

MINUTES OF MEETING
OF
SANITARY AND IMPROVEMENT DISTRICT NO. 1
OF CASS COUNTY, NEBRASKA

A meeting of the Board of Trustees of Sanitary and Improvement District No. 1 of Cass County, Nebraska, was convened in open and public session at 11:00 a.m. on the 12th day of November, 2020, and to be held at the 10250 Regency Circle, 2nd Floor, Omaha, Nebraska.

Present: Peggy L. Lawton, Jon Meyers, Wayne Breyfogle, Scott Pekarek and Matt Burnham. Also, in attendance were Mark J. LaPuzza, attorney for the District, Kraig Thelen, Ed Hobza of Thompson, Dreessen & Dorner, Inc., and Jim Noerrlinger.

Absent: None.

Notice of the meeting was given in advance thereof by publication in The Plattsmouth Journal on November 5, 2020, a copy of the proof of publication being attached to these minutes. Notice of this meeting was simultaneously given to all members of the Board of Trustees, and a copy of their acknowledgment of receipt of notice is attached to these minutes. Availability of the agenda was communicated in the published notice and in the notice to the Trustees of this meeting. All proceedings of the Board were taken while the convened meeting was open to the attendance of the public. The agenda was at all times available at the office for the District at Regency Center, Suite 300, 10250 Regency Circle, Omaha, Nebraska 68114.

It was first publicly stated to all in attendance that a current copy of the Nebraska Open Meetings Act was available for review and indicated the location of such copy in the room where the meeting was being held.

The Board was next presented with consideration of its outstanding bills and invoices.

There were next a presented statement from Kraig J. Thelen, for work performed on FEMA Disaster DR 4420, Statement dated October 2020, in the amount of Six Hundred Twenty-Seven and no/100 Dollars (\$627.00).

There were next presented statements from Thompson, Dreessen & Dorner, Inc., engineers for the District, for service rendered in connection with the USACE Levee Project through November 3, 2020, Invoice #140461, in the amount of Two Thousand Eighty and no/100 Dollars (\$2,080.00).

There was next presented a statement from Nebraska Public Power District, for lighting at Highway 75, Account #211010041398, in the amount of Eighteen and 54/100 Dollars (\$18.54). **The Board next directed advance payment to be made in the amount of One Hundred and no/100 Dollars (\$100.00).**

There were next presented statements of Summary Account #5843000090 from Omaha Public Power District, for street lights and other electrical services, as follows: (i) Statement dated October 6, 2020, in the amount of Two Thousand Seven Hundred Thirty and 30/100 Dollars (\$2,730.30), and (ii) Statement dated November 4, 2020, in the amount of Two Thousand One Hundred Seventy-Nine and 89/100 Dollars (\$2,179.89); said statements being in the aggregate amount of Four Thousand Nine Hundred Ten and 19/100 Dollars (\$4,910.19).

There was next presented a statement from Wilbur-Ellis, for the purchases of Chaser Turf and High Load, Invoice #16291, in the amount of One Thousand Nine Hundred Five and no/100 Dollars (\$1,905.00).

There was next presented a statement from One Call Concepts, Inc., for line locates within the District, Invoice #0100554, in the amount of Five and no/100 Dollars (\$5.00). **The Board next reminded that it has a credit balance in the amount of Ninety-Six and 03/100 Dollars (\$96.03), so no payment is due at this time.**

There was next presented a statement from Nebraska Health Environmental Lab, for water testing, Invoice #532291, having a zero balance.

There was next presented a statement from Thompson, Dreessen & Dornier, Inc., engineers for the District, for services rendered in miscellaneous District maintenance matters through November 3, 2020, Invoice #140460, in the amount of One Thousand Four Hundred Twenty-Four and 90/100 Dollars (\$1,424.90).

