

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 8:00 a.m. on the 7th day of July, 2022, at 10250 Regency Circle, Suite 300, Omaha, Nebraska.

Present were: Peggy L. Lawton, Jon Meyers, Wayne Breyfogle, Matt Burnham, and Scott Pekarek.

Absent: None.

Notice of the meeting was given in advance thereof by publication in The Plattsmouth Journal on June 30, 2022, 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 10250 Regency Circle, Suite 300, Omaha, Nebraska 68114.

The meeting was called to order. Upon roll call, all of the Trustees were present.

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.

There were next presented various statements and invoices for payment by the District.

There was next presented a statement from Nebraska Public Power District, for lighting at Highway 75, Account #211010041398, from May, 2022 through June, 2022, **having a credit balance in the amount of One Hundred Nineteen and 84/100 Dollars (\$119.84), so no payment is due at this time.**

There was next presented a statement from Omaha Public Power District for street lights and other electrical services, Account #5843000090, from April 29, 2022 to June 1, 2022, in the amount of One Thousand Six Hundred Twenty-Four and 78/100 Dollars (\$1,624.78).

There was next presented a statement from Nebraska Public Health Environmental Lab, for water testing, Invoice #552672, **having a zero balance.**

The Board was next reminded about the 2022 Routine Sample Schedules and Cost Estimates, from Nebraska Department of Health and Human Services, for water testing for the 2022-year, Public Water System ID #NE3102519, in the amount of Two Thousand Three Hundred Ninety-Three and no/100 Dollars (\$2,393.00).

There was next presented a statement from Thompson, Dreessen & Dorner, Inc., engineers for the District, for miscellaneous maintenance services through June 26, 2022, Invoice #151200, in the amount of One Thousand Two Hundred Nineteen and 80/100 Dollars (\$1,219.80).

There was next presented a statement from Frontier Cooperative, for the purchase of Ruby Fieldmaster, Invoice #107763 in the amount of Two Thousand Two Hundred Eighty-Eight and no/100 Dollars (\$2,288.00).

There was next presented a statement from Pansing Hogan Ernst & Bachman LLP, attorneys for the District, for legal services performed through May 31, 2022, in the amount of Two Thousand Four Hundred Forty-Three and no/100 Dollars (\$2,443.00), and costs advanced in the amount of Eight Hundred Thirty-Six and 60/100 Dollars (\$836.60); said statement being in the aggregate amount of Three Thousand Two Hundred Seventy-Nine and 60/100 Dollars (\$3,279.60).

There was next presented correspondence from Jim Noerrlinger, presenting and recommending payment in favor of Lake Waconda Association for the following payments: (i) Nebraska Rural Water Association (membership), in the amount of One hundred Fifty and no/100 Dollars (\$150.00), (ii) Concrete Industries, for concrete for new lake level post and repair of board ramp post, in the amount of Four Hundred Twenty and 15/100 Dollars (\$420.15), and (iii) Supreme Builders, LLC, for repairs to the well house from the wind damage, in the amount of Three Hundred Seventy-Eight and 85/100 Dollars (\$378.85); said statements being in the aggregate amount of Nine Hundred Forty-Nine and no/100 Dollars (\$949.00).

The Board next discussed a method to facilitate the timely payment of charges to the Lake Waconda Association to avoid timing lags between meetings of the District. It was determined that the Board would authorize the payment of four installments for the period of September 15, 2022, December 15, 2022, March 15, 2023, and June 15, 2023 each in the amount of Eighteen Thousand Five Hundred and no/100 Dollars (\$18,500.00), with delivery of such warrants to be delayed until approved by the District's clerk. Thereafter, upon a motion duly made and seconded and upon a roll call vote, all the Trustees, Peggy L. Lawton, Jon Meyers, Wayne Breyfogle, Matt Burnham and Scott Pekarek voted "Aye" with none voting "Nay" thereby adopting these payments to the Lake Waconda Association.

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. 6089 through 6098 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 **July 7, 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. 6089, for the amount of One Thousand Six Hundred Twenty-Four and 78/100 Dollars (\$1,624.78), payable to Omaha Public Power District, Account #5843000090.

