

**MINUTES OF THE MEETING OF
THE BOARD OF TRUSTEES OF
SANITARY AND IMPROVEMENT DISTRICT NO. 177
DOUGLAS COUNTY NEBRASKA**

OCTOBER 22, 2008

A scheduled Meeting of the Board of Trustees of Sanitary & Improvement District No. 177 of Douglas County, Nebraska, was convened in open and public session on Oct. 22, 2008, at the D.C. West Public School Library 7th & Washington Streets, Waterloo, Nebraska.

PRESENT: Ginger Parker Clerk
Steve Clark Trustee
Jerry Hraban Trustee
William Reppert Trustee

ABSENT: None

The Clerk announced that she would be conducting the meeting in light of the fact that the Chairman, Dean Miller, had moved from the District was no longer eligible to serve on the Board. She thanked Mr. Miller for his long and faithful service to the District, and invited him to participate in future meetings to give the Board the benefit of his experience.

Notice of the Meeting was given in advance by publication in **The Daily Record**, a legal newspaper published in Douglas County, Nebraska, on Oct. 14, 2008, a copy of the Proof of Publication being attached to these Minutes.

Notice of this Meeting was given to all Trustees in advance by the Clerk, and the Acknowledgement of Receipt of Notice of Meeting and Agenda by the Trustees is also attached to these Minutes.

Notice of this Meeting was given the Clerk of the City of Omaha, Nebraska, the municipality having zoning jurisdiction over the District, at least seven days prior to the Meeting, and notice of the Meeting and Agenda were posted in the District.

Availability of the Agenda was communicated in the published Notice and in the Notices to the City and Trustees.

All proceedings of the Board of Trustees were taken while the convened Meeting was open to the attendance of the public.

Agenda Item 1. Role Call and call Meeting to Order: All of the Board Members being present, Clerk called the Meeting to order at 7:34 p.m.

Agenda Item 2. Nebraska Open Meetings Act: The Chairman reviewed the Nebraska Press Association publication entitled "Nebraska Open Meetings Act, For Public Use During a Meeting", and announced that: a poster containing the Act would be posted during each meeting of the Trustees; that a pamphlet containing the Act was available during the meeting; and that comments from the audience would be permitted during the discussion of each Agenda item.

MINUTES of S.I.D. 177 MEETING of TRUSTEES

Oct. 22, 2008

Election of Acting Chairman. The Clerk explained that Trustee Miller had moved from the District and was no longer qualified to serve as Chairman. She nominated Trustee Clark to serve as acting Chairman and the nomination was seconded by Trustee Reppert. On roll call vote the following Trustees voted in favor of appointing Trustee Clark to serve as acting Chairman until the new Trustees have been sworn in and qualified to act as Trustees: Parker, Clark, Hraban and Reppert; voting nay: none. The Clerk declared said nomination approved and turned the meeting over to Trustee Clark.

Agenda Item 3. Approve Minutes of Meeting held on Sep. 17, 2008: Following discussion of the draft of the Minutes previously furnished the Trustees, Trustee Parker moved that the Minutes be approved, and Trustee Clark seconded the motion. On roll call vote thereon, the following Trustees voted aye: Parker, Clark, Hraban and Reppert; voting nay: none. The Chair declared said Resolution duly passed and adopted.

Agenda Item 4. PeopleService Report: The PeopleService Report for Sep. (S.T.) was reviewed by the Board. The Trustees inquired about the cost of cleaning the aeration and holding tanks and were advised that these costs would be maintenance expenses absorbed by PeopleService.

Agenda Item 5. Reports and Business:

5.1 Water and Waste-water Plants: Covered under item 4.

5.2 Lakes Management: Trustee Reppert requested authority to replace the electrical wiring for the pumps in both lakes and the aerator in the Fishing Lake. Residents of the Boating Lake had complained about the noise created by the operation of gas pumps. The bid for \$7,000 to cover the cost of wiring the pump in the Boating Lake was rejected and a bid of \$4,317 for all three wiring projects was submitted by Metro Electric Co. Trustee Reppert explained that it might be necessary to rent or purchase pumps in the future. Trustee Hraban questioned the necessity of getting the work done at this time, and Trustee Reppert explained that the wiring was shot and needed to be replaced before next spring.

After discussion the following Resolution was proposed for adoption by Trustee Reppert and seconded by Trustee Clark:

RESOLUTION

RESOLVED, by the Board of Trustees of Sanitary and Improvement District No. 177 of Douglas County, Nebraska, that the proposal submitted by Metro Electric Co. for replacing the wiring for the pumps in both lakes and the aerator in the Fishing Lake for a cost not to exceed \$5,000, subject to the submission of an executed Acceptance of Proposal form, be accepted.

MINUTES of S.I.D. 177 MEETING of TRUSTEES

Oct. 22, 2008

On roll call vote thereon, the following Trustees voted aye: Parker, Clark, Hraban and Reppert; voting nay: none. The Chair declared said Resolution duly passed and adopted.

