

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 9:00 a.m. on the 20th day of October, 2022, at 10250 Regency Circle, Suite 300, Omaha, Nebraska.

Present were: Peggy L. Lawton, Jon Meyers, Wayne Breyfogle, and Scott Pekarek. Also attending was Mark J. LaPuzza, attorney for the District, Ed Hobza, engineer for the District, Kraig Thelen, and Jim Noerlinger, and Mike Rehn, Treasurer of Lake Waconda Association.

Absent: Matt Burnham.

Notice of the meeting was given in advance thereof by publication in The Plattsmouth Journal on October 13, 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.

Counsel for the District first presented the Certificate of Results of the Election from the Cass County Election Commissioner with respect to the District's election of September 13, 2022. Such certificate indicated that Jon Meyers, Peggy Lawton, Matt Burnham, Wayne Breyfogle, Scott Pekarek had been elected to serve for a two (2) year term for the Board. It was indicated that each of such individuals were owners or designees of owners of real estate within the District boundaries (*as defined by Section 31-727(3) Reissue Rev. Stat. of Neb. 1943*) and, as a consequence, qualified to serve in such capacity. Each individual being in attendance at the meeting indicated a willingness to accept the position of Trustee on the Board.

Discussion was next had with respect to the outstanding matters of the District and the powers and responsibilities of the Board in general. Discussion was also had with respect to the powers and responsibilities of the positions of Chairman and Clerk of the District. Upon conclusion of such discussion, the following roll call vote was taken during which the Trustees: Wayne Breyfogle and Scott Pekarek voting "Aye", with none voting "Nay", and Peggy Lawton and Jon Meyers abstaining, thereby adopting and approving the following resolution:

RESOLVED, that Peggy Lawton be hereby elected to serve in the capacity of Chairman for Sanitary and Improvement District No. 1 of Cass County, Nebraska, until the next regularly scheduled election of the Board of Trustees.

FURTHER RESOLVED, that Jon Meyers be hereby elected to serve in the capacity of Clerk for Sanitary and Improvement District No. 1 of Cass County, Nebraska, until the next regularly scheduled election of the Board of Trustees.

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

There were next presented statements from Kraig J. Thelen, for services rendered in connection with Federal Disaster DR 4420 NE, as follows: (i) Statement No. 42, for the month of August, in the amount of One Thousand Eighty-Three and no/100 Dollars (\$1,083.00), and (ii) Statement No. 43, for the month of September, in the amount of Eight Hundred Thirty-Six and no/100 Dollars (\$836.00); said statements being in the aggregate amount of One Thousand Nine Hundred Nineteen and no/100 Dollars (\$1,919.00).

The Clerk next directed the attention of the Board of Trustees to the fact that D.A. Davidson & Co. will purchase One Thousand Nine Hundred Nineteen and no/100 Dollars (\$1,919.00) in warrants at this time and that the contracted charge for such purchase of warrants is two percent (2%) or Thirty-Eight and 38/100 Dollars (\$38.38) in accordance with the financing agreement previously adopted by the Board. The Chairman recommended the issuance of a warrant for such amount to D.A. Davidson & Co.

There was next presented a statement from Nebraska Public Power District, for lighting at Highway 75, Account #211010041398, for September, 2022, **having a credit balance in the amount of Seventy-Three and 88/100 Dollars (\$73.88), so no payment is due at this time.**

There were next presented statements from Omaha Public Power District for street lights and other electrical services, Account #5843000090, from August 4, 2022 to October 5, 2022, in the aggregate amount of Five Thousand One Hundred Ninety-Eight and 22/100 Dollars (\$5,198.22).

There was next presented a statement from Frontier Cooperative, for the purchase of propane, Invoice #018611, in the amount of Six Hundred Thirty-Five and 42/100 Dollars (\$635.42).

There were next presented statements from Midwest Laboratories, Inc., for testing the water and water testing supplies, as follows: (i) Invoice #1104369, in the amount of Two Hundred and no/100 Dollars (\$200.00), and (ii) Invoice #1100288, in the amount of Forty-Eight and 79/100 Dollars (\$48.79); said invoices being in the aggregate amount of Two Hundred Forty-Eight and 79/100 Dollars (\$248.79).