There were next presented statements from Pansing Hogan Ernst & Bachman LLP, attorneys for the District, for legal services performed through October 31, 2020, as follows: (i) Miscellaneous District matters, in the amount of Five Thousand One Hundred Fifty-Eight and 84/100 Dollars (\$5,158.84), and (ii) March 2019 Flood, in the amount of Four Thousand One Hundred Fifteen and no/100 Dollars (\$4,115.00); said statements being in the aggregate amount of Nine Thousand Two Hundred Seventy-Three and 84/100 Dollars (\$9,273.84).

There was next presented correspondence from Jim Noerrlinger, presenting and requesting payment in favor of Lake Waconda Association, for miscellaneous expense, as follows: (i) Bomgaars, for the purchase of battery, tarp and straps for backup generator, in the amount of Two Hundred Four and 93/100 Dollars (\$204.93), (ii) Amazon, for the purchase of parts for backup generator repair, in the amount of Forty-Nine and 301/100 Dollars (\$49.30), and (iii) Mike Litke's Tree Service, for removal of dead Cottonwood trees, in the amount of Two Thousand and no/100 Dollars (\$2,000.00); said statements being in the aggregate amount of Two Thousand Two Hundred Fifty-Four and 23/100 Dollars (\$2,254.23).

The previously described bills, invoices, recommendations and statements having been presented for the Board's consideration and after review and discussion of such items, the following resolution was duly moved and passed on a **5-0** vote.

RESOLVED, by the Board of Trustees of Sanitary and Improvement District No. 1 of Cass County, Nebraska, that the Chairman and Clerk be and they hereby authorized and directed to execute and deliver Warrant Nos. 5592 and 5593, of the District, dated the date of this meeting, to the following payees and in the following amount, said Warrants to be drawn on the **BOND** Fund of the District and to draw interest at the rate of seven percent (7%) per annum (interest to be payable on February 10 of each year) and to be redeemed no later than November 12, 2025, subject to extension of said maturity date by order of the District Court of Cass County, Nebraska, after notice is given as required by law, to-wit:

Warrant No. 5592, for the amount of Six Hundred Twenty-Seven and no/100 Dollars (\$627.00), payable to Kraig J. Thelen.

Warrant No. 5593, for the amount of Two Thousand Eighty and no/100 Dollars (\$2,080.00), payable to Thompson, Dreessen & Dornier, Inc.

FURTHER RESOLVED, by the Board of Trustees of Sanitary and Improvement District No. 1 of Cass County, Nebraska, that the Chairman and Clerk be and they hereby authorized and directed to execute and deliver Warrant Nos. 5594 through 5600, of the District, dated the date of this meeting, to the following payees and in the following amounts, said Warrants to be drawn on the General Fund of the District and to draw interest at the rate of six percent (6%) per annum and to be redeemed no later than November 12, 2023, subject to extension of said maturity date by order of the District Court of Cass County, Nebraska, after notice is given as required by law, to-wit:

Warrant No. 5594, for the amount of One Hundred and no/100 Dollars (\$100.00), payable to Nebraska Public Power District, Account #211010041398.

Warrant No. 5595, for the amount of Four Thousand Nine Hundred Ten and 19/100 Dollars (\$4,910.19), payable to Omaha Public Power District, Account #5843000090.

Warrant No. 5596, for the amount of One Thousand Nine Hundred Five and no/100 Dollars (\$1,905.00), payable to Wilbur-Ellis.

Warrant No. 5597, for the amount of One Thousand Four Hundred Twenty-Four and 90/100 Dollars (\$1,424.90), payable to Thompson, Dreessen & Dörner, Inc.

Warrant No. 5598, for the amount of Five Thousand and no/100 Dollars (\$5,000.00), and Warrant No. 5599, for the amount of Four Thousand Two Hundred Seventy-Three and 84/100 Dollars (\$4,273.84), payable to Pansing Hogan Ernst & Bachman LLP.

Warrant No. 5600, for the amount of Two Thousand Two Hundred Fifty-Four and 23/100 Dollars (\$2,254.23), payable to Lake Waconda Association.