Warrant No. 6090, for the amount of Two Thousand Three Hundred Ninety-Three and no/100 Dollars (\$2,393.00), payable to Nebraska Department of Health and Human Services.

Warrant No. 6091, for the amount of One Thousand Two Hundred Nineteen and 80/100 Dollars (\$1,219.80), payable to Thompson, Dreesen & Dorner, Inc.

Warrant No. 6092, for the amount of Two Thousand Two Hundred Eighty-Eight and no/100 Dollars (\$2,288.00), payable to Frontier Cooperative.

Warrant No. 6093, for the amount of Three Thousand Two Hundred Seventy-Nine and 60/100 Dollars (\$3,279.60), payable to Pansing Hogan Ernst & Bachman LLP.

Warrant No. 6094, for the amount of Nine Hundred Forty-Nine and no/100 Dollars (\$949.00), payable to Lake Waconda Association.

Warrant No. 6095, for the amount of Eighteen Thousand Five Hundred and no/100 Dollars (\$18,500.00), payable to Lake Waconda Association.

Warrant No. 6096, for the amount of Eighteen Thousand Five Hundred and no/100 Dollars (\$18,500.00), payable to Lake Waconda Association.

Warrant No. 6097, for the amount of Eighteen Thousand Five Hundred and no/100 Dollars (\$18,500.00), payable to Lake Waconda Association.

Warrant No. 6098, for the amount of Eighteen Thousand Five Hundred and no/100 Dollars (\$18,500.00), 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, and warrant and agree that (a) the facilities for which the above Warrants are issued are for essential governmental functions and are designed to serve members of the general public on an equal basis; (b) there are no persons with rights to use said facilities other than as members of the general public; (c) ownership and operation of said facilities is within the District or another political subdivision; (d) none of the proceeds of the Warrants will be loaned to any person and to the extent that special assessments have been or are to be levied for any said facilities, 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 such facilities in the District; (e) the development of the land in the District is for residential or commercial use; (f) the development of the land in the District for sale and occupation by the general public is proceeding with reasonable speed; and (g) the District hereby authorizes and directs the Chairman or Clerk to file, when due, an information reporting form pursuant to Section 149(e) of the Internal Revenue Code of 1986 pertaining to 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 \$5,000,000 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 next order of business was discussion regarding the proposed garage to be built on Lot 327. The owner, Rick Ogg, was present at the meeting. He presented plans that involve the construction of a garage which would encroach into the District right-of-way on West Shore Drive. The Trustees discussed that construction in the right-of-way, without permission, had occurred in a number of places within the District. However, the Trustees believe it is important to be mindful of such construction in the future, particularly as it may impact the District's future plans for a new water or sanitary sewer system. Ed Hobza, engineer for the District, noted that the location of the garage would likely prohibit construction of a water or sewer line in the area in the future, requiring the additional expense of relocating the line.

The Trustees then discussed how permission could be granted to construct the garage while compensating the District for the additional expense. It was discussed that an amount could be charged up front, although the need for and adequacy of that number would be unknown. The Trustees generally found that an encumbrance on the property benefited requiring the owner to pay the incremental cost of the additional work was preferable. It was discussed that, at the time of such installation, the engineer could certify the additional cost and that number would be used to determine the amount owed by the owner, with such amount being a lien against the property. Upon a roll call vote taken on such resolution the following Trustees, Peggy L. Lawton, Jon Meyers, Matt Burnham, Wayne Breyfogle and Scott Pekarek voted "Aye" with none voting "Nay" thereby adopting the following resolution:

RESOLVED that the District agrees to grant an easement to the owner of Lot 327 for the installation of a garage within the District right-of-way as shown on the plans provided, contingent upon the owner of the property executing an encumbrance against Lot 327 requiring the owner thereof to pay the additional costs to the District for the installation of a sanitary and

sewer and/or water line necessitated by rerouting the installation as deemed necessary and appropriate by the engineers of the District.

RESOLVED FURTHER, that Jon Myers and Peggy Doty are hereby authorized and directed to execute such easements and encumbrances as may be necessary to effectuate such documents.

The next order of business was discussion regarding reimbursements from FEMA for the 2019 flooding. Kraig Thelen discussed that there are no open matters requiring District attention and that the District was waiting response on the most recently filed appeal.

