

HERMOSA TOWN BOARD
WORK SESSION
JUNE 11, 2024
5:30 PM

1) **ROLL CALL:**

- A. BOT Roll Call: Ferguson, Henrichsen, Holsworth, Kramer, Koontz
- B. Acknowledgement of other Attendees

2) **CALL FOR CHANGES:**

- A. Review of current agenda items
- B. Motion to accept the agenda as presented/amended

3) **CONFLICT OF INTEREST DECLARATION**

5) **WORK SESSION ITEMS:**

- A. Apple Springs DropBox Treatment System
- B. Town Attorney position
- C. Ownership of meters
- D. Abatements, complaints and ordinance discussion
- E. Pioneer Bank & Trust checking account

7) **ADJOURN:** Motion by _____; Second by _____ to adjourn the meeting at _____ PM.

4A

Apple Springs DropBox Treatment System				
Item	Description	Unit Price	Quantity	Total
1	Dropbox System Container		1	
2	RBC drum		4	
3	Shaft Bearing		5	
4	Drive Motor		2	
5	Drive Transmission		2	
6	Dropbox Control Panel		1	
7	Clarifier Control Panel		1	
8	in-well lift pump		2	
9	Chemical feed motor		1	
10	Chemical feed pump		1	
11	Chemical dispensor tank		1	
12	UV light		1	
13	UV system controller		1	
14	Ultrafiltration system		1	
15	Wood-Framed Building		1	
16	Lifting hoist for RBC's		1	
Total				\$ 395,000.00

**LETTER OF UNDERSTANDING - BETWEEN H2O CLEAR SOLUTIONS LLC
AND THE CITY OF HERMOSA**

June 1st, 2024

This Letter of Understanding ("LOU") confirms our mutual intentions with respect to the pending sale of certain waste water equipment owned by H2O Clear Solutions LLC. ("Clear Solutions") to the Town of Hermosa ("Hermosa"). A more formal asset purchase agreement including asset descriptions, and payment schedule will be issued once more information is gathered and reviewed by all parties. This LOU may be voided if

- the results of an on-going optimization study being conducted by Benesch for Clear Solutions determines an immediate capacity need to serve the Apple Springs community or
- if the Hermosa discharge permit application to DANR to be submitted this year is denied.

1.0. Terms. The principal terms of the proposal would be substantially as follows:

1.1 Hermosa will purchase the Miranda Drop Box system and spare parts which are owned by Clear Solutions. These assets will be required to operate the future waste treatment system to be constructed for the Town of Hermosa as described in the permit to be submitted by Benesch.

1.2 The Drop Box system which was fully refurbished by Miranda in 2022 is located on Utility Tract 1 Plat 2015-05320 at the Apple Springs Resort Community. The system is being heavily discounted by Clear Solutions with the understanding that Hermosa will be 100% responsible for the disassembling, transport and reassembling of the system at the new location.

2.0 Consideration.

2.1 The total purchase price for the Miranda Drop Box and spare parts is \$395,000.00. Hermosa will make an initial downpayment of no less than \$50,000 to Clear Solutions payable within 30 days of executed Purchase Agreement. If other funds cannot be used to pay the full purchase price at time of execution, the remainder of the purchase price will be owner financed on a note to be paid over 3 years upon terms agreeable to the parties, including an interest rate not to exceed prime plus 3%. Quarterly interest only payments will be allowed during the construction phase until the plant is fully operational and in use.

2.2 A detailed payment schedule to be developed once a project schedule can be better defined as per construction schedule on the treatment plant at the new location.

3.0 Additional Terms.

3.1 Clear Solutions will warrant title to all assets purchased to be free of liens or security interests. Hermosa will not be held liable for any such costs, debts, judgements or encumbrances.

Initials_____

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Initials_____

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3.2 Miranda is in support of this transaction and has indicated a full commitment to both parties success.

If the foregoing terms and conditions are acceptable to each party to this agreement, please so indicate by initialing each page and signing the enclosed copy of this letter and returning it to the attention of the other party.

ACCEPTED AND AGREED

By:
Title: President, Town of Hermosa

By: Michael L. Short
Title: President, H2O Clear Solutions LLC.

