

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 2nd day of December, 2022, at 10250 Regency Circle, Suite 300, Omaha, Nebraska.

Present were: Peggy L. Lawton, Jon Meyers, Matt Burnham and Wayne Breyfogle. Also attending was Mark J. LaPuzza, attorney for the District, Ed Hobza, engineer for the District, Kraig Thelen, John Kuehl, of D.A. Davidson & Co., and Jim Noerrlinger.

Absent: Scott Pekarek.

Notice of the meeting was given in advance thereof by publication in The Plattsmouth Journal on November 24, 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 Kraig J. Thelen, for services rendered in connection with Federal Disaster DR 4420 NE, Invoice #44, in the amount of Four Hundred Fifty-Six and no/100 Dollars (\$456.00).

There was next presented correspondence from Thompson, Dreessen & Dorner, Inc., presenting and recommending payment in favor of Westover Rock & Sand, Inc., for the project entitled USACE Levee Project – Trailer Parking Area, as follows: (i) Invoice #13743, in the amount of Seventeen Thousand Nine Hundred Sixty-Three and 81/100 Dollars (\$17,963.81), and (ii) Invoice #13744, in the amount of Five Thousand Thirty-Three and 47/100 Dollars (\$5,033.47); said invoices being in the aggregate amount of Twenty-Two Thousand Nine Hundred Ninety-Seven and 28/100 Dollars (\$22,997.28).

The Clerk next directed the attention of the Board of Trustees to the fact that D.A. Davidson & Co. will purchase Twenty-Three Thousand Four Hundred Fifty-Three and 28/100 Dollars (\$23,453.28) in warrants at this time and that the contracted charge for such purchase of warrants is two percent (2%) or Four Hundred Sixty-Nine and 07/100 Dollars (\$469.07) 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. **{This warrant was cancelled due to the District having sufficient funds, so no fee is due to D.A. Davidson & Co.}**.

There were next presented statements from Nebraska Public Power District, for lighting at Highway 75, Account #211010041398, for October and November, 2022, **having a small credit balance in the amount of Forty-Three and 24/100 Dollars (\$43.24). The Board next directed advance payment to be made in the amount of One Hundred Fifty and no/100 Dollars (\$150.00).**

There was next presented a statement from Omaha Public Power District for street lights and other electrical services, Account #5843000090, from September 29, 2022 to October 31, 2022, in the amount of Two Thousand Five and 62/100 Dollars (\$2,005.62).

There were next presented invoices from Layne Christensen Company, for services performed, as follows: (i) Invoice #2373510, for water well maintenance testing, in the amount of Seven Hundred Fifty and no/100 Dollars (\$750.00), and (ii) Invoice #2373511, for East Well VFD Repair, in the amount of Seven Thousand Six Hundred Six and 31/100 Dollars (\$7,606.31); said statements being in the aggregate amount of Eight Thousand Three Hundred Fifty-Six and 31/100 Dollars (\$8,356.31).

There was next presented correspondence from Thompson, Dreessen & Dorner, Inc., presenting and recommending payment in favor of Noerrlinger Construction Inc., for rental of skid loader and excavator for miscellaneous District maintenance, from February 6, 2022 through October 7, 2022, in the amount of Three Thousand Two Hundred Thirty-Nine and no/100 Dollars (\$3,239.00).

There was next presented an invoice from Wilber-Ellis, for the purchase of herbicides, Invoice #25659, in the amount of One Thousand Seventy-Two and 50/100 Dollars (\$1,072.50).

There was next presented an invoice from Midwest Laboratories Inc., for the purchase of three lake water packages, Invoice #1108501, in the amount of Two Hundred Ninety-One and no/100 Dollars (\$291.00).

There were next presented invoices from Thompson, Dreessen & Dorner, Inc., engineers for the District, for services rendered in miscellaneous District matters through November 6, 2022, as follows: (i) Invoice #153338, in the amount of Two Thousand Two Hundred Eight and no/100 Dollars (\$2,208.00), and (ii) Invoice #153843, in the amount of Five Hundred Seventy-Two and 50/100 Dollars (\$572.50); said statements being in the aggregate amount of Two Thousand Seven Hundred Eighty and 50/100 Dollars (\$2,780.50).