FURTHER RESOLVED by the Board of Trustees of Sanitary and Improvement District No. 1 of Cass County, Nebraska, that both they and the district hereby find and determine and covenant, warrant and agree as follows: the improvements and/or facilities being financed or refinanced by the above Warrants are for essential governmental functions and are designed to serve members of the general public on an equal basis; all said improvements have from the time of their first acquisition and construction been owned, are owned and are to be owned by the District or another political subdivision; to the extent special assessments have been or are to be levied for any of said improvements, such special assessments have been or are to be levied under Nebraska law as a matter of general application to all property specially benefited by said improvements in the District; the development of the land in the District is for residential or commercial use and the development of the land in the District for sale and occupation by the general public has proceeded and is proceeding with reasonable speed; other than any incidental use of said improvements by a developer during the initial period of development of said improvements, there have been, are and will be no persons with rights to use such improvements other than as members of the general

public; none of the proceeds of said Bonds or any refinanced indebtedness have been or will be loaned to any private person or entity; the District hereby authorizes and directs the Chairperson or Clerk to file or cause to be filed, when due, an information reporting form pursuant to Section 149(e) of the Internal Revenue Code of 1986, as amended, pertaining to the above Warrants; and the District does not reasonably expect to sell or otherwise dispose of said improvements and/or facilities, in whole or in part, prior to the last maturity of the above Warrants.

FURTHER RESOLVED by the Board of Trustees of Sanitary and Improvement District No. 1 of Cass County, Nebraska, that the District hereby covenants, warrants and agrees as follows: (a) to take all actions necessary under current federal law to maintain the tax exempt status (as to taxpayers generally) of interest on the above Warrants; and (b) to the extent that it may lawfully do so, the District hereby designates the above Warrants as its "qualified tax exempt obligations" under Section 265(b)(3)(B)(i)(III) of the Internal Revenue Code of 1986, as amended, and covenants and warrants that the District does not reasonably expect to issue warrants or bonds or other obligations aggregating in the principal amount of more than \$10,000,000 during the calendar year in which the above Warrants are to be issued.

FURTHER RESOLVED, by the Board of Trustees of Sanitary and Improvement District No. 1 of Cass County, Nebraska, that this and the preceding Resolutions are hereby adopted as the Certificate With Respect to Arbitrage of the District pertaining to the above Warrants and the District and the Chairman and Clerk of the District hereby further certify, as of the date of the registration of the above Warrants with the County Treasurer of Cass County, Nebraska, as follows:

1. No separate reserve or replacement fund has been or will be established with respect to the above Warrants. The District reasonably anticipates that monies in its Bond Fund reasonably attributable to the above Warrants in excess of the lesser of: (a) ten percent (10%) of the net principal proceeds of the above Warrants, (b) the maximum annual debt service due on the above Warrants, or (c) one hundred twenty-five percent (125%) of average annual debt service due on the above Warrants will be expended for payment of principal of and interest on the above Warrants within thirteen (13) months after receipt of such monies. That amount which is currently held in the District's Bond Fund which exceeds the amount which is to be expended for payment of principal and interest on the above Warrants within thirteen (13) months after receipt of such monies, plus that amount arrived at pursuant to the immediately preceding sentence, will not be invested in any securities or any other investment obligations which bear a yield, as computed in accordance with the actuarial method, in excess of the yield on the above Warrants.

2. To the best of their knowledge, information and belief, the above expectations are reasonable.

3. The District has not been notified of any listing of it by the Internal Revenue Service as an issuer that may not certify its bonds.

4. This Certificate is being passed, executed and delivered pursuant to Section 1.148-2(b)(2) of the Income Tax regulations under the Internal Revenue Code of 1986, as amended.