DRAFT

Terri Cornelison

From: Theodorou, Anthony <ATheodorou@benesch.com>
Sent: Friday, April 19, 2024 8:40 AM
To: Doerr, Kyle
Cc: Terri Cornelison; mjohn26477@aol.com; Vick Henrichsen; lmkw2018ins@gmail.com; Dirks, Anthony
Subject: DANR discussion on Hermosa 4/19
Attachments: RBC.jpg; UF.jpg; UV.jpg

Hello Kyle,

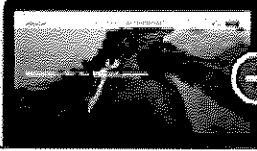
Thanks again for your time this morning. This email is to summarize what we discussed and the steps moving forward. Please feel free to correct or confirm the following.

- New Agreement : The new agreement has been reviewed for technical feasibility by me (Benesch) and the town attorney (Mitch Johnson) and appears to cover any unforeseen delays outside the control of the town by the inclusion of clause 5 of the original agreement dated November 2022. The town has a special meeting scheduled for Tuesday April 30th to approve the agreement and will get the approved document back to your office no later than May 3rd, 2024.
- Updates to Plans/Specs for Lagoon Expansion: As I mentioned to you on the phone, the design by ACES was 30 feet into the floodway and in order to complete the CLOMR and associated HEC-RAS model, myself and our floodplain team had to move the Lagoons to the north and east that distance and re-contour the berms to match the stated elevations and remain inside the boundaries of the property. Those changes will need to be updated and submitted to the DANR for final review and approval.
- E Coli Limit and Land Application: It is our position (Benesch) that until the town can meet the E Coli limits of 126/ 100 mL, the town should not land apply and must continue to pump/haul to Hot Springs to protect public health and safety. Paying a fee of \$500 is the least of the town's worries if someone litigates against them due to contaminant discharge. To facilitate meeting their limit, I have put together the town Lagoon Committee and system operator (Chuck Fergeson) with another community I serve, Apple Springs. AS has a fully functional UV system (photo attached) that they are willing to part with it, as a part of a bigger package treatment system (RBC-UF-UV and back up generator) which they no longer need and will finance to the town. I'm working on comparative pricing for new equipment as well as logistics of installation to provide the BOT with enough data to make an informed decision. The goal would be to install the UV system first, within the next 30 days, to allow Hermosa to land apply without exceeding their E Coli limit.
- Discharge Permit: The remainder of the treatment system from Apple Springs will need to be presented as a separate Plans/Specs phase 2 addition to the current Lagoon Expansion project, as per our conversation today. Like I mentioned, I can see the RBC train helping with the Ammonia in the raw effluent and would mitigate some of the odor complaints from nearby residents. The Ultrafiltration system in series with the UV disinfection at the discharge point would also make sense and we would model the effluent discharge in our process modeling software and provide a design document in the proposed Plans/Specs for DANR review.

As discussed, I will reach out to Abbey Larsen regarding use of the SRF funds to pay for engineering services to help the town navigate through the Lagoon Expansion and Discharge Permit engineering. Thank you for your assistance.