There were next presented invoices from Nebraska Public Health Environmental Lab, for water testing, as follows: (i) Invoice #557111, **having a zero balance**, and (ii) Invoice #558178, **having a zero balance**.

There was next presented a statement from Pansing Hogan Ernst & Bachman LLP, attorneys for the District, for legal services performed in miscellaneous District matters through October 31, 2022, in the amount of Eleven Thousand Two Hundred Twenty-Five and no/100 Dollars (\$11,225.00), and costs advanced in the amount of One Thousand Three Hundred Fifty-Three and 29/100 Dollars (\$1,353.29); said statement being in the aggregate amount of Twelve Thousand Five Hundred Seventy-Eight and 29/100 Dollars (\$12,578.29).

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. 6123 through 6129, 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 **December 2, 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. 6123, for the amount of Four Hundred Fifty-Six and no/100 Dollars (\$456.00), payable to Kraig J. Thelen.

Warrant Nos. 6124 through 6127, each for the amount of Five Thousand and no/100 Dollars (\$5,000.00), and Warrant No. 6128, for the amount of Two Thousand Nine Hundred Ninety-Seven and 28/100 Dollars (\$2,997.28), payable to Westover Rock & Sand, Inc.

~~Warrant No. 6129, for the amount of Four Hundred Sixty-Nine and 07/100 Dollars (\$469.07), payable to D.A. Davidson & Co. **{CANCELLED}**~~

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. 6130 through 6140 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 **December 2, 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. 6130, for the amount of One Hundred Fifty and no/100 Dollars (\$150.00), payable to Nebraska Public Power District, Account #211010041398.

Warrant No. 6131, for the amount of Two Thousand Five and 62/100 Dollars (\$2,005.62), payable to Omaha Public Power District, Account #5843000090.

Warrant No. 6132, for the amount of Five Thousand and no/100 Dollars (\$5,000.00), and Warrant No. 6133, for the amount of Three Thousand Three Hundred Fifty-Six and 31/100 Dollars (\$3,356.31), payable to Layne Christensen Company.

Warrant No. 6134, for the amount of Three Thousand Two Hundred Thirty-Nine and no/100 Dollars (\$3,239.00), payable to Noerrlinger Construction Inc.

Warrant No. 6135, for the amount of One Thousand Seventy-Two and 50/100 Dollars (\$1,072.50), payable to Wilber-Ellis.

Warrant No. 6136, for the amount of Two Hundred Ninety-One and no/100 Dollars (\$291.00), payable to Midwest Laboratories Inc.

Warrant No. 6137, for the amount of Two Thousand Seven Hundred Eighty and 50/100 Dollars (\$2,780.50), payable to Thompson, Dreesen & Dorner, Inc.

Warrant Nos. 6138 and 6139, for the amount of Five Thousand and no/100 Dollars (\$5,000.00), and Warrant No. 6140, for the amount of Two Thousand Five Hundred Seventy-Eight and 29/100 Dollars (\$2,578.29), payable to Pansing Hogan Ernst & Bachman LLP.

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 a discussion regarding the sale of 4120 Bull Frog Bay Drive to Image Arts, LLC and Dana Altman. Mark LaPuzza informed the Trustees that the sale closed with a payment of \$323,666.92 being deposited into the construction fund of the District. As the property was purchased as a part of a construction fund project, the funds were appropriately placed into the construction fund.

The next order of business was discussion regarding a response from the Federal Emergency Management Agency regarding recent ruling on the District's first appeal. Federal Emergency Management Agency upheld its original decision in denying approximately \$184,000.00 worth of funding in reimbursements to the District. There was discussion regarding the basis for the unsuccessful appeal being a lack of documentation and record keeping relating to pricing, contracting, fuel and material use and decisions regarding necessity of flood fighting activities. Additionally, the interpretation of the Federal Emergency Management Agency's regulations whether the public roads were providing a benefit to the general public was raised as an issue as well. There was significant discussion regarding the likelihood of success in an appeal. Ultimately, the District decided to take no action in making a second appeal or appeal by other means.