The Clerk then presented for the consideration of the Trustees the plans and specifications for Levee Expansion Site Demolition (Lake Wa-Con-Da) prepared by Thompson, Dreessen & Dörner, Inc., the consulting engineers for the District, for the cost of such improvement in the total amount of One Hundred Eighty-Six Thousand and no/100 Dollars (\$186,000.00). The Clerk was directed to attach a copy of the engineer's estimates of the costs to the minutes of these proceedings. After discussion, the resolution attached hereto and by this reference made a part hereof was duly introduced and upon a motion properly made and seconded, a roll call vote was had upon such motion during which the Trustees, Peggy L. Lawton, Jon Meyers, Wayne Breyfogle, Scott Pekarek and Matt Burnham voted "Aye" with none voting "Nay" thereby adopting the following resolution:

RESOLVED, by the Board of Trustees of Sanitary and Improvement District No. 1 of Cass County, Nebraska, that a hearing be had on the proposed Resolution of Advisability and Necessity for the construction of Levee Expansion Site Demolition (Lake Wa-Con-Da) at the Cobb Community Center located within the Lake Wa-Con-Da subdivision in Union, Nebraska, at 11:00 a.m. on December 3, 2020, at which time owners of the property within the District who might become subject to assessment for the improvement contemplated by the proposed Resolution of Advisability and Necessity may appear and make objections to the proposed improvement, and if a petition opposing the proposed resolution is signed by property owners representing the majority of the front footage which may be subject to assessment for the costs of improvements set out in the resolution is filed with the Clerk of the District within three days before the date set for hearing on such resolution, such resolution shall and will not be passed.

FURTHER RESOLVED, that notice of such hearing be given by publication in The Plattsmouth Journal of Plattsmouth, Cass County, Nebraska, for two (2) consecutive weeks beginning on the 19th day of November, 2020, and ending on the 26th day of November, 2020, which publication shall contain the entire wording of the proposed Resolution of Advisability and Necessity, and that notice shall be posted in three (3) conspicuous places within the District as required by Section 31-745, Reissue Rev. Stat. of Neb. 1943.

The Clerk then presented for the consideration of the Trustees the plans and specifications for SID #1 Property Acquisition (Lake Wa-Con-Da) prepared by Thompson, Dreessen & Dörner, Inc., the consulting engineers for the District, for the cost of such improvement in the total amount of Two Million Five Hundred Thousand and no/100 Dollars (\$2,500,000.00). The Clerk was directed to attach a copy of the engineer's estimates of the costs to the minutes of these proceedings. After discussion, the resolution attached hereto and by this reference made a part hereof was duly introduced and upon a motion properly made and seconded, a roll call vote was had upon such motion during which the Trustees, Peggy L. Lawton, Jon Meyers, Wayne Breyfogle, Scott Pekarek and Matt Burnham voted "Aye" with none voting "Nay" thereby adopting the following resolution:

RESOLVED, by the Board of Trustees of Sanitary and Improvement District No. 1 of Cass County, Nebraska, that a hearing be had on the proposed Resolution of Advisability and Necessity for the SID #1 Property Acquisition (Lake Wa-Con-Da) at the Cobb Community Center located

within the Lake Wa-Con-Da subdivision in Union, Nebraska at 11:00 a.m. on December 3, 2020, at which time owners of the property within the District who might become subject to assessment for the improvement contemplated by the proposed Resolution of Advisability and Necessity may appear and make objections to the proposed improvement, and if a petition opposing the proposed resolution is signed by property owners representing the majority of the front footage which may be subject to assessment for the costs of improvements set out in the resolution is filed with the Clerk of the District within three days before the date set for hearing on such resolution, such resolution shall and will not be passed.

FURTHER RESOLVED, that notice of such hearing be given by publication in The Plattsmouth Journal of Plattsmouth, Cass County, Nebraska, for two (2) consecutive weeks beginning on the 19th day of November, 2020, and ending on the 26th day of November, 2020, which publication shall contain the entire wording of the proposed Resolution of Advisability and Necessity, and that notice shall be posted in three (3) conspicuous places within the District as required by Section 31-745, Reissue Rev. Stat. of Neb. 1943.