Anthony Theodorou, PE
Project Manager

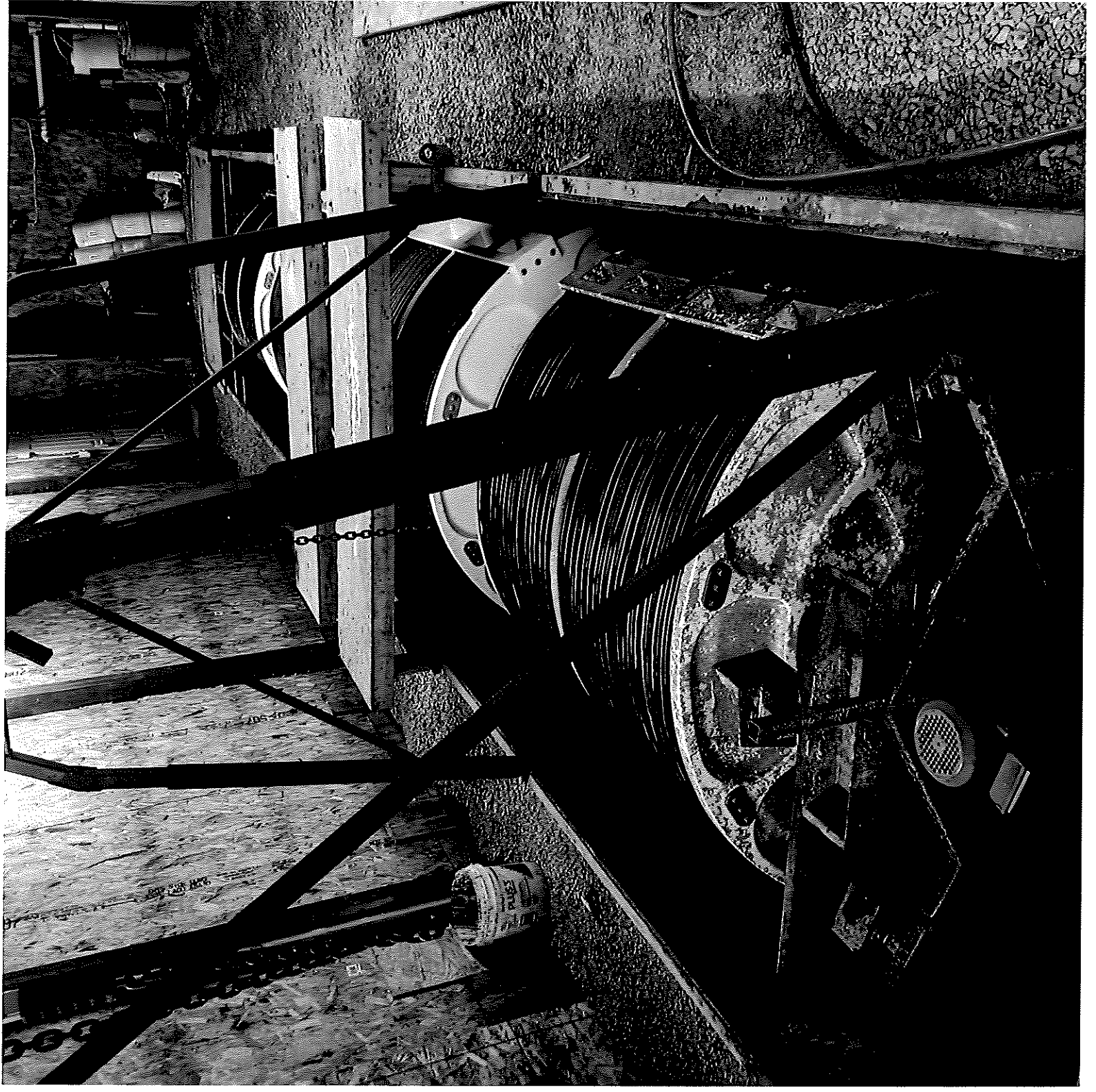
atheodorou@benesch.com
direct: 605-910-7095

