

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 25th day of July, 2024, at 9:00 a.m., at 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, Doug Kellner, Thompson, Dreessen & Dorner, Inc., and Jim Noerrlinger.

Absent: None.

Notice of the meeting was given in advance thereof by publication in the Omaha World Herald on July 18, 2024 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, as follows: (i) Statement No. 63, for the amount of One Hundred Ninety and no/100 Dollars (\$190.00), and (ii) Statement No. 64, in the amount of One Thousand Three Hundred Seventy-Seven and 50/100 Dollars (\$1,377.50); both statements being in the aggregate amount of One Thousand Five Hundred Sixty-Seven and 50/100 Dollars (\$1,567.50).

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 Ninety-Seven and 47/100 Dollars (\$97.47).**

There were next presented statements from Omaha Public Power District for street lights and other electrical services, Account #5843000090, from April 2, 2024 to July 2, 2024, in the aggregate amount of Six Thousand Seven Hundred Eighty-Eight and 81/100 Dollars (\$6,788.81).

There was next presented correspondence from Thompson, Dreessen & Dorner, Inc., engineers for the District, presenting and recommending payment in favor of Omni Engineering, for removal and replacement of asphalt roads throughout the District, Invoice #136834, in the amount of Nineteen Thousand One Hundred Twenty-Five and no/100 Dollars (\$19,125.00).

There was next presented an invoice from Gana Trucking and Excavating, for delivery of three (3) loads of sand for sandbagging requested by the Army Corps of Engineers, Invoice #80740, in the amount of Two Thousand Three Hundred Ten and 68/100 Dollars (\$2,310.68).

There was next presented an invoice from Burr Farms Machinery, Inc., for the rental of telehandler to be used for flood fight, Invoice #31227, in the amount of One Thousand Five Hundred Sixty-Four and 57/100 Dollars (\$1,564.57).

There was next presented an invoice from Blue Valley Public Safety, Inc., for repairs of the tornado siren, Invoice #18090, in the amount of Four Thousand Four Hundred Ninety-One and 58/100 Dollars (\$4,491.58).

There was next presented an invoice from Kreifels Electric L.L.C., for materials for plugs on the generator at the wells to install plugs, Invoice #6727, in the amount of Two Thousand Six Hundred One and 27/100 Dollars (\$2,601.27).

There was next presented an invoice from JSM Concrete, for tear out and replace driveway at 2200 West Shore Drive, Invoice #1537, in the amount of Seven Thousand Three Hundred and no/100 Dollars (\$7,300.00).

There was next presented an invoice from Masimore Magnuson & Associates, P.C., for accountants for the District for accounting services performed, Invoice #66399, in the amount of Eleven Thousand Six Hundred and no/100 Dollars (\$11,600.00).

There was next presented a statement from Frontier Cooperative, for the purchase of Ruby Fieldmaster, Invoice #112273, in the amount of Two Thousand One Hundred Twenty-Two and 37/100 Dollars (\$2,122.37).

There was next presented a statement from Wilbur-Ellis, for the purchase of herbicides, Statement dated June 3, 2024, in the amount of One Thousand Two Hundred Seventeen and 66/100 Dollars (\$1,217.66).

There was next presented an Invoice from AgriVision Equipment Group, for the purchase of parts, Invoice #1001073147, in the amount of Three Hundred Seventy-Three and 59/100 Dollars (\$373.59).

There were next presented invoices from Lake Wa-Con-Da Association, for miscellaneous costs within the District, as follows: (i) Invoice #5060, in the amount of Ninety-Five and no/100 Dollars (\$95.00), and (ii) Invoice #5061, in the amount of Three Hundred Thirty and 67/100 Dollars (\$330.67); said invoices being in the aggregate amount of Four Hundred Twenty-Five and 67/100 Dollars (\$425.67).

The Board was next informed of an advancement that needs to be made to Nebraska Public Health Environmental Lab, for water testing for the 2024-year, Public Water System ID #NE3102519, in the amount of One Thousand Two Hundred Fifty and no/100 Dollars (\$1,250.00).

