

**POWDER HOUSE PASS  
BOARD OF SUPERVISORS MEETING  
May 27, 2021  
Powder House Pass Community Center**

1. **Call to Order:** Meeting called to order by Greg Kaschmitter @ 9:00 MDT. In attendance:
  - a. Board Members: Joel Dykstra, Ross Ortman, Rob Broin, Mike Stahl, Jennifer Kaschmitter, Greg Kaschmitter, Julie Stone
  - b. AE<sub>2</sub>S Engineering: Kevin Smith, Justin Huntley, Dustin Dale
  - c. CID: John Pavon, Kristin Pavon
  - d. Others: John Frederickson, Counselor, Jay Headley, RBM Associates, Steve Hasche, Homeowner
2. **Minutes:** m/Broin, s/J. Kaschmitter to approve the minutes of September 9, 2020, October 16, 2020, October 30, 2020 and December 1, 2020 as presented. Carried.
3. **Old Business**
  - a. **Financial Report**—Headley updated the board on the YTD (through April 2021) CID finances, with a few comments:
    - i. Due to increased lot and home sales, the water and sewer tap fees collected have already met the 2021 revenue budget and are expected to continue to increase throughout the year.
    - ii. These additional fees may negate the budgeted Developer Contribution.
    - iii. The 2021 road maintenance expenditure appears to be low. Due to the condition of several areas of the development's roadways additional 2021 expenditures will be warranted. A plan for this year and the next several years will develop a better expected expenditure.
    - iv. Caution was also mentioned as this update reflects only one-third of 2021; but overall, the CID finances are in good order.
  - b. **Past Resolutions**—The following approved ordinance and resolutions have been published and are in effect:
    - i. Resolution 2020-02—Contractors' Rules and Code of Conduct
    - ii. Resolution 2020-04—Owners' Rules and Regulations for Rentals
    - iii. Ordinance 2020-10—Governing Building Codes and Utilities
    - iv. Discussion on how to notify the public. These new documents should be included with the packet when a lot or home is purchased. They also need to be posted on the CID's webpage: [www.phpcid.org](http://www.phpcid.org). The webpage needs to also be reviewed to the extent that new information is readily posted and available to the public.
  - c. **Final Garbage Contract with Sander Sanitation**—several items were discussed:
    - i. This is an exclusive contract and that all property owners will be required to use Sander Sanitation.
    - ii. The rate structure is vague and needs to be discussed. Fee increases associated with fuel prices are difficult to manage. The pass-through of expected increased tipping fees at the Belle Fourche refuse site needs to be better defined.
    - iii. The consensus was to discuss an annual contract with options to renew annually.
    - iv. Discussions with Sander Sanitation about optional once or twice per week service needs to be defined.

- v. This item was continued by G. Kaschmitter.
- d. Water Service Use Policy—Frederickson presented a rough draft of the Water Service Policy. The board reviewed numerous items of the policy and made changes to the language. m/Dykstra, s/Broin to accept the Water Service Use Policy as modified. Carried. Frederickson will make the recommended changes and distribute accordingly.

Resolution 2021-02 Establishing Water and Sewer Rates

- i. This resolution will replace Resolution 2020-05, which was approved at the December 1, 2020 board meeting.
- ii. m/Broin, s/J. Kaschmitter to approve Resolution 2021-02 Establishing Water and Sewer Rates. Carried.

RESOLUTION 2021-02

A RESOLUTION ESTABLISHING WATER AND SEWER USE RATES FOR POWDER HOUSE PASS COMMUNITY IMPROVEMENT DISTRICT

The Board of Supervisors for Powder House Pass Community Improvement District ("District"), a local unit of special purpose government, meeting in a regular session on October 30, 2020, pursuant to SDCL 7-25A-7, upon motion made by Julie Stone, seconded by Rob Brain, that the following resolution be adopted:

WHEREAS, the Board of Supervisors of the District is committed to operating safe, adequate, efficient and effective water and sewer systems for the benefit of the District and its homeowners; and