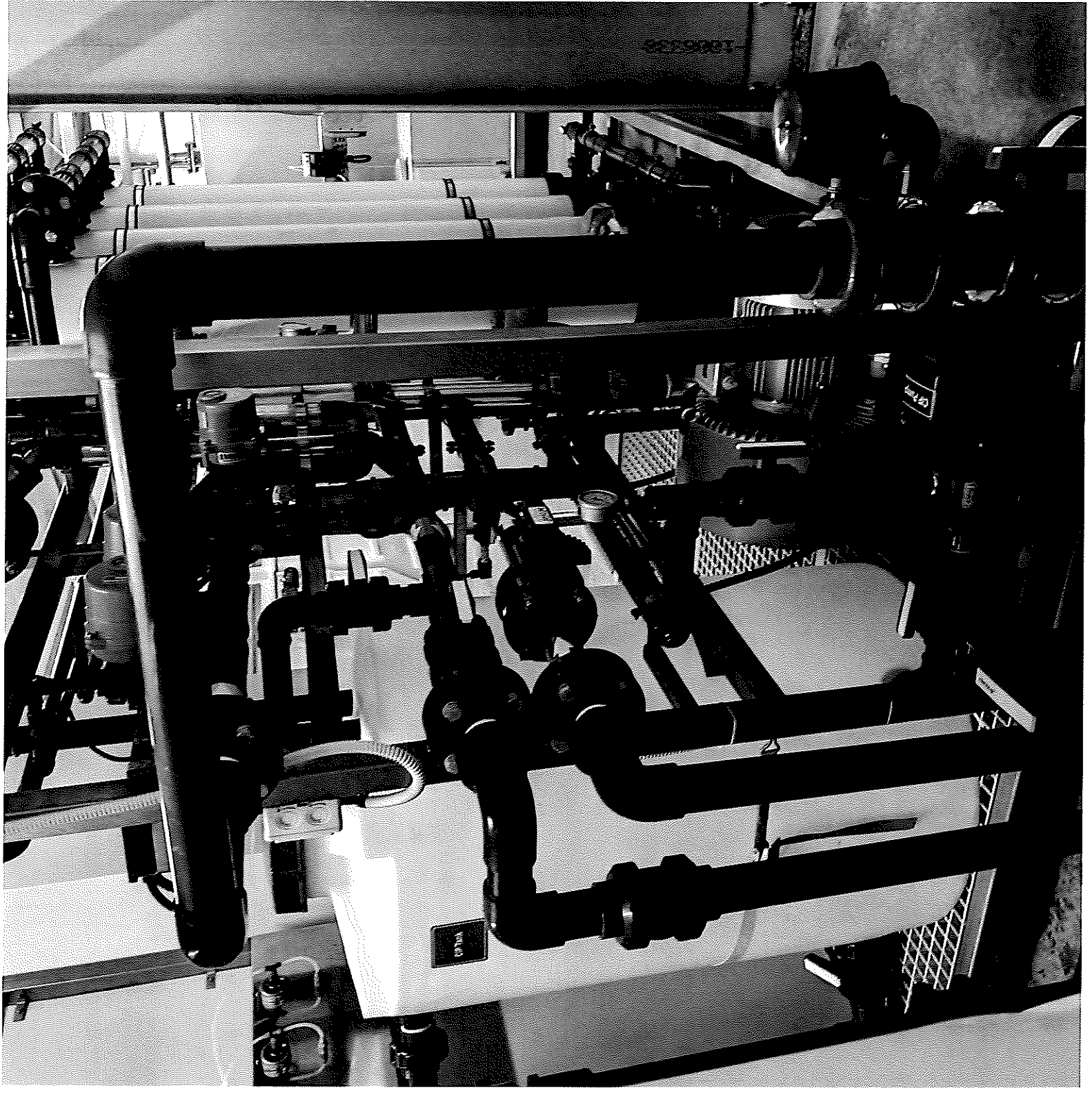


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KOHLER.
Power Systems
226751 AGE COACH TRAIL

4B

Terri Cornelison

From: mjohn26477@aol.com
Sent: Tuesday, May 7, 2024 8:11 AM
To: Terri Cornelison; lmkw2018ins@gmail.com; dmoferguson@gmail.com; gjholsworth@midco.net; kelburn.k@gmail.com
Cc: vickilhenrichsen@gmail.com
Subject: Resignation

Dear Board of Trustees:

Terri Cornelison forwarded Trustee Henrichsen's recent email (below).

Please consider this as my formal resignation as the Town of Hermosa attorney. Thank you for the opportunity to serve your community.

Sincerely,

Mitchell D. Johnson
Attorney at Law
2902 West Main Street STE 1
Rapid City, SD 57702
TEL. 605-343-7842
Cell 605-381-6464
email: mjohn26477@aol.com

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In a message dated 5/7/2024 7:54:01 AM Mountain Daylight Time, terri@hermosasd.com writes:

From: Vick Henrichsen <vickilhenrichsen@gmail.com>
Sent: Monday, May 6, 2024 6:28 PM
To: Terri Cornelison <terri@hermosasd.com>
Subject: Agenda

As president of the board I am requesting the agenda I. Note I last approved be left in place for tomorrow nights meeting if it is held. Prefer it be postponed as requested. Want to seek other outside legal advice!!