The next order of business was discussion regarding the United States Army Corp of Engineers Levee Project. Jon Meyers noted that work is continuing. The Trustees discussed that while some of the work is weather dependent and some matters, such as seeding, cannot be fully identified as successful prior to spring, there is a hope that the material work will be completed soon.

The next order of business was discussion regarding a request for an easement for laterals servicing Lot 22 of the District. The Trustees directed Jim Noerrlinger to work with the property owner and document easement as necessary and appropriate consistent with historic actions of the District.

The next order of business was discussion regarding the lake fill pump. Jim Noerrlinger was able to determine that the pump was operating at reduced capacity, which explained the difficulty in filling the lake last year. The Trustees directed Jim Noerrlinger to make appropriate repairs to the pump and, as feasible, provide for the installation of an appropriate surge protector for the pump. Jim Noerrlinger presented an estimate from Layne Christensen Company for the removal, service and reinstallation of the pump at a cost of \$10,900.00. Thereafter, upon a motion duly made and seconded and upon a roll call vote, all the Trustees, Peggy Lawton, Jon Meyers and Wayne Breyfogle voted "Aye" with none voting "Nay" thereby adopting the following resolution:

RESOLVED that the District hereby accepts the bid received by Layne Christensen Company for rebuilding of the pump.

The next order of business was discussion regarding reimbursement of the Lake Wa-Con-Da Homeowners Association for expenses of the Lake Wa-Con-Da Homeowners Association and service to the District. Specifically, the Lake Wa-Con-Da Homeowners Association and the District had negotiated a monthly reimbursement of \$8,500.00 per month to defray certain costs including, without limitation, the payments to Jim Noerrlinger. It was agreed that such payments were not reflected in amounts advanced for the first half

of the 2023 calendar year. Therefore, an additional invoice of \$14,000.00 was provided by the Lake Wa-Con-Da Homeowners Association to the District to increase total payments to the agreed upon amount. This procedure was previously agreed upon and the invoice now delivered, payment will be made at the next meeting.

The next order of business was discussion regarding a pump rebuild cost. Jim Noerrlinger reported that the lake fill pump needed to be rebuilt at an estimated cost of approximately \$1,000.00. The Trustees directed Jim Noerrlinger to go forward with having the rebuild performed and to present the invoice for payment at the next meeting.

The next order of business was discussion regarding the caretaker's house. It was noted that the door to the house was previously worn and had broken. It was also reported that the cost of repairing the door was complicated by its non-standard dimensions. The Trustees discussed that the door should be replaced with a standard size door. It was estimated that the cost of such repair and replacement would be approximately \$14,000.00. The Trustees agreed to direct such repair to be made and the cost associated therewith should be invoiced to the District in advance of the next meeting.

The Clerk then presented for the consideration of the Trustees the plans and specifications for Lake Wa-Con-Da 2023 Chip Seal project prepared by Thompson, Dreessen & Dorner, Inc., the consulting engineers for the District, for the cost of such improvement in the total amount of Three Hundred Nine Thousand Seven Hundred Seventy-Seven and no/100 Dollars (\$309,777.00). 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, Matt Burnham and Wayne Breyfogle voted "Aye" with none voting "Nay" thereby adopting the following resolution:

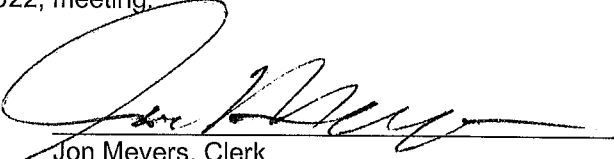
RESOLVED, by the Board of Trustees of Sanitary and Improvement District No. 1 of Cass County, Nebraska, that a hearing be had on the proposed Resolution of Advisability and Necessity for the construction of Lake Wa-Con-Da 2023 Chip Seal at the Cobb Community Center located within the Lake Wa-Con-Da subdivision in Union, Cass County, Nebraska, at 1:00 p.m. on January 19, 2023, 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 5th day of January, 2023, and ending on the 12th day of January, 2023, 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.

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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 December 2, 2022, meeting.



Jon Meyers, Clerk