There was next presented a statement from One Call Concepts, Inc., for line locates within the District, Invoice #2090569, in the amount of Three and 16/100 Dollars (\$3.16). **The Board was next reminded that an advance payment in the amount of One Hundred and no/100 Dollars (\$100.00), was made at the June 12, 2022 meeting, so no payment is due at this time.**

There was next presented a statement from Nebraska Public Health Environmental Lab, for water testing, Invoice #555935, **having a zero balance.**

There was next presented the matter regarding the Drainage Easement to Noerrlinger Farms, Inc. The Board was reminded that this was discussed and approved at the September 12, 2022. Therefore, payment will be made to Noerrlinger Farms, Inc., in the amount of Fourteen Thousand Four Hundred and no/100 Dollars (\$14,400.00).

There was next presented correspondence from Jim Noerrlinger, presenting and recommending payment in favor of Lake Waconda Association for the following payments: (i) Ace, for chlorinator repair, in the amount of Seventeen and 32/100 Dollars (\$17.32), (ii) Aqua-Chem, Inc., for chlorinator repair, in the amount of Fifteen and 36/100 Dollars (\$15.36), (iii) Hy-Vee, purchase of Clorox for disinfection, in the amount of Thirty-Four and 201/00 Dollars (\$34.20), (iv) Mike Litke's Tree Service, for removal of dead trees (job completed), Invoice dated September 27, 2022, in the amount of One Thousand Two Hundred Fifty and no/100 Dollars (\$1,250.00), and (v) Buzzcuts Lawncare, for aerating the caretakers home, Invoice #2022-7, in the amount of Sixty and no/100 Dollars (\$60.00); said invoices being in the aggregate amount of One Thousand Three Hundred Seventy-Six and 88/100 Dollars (\$1,376.88).

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 **4-0** 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. 6113 and 6114, 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 **BOND** Fund of the District and to draw interest at the rate of five percent (5%) per annum (interest to be payable on February 10 of each year) and to be redeemed no later than **October 20, 2027**, 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. 6113, for the amount of One Thousand Nine Hundred Nineteen and no/100 Dollars (\$1,919.00), payable to Kraig J. Thelen.

Warrant No. 6114, for the amount of Thirty-Eight and 38/100 Dollars (\$38.38), payable to D.A. Davidson & Co.

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. 6115 through 6122 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 **October 20, 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. 6115, for the amount of Five Thousand and no/100 Dollars (\$5,000.00), and Warrant No. 6116, for the amount of One Hundred Ninety-Eight and 22/100 Dollars (\$198.22), payable to Omaha Public Power District, Account #5843000090.

Warrant No. 6117, for the amount of Six Hundred Thirty-Five and 42/100 Dollars (\$635.42), payable to Frontier Cooperative.

Warrant No. 6118, for the amount of Two Hundred Forty-Eight and 79/100 Dollars (\$248.79), payable to Midwest Laboratories, Inc.

Warrant Nos. 6119 and 6120, each for the amount of Five Thousand and no/100 Dollars (\$5,000.00), and Warrant No. 6121, for the amount of Four Thousand Four Hundred and no/100 Dollars (\$4,400.00), payable to Noerrlinger Farms, Inc.

Warrant No. 6122, for the amount of One Thousand Three Hundred Seventy-Six and 88/100 Dollars (\$1,376.88), 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 payments from the District to the Lake Wacon-da Homeowners Association (the "Association"). There was first a general discussion that the Association provides significant services to the District in a wide variety of areas most of which are supplied by Jim Noerrlinger. Jim is an employee of the Association and receives a salary as well as other significant benefits. Although services may vary from day-to-day, a significant majority of the work done by Jim Noerrlinger is performed in completing the Association's obligations to the District. Representatives of the Association discussed their budget needs with the Board and noted that Jim Noerrlinger's salary had increased without proportionate increases from the quarterly payments by the District. After significant discussion, the parties seemed to have agreed that more regular payments from the District would provide a benefit to both parties as the payments would be spread over time by the District and a more regular source of payment to cover expenses would be appreciated by the District. The parties agreed that \$8,500.00 per month as a maximum payment for ordinary services would be appropriate. Any extraordinary expenses, including out of pocket expenses for purchases, over time, or flood fighting activities would be invoiced separately.