HERMOSA TOWN BOARD
SPECIAL MEETING & BUDGET HEARING
TUESDAY, JULY 10, 2018 @ 6:00 PM



ROLL CALL: Holsworth called the meeting to order at 6:07pm, with the following members present: Holsworth, Henrichsen, Saulton. Harris & King absent. Johnson and one (1) interested citizen also present. King had telephoned the finance officer to relay input and information due to commitment causing his absence which Johnson will provide during topics being addressed.

CALL FOR CHANGES: Motion by Henrichsen, seconded to accept the agenda as presented. Unanimous.

LEGAL: Motion by Saulton, seconded to terminate appointment of current town attorney; discussion included appreciation for Shubeck's service, the need for municipal experience in legal representation, and cost effectiveness leading to determination; vote, all aye. **Motion by Saulton, seconded to appoint Mitch Johnson as town attorney at \$85.00/hour with a minimum of three (3) hours per meeting which includes travel time; unanimous.**

NEW BUSINESS: Planning & Zoning meeting schedule discussed. Motion by Holsworth, seconded to suspend bi-weekly Planning & Zoning meetings temporarily, all future meetings shall be held at the directive of the Board of Trustees as needed; unanimous. N 2nd St Bridge: Engineer Bengs submitted information regarding the requested 20' span single cell box precast flared wing walls, DOT's desire to increase the span to use straight wings and the concern with the new span, additional data and possible additional hydraulics to justify the single cell versus a double cell box and thus additional costs. Motion by Henrichsen, seconded to stick to the original single cell box precast. Discussion included King's comment regarding the extensive conversations having led to the decision of a single cell box, the TS&L meeting discussion and desire to avoid the double cell box which may accumulate debris; vote all aye.

BUDGET: Johnson presented the projected revenues and expenses for the 2019 budget. Motion by Henrichsen, seconded to accept as presented; unanimous. Although not budgeting for in 2019, Holsworth presented the future advertising sign design for the new bed board and booze tax funds. Also discussed priority list following completion of the well rehabilitation, being the engineered wetland lagoon expansion followed by a drainage study.

ADJOURN: Motion made and seconded to adjourn the meeting at 7:50pm, mst. Unanimous.

Dan Holsworth, Town Board President

ATTEST:

Bobbie L. Johnson, Finance Officer

Published once at the approx. cost of \$ ____

**Hours of Operation:
Monday – Friday 8:00—5:00**

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CHAPTER 50: WATER PROVISIONS

Section

General Provisions

- 50.01 Application for water connection permit
- 50.02 Meters
- 50.03 Plumbers
- 50.04 Permission required
- 50.05 Installation of curb stops, valves and boxes, and dual check backflow prevention valves
- 50.06 Standard service pipe installation
- 50.07 Inspection and testing
- 50.08 Right-of-way repair
- 50.09 Application for water service/security deposit
- 50.10 Rental properties
- 50.11 Commercial and residential water rates
- 50.12 Billing and payment
- 50.13 Disconnection for non-payment
- 50.14 Notice of discontinuance required
- 50.15 Meters failing to register
- 50.16 Interfering with fire hydrants
- 50.17 Extension of water pipes
- 50.18 Water limitations
- 50.19 Authority of Water Department
- 50.20 Duty and responsibility of occupant or owner
- 50.21 Malicious or willful damage to water system
- 50.22 Water users outside of town limits
- 50.23 Responsibility for breakage of lines
- 50.24 Rates and charges for services
- 50.25 Fees; Water Fund
- 50.26 Construction standards
- 50.27 Repairs of city water mains and service lines

Water Piping Systems

- 50.40 Description
- 50.41 Materials
- 50.42 Construction requirements
- 50.43 Final inspection
- 50.44 Project acceptance and warranty period
- 50.45 Acceptance by town
- 50.46 Initial charging and flushing of water mains
- 50.47 Inspection fees

- 50.99 Penalty

GENERAL PROVISIONS

§ 50.01 APPLICATION FOR WATER CONNECTION PERMIT.

