

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 8th day of May, 2023, at the 10250 Regency Circle, Suite 300, Omaha, 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, Ed Hobza of Thompson, Dreessen & Dorner, Inc., Kraig J. Thelen, and Jim Noerrlinger.

Absent: None.

Notice of the meeting was given in advance thereof by publication in the Omaha World Herald on May 2, 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 was next presented correspondence from Thompson, Dreessen & Dorner, Inc., engineers for the District, presenting and recommending payment in favor of Noerrlinger Farms, Inc., for the USACE Levee project concerning the Fill Material Purchase Agreement, in the amount of Thirty Thousand Two Hundred Twenty-Two and 12/100 Dollars (\$30,222.12).

There was next presented correspondence from Thompson, Dreessen & Dorner, Inc., engineers for the District, presenting and recommending payment in favor of Westover Rock & Sand, Inc., for the USACE Levee project, for the delivery of rock to field pumping access road, Invoice #14132, in the amount of Two Thousand Forty-Two and 72/100 Dollars (\$2,042.72).

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. 47, for the month of January, in the amount of One Hundred Sixty-One and 50/100 Dollars (\$161.50), (ii) Statement No. 48, for the month of February, in the amount of One Hundred Ninety and no/100 Dollars (\$190.00), (iii) Statement No. 49, for the amount of Two Thousand Two Hundred Forty-Two and no/100 Dollars (\$2,242.00), and (iv) Statement No. 50 in the amount of Six Hundred Thirty-Six and 50/100 Dollars (\$636.50); said statements being in the aggregate amount of Three Thousand Two Hundred Thirty and no/100 Dollars (\$3,230.00).

There were next presented invoices from Thompson, Dreessen & Dorner, Inc., engineers for the District, for services rendered in construction-related matters through April 16, 2023, as follows: (i) Invoice #155940, in the amount of Four Hundred Eighty-Seven and 50/100 Dollars (\$487.50), (ii) Invoice #155941, in the amount of Six Hundred Eighty-One and 74/100 Dollars (\$681.74), (iii) Invoice #156604, in the amount

of Three Thousand Five Hundred One and 25/100 Dollars (\$3,501.25), and (iv) Invoice #156605, in the amount of Fourteen Thousand Three Hundred Ten and 75/100 Dollars (\$14,310.75); said invoices being in the aggregate amount of Eighteen Thousand Nine Hundred Eighty-One and 24/100 Dollars (\$18,981.24)

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 One Hundred Sixteen and 64/100 Dollars (\$116.64), 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 #584300090, from December 30, 2022 to March 30, 2023, in the aggregate amount of Four Thousand Six Hundred Twenty-Nine and 13/100 Dollars (\$4,629.13).

There was next presented correspondence from Thompson, Dreessen & Dorner, Inc., engineers for the District, presenting and recommending payment in favor of Noerrlinger Construction, Inc., for equipment rental to perform miscellaneous tasks throughout the District, in the amount of Two Thousand Six Hundred Ten and no/100 Dollars (\$2,610.00).

There was next presented a statement from Frontier Cooperative, for the purchase of propane, Invoice #022055, in the amount of Four Hundred Fifty-Eight and 67/100 Dollars (\$458.67).

There were next presented invoices from One Call Concepts, Inc., for line locates within the District, as follows: (i) Invoice #3010577, in the amount of One and 18/100 Dollars (\$1.18), (ii) Invoice #3020577, in the amount of Two and 40/100 Dollars (\$2.40), and (iii) Invoice #3030579, in the amount of Fifteen and 58/100 Dollars (\$15.58); said invoices being in the aggregate amount of Nineteen and 16/100 Dollars (\$19.16). **The Board was next reminded that it has a credit balance in the amount of Sixty-Nine and 97/100 Dollars (\$69.97), so no payment is due at this time.**

There was next presented an invoice from Masimore Magnuson & Associates, P.C., accountants for the District for accounting services performed, Invoice #62788, in the amount of Eleven Thousand Fifty and no/100 Dollars (\$11,050.00).

There were next presented invoices from Nebraska Public Health Environmental Lab, for testing of water, as follows: (i) Invoice #562261, having a zero balance, and (ii) Invoice #563406, having a zero balance.

There was next presented email correspondence from Jon Meyers, presenting and requesting reimbursement for upgrading the SID website, in the amount of Two Hundred Thirty-Nine and 73/100 Dollars (\$239.73).

There was next presented email correspondence from Jim Noerrlinger, presenting an Invoice from Layne Christensen Company, for the purchase of new booster pump in the well house for drinking water, Invoice #2438791, in the amount of Two Thousand One Hundred Three and 25/100 Dollars (\$2,103.25).