WHEREAS, the cost to operate and maintain the District's water system to supply safe and adequate water to the District is influenced by various consumptive uses at different times throughout the year; and

WHEREAS, water consumption within the District varies among users, the Board of Supervisors has determined that it is fair, equitable and necessary to impose a fee for the consumption and a fee for use of water in amounts consumed and used in excess of the base rate of 2,000 gallons/month; and

WHEREAS, in order to ensure that the District has sufficient funds to continue to supply, operate and maintain the water treatment and distribution system to provide a safe, adequate and effective water system to meet the different needs within the District and properly and effectively operate a wastewater collection and treatment system;

WHEREAS, the Board of Supervisors recognizes and acknowledges that a portion of the annual Community Service Fee includes the base water and sewer rates as adopted herein;

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors approves and adopts the following base and excess water and sewer use rates:

The rate for water use in excess of 2,000 gallons shall be \$15.00/1,000 gallons.

This Resolution shall take effect on the 20th day following its publication, unless suspended by Referendum

Those voting aye:

Those voting nay:

Motion carried:

Dated with and effective this \_\_\_\_\_ 2021.

\_\_\_\_\_  
Greg Kaschmitter, Chairman

ATTEST:\_\_\_\_\_

Mike Stahl, Secretary

- iii. m/Broin, s/Stahl that J. Pavon and Healey review operations and then decide on engaging a meter reading service or purchase internal meter reading device and associated software. Carried.
- e. Resolution 2021-01 Renters’ Use Rules and Regulations—m/Stahl, s/Ortman to approve Resolution 2021-01. Carried.

RESOLUTION 2021-01  
POWDER HOUSE PASS COMMUNITY IMPROVEMENT DISTRICT  
RENTERS’ USE RULES AND REGULATIONS

The undersigned Renter, on behalf of all rental occupants, guests and invitees, acknowledges that Renter has reviewed, understands and agrees to abide by the following Powder House Pass Community Improvement District (“District”), Rental Rules and Regulations, in regard to the rental of the property located at Lot \_\_\_\_\_ in the District.

The minimum age allowed for the principal renter of the rental property is 21 years of age.

Vehicles are permitted to be parked outside the garage located on the Owner’s property provided there is adequate parking space on an established driveway surface (i.e., asphalt, concrete or gravel). A vehicle unit is defined as one motor vehicle and one utility trailer. Parking on the setback areas, roads and ditches in the District is permitted on a temporary basis (no more than eight (8) hours per day (daylight hours) with a portion of the motor vehicle being parked on the roadway. Temporary parking shall not include overnight parking along or on roads within the District. The District shall have the right to tow or have towed, any parked vehicles in violation of any parking restrictions at the expense of the Renter and/or Owner.

Renters, rental occupants, guests and invitees are expected to be respectful and courteous to all neighbors, shall respect property boundaries and shall refrain from loud, annoying, offensive, or boisterous noise or any other objectionable or disorderly behavior at all times. Quiet hours are in effect from 10:00 p.m.-7:00 a.m.

Pets shall not be permitted to roam free, bark or constitute a nuisance or annoyance to neighbors.

Hunting and the discharge of firearms and fireworks is strictly prohibited.

No unscreened outdoor fireplaces/fire pits, open fire pits or open burning is allowed. If ceramic grills or other types of fire containment appliances are provided by the Owner, then such appliance shall have a fine screen mesh over all openings sufficient to contain all sparks. Caution must be used if any smoking occurs outside. Renter must abide by any USDA Forest Service alerts regarding fire restrictions.

A Renter may bring personally owned or rented ATVs, motorcycles, side-by-sides, off-road vehicles, snowmobiles or like vehicles onto the property. Such vehicles shall only be operated in a legal, safe, courteous, and responsible manner on all roads in the District for the sole purpose of ingress and egress.

Renters shall obey all posted speed limits.