(A) As per SDCL § 9-47-28, the owner of every residence, business, structure, or building wherein water is used, abutting upon any street or alley in which municipal water mains are maintained shall, at his or her own expense, connect the residence, business, structure, or building to the municipal water system within 30 days after notice to do so, provided the municipal water main is within 200 feet of his or her property line. Application must be made to the Board of Trustees for permits to connect/tap any water pipe or pipes to the town water supply main. Application must be made by the owner or agent of the property served. Application shall designate the legal description of property, what kind and size of tap to be made, the nature and number of the water users, and be accompanied by the appropriate fee as described below. This fee is to be retained by the town.

(B) The cost of such tap shall be based on the size of the meter:

	<i>Residential</i>	<i>Commercial</i>
1"	\$1,000.00	\$2,000.00
1 ½"	\$1,000.00	\$2,000.00
2"	\$1,250.00	\$2,500.00

(C) If larger taps are required than depicted in the above table, the rates will increase \$250 per one-inch increments for residential and will increase \$500 per one-inch increments for commercial.

(D) If the permit is granted, applicant assumes all expenses covering material, labor, etc. for installation and connection of such pipes. This shall include, but is not limited to, curb stops, valves and boxes, and dual check back flow prevention valves and water meters. Applicant shall assume all responsibility, cost, and expense of maintenance and repairs of such components including, but not limited to, such pipes, curb stops, valves and boxes, and dual check back flow prevention valves and water meters, from the property owner's property line to the structure.

(Ord. 10, passed 6-20-2006; Ord. 10R-2015, passed 2-2-2015; Ord. passed 1-8-2019; Ord. passed 5-18-2021; Ord. passed 4-18-2023)

§ 50.02 METERS.

All connections shall be metered. The town will provide the meter. Only persons designated by the town shall read the meter on or about the twentieth of each month for all service meters. A person, designated by the town, shall read and verify meter and remote once each year to verify accuracy.

(Ord. 10, passed 6-20-2006; Ord. 10R-2015, passed 2-2-2015; Ord. 52.02A, passed 11-21-2017)

§ 50.03 PLUMBERS.

Only a duly licensed plumber/contractor, per the *Town's Standard Construction Specification and Standard Details*, approved by the Town Board, or an employee of the Water Department shall be permitted to do any work on any pipes or connections in any way connected with the town water supply. All such plumbers/contractors shall be governed by state and town regulations that are in force or that may be hereafter adopted.

(Ord. 10, passed 6-20-2006; Ord. 10R-2015, passed 2-2-2015)

§ 50.04 PERMISSION REQUIRED.

Written permission shall be obtained from the supervisor or other officer in charge of the Water Department before plumbing work of any kind shall be done by any plumber in or upon any water pipes, fixtures, or apparatus connected with the town water system.

(Ord. 10, passed 6-20-2006; Ord. 10R-2015, passed 2-2-2015)

§ 50.05 INSTALLATION OF CURB STOPS, VALVES AND BOXES, AND DUAL CHECK BACKFLOW PREVENTION VALVES.

All connections with the municipal water mains must be in accordance with the *Town Standard Construction Specifications and Standard Details*.

(Ord. 10, passed 6-20-2006; Ord. 10R-2015, passed 2-2-2015)

§ 50.06 STANDARD SERVICE PIPE INSTALLATION.

Service line installation shall be done by a licensed water and sewer contractor as required by the *Town Standard Construction Specifications and Standard Details* and inspected and approved by the town. Service lines are to be installed according to South Dakota State Plumbing Codes with regard to water and sewer line spacing and interior plumbing. Under no circumstances will any contractor without water and sewer licenses be allowed to dig, trench, or install any piping.

(Ord. 10, passed 6-20-2006; Ord. 10R-2015, passed 2-2-2015)

§ 50.07 INSPECTION AND TESTING.

All water service lines shall be tested in accordance with the *Town of Hermosa Standard Construction Specification and Standard Details*.

(Ord. 10, passed 6-20-2006; Ord. 10R-2015, passed 2-2-2015)

§ 50.08 RIGHT-OF-WAY REPAIR.

All back fill and surface repair shall be done to the satisfaction of public works per the *Town's Standard Construction Specifications*.

(Ord. 10, passed 6-20-2006; Ord. 10R-2015, passed 2-2-2015)

§ 50.09 APPLICATION FOR WATER SERVICE/SECURITY DEPOSIT.

