

**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 25th day of May, 2021, and to be held at 10250 Regency Circle, Suite 300, Omaha, Nebraska.

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

Absent: Jon Meyers.

Notice of the meeting was given in advance thereof by publication in The Plattsmouth Journal on May 20, 2021, 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 Chairman next presented the proof of publication of the Notice to Contractors for the construction of the improvements entitled Bullfrog Bay Water Main Relocation (Lake Wa-Con-Da).

The Clerk then presented the list of bids and bidders for such work specified within the Notice to Contractors with such bids having been taken on May 20, 2021, in accordance with the provisions of such Notice to Contractors. The bids having been individually reviewed by Thompson, Dreessen & Dorner, Inc., the District's engineers, and upon completion of such review, the engineers have submitted their Letter of Recommendation which the Clerk was directed to attach along with a copy of the bid tabulations to these minutes.

After the Trustees had received the Letter of Recommendation directed to the District, the Clerk reported that the recommendation of the engineers was the bid of Kerns Excavating Co., Inc. for Bullfrog Bay Water Main Relocation (Lake Wa-Con-Da) in the amount of Seventy-Five Thousand Forty-Three and no/100 Dollars (\$75,043.00) and that such amount be accepted. The Clerk reminded the Board that the Engineer's estimate of the construction cost of this project was Seventy Thousand Six Hundred Fifty and no./100 Dollars (\$70,650.00). The District's engineers then indicated that it was their opinion that the rebidding of such project would yield no more beneficial pricing to the District than that presented by the previously specified bid and again recommended acceptance of such bid. The Clerk further reported that the bid of Kerns Excavating Co., Inc. was accompanied by the required bid bond, contract and maintenance bond in the amount of 100% of the contract price.

After considerable discussion by the Board, the following resolution was duly moved and seconded upon a roll call vote of the Trustees, Peggy L. Lawton, Wayne Breyfogle, Matt Burnham and Scott Pekarek 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 the bid of Kerns Excavating Co., Inc. in the total amount of \$75,043.00 for the construction of Bullfrog Bay Water Main Relocation (Lake Wa-Con-Da) be accepted and approved and that the Clerk and Chairman of the District be and they hereby are authorized and directed to execute the contract of Kerns Excavating Co., Inc. for and on behalf of the District.

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

There was next presented a statement from Thompson, Dreesen & Dorner, Inc., engineers for the District, for service rendered in connection with the USACE Levy Project, Invoice #143706, in the amount of Five Thousand Six Hundred Twenty-Three and 75/100 Dollars (\$5,623.75).

There was next presented a statement from Kraig J. Thelen, for services rendered in connection with Federal Disaster DR 4420 NE, Statement No. 26, for the month of April, in the amount of Six Hundred Thirty-Six and 50/100 Dollars (\$636.50).

The Clerk next directed the attention of the Board of Trustees to the fact that D.A. Davidson & Co. will purchase Six Thousand Two Hundred Sixty and 25/100 Dollars (\$6,260.25) in warrants at this time and that the contracted charge for such purchase of warrants is two percent (2%) or One Hundred Twenty-Five and 21/100 Dollars (\$125.21) 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 were next presented statements from Nebraska Public Power District, for lighting at Highway 75, Account #211010041398, **having a credit balance in the amount of Eighty-Four and 32/100 Dollars (\$84.32), so no payment is due at this time.**

There were next presented statements of Summary Account #5843000090 from Omaha Public Power District, for street lights and other electrical services, Statement dated April 6, 2021, in the amount of One Thousand Five Hundred Ninety-One and 13/100 Dollars (\$1,591.13), and (ii) Statement dated May 5, 2021, in the amount of Two Thousand Nine Hundred Eighty-Eight and 30/100 Dollars (\$2,988.30); said statements being in the aggregate amount of Four Thousand Five Hundred Seventy-Nine and 43/100 Dollars (\$4,579.43).

There was next presented a statement from Helena Agri-Ent., LLC, for the purchase of tall fescue and fertilizers, Invoice #269059369, in the amount of One Thousand Five Hundred Fifty-Six and 66/100 Dollars (\$1,556.66).

There was next presented a statement from Nebraska Public Health Environmental Lab, for water testing, Invoice #538191, in the amount of Fifteen and no/100 Dollars (\$15.00).

