

Algoma Sanitary District #1  
Regular Monthly Meeting

- 1) Commissioner President Earl Lawrence, with Commissioner Alexander Irvine and Commissioner Michael Gelhar present called the regular monthly meeting of the Algoma Sanitary District #1 for September 15, 2005 to order at 6:00 p.m. Also present were Kevin Mraz, Joel Edson, Chuck Williams (sitting in for Ray Edelstein) Rose Mraz, Peter & Rosemary Eiden, Keith Decker, Russ Reff and Pat Sheppard.
  - a) **Earl noted the use of a tape recorder for the meeting.**
  - b) **Alexander made a motion to approve the minutes of the regular meeting for August 11, 2005/second Mike/carried unanimously.**
  - c) **Mike made a motion to approve the cash receipts and investments report for water and sanitary for August as submitted/second-Alexander/carried unanimously.**
  - d) **Alexander made a motion to approve the pending bills for sanitary and water for September/second-Mike/carried unanimously.**
    - i) The \$550.00 bill for Flush Drain & Sewer Cleaning will be invoiced to Advance Construction.
- 2) **Directors Report:**
  - a) Kevin said Jeff Rasmussen asked to upside three existing homes on Hidden Hollow from 1" to 1.5"
    - i) Earl says the ordinance needs to be revised to reflect that if a change in water service size needs to be made, it can be changed for a fee, if caught early enough. The fee would be the actual cost to change this. A written agreement would be needed.
  - b) Commissioners have no other questions or concerns.
- 3) **Public Forum** – Nothing other than what is on agenda.
- 4) **Report from Committees:**
  - a) **Water Advisory** – Nothing to report.
  - b) **Website update** – Everyone received update via email. Rose wanted everyone's ok before she told Athena to go ahead. Earl wants to know what the website committee says first.
- 5) **Old Business:**
  - a) **Easement update**
    - i) Lake Breeze Drive – Dr. & Mrs. Begley both signed their easement. Easements are complete for this area.
    - ii) Spring Valley Road to Pine Ridge Road – Mrs. Kuhn came in and signed her easement. Easements are complete for this area.
  - b) **Update of Safe Drinking Water Loan 2006** – Nothing new to report.
  - c) **Installation of gravity sewer laterals and possible payment options for the affected homes on Honey Creek Court.**
    - i) About 90% is completed. Staff to invoice homeowners for their \$1000.00 payment. The grinder pumps have been cleaned up and are sitting out at the tower. They will be stored there until there is a use for them. Kevin said that the Town of Omro may have a need for parts. Mike said that Butte Des Morts may have a need for them and Kevin said if they get in a bind and need parts that we will help them out.
  - d) **Public Service Commission rate adjustment for fire protection fee** – Kevin requested to have rates lowered due to the Town putting a larger amount for Fire Protection on the tax roll.
    - i) Kevin re-submitted via email at their request. The PSC wants PDF files now.
  - e) **Ormand Beach plat sanitary sewer main relocation request**
    - i) Keith Decker and his lawyer, Russ Reff, attended the meeting to discuss their request to have the District pay to move the sewer main in Ormand Beach area. Russ said he is at the meeting as he represents Keith with Fox Cities and Karen Redlin and they own lots 1, 2 and 3 of the original Ormand Beach Plat. Russ said when Fox Cities bought the property he did it with the intention of tearing down the existing house and building 2 new houses on the lot. Russ said what previously was Ormand Beach Road, was vacated and now bisects the lots. The sewer main is where they said the private road was. The location of the sewer main will not allow Fox Cities to construct houses on the lots because of the 75' setback from the water which means the basic site for the house would be over where the sewer main is located. Russ said getting a variance is not realistic because the DNR is adamant about the 75' setback from the water. He said Karen Redlin has the same potential problem as Keith if she wants to build something new in the future. The property owners who are affected by the move are willing to grant easements.
      - (1) Russ said getting easements to move the sewer main isn't the issue; it's who is going to pay for it.
        - (a) They said it's their position that it's the Sanitary District's obligation because someone put the sewer main in without a valid easement.
          - (i) Russ said at the time Fox Cities purchased the property, the title company did not reflect an easement. He said they did a lot of research and did not find any specific easement for the sewer. Schmitt Title and