(A) Written application for water service shall be made to the Town Finance Officer by the owner/occupant of the property or his agent, together with a security deposit. Such deposit shall be recorded by the Town Finance Officer and receipts issued to the applicant. Upon discontinuance of service, the applicant shall be entitled to a refund of such deposit, less such part thereof applied toward payment of current or delinquent water bills. Such deposit shall be as follows:

Homeowner	As per current fee schedule
Rental property owner	As per current fee schedule
Renter	As per current fee schedule
Contractor/ home builder	As per current fee schedule

(B) The town shall retain a floating deposit until such time that the property ownership changes.
(Ord. 10, passed 6-20-2006; Ord. 10R-2015, passed 2-2-2015)

§ 50.10 RENTAL PROPERTIES.

Property owners must give notice of change of tenants or parties responsible for utility bills. Renters shall be responsible for balance owed. The property owner will be contacted if payment is not made by due date of the current month. After a five-day grace period, water will be disconnected and not resumed until said balance is paid in full. A reconnection fee, per the current fee schedule, will be assessed and collected prior to resuming service. If a new tenant applies for water service, they will be denied service if there is a balance due for the metered property which they intend to rent. The property owner will not be able to restart service until the balance is paid in full.

(Ord. 10, passed 6-20-2006; Ord. 10R-2015, passed 2-2-2015)

§ 50.11 COMMERCIAL AND RESIDENTIAL WATER RATES.

Fees, charges, and rates for water services, connections, and tap fees may be changed per resolution by the Board of Trustees whose authority to do so is granted by the State of South Dakota SDCL § 9-47-19. The Board of Trustees shall establish just and equitable rates by policy. Refer to the current water rate resolution, as outlined within the current fee schedule.

(Ord. 10, passed 6-20-2006; Ord. 10.1, passed 8-18-2009; Res. 2009-5, passed 9-1-2009; Ord. 10R-2015, passed 2-2-2015)

§ 50.12 BILLING AND PAYMENT.

Bills are due and payable upon receipt and shall become delinquent on the fifteenth of same month. If the Town Office does not receive payment by the fifteenth a late fee will be charged to the account on the twentieth of same month as per current fee schedule. If payment is not received by the fifteenth of the following month, or the balance of the current month is more than \$100, collection action shall commence including but not limited to disconnecting service. There will be an additional late fee, as per current fee schedule, charged to the account for each subsequent month if account is not paid in full.

(Ord. 10, passed 6-20-2006; Ord. 10R-2015, passed 2-2-2015)

§ 50.13 DISCONNECTION FOR NON-PAYMENT.

(A) In the event a customer is disconnected due to non-payment that customer will be charged a reconnect fee, per current fee schedule, and may be required to pay an additional and/or increased security deposit, per current fee schedule, and initial deposit may be applied to the past due amount.

(B) Water service will be reconnected after all past due amounts have been paid or a payment agreement has been signed by the customer. Only an authorized agent of the town shall be allowed to turn water service back on. A fine will be assessed, as per current fee schedule, if water is turned back on without authority of the town.

(Ord. 10, passed 6-20-2006; Ord. 10R-2015, passed 2-2-2015)

§ 50.14 NOTICE OF DISCONTINUANCE REQUIRED.

Property owners or consumers desiring to discontinue the use of water shall be required to give notice to the town office. Regular water rates and charges to be billed accordingly until proper notice has been received, and a final meter reading has been taken.

(Ord. 10, passed 6-20-2006; Ord. 10R-2015, passed 2-2-2015)

§ 50.15 METERS FAILING TO REGISTER.

In cases where meters shall fail to register the amount of water used, charges shall be based on the average use.

(Ord. 10, passed 6-20-2006; Ord. 10R-2015, passed 2-2-2015)

§ 50.16 INTERFERING WITH FIRE HYDRANTS.

Only persons designated by the town shall open, take any water from, or in any way interfere with any public fire hydrant within the town. The Fire Department, or other emergency services may take water from a fire hydrant in the case of an emergency without prior approval.

(Ord. 10, passed 6-20-2006; Ord. 10R-2015, passed 2-2-2015) Penalty, see § 50.99

§ 50.17 EXTENSION OF WATER PIPES.

