

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 on the 11th day of June, 2023, immediately following the 9:00 a.m. Homeowners Association meeting at the Cobb Community Center located within the Lake Wa-Con-Da subdivision, Union, Nebraska.

Present were: Peggy L. Lawton, Matt Burnham, Jon Meyers, Wayne Breyfogle, and Scott Pekarek. Also attending was Mark J. LaPuzza, attorney for the District and Jim Noerrlinger.

Absent: None.

Notice of the meeting was given in advance thereof by publication in the Omaha World Herald on June 5, 2023, 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 were next presented statements from Kraig J. Thelen, for services rendered in connection with Federal Disaster DR 4420 NE, Statement No. 51, in the amount of Three Hundred Thirteen and 50/100 Dollars (\$313.50).

There were next presented invoices from Thompson, Dreesen & Dornier, Inc., engineers for the District, for services rendered in construction-related matters through May 21, 2023, as follows: (i) Invoice #157254, in the amount of Three Thousand Four Hundred Thirty and no/100 Dollars (\$3,430.00), and (ii) Invoice #157291, in the amount of Seven Hundred Twelve and 50/100 Dollars (\$712.50); said invoices being in the aggregate amount of Four Thousand One Hundred Forty-Two and 50/100 Dollars (\$4,142.50).

There was next presented a statement from Nebraska Public Power District, for lighting at Highway 75, Account #211010041398, **having a credit balance in the amount of One Hundred One and 32/100 Dollars (\$101.32), 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 March 30, 2023 to May 1, 2023, in the amount of Three Thousand Forty-Six and no/100 Dollars (\$3,046.00).

There were next presented invoices from Wilbur-Ellis, for miscellaneous purchases for the District, as follows: (i) Invoice #28554, in the amount of Three Hundred Thirty-Five and 97/100 Dollars (\$335.97), and (ii) Invoice #29181, in the amount of Two Thousand One Hundred and no/100 Dollars (\$2,100.00); said

invoices being in the aggregate amount of Two Thousand Four Hundred Thirty-Five and 97/100 Dollars (\$2,435.97).

There was next presented a statement from Helena Agri-Enterprises, LLC, Statement dated May 25, 2023, in the amount of One Thousand Nine Hundred Forty-Seven and 93/100 Dollars (\$1,947.93).

There were next presented invoices from One Call Concepts, Inc., for line locates within the District, as follows: (i) Invoice #3040580, in the amount of Eleven and 20/100 Dollars (\$11.20), and (ii) Invoice #3050590, in the amount of One and 60/100 Dollars (\$1.60); said invoices being in the aggregate amount of Twelve and 80/100 Dollars (\$12.80). **The Board was next reminded that it has a credit balance in the amount of Fifty-Four and 39/100 Dollars (\$54.39), so no payment is due at this time.**

There was next presented an invoices from Nebraska Public Health Environmental Lab, for testing of water, Invoice #564518, having a zero balance.

There was next presented an invoice from Thompson, Dreessen & Dorner, Inc., engineers for the District, for services rendered in miscellaneous District maintenance matters through May 21, 2023, Invoice #157253, in the amount of Seven Hundred Fifty-Nine and no/100 Dollars (\$759.00).

There was next presented an invoice from Lake Wa-Con-Da Association, for the purchase of garage door opener parts, Invoice #2137, in the amount of Two Thousand Five Hundred Sixty and no/100 Dollars (\$2,560.00).

There was next presented correspondence from Jim Noerrlinger, presenting and recommending payment be made to AgriVision Equipment Group, for the purchase of a set of dual tires added to the newly rented John Deere tractor, in the amount of Seven Thousand Four Hundred Ninety-Two and 65/100 Dollars (\$7,492.65).

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. 6187 and 6188, 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 **June 11, 2028**, 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. 6187, for the amount of Three Hundred Thirteen and 50/100 Dollars (\$313.50), payable to Kraig J. Thelen.

Warrant No. 6188, for the amount of Four Thousand One Hundred Forty-Two and 50/100 Dollars (\$4,142.50), payable to Thompson, Dreessen & Dorner, 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. 6189 through 6195 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 **June 11, 2026**, 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. 6189, for the amount of Three Thousand Forty-Six and no/100 Dollars (\$3,046.00), payable to Omaha Public Power District, **Account #5843000090**.

Warrant No. 6190, for the amount of Two Thousand Four Hundred Thirty-Five and 97/100 Dollars (\$2,435.97), payable to Wilbur-Ellis.

Warrant No. 6191, for the amount of One Thousand Nine Hundred Forty-Seven and 93/100 Dollars (\$1,947.93), payable to Helena Agri-Enterprises, LLC.