No noxious or offensive activity shall be carried on within District nor shall anything be done or permitted which shall constitute a nuisance or annoyance.

No Renter may directly or indirectly hook up to or be allowed to hook up any motorhome, camper or other water use vehicle, equipment or device from a rented unit for more than seven (7) days without the prior approval of the District Manager or his representative.

Renters shall abide by these Rules and Regulations, all local, county, state and federal laws in the use or rental Owner's or District's property. The district is located within Lawrence County, South Dakota, and under the jurisdiction of the Lawrence County Sheriff's Department. The Lawrence County Sheriff's Department may be notified in circumstances where it is deemed appropriate.

Renters shall use or maintain the rental property including any and all outside areas in a neat, clean, and sanitary condition, free of excessive garbage, loose debris, waste, or unsightliness.

Date: \_\_\_\_\_

\_\_\_\_\_  
Renter

- f. Status of Road Maintenance/Snow Removal by Lawrence County—Frederickson updated the board on discussion with the county. The county cannot be forced to maintain development's roads. The possibility for an agreement exists. The CID could petition the county to be on the system, leveraging the taxes paid by the property owners. More work remains.
- g. Annexation—a petition to annex 33 acres needs to be developed. AE<sub>2</sub>S Engineering was asked to develop a work order for this project.
- h. Status of Land Exchange with BLM—the CID will approach the BLM to exchange easement accesses into their land for transfer of BLM land to the CID.

#### **4. Development Construction Updates—AE<sub>2</sub>S**

- a. 2020 Project Status:
  - i. Dancing Sky—21 new lots, all underground construction complete, paving by end of June.
  - ii. Embers Way and Embers Way Lift Station—completed in 2020, minor road repairs.
  - iii. Trailside—Underground construction complete, working with Black Hills Energy on utility trench, paving scheduled to be completed end of July.
- b. Swimming Pool Construction—on schedule for fall, 2021 completion, will add construction shop and garage, small office and pool restrooms.
- c. 2021 Phase 2A and Phase 2 Infrastructure Construction—RCS construction will have 56 lots in Phase 2A completed this year.
- d. 2022 Phase 2B—completed in 2022.
- e. Phase 3 Initial Study and Planning Presentation—No report

#### **5. Operations Report—John Pavon**

- a. Water System—is operational
- b. Wastewater Treatment System—numerous issues during the February below zero degrees period, improvements have been made to minimize impacts of freezing weather. Noise reduction barriers have been installed and are working. Security fencing needs to be installed around the WWTP soon.
- c. Roads—several areas of frost heave and damage need to be repaired this year, long-term road maintenance plan is needed, some older roads need entire replacement, 2022 budget for road maintenance needs to be developed.
- d. Contractors' Issues—minor parking issues remain.
- e. Residents' Issues—numerous trailers are getting parked along road at the rental homes, causing road edge damage; additional parking areas need to be developed and signage in place for trailer parking. More parking areas may require that lots be removed from sale. Some residents are building their own on-site parking areas.

#### **6. New Business—SRF Loan #3**

- a. Explanation for expansion—the current growth in Phases 1 & 2 have maximized the current WWTP capacity. The number of users in each residence is larger than the designed 2.5 per household standard. More water is being used; more water needs to be treated. Treatment of water from portions of Phase 2 and all of Phase 3 will require the construction of a lift station. The expected cost for the WWTP expansion and lift station is expected to be \$6.6 million. The plant expansion alone is \$5.4 million. Construction is expected to be completed in 2022. Discussion on whether to complete this expansion all at once or in phases.
- b. Funding Options—discussion on numerous funding options will take place at the September, 2021 budget meeting. m/Dykstra, s/Stahl to create water and wastewater reserve funds and to place collected tap fees into each one, m/Broin, s/Stone to amend motion to only *consider* placing tap fees into reserves. Amended motion carried. Main motion carried.
- c. SRF Special Assessments—September budget discussion