Water pipes cannot be extended from one premise to another without permission of the Board of Trustees or its duly authorized agent.

(Ord. 10, passed 6-20-2006; Ord. 10R-2015, passed 2-2-2015) Penalty, see § 50.99

§ 50.18 WATER LIMITATIONS.

All water used for air-cooling systems, street, lawn or garden sprinkling is subordinate to domestic use or fire protection and may be restricted at any time should a scarcity of water or an emergency of any kind so require.

(Ord. 10, passed 6-20-2006; Ord. 10R-2015, passed 2-2-2015)

§ 50.19 AUTHORITY OF WATER DEPARTMENT.

Only persons designated by the town shall be permitted at all reasonable hours to enter the premises or buildings of consumers for the purpose of reading meters, examining water pipes, to set or remove a meter, or change its location whenever necessary.

(Ord. 10, passed 6-20-2006; Ord. 10R-2015, passed 2-2-2015)

§ 50.20 DUTY AND RESPONSIBILITY OF OCCUPANT OR OWNER.

A suitable place for meters, safe from frost or other damage and accessible for examination, must be provided by and at the expense of the owner or occupant. In any case where the meter is injured by freezing or otherwise damaged by act or neglect of the owner or occupant, it shall be repaired and the expense thereof shall be paid by the owner or occupant of said premises. In case of neglect, refusal to

repair, or refusal to pay expenses thereof, the water supply may be turned off and not turned on until such costs and a reconnect fee have been paid.

(Ord. 10, passed 6-20-2006; Ord. 10R-2015, passed 2-2-2015)

§ 50.21 MALICIOUS OR WILLFUL DAMAGE TO WATER SYSTEM.

No person shall maliciously or willfully break, damage or tamper with any water main, meter, structure, device, or equipment that is a part of the municipal water system. Any violator, upon conviction, shall be guilty of a misdemeanor and shall be subject to a penalty of up to 30 days in jail, and/or a fine, as per current fee schedule, and the total cost of the repairs.

(Ord. 10, passed 6-20-2006; Ord. 10R-2015, passed 2-2-2015) Penalty, see § 50.99

§ 50.22 WATER USERS OUTSIDE OF TOWN LIMITS.

(A) All users of water supplied by the town waterworks, outside the town limits, shall be responsible for repairs and maintenance of water lines that are not in the town limits. Users outside town limits shall be governed by all rules, regulations and ordinances in effect with the town concerning the same, and shall be charged rates, as per the current fee schedule.

(B) The town has the right to require annexation to any new or current serviced area. All new services may be required to agree, in writing, to annex into the town limits when, and if, the property is within the legal proximity.

(Ord. 10, passed 6-20-2006; Ord. 10R-2015, passed 2-2-2015)

§ 50.23 RESPONSIBILITY FOR BREAKAGE OF LINES.

The town shall have authority to close the curb stop at any time a break in the service line appears to have occurred, and will reopen the curb stop when satisfied that no break exists or the break has been repaired.

(Ord. 10, passed 6-20-2006; Ord. 10R-2015, passed 2-2-2015)

§ 50.24 RATES AND CHARGES FOR SERVICES.

The Board of Trustees shall establish just and equitable rates by policy. Refer to the current water rate resolution, as outlined within the current fee schedule.

(Ord. 10R-2015, passed 2-2-2015)

§ 50.25 FEES; WATER FUND.

Any fees, regular charges, connection collections, etc., shall be deposited in the Water Fund.

(Ord. 10, passed 6-20-2006; Ord. 10R-2015, passed 2-2-2015)

§ 50.26 CONSTRUCTION STANDARDS.

All construction covered under this chapter shall comply with state codes, and laws, and shall comply with the *Town of Hermosa Standard Construction Specifications and Details*.

(Ord. 10, passed 6-20-2006; Ord. 10R-2015, passed 2-2-2015)

§ 50.27 REPAIRS OF CITY WATER MAINS AND SERVICE LINES.

(A) Any repairs performed to the city's water mains are the sole responsibility of the municipality with the exception of any damage incurred during the installation of any private service. In this