There was next presented an invoice from Helena Agri-Ent., LLC, for the purchase of Trycera, Invoice #381562311, in the amount of One Thousand Ten and 50/100 Dollars (\$1,010.50),

There were next presented invoices from One Call Concepts, Inc., for line locates within the District, as follows: (i) Invoice #4050605, in the amount of Four and no/100 Dollars (\$4.00), and (ii) Invoice #4060610, in the amount of Nine and 18/100 Dollars (\$9.18); said invoices being in the aggregate amount of Thirteen and 18/100 Dollars (\$13.18). **The Board was next reminded that it has a credit balance in the amount of One Hundred Eighty and 15/100 Dollars (\$180.15), so no payment is due at this time.**

There was next presented an invoice from Thompson, Dreessen & Dorner, Inc., engineers for the District, for services rendered in miscellaneous District matters through June 2, 2024, Invoice #163921, in the amount of Two Thousand Three Hundred Forty-Seven and no/100 Dollars (\$2,347.00).

There was next presented a statement from Pansing Hogan Ernst & Buser LLP, attorneys for the District, for legal services performed through June 30, 2024, in the amount of Three Thousand One Hundred Eighty-Four and no/100 Dollars (\$3,184.00), and costs advanced in the amount of Ninety-One and 15/100

Dollars (\$91.15); said statement being in the aggregate amount of Three Thousand Two Hundred Seventy-Five and 15/100 Dollars (\$3,275.15).

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 No. 6307, of the District, dated the date of this meeting, to the following payee and in the following amount, said Warrant to be drawn on the **BOND** Fund of the District and to draw interest at the rate of **seven percent (7%)** per annum (interest to be payable on February 10 of each year) and to be redeemed no later than **July 25, 2029**, 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. 6307, for the amount of One Thousand Five Hundred Sixty-Seven and 50/100 Dollars (\$1,567.50), payable to Kraig J. Thelen.

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. 6308 through 6330 of the District, dated the date of this meeting, to the following payee and in the following amount, said Warrant to be drawn on the General Fund of the District and to draw interest at the rate of **seven percent (7%)** per annum and to be redeemed no later than **July 25, 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. 6308, for the amount of Five Thousand and no/100 Dollars (\$5,000.00), and Warrant No. 6309, for the amount of One Thousand Seven Hundred Eighty-Eight and 81/100 Dollars (\$1,788.81), payable to Omaha Public Power District, Account #5843000090.

Warrant Nos. 6310 through 6312, each for the amount of Five Thousand and no/100 Dollars (\$5,000.00), and Warrant No. 6313, for the amount of Four Thousand One Hundred Twenty-Five and no/100 Dollars (\$4,125.00), payable to Omni Engineering.

Warrant No. 6314, for the amount of Two Thousand Three Hundred Ten and 68/100 Dollars (\$2,310.68), payable to Gana Trucking and Excavating.

Warrant No. 6315, for the amount of One Thousand Five Hundred Sixty-Four and 57/100 Dollars (\$1,564.57), payable to Burr Farms Machinery, Inc.

Warrant No. 6316, for the amount of Four Thousand Four Hundred Ninety-One and 58/100 Dollars (\$4,491.58), payable to Blue Valley Public Safety, Inc.

Warrant No. 6317, for the amount of Two Thousand Six Hundred One and 27/100 Dollars (\$2,601.27), payable to Kreifels Electric, L.L.C.

Warrant No. 6318, for the amount of Five Thousand and no/100 Dollars (\$5,000.00), and Warrant No. 6319, for the amount of Two Thousand Three Hundred and no/100 Dollars (\$2,300.00), payable to JSM Concrete.

Warrant Nos. 6320 and 6321, each for the amount of Five Thousand and no/100 Dollars (\$5,000.00), and Warrant No. 6322, for the amount of One Thousand Six Hundred and no/100 Dollars (\$1,600.00), payable to Masimore Magnuson & Associates, P.C.

Warrant No. 6323, for the amount of Two Thousand One Hundred Twenty-Two and 37/100 Dollars (\$2,122.37), payable to Frontier Cooperative.

Warrant No. 6324, for the amount of One Thousand Two Hundred Seventeen and 66/100 Dollars (\$1,217.66), payable to Wilbur-Ellis.

Warrant No. 6325, for the amount of Three Hundred Seventy-Three and 59/100 Dollars (\$373.59), payable to AgriVision Equipment Group.

Warrant No. 6326, for the amount of Four Hundred Twenty-Five and 67/100 Dollars (\$425.67), payable to Lake Wa-Con-Da Association.

Warrant No. 6327, for the amount of One Thousand Two Hundred Fifty and no/100 Dollars (\$1,250.00), payable to Nebraska Public Health Environmental Lab.

Warrant No. 6328, for the amount of One Thousand Ten and 50/100 Dollars (\$1,010.50), payable to Helena-Agri-Ent. LLC.

Warrant No. 6329, for the amount of Two Thousand Three Hundred Forty-Seven and no/100 Dollars (\$2,347.00), payable to Thompson, Dreessen & Dorner, Inc.