There was next presented a statement from One Call Concepts, Inc., for line locates within the District, Invoice #1040569, in the amount of Ten and 74/100 Dollars (\$10.74). **The Board was next reminded that it has a credit balance in the amount of Sixty-Four and 15/100 Dollars (\$64.15), so no payment is due at this time.**

There was next presented a statement from Mid America Meter, Inc., for parts needed for the water main shaft, Invoice #021-3721, in the amount of One Thousand Ninety-Five and 73/100 Dollars (\$1,095.73).

There was next presented a statement from Thompson, Dreessen & Dorner, Inc., engineers for the District, for services rendered in miscellaneous District matters through May 12, 2021, Invoice #143705, in the amount of Two Hundred Seventy and no/100 Dollars (\$270.00).

There were next presented statements from Pansing Hogan Ernst & Bachman LLP, attorneys for the District, for legal services performed through April 30, 2021, as follows: (i) Miscellaneous District matters, in the aggregate amount of Four Thousand Seven Hundred Thirty-Seven and 74/100 Dollars (\$4,737.74), and (ii) March 2019 Flood, in the amount of Four Thousand Six Hundred Eighty-Eight and no/100 Dollars (\$4,688.00); said statements being in the aggregate amount of Nine Thousand Four Hundred Twenty-Five and 74/100 Dollars (\$9,425.74).

There was next presented correspondence from Thompson, Dreessen & Dorner, Inc., engineers for the District, presenting and recommending payment in favor of JSM Concrete, for Basketball Court – Flood Fight 2019, Invoice #1058, in the amount of Sixteen Thousand Eight Hundred and no/100 Dollars (\$16,800.00).

There was next presented correspondence from Thompson, Dreessen & Dorner, Inc., engineers for the District, presenting and recommending payment in favor of Gana Trucking and Excavating Inc., for Beach Sand Delivered – Flood Fight 2019, Invoice #44164, in the amount of Nine Thousand Five Hundred Two and 53/100 Dollars (\$9,502.53).

There was next presented a Receipt from Jim Noerrlinger, presenting and requesting reimbursement to himself, for a payment made to Nebraska Public Health Environmental Laboratory, for water testing kit and sample bottles, Invoice #536211, in the amount of One Hundred Sixty-Six and 03/100 Dollars (\$166.03).

There was next presented correspondence from Jim Noerrlinger, presenting and requesting payment in favor of Lake Waconda Association, for miscellaneous expense, as follows: (i) Fry & Associates, Inc., for playground repairs, Invoice #32247, in the amount of Three Hundred Fifty and 55/100 Dollars (\$350.55), (ii) American Water Works Association, for membership dues, in the amount of Three Hundred Twenty-Eight and no/100 Dollars (\$328.00), and (iii) Receipt from UPS, for shipping of flow meter for repair, in the amount of Forty and 22/100 Dollars (\$40.22); said invoices being in the aggregate amount of Seven Hundred Eighteen and 77/100 Dollars (\$718.77).

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. 5898 through 5901, 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 five percent (5%) per annum (interest to be payable on February 10 of each year) and to be redeemed no later than May 25, 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. 5898, for the amount of Five Thousand and no/100 Dollars (\$5,000.00), and Warrant No. 5899, for the amount of Six Hundred Twenty-Three and 75/100 Dollars (\$623.75), payable to Thompson, Dreessen & Dorner, Inc.

Warrant No. 5900, for the amount of Six Hundred Thirty-Six and 50/100 Dollars (\$636.50), payable to Kraig J. Thelen.

Warrant No. 5901, for the amount of One Hundred Twenty-Five and 21/100 Dollars (\$125.21), 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. 5902 through 5916, 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 May 25, 2024, 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. 5902, for the amount of Four Thousand Five Hundred Seventy-Nine and 43/100 Dollars (\$4,579.43), payable to Omaha Public Power District, Account #5843000090.

Warrant No. 5903, for the amount of One Thousand Five Hundred Fifty-Six and 66/100 Dollars (\$1,556.66), payable to Helena Agi-Ent., LLC.

Warrant No. 5904, for the amount of Fifteen and no/100 Dollars (\$15.00), payable to Nebraska Public Health Environmental Lab.

Warrant No. 5905, for the amount of One Thousand Ninety-Five and 73/100 Dollars (\$1,095.73), payable to Mid America Meter, Inc.

Warrant No. 5906, for the amount of Two Hundred Seventy and no/100 Dollars (\$270.00), payable to Thompson, Dreessen & Dorner, Inc.

Warrant No. 5907, for the amount of Five Thousand and no/100 Dollars (\$5,000.00), and Warrant No. 5908, for the amount of Four Thousand Four Hundred Twenty-Five and 74/100 Dollars (\$4,425.74), payable to Pansing Hogan Ernst & Bachman LLP.