Algoma Sanitary District #1  
Regular Monthly Meeting

Assurance Title have both looked at the history and both have indicated there is no specific easement for that sewer. They also said in their opinion Ormand Beach Rd was a private road rather than a public road so this is not a situation where a sewer was put in a public right of way.

- (ii) Russ said it also appears from the surveys that the sewer isn't even in what was originally Ormand Beach Road so he said there is a sewer on private property without the benefit of an easement. He said at the time the lots were reconfigured and Ormand Beach Road was eliminated, the owners of the lots signed relinquishments of easements - where each relinquished the easement they had over the other lot owner's property to use what was previous the easement for Ormand Beach Rd. So obviously at that time they felt it was a private road and not vacated like a public road would be vacated. Instead the property owners relinquished their easements to one another, supporting the fact it was a private road. Russ said the letter he received from the title company said that Atty. Bert Wertsch concluded it was a private road at one point in time, and the county tax lister has treated it as a private road. He said this makes it pretty clear from everything he found that 1, there was not an easement and 2. The sewer was not installed within a public right of way.
  - (iii) Russ said Kevin faxed a letter to him from Attorney Wallace dated 1998 indicating in his opinion that Ormand Beach Road was a public road. Attorney Wallace based this on the information he had received from Schmitt Title. Russ thinks Wallace assumed that as the road was part of the plat that the road had been dedicated as a public road. Russ said it is part of the plat, but at the time it was not dedicated as a public road.
  - (iv) Russ said there was an agreement between the Frevert's (this is one of the lots Keith now owns) and the Sanitary District, at the time the Frevert's originally received sewer service. Russ believes that even though they are in the Town of Omro, they asked the Algoma Sanitary District to give them sewer service and the district agreed if they paid for the sewer. The sewer main went in with their permission, but nothing grants an easement.
  - (v) Keith said lots 4, 5 and 6 may be in the same situation. Keith said it was a poor planning job for sewer.
  - (vi) Russ said this is holding up construction and costing Keith money and they want to resolve without litigating, but will take legal action which would cost more in time and money. Russ said he talked to Kevin today and Kevin thinks the cost to relocate the sewer would be \$30,000 and Keith thinks closer to \$24,000.
- (2) They are proposing the following:
- (a) Keith would arrange and work with the Sanitary District to get the easements to relocate the sewer main.
  - (b) The property owners would pay half the cost and the Sanitary District would pay half the cost of the construction cost. Keith thinks the engineers should donate their time for putting the sewer in without an easement in the first place.
  - (c) The Sanitary District could pursue whatever recourse it might have against whomever was responsible for advising installing the sewer main without the benefit of an easement.
  - (d) If this is done quickly, Fox Cities would waive any claims for damages sustained up to this point.
- (3) Russ asked that the Commissioners add this to the agenda on September 22. The Commissioners agreed to this.
- ii) Chuck asked what is wrong with the perpetual easement and Keith said this runs North and South and is not the problem, but the East and West portion is a problem. Chuck asked if this was a public road would this East/West easement have been ok. Chuck asked Keith if he knew where the sewer was when he purchased the lots and Keith said no. Keith said he was only concerned that there was sewer there. Keith is building on Lots 1 and 2 and Karen is building on lot 3.
- (1) Kevin asked Keith that with his setback and building dimension, where does that put him in comparison to the manhole and Keith said it would be in his garage.
- (a) Kevin said regardless of who is paying for the sewer, that the District couldn't even start to proceed without the easements or have an idea where the setbacks are.
  - (b) Keith said he can go to 70' which still doesn't help enough. Keith said lots to the west are deeper and do not cause as much of a problem. Chuck asked if he can redesign his house. Keith said it's only about 1400 sq feet so not really.
- iii) Russ and Keith asked to have a decision at the next meeting which is Sept 22 and the Commissioners agreed to put it on the agenda then so they left at this point.
- iv) Alex asked if the District had any information on this and Kevin said there's a 2" file. Kevin said the District has a letter from attorney Bob Haase to Ned Pierce from Strand Associates stating the documents appear to be adequate legally although an assignment of the easements is needed from Frevert to allow work to be done - dated 1979. This has more to do with the North/South easement than the East/West easement. It states that in any event to review the legal descriptions and make sure the easements granted are adequate and properly located. Kevin said this regards the first lot serviced.