Thereafter, upon a motion duly made and seconded and upon a roll call vote, all the Trustees, Peggy Lawton, Jon Meyers, Wayne Breyfogle and Scott Pekarek voted "Aye" with none voting "Nay" thereby adopting the following resolution:

RESOLVED that payment to the Association by the District will be made on a monthly basis upon invoices received from the Association, with billing for ordinary services not to exceed \$8,500.00 per month.

RESOLVED FURTHER that the District will pay invoices for extraordinary services, including out-of-pocket expenses and overtime pay as separately invoiced by the Association to the District.

RESOLVED FURTHER, that such payments shall begin for services beginning in January of 2023.

RESOLVED FURTHER, any previously issued payments for ordinary services for dates after January 1, 2023, will be supplemented by the District to bring the monthly payments, as invoiced, up to \$8,500.00 per month.

The next order of business was discussion regarding the review by the Association of building plans. It was discussed that, at present, Jim Noerrlinger acts on behalf of the Association to sign off on building plans as acceptable to the Association. The Cass County Permits and Inspections office requires this sign off before issuing any building permits. The Trustees discussed that Jim Noerrlinger had coordinated with various parties in the past, but it should be the Association, or some subcommittee of the Association, that performs this review. The Association representatives in attendance agreed to undertake such efforts. There were discussions that the Association has, on occasion, engaged Pansing Hogan Ernst & Bachman LLP in providing legal services to the Association, paying the legal fees for such services. As there is no conflict of interest recognized at this time for the Association to receive such services, the Association expects to retain Pansing Hogan Ernst & Bachman LLP with respect to these matters on a going forward basis.

The next order of business was discussion regarding the status of the Corp of Engineers Levy Improvement project. Jon Meyers reported that the contract date for the project had been extended until December, 2022. It was generally discussed that the project is proceeding slower than expected but that Trustees and other District professionals will continue to be involved in weekly updates and other communications.

The next order of business was discussion regarding the easement over an area of 1.44 acres being purchased by the District from Noerrlinger Farms, Inc. Mark LaPuzza reported that the offer as previously authorized by the District in its last meeting had been approved by Noerrlinger Farms, Inc. and that the appropriate easement documents had been drafted and prepared for signatures. The Trustees were reminded that no action was required at this time for approval of the easement other than the payment of \$14,400.00 previously agreed upon and to be issued in this meeting.

The next order of business was discussion regarding property taxes for the five homes purchased by the District in late 2020. The County notified the Association, which notified the District that property taxes had not been paid for the 2020 tax year. Mark LaPuzza reported that the taxes had not been paid, although the District received a credit from the Seller in each transaction for the proportionate share of the 2020 property taxes. Any property where the purchase was closed before January, 2021 would have no 2021 property taxes payable in 2022 as taxes are paid in arrears based on ownership on January 1 of each year. Mark LaPuzza reported that apparently the tax statements were being sent to the demolished houses. Mark LaPuzza is directed to contact the County to identify whether any late fees or interest could be waived. The amount necessary to bring taxes current for all properties will be addressed at the next meeting.

The next order of business was an update regarding the 2019 flooding and reimbursement requests submitted to the Nebraska Emergency Management Agency ("NEMA"). Kraig Thelen told the Trustees that he was in the process of preparing submittals necessary to present the expenses of the District in retaining his services for payment to NEMA. NEMA had represented they would reimburse the District for the expenses. No reimbursement would be made until after the disaster is formally closed, which requires action by the governor. No set date has been established for that action.

The next order of business was discussion regarding the lease of equipment from AgriVision Equipment Group. Jim Noerrlinger presented a proposal from AgriVision which would allow the District to lease from AgriVision one or two tractors on a one-year lease. While the District would be required to carry insurance for these tractors, the District would not be required to make any payment under the lease initially. Rather, the cost of the lease would be calculated based on the operating hours of the equipment. In this way, if the equipment was leased but not used at all, the District would only bear the expense of the insurance. However, if the tractors were necessary and put into use, the District would be able to control its expense in doing so. The tractor(s) needed to be ordered before the end of the month so the order could be filled in a timely fashion by AgriVision.