Warrant No. 6330, for the amount of Three Thousand Two Hundred Seventy-Five and 15/100 Dollars (\$3,275.15), payable to Pansing Hogan Ernst & Buser 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 discussion regarding resident notifications. Jon Meyers noted that he continued his efforts to post material to the District website and that he also shared the post with the Homeowners Association for the information being posted on Facebook and other media. The Trustees discussed that, at some point, they might consider another form of messaging, such as mass texts or emails. No action was taken on this matter at this time.

The next order of business was discussion regarding continuing efforts with respect to recent street repair projects. The Trustees discussed spraying to control the dust on the roads would begin soon although delays would be based on availability of materials. The decision was made that any areas of road that need to be patched or repaired should be repaired as soon as practicable, rather than waiting for spraying.

The next order of business was discussion regarding the recent flooding, levee and related government agencies. The Trustees discussed that, generally speaking, the improved levee worked as intended. Apart from minimal expenses and materials, the Trustees noted that flood fighting efforts were not of a level that appeared to be necessary to involve the Federal Emergency Management Agency or the Nebraska Emergency Management Agency in a reimbursement request structure. Nonetheless, the Trustees noted the intent to continue expenditures necessary to prevent degradation of the levee, including coordination with the United States Army Corps of Engineers.

It was discussed that the cutoff wall on the river side of the levee appeared to have shown some erosion. There was some question as to whether this was a matter of improper design or effects of a flood. The Trustees discussed that efforts would continue to be coordinated with the Army Corp of Engineers to keep the levee in appropriate condition. As a formality of such efforts, the Trustees reviewed requests that were required to be submitted by the District. The Trustees reviewed both the Rehabilitation Assistance letter to the U.S. Army Corps of Engineers and the Non-Structural Alternatives to Rehabilitation of Flood Control Works as prepared by Kraig Thelen. 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 District hereby approves the submittal of the Rehabilitation Assistance letter to the U.S. Army Corps of Engineers and the Non-Structural Alternatives to Rehabilitation of Flood Control Works

RESOLVED FURTHER that Matt Burnham, Clerk of the District, is hereby authorized and directed to sign and deliver documents together with such other documents and agreements as reasonably necessary to effectuate these submittals.

RESOLVED FURTHER that Kraig Thelen is hereby authorized and directed to deliver such signed documents to the appropriate authorities.

The next order of business was discussion regarding the final correspondence from the Nebraska Auditor of Public Accounts. There was an extended discussion regarding the history of information requests as well as the final correspondence submitted. In particular, there was extended discussion regarding the recommendations made to the District.

The first recommendation noted that the District had significantly exceeded its budget in those years related to 2019 Missouri River flooding and the participation in the enhancement of the levee in coordination with the U.S. Army Corps of Engineers. The Trustees discussed that the expenditures made were made on the basis of the emergency caused by the flooding and the unknown expenses associated with cooperation of the U.S. Army Corps of Engineers. While the District is committed to taking actions necessary to protect life and property, the Trustees discussed that careful consideration of budget expenditures in consideration of the necessity and feasibility of budget amendments should receive appropriate attention from the District in the future. The Trustees also announced commitment to monitor

District expenses throughout any budget year and carefully consider material variances justifying changes to spending or amendments to the budget.

The other recommendation of the Auditor of Public Accounts was that the documentation regarding the use of the caretaker's house should be sufficiently documented. The Trustees noted that the caretaker's house by the lake manager has been a long standing, if not fully documented, process for the District. As an element of the consideration provided by the District to the Association, the District has allowed the Association to permit the lake manager, as its employee, to reside in the caretaker's house. The Trustees noted that the goal of the arrangement was that the lake manager was on site on a nearly constant basis for the benefit of the District and its residents. The lake manager living on site allowed for construction management and coordination to minimize costs to the District as well as availability for emergency services in the event of flooding or other threats to life and property. The Trustees agreed that the use by the lake manager of the caretaker's residence was of significant benefit.

The Trustees generally agreed that the agreement between the Homeowners Association and the District should expressly outline the permission and intention associated with the caretaker's house. Furthermore, the Trustees noted that changes to the arrangement between the District and the Association which have been documented over time by action of the Board could be better organized and maintained by drafting a new agreement between the parties and amending the agreement when changes to compensation or responsibility occurred. The Trustees directed legal counsel for the District to work with representatives of the Homeowners Association to prepare appropriate documentation.

