decisions are frequently made, and the project is controversial.
  - After an initial introduction / summary of the agenda item, offer an opportunity for public comment. Then transition to Board discussion and proposed motions, if appropriate. The public does not actually know the scope of the decision at hand until after the motion is

actually made. Public comment on the actual motion should follow, and then the Board votes after having the benefit of public comment about the motion prior to voting. This creates an atmosphere for reciprocal learning and understanding, helps make sure that public comment is relevant and not based on speculation about what might come up and what the motion might be. This would increase trust in the Board.

- Suggested Agenda Format based on CCV's experience with other public bodies:
  - Call to Order
  - Roll Call
  - Approval of Minutes of the Previous Meeting/s
  - Name of Agenda Item #1 (e.g., Engineering Update)
    - Introduction and Background
    - Engineer presents report and initial Board discussion
    - Public Comment
    - Additional Board Discussion and Motion if applicable
    - Public comment on the motion
    - Executive Action
  - Name of Agenda Item #2
    - Introduction and Background
    - Initial Board Discussion
    - Public Comment
    - Additional Board Discussion and Motion if applicable
    - Public comment on the motion
    - Executive Action
  - Board Member Comments on Non-Agenda Items / Board Initiatives
  - Requests for Future Agenda Items or Research/Investigation on District Issues
  - Public comment on Non-Agenda Items
  - Adjourn
- Even though offering public comment opportunities for each agenda item (not just action items) exceeds what is minimally required, many public bodies in Montana do so for the advantages that it provides.
- Accepting public comment for each item as the meeting progresses is easier and better for the Board and the public. That avoids long winded anticipatory oral comments and avoids submission of lengthy written comments either before or after meetings because contemporaneous opportunities were not provided. When executive action is eventually taken, the foundations will have already been laid.
- The suggested generic format can be easily adapted for "standing" agenda items.

We appreciate the Sewer Board's dedication and hard work on this complicated project. Delivering an affordable system for the residents and businesses of the Cooke City Townsite that is also environmentally sound is ultimately in the interest of the entire Valley and Yellowstone National Park. The suggestions above will serve the Board well now and the Boards that will come after you.

Respectfully Submitted,

Concerned Citizens of the Valley  
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