

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 22nd day of August, 2019, and to be held at the 10250 Regency Circle, Suite 300, Omaha, Nebraska.

Present: Gary P. Bruechert, Jon Meyers, Wayne Breyfogle, Phillip Wright and Peggy L. Lawton. Also, in attendance were Mark J. LaPuzza, attorney for the District, John Kuehl of D.A. Davidson & Co., Kraig Thelen, Ed Hobza of Thompson, Dreessen & Dorner, Inc., and Jim Noerrlinger.

Absent: None.

Notice of the meeting was given in advance thereof by publication in The Plattsmouth Journal on August 15, 2019, 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 Lake Wa-Con-Da 2019 Paving Repair – March 2019 Flood.

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 August 15, 2019, 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 Finn Paving Co., Inc. for Lake Wa-Con-Da 2019 Paving Repair – March 2019 Flood, in the amount of Fifty-Seven Thousand One Hundred Thirty-Eight and no/100 Dollars (\$57,138.00) and that such amount be accepted. The Clerk reminded the Board that the Engineer's estimate of the construction cost of this project was Sixty Thousand Six Hundred and no/100 Dollars (\$60,600.00). 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 Finn Paving Co., Inc. was accompanied by the required bid bond, contract and maintenance bond in the amount of 100% of the contract price.

Discussion then continued to address the issue of potential federal funding for reconstruction of the road with concrete. The Trustees discussed that at least some of the road area seemed to be damaged. In addition to the edges of the roads, which were expected to be damaged, the Trustees

discussed that significant other damage might be identified by milling a portion of the road. The Trustees discussed that, based upon prior discussions, if the road was found to be significantly damaged, such that greater than approximately 50% of the road required repair, replacement of the road with asphalt would potentially be a project qualified for Federal cost sharing. The Trustees discussed, generally, that an asphalt road would be preferable, all things being equal, due to the lower cost and greater durability.

The Trustees discussed that the bid, as received, could be accepted, with potential change orders for milling of a narrow strip of road to identify potential damaged areas. The Trustees discussed that a change order should be submitted to permit such investigative test milling.

The Trustees also discussed that the District has until September 15, 2019, to identify damage as a part of ongoing FEMA cost participation programs. The Trustees expressly discussed that the milling work necessary to identify damaged areas of the road should be completed prior to September 15, 2019, if at all possible.

After considerable discussion by the Board, the following resolution was duly moved and seconded upon a roll call vote of the Trustees, Gary P. Bruechert, Jon Meyers, Wayne Breyfogle, Phillip Wright and Peggy L. Lawton 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 Finn Paving Co., Inc. in the total amount of \$57,138.00 for the construction of Lake Wa-Con-Da 2019 Paving Repair – March 2019 Flood 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 Finn Paving 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 correspondence from Thompson, Dreessen & Dorner, Inc., engineers for the District, presenting and recommending payment in favor of Zach's Boat Lift Service, for services entitled **Tractor Rental – March 2019 Flood (Lake Wa-Con-Da)**, in the amount of Twenty-Two Thousand Six Hundred Eighty and no/100 Dollars (\$22,680.00).

There was next presented correspondence from Thompson, Dreessen & Dorner, Inc., engineers for the District, presenting and recommending payment in favor of Midwest Farmers Cooperative, for the purchase of fuel for the tractor entitled **Tractor Fuel – March 2019 Flood (Lake Wa-Con-Da)**, Statement dated July 31, 2019, in the amount of Seven Thousand Four Hundred Thirty-Five and 47/100 Dollars (\$7,435.47).

There was next presented correspondence from Thompson, Dreessen & Dorner, Inc., engineers for the District, presenting and recommending payment in favor of Midwest Laboratories, Inc., for six water quality tests entitled **Lake Water Package – March 2019 Flood (Lake Wa-Con-Da)**, Invoice #953060, in the amount of One Thousand Seventy-Two and 94/100 Dollars (\$1,072.94). **The Board was next reminded by Jon Meyers, that it has a credit balance of \$100.00, so no payment is due at this time.**

There was next presented correspondence from Thompson, Dreessen & Dorner, Inc., engineers for the District, presenting and recommending payment in favor of Lincoln Turf, for compact track loader and operators for flood fighting operations entitled **Skid Steer and Operator – March 2019 Flood (Lake Wa-Con-Da)**, Invoice #793, in the amount of One Thousand Eighty and no/100 Dollars (\$1,080.00).

There was next presented correspondence from Thompson, Dreessen & Dorner, Inc., engineers for the District, presenting and recommending payment in favor of Mark Morehead Construction Inc., for

delivery services of fill soil entitled Trucking - March 2019 Flood (Lake Wa-Con-Da), Invoice #112088, in the amount of Four Hundred Fifty and no/100 Dollars (\$450.00).

There was next presented correspondence from Thompson, Dreessen & Dorner, Inc., engineers for the District, presenting and recommending payment in favor of Schumacher Irrigation, Inc., for providing banding and banding buckles entitled Banding and Banding Buckles – March 2019 Flood (Lake Wa-Con-Da), Invoice #0240334-IN, in the amount of Two Hundred Seventy-Nine and 58/100 Dollars (\$279.58).