Algoma Sanitary District #1  
Regular Monthly Meeting

- v) The Commissioners believe the sewer was put at the edge of the roadway when installed. Kevin said you can see that it was put along the edge of the road.
  - vi) Joel asked if anyone talked to the previous attorney for the District. Kevin said that Mr. Jansen had all his files purged so there is no information for the perpetual sewer easement – the North/South easement. Kevin does have documentation regarding the East/West easements which was signed by owners of lots 2, 3, 4, 5 and 6. Lot 1 had the North South easement. Earl said that this information basically says there is no easement, and Kevin said that is because it was considered a public road and you do not obtain easements. Kevin said that Schmidt Title gave the District different information years ago than it is giving now to Keith. The District may have received incorrect information.
    - (1) Joel said to see if Ormand Beach Road were on the road inventory list that Omro submits to the state every year; it would be considered a public road then. The District needs to obtain evidence that this was a public road.
  - vii) Kevin asked if the District splits the cost, what are the District's legal actions against Wallace and Schmidt Title.
  - viii) Alex does not believe the District did anything wrong when this was put in and Earl and Mike agreed. Earl said that they found a loophole and now want the District to pay for it.
    - (1) Kevin asked what to do if he can't find it's a public road, what the Commissioners want to do. They may take them up on the offer rather than go to court. Chuck said you can limit what you want to pay and not go 50%. Kevin said you need to be careful and be sure lot 6 has enough depth. Mike said to check with Strand. Kevin said he did not find any intent on the District's part to do anything wrong. Chuck will brief Ray.
  - ix) Earl asked that within the next 6 months, to check and verify easements on private roads or where sewers are and report back to commissioners.
  - f) **Finalize lease with NTD as an Internet provider lessee on the tower.**
    - i) NTD is asking for a 5-year contract.
    - ii) Earl is comfortable charging them \$1.00 per possible customer hook-up. The antenna could potentially hold up to 400 customers. Earl said to have NTD cover the upfront legal fees. The commissioners are in favor of renting space rather than not renting it.
    - iii) Kevin will have Ray draft the agreement. Action for approval will be taken on the September 22 meeting.
  - g) **Leonard Road residents request for water service.**
    - i) Mr. and Mrs. Eiden attended the meeting to request water main to their property. Mr. Eiden said water main is in the vicinity and he would like water to his property. Mr. Eiden said he tried to get more neighbors interested in water, but only Bob Easterson is also interested at this time. Bob and Mr. Eiden own several lots.
      - (1) Kevin said he also tried to talk to other neighbors, but they are not interested at this time.
    - ii) Kevin said the District would need to extend the water main about 200' to get up to the property line.
      - (1) The District has a signed a petition for water from the Eiden's and Easterson's and also the waiver of public hearings and assessments for the affected properties. Kevin said the District could continue to extend the water main this year.
      - (2) The Commissioners are in agreement to supply the water main to these properties but need another meeting to see which parcels to assess. The Commissioners will look at property lines and see how to service these parcels without affecting the property across the street.
    - iii) The meeting was scheduled for September 22, 2005 at 5:00 p.m.
- 6) **New Business:**
- a) **Bellridge subdivision requested to install sewer and water in northern portion of subdivision.**
    - i) Kevin said Russ called and Anchorage Homes has sold all 4 units in the 1<sup>st</sup> condo. The northern subdivision is all 4 & 6 unit condos. Now Russ Williams is leaning towards installing the sewer from Leonards to this area.
      - (1) Kevin will set up Paul Dreis and Russ Williams to start discussions and start a timeline.
      - (2) Kevin said this will benefit the District to have the line installed along Leonards Point Road so you only have to pump 1 time.
  - b) **Update of East Central Regional Planning Commission revised sewer service area schedule.**
    - i) Kevin said there is new staff at East Central and they will be overseeing the sewer service area. They have not sent out a revised sewer service area plan.
  - c) **Discuss upcoming workshop with the Town of Omro Sanitary District.**
    - i) This is set up for September 22. Dale Finhower will be a facilitator at the workshop. All the Commissioners are available to attend this workshop.
  - d) **Discuss upcoming workshop with the Town of Algoma.**
    - i) Kevin will give the Town available dates so they can set up a meeting with the District.
  - e) **Algoma Sanitary District 2006 budget.**
    - i) Rose gave out the revised budget with numbers and recommendations from the workshop. **Alex made a motion to publish the proposed budget for the Water and Sanitary Utilities/second-Mike/carried unanimously.**
  - f) **Requests from residents for extensions of the well abandonment credit date.**