Warrant Nos. 5909 through 5911, each for the amount of Five Thousand and no/100 Dollars (\$5,000.00), and Warrant No. 5912, for the amount of One Thousand Eight Hundred and no/100 Dollars (\$1,800.00), payable to JSM Concrete.

Warrant No. 5913, for the amount of Five Thousand and no/100 Dollars (\$5,000.00), and Warrant No. 5914, for the amount of Four Thousand Five Hundred Two and 53/100 Dollars (\$4,502.53), payable to Gana Trucking and Excavating Inc.

Warrant No. 5915, for the amount of One Hundred Sixty-Six and 03/100 Dollars (\$166.03), payable to Jim Noerrlinger.

Warrant No. 5916, for the amount of Seven Hundred Eighteen and 77/100 Dollars (\$718.77), 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 next order of business was discussion regarding ongoing FEMA projects. Kraig Thelen reported that another project received partial denial, with the value of the denied improvements being approximately \$180,000.00. This is in addition to the street repair project which had been denied outright and was under appeal. Kraig noted that several of the grounds for denial required further attention and that the District would be positioned to appeal at least some of the bases for denial. It was also discussed that the road repair project, previously denied and under appeal, had been extended by a request from the Region 7 Appeals Office and response to a request for information. Kraig Thelen noted that the street repair project had a variety of bases for denial, from questions regarding maintenance, to whether the project was open to the public, to timeliness of appeal based upon electronic document opening and access.

The next order of business was discussion regarding the pending United States Army Corp of Engineer ("USACE") project. Ed Hobza provided an update that discussions continued and developments have moved towards preparation for the work. There was some discussion as to whether the project details had to be in place on or before June 30 or whether the matter was still in process.

There was next a discussion regarding the sale of the home purchased from Brad Kothenbeutel to Dana Altman. The Trustees were reminded that the property was under contract and that the sale of the property was delayed by virtue of the District addressing concerns regarding the exact property to be conveyed and the nature of its reservation of rights. Ed Hobza noted that the Cass County Zoning Commission had approved the subdivision of the property via administrative lot split and noted he was beginning that process. The Trustees noted that the sale of the property should be completed as soon as reasonably practicable under the circumstances.

Scott Pekarek noted that it appeared that utilities for the property continued to be paid by the District. Mark LaPuzza noted, pursuant to the Purchase Agreement, those costs were to be paid by the Buyer following Buyer's occupation of the property, regardless of the actual billing by the utilities. Mr. LaPuzza noted that the additional costs would be addressed in the closing statement for the sale of the property if not otherwise reimbursed by the Purchaser, and agreed to provide all Trustees with a copy of the closing statement prior to closing to address any questions that may arise.

The next order of business was discussion regarding the purchase of property for Noerrlinger Farms. Matt Burnham identified that he was scheduled to meet with an appraiser on the property in mid-June. The Trustees discussed that there was some question as to whether an actual appraisal would be produced shortly following that meeting or whether the appraisal would take weeks or months to produce. Matt noted he was unsure and would follow up with the question but all parties noted that the matter might require further consideration after the actual inspection was done.

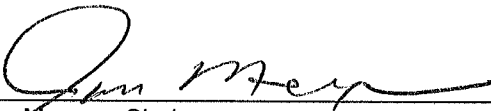
The next order of business was discussion regarding dust on the streets in the neighborhood. The Trustees discussed that treatment of gravel areas and other options had been unsuccessful in previous years and saw no reason to proceed with unproductive treatments given the history of the District.

In light of discussions regarding the Noerrlinger Farms property, the Trustees discussed that they had every intention of cooperating with the Noerrlingers, and expected the Noerrlingers to continue to be good and fair business partners. However, in an abundance of caution, the Trustees noted that, as was done with the residential properties, it may be appropriate at this time to institute condemnation proceedings. Although there would be no immediate attention to pursue these matters towards referee hearings and actual condemnation, fulfilling the notice and service requirements would allow for the condemnation to continue if there was a significant change in the involvement of the parties. Mr. LaPuzza was directed to prepare the condemnation information and, prior to filing, provide the copies of the pleadings to Jon Meyers and Matt Burnham, so that the property owners understood the nature of the process.

**[THE BALANCE OF THIS PAGE LEFT INTENTIONALLY BLANK –  
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 May 25, 2021, meeting.

  
\_\_\_\_\_  
Jon-Meyers, Clerk