There was next presented correspondence from Thompson, Dreessen & Dorner, Inc., engineers for the District, presenting and recommending payment in favor of Lake Waconda Association, for services entitled Receipt Reimbursement – March 2019 Flood (Lake Wa-Con-Da), as follows: (i) Jim Noerrlinger, Order No. 113-7312874-4782630, in the amount of Four Hundred Thirty-Seven and 80/100 Dollars (\$437.80), (ii) USPS (Murray), Receipt No. 82, in the amount of Twenty-Two and 60/100 Dollars (\$22.60), and (iii) USPS (Murray), Receipt No. 49, in the amount of Twenty-Two and 60/100 Dollars (\$22.60); said statements being in the aggregate amount of Four Hundred Eighty-Three and no/100 Dollars (\$483.00).

There was next presented a statement from Kraig J. Thelen, for work performed on FEMA Disaster DR 4420, July 2019, in the amount of One Thousand Six Hundred Sixty-Two and 50/100 Dollars (\$1,662.50).

There were next presented statements from Thompson, Dreessen & Dorner, Inc., engineers for the District, for services rendered as follows: (i) March 2019 Flood, Invoice #132864, in the amount of Two Thousand Seven Hundred Eighty-Seven and no/100 Dollars (\$2,787.00), and (ii) Entrance Paving Repair – March 2019 Flood, in the amount of One Thousand Nine Hundred Twenty-Four and no/100 Dollars (\$1,924.00); said statements being in the aggregate amount of Four Thousand Seven Hundred Eleven and no/100 Dollars (\$4,711.00).

There was next presented a statement from Nebraska Public Power District, for lighting at Highway 75, Account #211010041398, Invoice dated July 17, 2019, in the amount of Sixteen and 78/100 Dollars (\$16.78); said statement having a small credit balance in the amount of One and 84/100 Dollars (\$1.84). The Board was next reminded that advance payment was made in the amount of One Hundred and no/100 Dollars (\$100.00) at the July 18, 2019, so no payment is due at this time.

There was next presented a statement of Summary Account #5843000090 from Omaha Public Power District, for street lights and other electrical services, in the amount of One Thousand Nine Hundred Sixty and 37/100 Dollars (\$1,960.37).

There was next presented a statement from One Call Concepts, Inc., for line locates within the District, Invoice #9070559, in the amount of Six and 16/100 Dollars (\$6.16). ***The Board was next reminded that it has a credit balance in the amount of Seventy-Two and 11/100 Dollars (\$72.11).***

There were next presented statements from Nebraska Public Health Environmental Lab, for water testing, as follows: (i) Invoice #515230, in the amount of Forty-Five and no/100 Dollars (\$45.00), and (ii) Invoice #516305, having a zero balance due to credit applied; said statements being in the aggregate amount of Forty-Five and no/100 Dollars (\$45.00).

There was next presented correspondence from Thompson, Dreessen & Dorner, Inc., engineers for the District, presenting and recommending payment in favor of Matt Burnham, for 203 hours worked at the Lake from May 3, 2109 through July 10, 2019, in the amount of Seven Thousand One Hundred Five and no/100 Dollars (\$7,105.00).

There was next presented correspondence from Thompson, Dreessen & Dorner, Inc., engineers for the District, presenting and recommending payment in favor of Mike Litke's Tree Service, for removal of six (6) trees along the bluff, Invoice dated June 23, 2019, in the amount of Four Hundred Fifty and no/100 Dollars (\$450.00).

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 do miscellaneous tasks throughout the District, Invoice #613, in the amount of Nine Hundred Eighty-Five and no/100 Dollars (\$985.00).

There was next presented a statement from Thompson, Dreessen & Dorner, Inc., engineers for the District, for services rendered in miscellaneous District maintenance matters through August 14, 2019, Invoice #132863, in the amount of Two Hundred Fifty-Five and no/100 Dollars (\$255.00).

There were next presented statements from Pansing Hogan Ernst & Bachman LLP, attorneys for the District, for legal services performed through July 31, 2019, as follows: (i) Miscellaneous District matters, in the aggregate amount of One Thousand Six Hundred Twelve and 30/100 Dollars (\$1,612.30), and (ii) March 2019 Flood, in the amount of One Thousand Six Hundred Forty-Two and no/100 Dollars (\$1,642.00); said statements being in the aggregate amount of Three Thousand Two Hundred Fifty-Four and 30/100 Dollars (\$3,254.30).

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. 5457 through 5464, 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 seven percent (7%) per annum (interest to be payable on February 10 of each year) and to be redeemed no later than August 22, 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. 5457, for the amount of Twenty-Two Thousand Six Hundred Eighty and no/100 Dollars (\$22,680.00), payable to Zach's Boat Lift Service.

Warrant No. 5458, for the amount of Seven Thousand Four Hundred Thirty-Five and 47/100 Dollars (\$7,435.47), payable to Midwest Farmers Cooperative.

Warrant No. 5459, for the amount of One Thousand Eighty and no/100 Dollars (\$1,080.00), payable to Lincoln Turf.