There were next presented invoices from Thompson, Dreessen & Dorner, Inc., engineers for the District, for services rendered in miscellaneous District maintenance matters through April 9, 2023, as follows: (i) Invoice #155939, in the amount of Six Hundred and no/100 Dollars (\$600.00), and (ii) Invoice #156575, in the amount of Seven Hundred Twelve and 50/100 Dollars (\$712.50); said invoices being in the aggregate amount of One Thousand Three Hundred Twelve and 50/100 Dollars (\$1,312.50).

There was next presented an invoice from Wilbur-Ellis, for miscellaneous maintenance purchases, Invoice #27406, in the amount of One Thousand One Hundred Sixty-Four and 63/100 Dollars (\$1,164.63).

There was next presented a statement from Pansing Hogan Ernst & Bachman LLP, attorneys for the District, for legal services performed through April 30, 2023, in the amount of Eight Thousand Three Hundred Nineteen and no/100 Dollars (\$8,319.00), and costs advanced in the amount of Four Hundred Thirty-One and 38/100 Dollars (\$431.38); said statement being in the aggregate amount of Eight Thousand Seven Hundred Fifty and 38/100 Dollars (\$8,750.38).

There was next presented an invoice from Lake Wa-Con-Da Association, for miscellaneous expenses paid on behalf of the District, for replacing faucet to collect water samples and Membership Renewal for the Nebraska Rural Water Association, Invoice #2131, in the amount of Three Hundred Fifty-Seven and 49/100 Dollars (\$357.49).

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. 6161 through 6173, 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 **May 8, 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 Nos. 6161 through 6166, each for the amount of Five Thousand and no/100 Dollars (\$5,000.00), and Warrant No. 6167, for the amount of Two Hundred Twenty-Two and 12/100 Dollars (\$222.12), payable to Noerrlinger Farms, Inc.

Warrant No. 6168, for the amount of Two Thousand Forty-Two and 72/100 Dollars (\$2,042.72), payable to Westover Rock & Sand, Inc.

Warrant No. 6169, for the amount of Three Thousand Two Hundred Thirty and no/100 Dollars (\$3,230.00), payable to Kraig J. Thelen.

Warrant Nos. 6170 through 6172, each for the amount of Five Thousand and no/100 Dollars (\$5,000.00), and Warrant No. 6173, for the amount of Three Thousand Nine Hundred Eighty-One and 24/100 Dollars (\$3,981.24), 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. 6174 through 6186 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 8, 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. 6174, for the amount of Four Thousand Six Hundred Twenty-Nine and 13/100 Dollars (\$4,629.13), payable to Omaha Public Power District, **Account #5843000090**.

Warrant No. 6175, for the amount of Two Thousand Six Hundred Ten and no/100 Dollars (\$2,610.00), payable to Noerrlinger Construction, Inc.

Warrant No. 6176, for the amount of Four Hundred Fifty-Eight and 67/100 Dollars (\$458.67), payable to Frontier Cooperative.

Warrant Nos. 6177 and 6178, each for the amount of Five Thousand and no/100 Dollars (\$5,000.00), and Warrant No. 6179, for the amount of One Thousand Fifty and no/100 Dollars (\$1,050.00), payable to Masimore Magnuson & Associates, P.C.

Warrant No. 6180, for the amount of Two Hundred Thirty-Nine and 73/100 Dollars (\$239.73), payable to Jon Meyers.

Warrant No. 6181, for the amount of Two Thousand One Hundred Three and 25/100 Dollars (\$2,103.25), payable to Layne Christensen Company.

Warrant No. 6182, for the amount of One Thousand Three Hundred Twelve and 50/100 Dollars (\$1,312.50), payable to Thompson, Dreesen & Dorner, Inc.

Warrant No. 6183, for the amount of One Thousand One Hundred Sixty-Four and 63/100 Dollars (\$1,164.63), payable to Wilbur-Ellis.

Warrant No. 6184, for the amount of Five Thousand and no/100 Dollars (\$5,000.00), and Warrant No. 6185, for the amount of Three Thousand Seven Hundred Fifty and 38/100 Dollars (\$3,750.38), payable to Pansing Hogan Ernst & Bachman LLP.

Warrant No. 6186, for the amount of Three Hundred Fifty-Seven and 49/100 Dollars (\$357.49), payable to Lake Wa-Con-Da 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.