The next order of business was discussion regarding a generator shelter. The Trustees discussed that this had been identified as a need for the District several times in the past by the caretaker and Trustees. Upon a motion properly made and seconded, a roll call vote was had upon such motion during which the Trustees, Peggy L. Lawton, Jon Meyers, Wayne Breyfogle, Scott Pekarek and Matt Burnham voted "Aye" with none voting "Nay" thereby authorized Jim Noerrlinger to contract for the installation of shelter.

The next order of business was discussion regarding demolition and relocation of the basketball court. It had been discussed that relocation had been approved, but that the time for construction and reconstruction might be delayed. It was suggested by the Trustees the new significant changes to the relocation should be resubmitted to FEMA for approval.

The next order of business was discussion regarding installation of gutters on the caretaker building. The Trustees discussed that this installation seems reasonable and appropriate and allowed for proper care of the District property. Upon a motion properly made and seconded, a roll call vote was had upon such motion during which the Trustees, Peggy L. Lawton, Jon Meyers, Wayne Breyfogle, Scott Pekarek and Matt Burnham voted "Aye" with none voting "Nay" thereby authorized Jim Noerrlinger to coordinate for the installation of such gutters.

The next order of business was discussion regarding the removal of a power pole. The Trustees discussed that this removal was seen as a positive impact on the appearance of the area and that no significant cost in rerouting power would be necessary. Upon a motion properly made and seconded, a roll call vote was had upon such motion during which the Trustees, Peggy L. Lawton, Jon Meyers, Wayne Breyfogle, Scott Pekarek and Matt Burnham voted "Aye" with none voting "Nay" thereby the Trustees approved the relocation of the power pole and directed Jim Noerrlinger to act as required to cause such removal.

There was some discussion regarding the District water system. It was noted that daily water usage statistics appeared to indicate that there was potentially a leak somewhere in the system. The Trustees directed Jim Noerrlinger to work with appropriate professionals and the District's engineer to perform system tests necessary in an attempt to locate such a water leak and correct the issue, as constantly running pumps due to water loss could accelerate repair and replacement expenses.

The next order of business was discussion regarding property acquisitions. Jon Meyers noted that signed Purchase Agreements had been obtained for several of the properties consistent with terms approved at previous meetings.

The Trustees then noted that there were matters related to the negotiation of the property acquisitions that were confidential in nature and should be discussed in Executive Session. Upon a motion duly made and seconded and unanimously approved, the Trustees entered into Executive Session as 11:55 a.m.

At 12:55 p.m., the public meeting of the Board of Trustees reconvened. Discussion began regarding the Kothenbuetal property acquisition. Following such discussion, and upon a motion duly made and seconded and unanimously approved, the Trustees approved acquisition of the property at the price of \$465,000.00, subject to the following modifications for the prior-approved agreement: Closing for the purchase could be allowed to extend to January 2, 2021, as an approximate closing date, provided, that the property was vacated and possession was turned over to the District no later than December 7, 2020, and representations and warranties regarding latent defects could be removed from the agreement.


Discussion then turned to the acquisition of the Jakubs property. Upon a motion duly made and second and unanimously approved, the District authorized an offer and purchase agreement for the Jakubs property in the amount of \$325,000.00, consistent with all previously approved agreements.

The next order of business was discussion regarding the acquisition of Noerrlinger Farms property. Jon Meyers is directed to begin negotiations with Noerrlinger Farms to negotiate the purchase of property or easements necessary for completion of the United States Army Corp of Engineer Levee Improvement project, and to work with Ed Hobza, of Thompson, Dreessen & Dorner, Inc., to identify the property required for acquisition.

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SIGNATURES APPEAR ON THE FOLLOWING PAGE]**

There was next reviewed the Agenda which had been available for public inspection in accordance with the law prior to this meeting of the Board of Trustees and reported that all matters considered by the Board at this meeting appeared on the Agenda.

Jon Meyers, as Clerk for Sanitary and Improvement District No. 1 of Cass County, Nebraska (the "District") does hereby certify that the above proceedings are a true and accurate statement of the proceedings had by the District at its November 12, 2020, meeting.



Jon Meyers, Clerk