Algoma Sanitary District #1  
Regular Monthly Meeting

- i) James & Karen Boehm: Requesting an extension to April 1<sup>st</sup>, 2006. They would need the money from their tax refund to afford the cost to abandon their well. Earl asked if there is a way to confirm if they are using their well or not. Our records indicate if the well is still being used or not. Mike noticed the letter states their pressure tank is removed. A concern is the bacteria build up of a stagnant well. Kevin will check if their well is cut off. Earl said that the objective of the credit offered was to encourage people to abandon their well and not have the two systems. The Boehm's are paying their assessment over the 20 years, so the credit would be applied to their assessment, not an actual check cut back to the homeowner. They will need a contract that they are doing the work. No action taken until the next meeting.
- ii) There have been numerous notices sent to residents in Phase I telling them of the September 30<sup>th</sup> deadline to abandon their well to receive the credit.
- iii) Lee & Marcie Wilson sent a letter to the District and do not feel the District has been clear enough on identifying where water was available. They have a valve on their property from Leonard Point Rd but would prefer to hook up from the side of their property; however there is no water main there currently. They spoke to two plumbing contractors and found out their easement is not approved for water lines and could not get a quote from them to install the water line. They would like to wait until the remaining properties to the north of them in the subdivision are provided with water. When this happens they will have a better location for a valve to run a water line into their house.
  - (1) Kevin states the water line could go in from Leonard Point Road or from Highland Shores to supply the other properties. The other property owners have not decided if they even want water yet or not. No easement would be needed from the Wilson's. If the main runs up the side, their property could legally be divided in half and there would be two assessments. From Leonard Point Road, they have only 172' of frontage along the water main which is 1 assessment.
  - (2) Earl states that they have one year from the date that service was available to abandon their well to get the credit. If a second service were brought in, they would have another year from that date of service. It would be their call on which line to use. The District ran mains where requested, and until we receive a formal request to do something additional, the District has no future plans to service the parcel from another area.
  - (3) The Commissioners are in agreement on this. Kevin will send a letter to the Wilson's.
- iv) The commissioners are comfortable with having a written agreement from the contractors by September 30 with a date set to abandon the well and will then extend the credit.

**Mike made a motion to adjourn at 8:15 p.m./Alexander-second/carried unanimously.**

Respectfully submitted,

---

Rose Mraz

Approved: \_\_\_\_\_  
Earl Lawrence, Commissioner