Warrant No. 6192, for the amount of Seven Hundred Fifty-Nine and no/100 Dollars (\$759.00), payable to Thompson, Dreessen & Dorner, Inc.

Warrant No. 6193, for the amount of Two Thousand Five Hundred Sixty and no/100 Dollars (\$2,560.00), payable to Lake Wa-Con-Da Association.

Warrant No. 6194, for the amount of Five Thousand and no/100 Dollars (\$5,000.00), and Warrant No. 6195, for the amount of Two Thousand Four Hundred Ninety-Two and 65/100 Dollars (\$2,492.65), payable to AgriVision Equipment Group.

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 pending auction or private sale of the Noerrlinger Farms property surrounding the District. Jon Meyers explained to the residents in attendance that the District, as a government entity, simply did not have the ability to act quickly enough to buy the property at auction. Additionally, he noted that the District simply could not buy the property as a defensive acquisition without legitimate specific plans. He discussed the District might consider buying some of the property at some point in the future for use for a particular purpose such as for sanitary sewer operations but that was not an immediate option.

It was also noted that the District's legal counsel and engineers continued to review areas where additional easements might be desirable or necessary in light of the location of the District's water tank and well. It was discussed that the District would be able to condemn easements, if necessary, at some point in the future. The Trustees discussed that the District would not have the ability to materially impact development of the farm property. Although individual sites of access were not certain, a property development would be able to make use of the publicly dedicated roads of the District.

The next order of business was discussion of a study of the fish population of the lake. Jon Meyers reported that he had investigated the availability of both stocking the lake with fish and performing a study to identify what was necessary. He determined that there were no available providers in the State of Nebraska to conduct a survey but that a provider from the State of South Dakota would be able to perform a survey this year. The survey would be done by electrofishing whereby the fish in several different areas would be shocked to bring them to the surface at which point they would be counted and weighed. This process would allow the company performing the inspection to identify issues with the lake and solutions such as stocking desirable fish or removing undesirable fish.

Several residents discussed the quality of recreational fishing within the District. Reports were that large bass, which had been stocked in the lake several years ago, were far less commonly caught, with carp and catfish making out most of the catch in recent years. From those who were interested in fishing in the area, the consensus was that bass would be preferred. Jon Meyers noted that bass stocking would depend on the size of fish but that providers he had spoken to indicated that larger fish, delivered in the fall, were more likely to survive and breed and so fall of 2023 or 2024 would be the preferred stocking time. Thereafter, upon a motion duly made and seconded and upon a roll call vote, all the Trustees, Peggy Lawton, Matt Burnham, Jon Meyers and Wayne Breyfogle voted "Aye" with and Scott Pekarek voting "Nay" thereby adopting the following resolution:

RESOLVED that the District hereby should engage the services of a qualified electrofishing specialist to survey the fish in the lake and provide information as to how to improve the preferred fish population of the lake.

The next order of business was discussion regarding Windstream Communications. Jon Meyers explained that installation by Windstream was to be done pursuant to a revised set of plans but that the selected contractor had not been provided with the most recent plans. As such, the project was delayed until all parties were certain that the installation would be performed without harm to the levee and using existing infrastructure.

The next order of business was discussion regarding potential payment and reimbursement related to the Levee Improvement project. Jon Meyers reported that the primary contractor for the Levee Improvements was apparently insolvent and that the District and the United States Army Corp of Engineers were concerned about warranty work. The District is continuing to work with United States Army Corp of Engineers to identify and complete work where necessary. As the final contingency amounts due to the contractor had not been paid in full, Jon Meyers reported that he was hopeful any warranty costs would be less than the funds held.

The next order of business was discussion regarding efforts related to FEMA reimbursement for costs associated with the 2019 flood fight. Mark LaPuzza reported that all FEMA matters were functionally, if not technically, closed. He reported that Kraig Thelen and Jim Noerrlinger were continuing efforts to put together policies, procedures, and documentation to allow the District to maximize chances for FEMA reimbursement in the event of future disaster.

The next order of business was discussion regarding the road repair projects in the District. Jon Meyers reported that the contract had been awarded and that work would be performed over the summer. Specifically, he provided that asphalt work is likely to be done in the coming weeks, prior to the 4<sup>th</sup> of July Holiday but that chip seal work would be completed after the 4<sup>th</sup> of July.

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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.

Matt Burnham, 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 June 11, 2023, meeting.

A handwritten signature in black ink, appearing to read "Matt Burnham", written in a cursive style.

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Matt Burnham, Clerk