- d. Possible re-assessment to cover new land on northern end of CID—September budget discussion.
- e. Resolution 2021-02—Not necessary
- f. Resolution 2021-03—Authorizing Authority to Sign SRF Intended Use for Loan #3—m/Stahl, s/Broin to appoint Joel Dykstra as authorizing authority. Carried

RESOLUTION 2021-03

RESOLUTION AUTHORIZING AN APPLICATION FOR FINANCIAL ASSISTANCE,  
AUTHORIZING THE EXECUTION AND SUBMITTAL OF THE APPLICATION, AND  
DESIGNATING AN AUTHORIZED REPRESENTATIVE TO CERTIFY  
AND SIGN PAYMENT REQUESTS

WHEREAS, the Powder House Pass Community Improvement District (the "District") has determined it is necessary to proceed with improvements to its Sanitary Sewer System, including: but not limited to the additional construction for the expansion of the sewer treatment plant and related appurtenances, including: the construction of additional collection mains.);

WHEREAS, the District has determined that financial assistance will be necessary to undertake the Project and an application for financial assistance to the South Dakota Board of Water and Natural Resources (the "Board") will be prepared; and

WHEREAS, it is necessary to designate an authorized representative to execute and submit the Application on behalf of the District and to certify and sign payment requests in the event financial assistance is awarded for the Project.

NOW THEREFORE BE IT RESOLVED by the District as follows:

1. The District hereby approves the submission of an Application for financial assistance in an amount not to exceed \$ \_\_\_\_\_ to the South Dakota Board of Water and Natural Resources for the Project.
2. The Board Chairman is hereby authorized to execute the Application and submit it to the South Dakota Board of Water and Natural Resources, and to execute and deliver such other documents and perform all acts necessary to effectuate the Application for financial assistance.
3. The Board Chairman is hereby designated as the authorized representative of the District to do all things on its behalf to certify and sign payment requests in the event financial assistance is awarded for the Project.

Adopted at Lead, South Dakota, this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

APPROVED: \_\_\_\_\_

(Seal)

Attest: \_\_\_\_\_

Printed Name: \_\_\_\_\_

- g. Construction Manager At-Risk—information only.
- h. WWTP Expansion—covered in Items 6a and 6b.

**7. Additional New Business**

- a. Designation of land areas for commercial use and county application for change of zoning—G. Kaschmitter presented six possible areas that could have portions changed to commercial, multi-family and single resident zoning. Since Powder House Pass is a Planned Unit Development (PUD) it has the authority to make internal zoning changes; the PUD is its own zoning board. Lawrence County is interested in what occurs. Commercially zoned areas in the PUD will need to have covenants developed, locations agreed upon and development agreements in place. m/Broin, s/J. Kaschmitter to continue with zoning plans and keep Lawrence County informed of status. Carried.
- b. Land exchange between Powder House Pass and Black Hills Development—G. Kaschmitter presented a plan that would exchange land between PHP and BHD to allow construction of the new swimming pool area and construction shop. m/Stahl, s/Stone to approve the exchange and to create one new plat once the final boundaries have been determined and surveyed.
- c. Approval of multi-family land use and creating a zoning designation with Lawrence County-- Lawrence County currently does not have a multi-family zoning description. Multi-family zoning will need parameters developed by the PUD.

**8. Other Items from Board and Public Comments**

- a. Dykstra reported that Mike Stahl will be retiring from the City of Lead in July and a new representative from the city will be required on the board. Dykstra also informed the board that discussions with Stahl have occurred where Stahl could be retained as a part-time outside contractor assisting with project development and administration issues. This will be on the September budget agenda.
- b. Ortman asked about the delay in high-speed fiber installation. J. Pavon discussed the difficulties in getting the individual homes connected. The main lines throughout the property have been installed.

**9. NEXT MEETING**—September 9, 2021, 9:00 MDT, Powder House Pass Community Center

**10. ADJOURN**—m/Broin, s/Stone to adjourn. Carried at 3:00 PM MDT

Respectfully Submitted,

s/Mike Stahl, Board Member