There was next presented a receipt from the Cass County Treasurer representing a deposit to the District's general fund for cash rent from Noerlinger Farms, Inc., in the amount of Eleven Thousand Eighteen and no/100 Dollars (\$11,018.00).

The next order of business was discussion regarding the Army Corp of Engineers levy improvement project. Jon Meyers noted that KEU, the primary contractor for the project, had been reported to be under financial difficulties. The Trustees expressed some concern as to whether KEU would be in business long enough to satisfy warranty concerns. In particular, the Trustees discussed concerns that the seeding of the levee on the river side of the levee did not appear to have taken sufficiently and the area would need to be reseeded. The Trustees discussed that correspondence should be sent to Andy Winslow of the Army Corp of Engineers to express this concern.

The next order of business was discussion regarding equipment purchasing and budgeting. The Trustees discussed that it would be appropriate to consider future purchases in planning for the budget for the upcoming year. In particular, the sale of an existing tractor and the purchase of a skid loader and dump truck or dump trailer was discussed. It was also discussed that John Deere requested certification of the District's receipt of the recently leased tractor.

The next order of business was discussion regarding utility systems for the District. It was discussed that the District may need to conduct a survey on waterlines in the District to satisfy certain new Federal requirements. Legal counsel for the District was asked to research the requirements under the service line inventory rules.

The next order of business was discussion regarding construction activities proposed on Lot 106. The Trustees discussed that the Lake Wa-con-da Homeowners Association is in charge of general approval of construction projects. However, where improvements would involve the property of the District, the District may still be required to give permissions or easements in some means. The Trustees discussed that these matters should be addressed by the Board on a case-by-case basis to address any particular concerns that might arise in an individual project. With respect to Lot 106, the proposed construction appears to extend into the right-of-way of the District roads. The Trustees discussed that this proposed improvement was not inconsistent with similar nearby uses and that the Trustees agreed to grant permission to the extent that the District was able to do so. The owner had not confirmed that the construction would be completed, even if approved, so the proposed easement would not be recorded unless the project was actually commenced. Thereafter, upon a motion duly made and seconded and upon a roll call vote, all the Trustees, Peggy L. Lawton, Matt Burnham, Jon Meyers, Wayne Breyfogle, and Scott Pekarek voted "Aye" with none voting "Nay" thereby adopting the following resolution:

RESOLVED that the Board of Trustees of the District hereby authorizes a grant of permission by the District for consent to the construction of certain improvements related to Lot 106, pursuant to the terms and conditions of an appropriate easement agreement.

RESOLVED FURTHER that Jon Meyers is hereby authorized and directed to execute such easements and other documents as may be reasonably necessary to effectuate this resolution.

The next order of business was discussion regarding the request by the owner of Lot 347 to install a moveable shed on his property which would extend across the property line onto property owned by the District. The Trustees discussed that the District should consent to such installation, provided that the District is authorized to require the removal of or remove the shed at some point in the future. Thereafter, upon a motion duly made and seconded and upon a roll call vote, all the Trustees, Peggy L. Lawton, Matt Burnham, Jon Meyers, Wayne Breyfogle, and Scott Pekarek voted "Aye" with none voting "Nay" thereby adopting the following resolution:

RESOLVED that the Board of Trustees of the District hereby authorizes the owner of Lot 347 to install a shed on the lot encroaching upon the property of the District subject to the terms and conditions and the appropriate easement agreement.

RESOLVED FURTHER that Jon Meyers is hereby authorized and directed to execute such easement and other documents as may be reasonably necessary to effectuate this resolution.

The next order of business was discussion regarding the existing road repair project. The Trustees discussed that the project had been let out to bid. The Trustees discussed a desire for a preconstruction meeting with the contractor to make sure that all relevant information was considered in the performance of the project.

The next order of business was discussion regarding the fish populations in the lake. The Trustees discussed that the District engineer should coordinate with appropriate state personnel to identify means for improvement of the fish population of the District.

The next order of business was discussion regarding septic systems for individual properties in the District. The Trustees discussed that standards for the replacement of existing septic systems continued to be more burdensome. There was some discussion that in the event that an owner was unable to obtain a permit to replace a septic system, a pump and tank might be required of individual owners. Jim Noerrlinger reported that certain grant funds and loan programs might be available to the District were the District to install a waste treatment or lagoon system but that such funding appeared to be limited because the District did not have water meters for individual properties.

**[THE BALANCE OF THIS PAGE LEFT INTENTIONALLY BLANK –  
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 May 8, 2023, meeting.

A handwritten signature in black ink, appearing to read "Matt Burnham", written over a horizontal line.

Matt Burnham, Clerk