The Trustees generally agreed that this was a good opportunity of the District but no materials had been presented outlining or guaranteeing the terms set forth in the promotional flyer provided by AgriVision. The Trustees discussed that if the program is contractually documented in a manner which is appropriate and enforceable, the District would move forward with such an order. Upon a motion duly made and seconded and upon a roll call vote, all the Trustees, Peggy L. Lawton, Jon Meyers, Wayne Breyfogle and Scott Pekarek voted "Aye" with none voting "Nay" thereby adopting the following resolution:

RESOLVED that Jim Noerrlinger is authorized and directed to communicate with AgriVision to proceed with the efforts necessary to rent two JD6120M tractors, with one to have a front-end loader option installed.

RESOLVED FURTHER that Mark LaPuzza is hereby authorized and directed to review the documents provided by AgriVision and make any amendments or revisions necessary to effectuate the advertised terms of the rental transaction.

RESOLVED FURTHER that either Peggy Lawton or Jon Meyers, each independently, are authorized and directed to execute such documents and agreements as necessary to effectuate this resolution.

The next order of business was discussion regarding the sale of the 4120 Bull Frog Bay Drive property to Image Arts, LLC. Mark LaPuzza reminded the Trustees that the District executed all documents necessary to close the transaction with Image Arts, LLC in late September. The documents necessary to affect the transaction had been provided to both the title company and Image Arts, LLC and that such documents have been found agreeable. However, Image Arts, LLC has not yet made arrangements to close the transaction. Jon Meyers noted that delays had dated back into September. Jon Meyers noted that he spoke to Dana Altman of Image Arts, LLC regarding the delays including two family weddings, travel out of town and some need to rearrange funds. At this time, the Trustees discussed that the matter would be best discussed in executive session. In advance of the executive session, James Noerrlinger, Ed Hobza and Kraig Thelen had left the room, leaving only the Trustees and Mark LaPuzza. Upon a motion duly made and seconded and upon a roll call vote, all the Trustees, Peggy L. Lawton, Jon Meyers, Wayne Breyfogle and Scott Pekarek voted "Aye" with none voting "Nay" thereby adopting the following resolution:

RESOLVED that, as of 11:06 a.m., the meeting moved into executive session for the express purpose of discussing the sale of the property of the District to Image Arts, LLC.

At 11:27 a.m. the public meeting of the Board of Trustees of Sanitary and Improvement District No. 1 of Cass County was reconvened.

It was then 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.

Discussion continued from the executive session regarding the closing of the sale of the District property to Image Arts, LLC. Upon a motion duly made and seconded and upon a roll call vote, all the Trustees, Peggy L. Lawton, Jon Meyers, Wayne Breyfogle and Scott Pekarek voted "Aye" with none voting "Nay" thereby adopting the following resolution:

RESOLVED that, the District establishes December 1, 2022, as the latest acceptable closing date of the purchase and sale of the property under the previously executed Purchase Agreement.

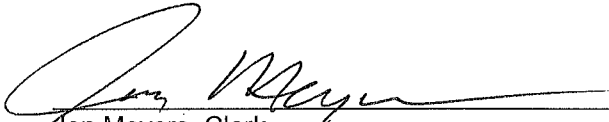
RESOLVED FURTHER that Mark LaPuzza as attorney for the District is hereby authorized and directed to notify Image Arts, LLC that Image Arts, LLC may select any closing date on or before December 1, 2022, and that the District finds any closing on or before that date acceptable for the purposes of satisfying the obligations to the District under the Purchase Agreement.

RESOLVED FURTHER that, in the event that the transaction has not closed on or before December 1, 2022, Mark LaPuzza is hereby authorized and directed to communicate to Image Arts, LLC that the District considers Image Arts, LLC to be in breach of the Agreement and terminate the Agreement in accordance with its terms for failure to close the transaction within a reasonable period of time. Thereafter, the District shall take all actions necessary to recover possession of the premises.

RESOLVED FURTHER that Peggy Lawton and Jon Meyers are each independently authorized and directed to execute such documents, agreements or pleadings necessary to close the contemplated sale of the property or, alternatively, recover possession of the property.

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 October 20, 2022, meeting.



Jon Meyers, Clerk