Warrant No. 5460, for the amount of Four Hundred Fifty and no/100 Dollars (\$450.00), payable to Mark Morehead Construction Inc.

Warrant No. 5461, for the amount of Two Hundred Seventy-Nine and 58/100 Dollars (\$279.58), payable to Schumacher Irrigation, Inc.

Warrant No. 5462, for the amount of Four Hundred Eighty-Three and no/100 Dollars (\$483.00), payable to Lake Waconda Association.

Warrant No. 5463, for the amount of One Thousand Six Hundred Sixty-Two and 50/100 Dollars (\$1,662.50), payable to Kraig J. Thelen.

Warrant No. 5464, for the amount of Four Thousand Seven Hundred Eleven and no/100 Dollars (\$4,711.00), 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. 5465 through 5472, 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 August 22, 2022, 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. 5465, for the amount of One Thousand Nine Hundred Sixty and 37/100 Dollars (\$1,960.37), payable to Omaha Public Power District, Account #5843000090.

Warrant No. 5466, for the amount of Forty-Five and no/100 Dollars (\$45.00), payable to Nebraska Public Health Environmental Lab.

Warrant No. 5467, for the amount of Five Thousand and no/100 Dollars (\$5,000.00), and Warrant No. 5468 for the amount of Two Thousand One Hundred Five and no/100 Dollars (\$2,105.00), payable to Matt Burnham.

Warrant No. 5469, for the amount of Four Hundred Fifty and no/100 Dollars (\$450.00), payable to Mike Litke's Tree Service.

Warrant No. 5470, for the amount of Nine Hundred Eighty-Five and no/100 Dollars (\$985.00), payable to Noerrlinger Construction, Inc.

Warrant No. 5471, for the amount of Two Hundred Fifty-Five and no/100 Dollars (\$255.00), payable to Thompson, Dreessen & Dorner, Inc.

Warrant No. 5472, for the amount of Three Thousand Two Hundred Fifty-Four and 30/100 Dollars (\$3,254.30), 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, 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.

There was next an update regarding the meetings with FEMA representatives. Kraig Thelen, Ed Hobza, and the Trustees reported that on-sight investigations, telephone calls and meetings had continued to be productive in identifying work to be performed and addressing potential cost sharing. The Trustees discussed that, due to timing of Federal Employee Assignments, new Federal representatives might be involved in the near future.

The Trustees discussed that work not completed prior to September 21, 2019, would need to be made the subject of a request for extension. Mark LaPuzza and Kraig Thelen discussed that there were several technical requirements for such a submission. The proposed draft correspondence had been prepared, and would be supplemented with information provided by Mr. Thelen.

The next order of business was presentation from Jim Noerrlinger regarding utility service. Mr. Noerrlinger noted that it would be extremely difficult under current conditions and regulations for a new septic system to be installed within the District. He noted that existing septic systems would be permitted to continue in operation, but a failed septic system might result in a property owner not being permitted to install a replacement. There was some discussion as to the ability of the District to operate alternative septic operations.

The Trustees next discussed the fact that the District was required to perform a backflow survey. The Department of Health and Human Services had indicated to Mr. Noerrlinger that the District was required to perform a cross connection survey every five (5) years. Failure to do so would be a violation of State requirements, which could potentially result in the District being shut off from its water system. The Trustees discussed that a fine and disconnection structure would be an appropriate requirement for the District to enact. As such, there was extended discussion regarding the proper fines and enforcement associate with such a policy.

Thereafter, upon a motion duly made and seconded and upon a roll call vote, all the Trustees, Gary P. Bruechert, Jon Meyers, Wayne Breyfogle, Phillip Wright and Peggy L. Lawton voted "Aye" with none voting "Nay" thereby adopting the following resolution:

RESOLVED that, in order for the District to perform legally required backflow surveys for water systems, all property within the District shall be required to respond to survey requests from the District and its contractors with respect to water services.

FURTHER RESOLVED, that failure to voluntarily comply with requests for survey responses shall be penalized by a fine of \$25 for any survey which is more than thirty (30) days delinquent in response. For any survey which is more than sixty (60) days delinquent in response, the District shall be

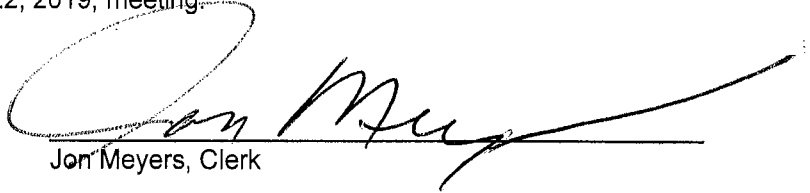
permitted to disconnect the associated property from all District water systems, with the cost of any connection or disconnection to the District water system assessed to the property owner in the amount of \$50 per change in service.

FURTHER RESOLVED, that any property owner who attempts to impede the actions of the District in locating, accessing or operating curb stops for water systems shall be subject to a \$500 fine.

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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 August 22, 2019, meeting.



Jon Meyers, Clerk