The Trustees were reminded that the lake manager is not an employee of the District and the District has no employment authority over the caretaker or control over the caretaker's compensation. It was discussed that historically the lake manager had been an employee of the Homeowners Association as the District did not have the ability to easily provide for compliance with responsibilities related to employment matters.

The next order of business was discussion regarding farm leasing between the District and Noerrlinger Farms. It was discussed that the exchange of property between Noerrlinger Farms and Waconda Preserve, LLC meant that the District should review the ownership of areas where the District held easements to determine whether such easements had survived the sale and whether additional permissions may need to be granted. It was also discussed that the approval process for negotiation with the parties would require further consideration.

The next order of business was discussion regarding assets owned, leased and used by the District. Jim Noerrlinger presented that the two leased tractors were due for exchange. He noted that the public leasing agreement appeared that it would likely not continue past the next two-year lease. The Trustees directed that the equipment, when returned, should be separated from any equipment purchased by the District and that attention should be given to that any new leased tractor be able to make use of the purchased equipment.

The next order of business was a discussion regarding various pieces of equipment used by the lake manager in the performance of services within the District. In particular, it was discussed that many of these pieces of equipment are owned by the Association and that the expense of operating the equipment had been addressed in agreements between the District and the Association. It was suggested that the agreement between the District and Association for maintenance services to be amended and restated should also address equipment maintenance and ownership, including, as appropriate, transfer of ownership from the Association to the District.

The next order of business was discussion regarding the septic laterals on Lot 86. Ed Gonzales, the owner of Lot 86, presented to the District that his septic system had failed, requiring regular and costly pumping of his septic tank. Historically, the District has granted easements to property owners to allow septic laterals to be placed in areas owned by the District near the lot in question. However, it was noted that percolation tests for available nearby areas showed that the ground was not permeable enough to provide appropriate sewer lateral location. It appeared that the nearest location would be within the area

owned by the District and leased to Noerrlinger Farms. The Trustees noted that an appropriate area should be identified for future sewer laterals. It was discussed that this should be done after the crops were removed but early enough that laterals could be installed before the winter freeze.

The Trustees discussed the general desire for appropriate easement arrangements with property owners to allow the use of District property for the installation of new sewer laterals. The Trustees noted that if houses within the District became known as having incurable sewer problems, property values would likely plummet therefore the Trustees believe cooperation is appropriate where possible. However, the Trustees discussed that proper compensation would need to be paid by the District covering not only the cost of filing but perhaps more significantly, the cost to the District, particularly in this instance, of lost farm rent.

There was presented the Resignation of Scott Pekarek as Trustee due to the fact that he is moving out of the District. Upon conclusion of such discussion, the following roll call vote was taken during which the Trustees, Peggy L. Lawton, Matt Burnham, Jon Meyers and Wayne Breyfogle voting "Aye," with none voting "Nay," thereby adopting and approving the following resolution:

RESOLVED, that the Board hereby accepts the resignation of Scott Pekarek to serve in the capacity of Trustee for Sanitary and Improvement District No. 1 of Cass County, Nebraska.

The next order of business was a discussion regarding appropriate costs charged to a property owner for the use of otherwise farmable ground. Given that such a matter contemplated the negotiation of compensation under a contract under the District and another party, the Trustees discussed that an Executive Session would be in order.

***At 10:55 a.m. the Board elected to go into Executive Session in order to privately discuss the qualifications of the applicants. At 11:07 a.m., the Board came back into Open Session.***

The next order of business was appropriate compensation to the District for grant of an easement through farmable ground. The Trustees discussed that an appropriate charge at this time would be \$1,500.00 per acre in quarter acre increments and that such charge would be in addition to all other costs, such as document preparation and filing fees charged in other circumstances. The Trustees discussed that this amount would be subject to change over time, particularly as may be impacted by changing amounts in farm rent.

The next order of business was appropriate compensation amounts and structures to be considered in an agreement between the District and the Homeowners Association. Such discussion being a matter of negotiation with another party, the Trustees discussed it would enter into Executive Session for such discussions.

***At 11:09 a.m. the Board elected to go into Executive Session in order to privately discuss the qualifications of the applicants. At 11:32 a.m., the Board came back into Open Session.***

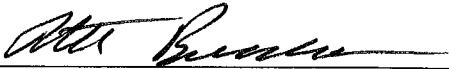
The Trustees discussed that the details of negotiation and documentation between the District and the Association regarding caretaker services and use of property and equipment should continue and that the agreement and terms thereof would need to be approved by the Board at a later date.

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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 July 25, 2024, meeting.

  
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Matt Burnham, Clerk