There was a brief discussion regarding the progress of work performed by the United States Army Corp of Engineers for levy improvements. The Trustees discussed that work had been proceeding, although more slowly than expected. The Trustees discussed that the Association should determine whether boating restrictions should be in place for all or a part of the lake.

The next order of business was discussion regarding the records of the Cass County Assessor's office. Scott Pekarek noted that the Assessor's records were not updated to indicate that the houses purchased by the District has been demolished. The Trustees discussed that, as the District is a tax exempt entity, the Assessor's office does not update its records and doing so would provide no benefit to the District. Mark LaPuzza reported that his investigation into the lots indicated that property taxes may be outstanding for the 2021 tax year due to what appeared to be a failure of the Assessor's office to update the mailing address for tax statements. Mark LaPuzza said he would investigate this and determine if payments were necessary. It was also discussed that the lots could potentially be combined into a single lot. Mark LaPuzza explained that if this could be done administratively, the District may want to consider doing so, but that the requirements as expressed by the County requires a survey and replat which would involve significant expense to the District with no financial benefit.

The next order of business was discussion regarding the sale of the property at 4120 Bullfrog Bay Drive. Several Trustees noted that the property had not been sold and conveyed to the owner under contract. Jon Myers noted he believes this delay was intentional based upon the need to be certain the subdivision of the property was appropriately completed and there would be no need to obtain additional property or easements after closing. Mark LaPuzza noted that this may have been a good reason for such a delay but that he did not recall and had no documents indicating this was an intentional delay in closing. Therefore, the Trustees directed that closing documents should be prepared and closing should be conducted.

The next order of business was discussion regarding treatment of the District water storage tank. Jim Noerrlinger noted that he contacted multiple contractors to obtain bids for the restoration of the tank and that the low bid was from W.W. Sandblasting and Painting Inc. Mr. Noerrlinger noted that W.W. Sandblasting and Painting had significant experience in this work and was used by several municipalities. The bid provided was to recondition the tank for \$7,500.00. The Trustees discussed that the reconditioning should be done provided that the contractor was appropriately insured and that the three-year warranty could be documented. Upon a roll call vote taken on such resolution the following Trustees, Peggy L. Lawton, Jon Meyers, Matt Burnham, Wayne Breyfogle and Scott Pekarek voted "Aye" with none voting "Nay thereby adopting the following resolution:

RESOLVED that the District authorizes Jim Noerrlinger to retain the services of W.W. Sandblasting and Painting, Inc. for the reconditioning of the District water storage tank, upon receiving appropriate evidence of such contractor's insurance.

The next order of business was discussion regarding grass seed and fertilizer. Jim Noerrlinger noted that ideal seeding and fertilizer is done on or around September 15th and he estimated the cost of needed seed and fertilizer for District maintained areas to be between \$3,500.00 and \$4,000.00. Upon a roll call vote taken on such resolution the following Trustees, Peggy L. Lawton, Jon Meyers, Matt Burnham, Wayne Breyfogle and Scott Pekarek voted "Aye" with none voting "Nay thereby adopting the following resolution:

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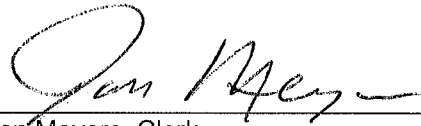
RESOLVED that Jim Noerrlinger is hereby authorized and directed to purchase fertilizer and grass seed necessary to provide treatment and improvement of various areas owned and maintained by the District in an amount not to exceed \$4,000.00.

The next order of business was discussion regarding meeting agendas. Mark LaPuzza noted that a copy of the Agenda for each meeting of the District was maintained in his office in advance of the meetings. While the Trustees were notified via email of meeting topics, the actual Agenda had not been circulated to Trustees in advance of the meeting, as doing so is not required and as Agendas may change as items are added in the days and weeks before the meeting. The Trustees asked that the actual Agenda be provided to the Trustees and other professionals in advance of future meetings. The Trustees were reminded that all bills and meeting topics should be provided well in advance of the meeting, at least seven days in advance when possible but no later than three days in advance of the meeting.

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SIGNATURES APPEAR ON THE FOLLOWING PAGE]**

The Clerk 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 July 7, 2022, meeting.



Jon Meyers, Clerk