5.3 Grounds Management: Trustee Clark reported that the street repairs and fencing have been completed, and the snow fence will be installed in the near future. The repairs to the tennis court and the cost for the damaged porta-potty which were vandalized are approximately \$2,067. The Attorney will check on the deductible under the District's insurance and report to the Board. It was decided that the idea of offering a reward for the arrest and conviction of vandals will be taken up by the new Board.

5.4 Legal: The Attorney reported that Craig Martin provided the response to his request that Scottsdale Insurance Company's Coverage Counsel (Selman & Breitman, Los Angeles, Cal.) review the carriers denial of coverage in the case of Cooper v. Ulrich, et al.

The opinion states that the allegations that the District breached its fiduciary duty and failed to act to protect Cooper's property are not covered by the policy because:

(a) The liability to Cooper, if any, did not arise out of an "accident" or "occurrence", even though the result was unexpected, unforeseen and unintended; because any liability would be based upon the District's intentional refusal to attempt to order the removal of the dock, regardless of whether the District had any authority to do so;

(b) Cooper's claim that he lost the use and enjoyment of SID's property is not a claim for "property damage" under Nebraska law because Cooper does not have an ownership interest in the SID's property, but rather an intangible economic interest akin to an easement, which is not "property damage" under Nebraska Law; and

(c) The "advertising injury liability coverage" does not apply because Cooper's right to occupy his own property was not interfered with "by or on behalf of an owner, landlord, or lessor" because any damage which Cooper may have suffered as a result of the SID's refusal to have the dock removed is not covered under this offense since the SID is not the owner, landlord, or lessor of Cooper's property. In addition, Cooper did not have the right of private occupancy of SID's property.

Comment: The Attorney will go on record with Scottsdale Insurance Company pointing out the District's disagreement with several conclusions contained in the memo, in the event that the District decides to file suit to enforce the insurance coverage.

5.5 Payment of Bills: Trustee Parker presented the current bills for discussion. After reviewing the bills the following Resolution was proposed for adoption by Trustee Parker and seconded by Trustee Hraban:

MINUTES of S.I.D. 177 MEETING of TRUSTEES

Oct. 22, 2008

RESOLUTION

RESOLVED, by the Board of Trustees of Sanitary and Improvement District No. 177 of Douglas County, Nebraska, that the Chairman and Clerk be, and they hereby are, authorized and directed to execute and deliver **Warrant Nos. 5301 through 5316** of the District, dated the date of this Meeting, to the payees and in the amounts listed on the attached Exhibit "A", said Warrants to be drawn on the General Fund of the District and to draw interest at the rate of six and one-half percent (6.5%) per annum and to be redeemed no later than Oct. 22, 2011, subject to extension of said maturity date by order of the District Court of Douglas County, Nebraska, after notice is given as required by law.

FURTHER RESOLVED by the Board of Trustees of Sanitary and Improvement District No. 177 of Douglas 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 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, 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 of 177 of Douglas 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; (b) to the extent that it may lawfully do so, the District hereby designates the above Warrants as (B)(i)(111) of the Internal Revenue Code of 1986, as amended,

MINUTES of S.I.D. 177 MEETING of TRUSTEES**Oct. 22, 2008**

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 of 177 of Douglas 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 Douglas 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 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.

On roll call vote thereon, the following Trustees voted aye: Parker, Clark, Hraban and Reppert; voting nay: None. The Clerk declared said Resolution duly passed and adopted by the Board.

Agenda Item 6. Election of new Board of Trustees. The Douglas County Election Commission has provided Certification of the results of the September 9, 2008 election of property owners to the Board of Trustees. The Certificate (S.T.) certifies that the resident property owners receiving votes on Ballot #1 and all property owners receiving votes on Ballot #2 were:

MINUTES of S.I.D. 177 MEETING of TRUSTEES

Oct. 22, 2008

<u>No. of Votes</u>	<u>BALLOT NO. ONE VOTE FOR THREE</u>	<u>No. of Votes</u>	<u>BALLOT NO. TWO VOTE FOR TWO</u>
84	Bill Reppert	82	Eric M. Nelson
83	Jeff Holling	73	Ginger Parker
44	Paul V. Cawthon	48	Jeffrey Spiker
36	Duane Aschenbrenner	27	Marcia Spiker
30	Michael Dean Miller	2	Paul Magiera
3	Paul O'Brien	1	Paul O'Brien
2	Ginger Parker	1	Jack White
1	Dave O'Brien	1	Bob Vlasnik
1	Eric Nelson		

After discussion, the following Resolution was then proposed for adoption by Trustee Parker and seconded by Trustee Reppert:

RESOLUTION

BE IT RESOLVED, by the Board of Trustees of Sanitary & Improvement District No. 177 of Douglas County, Nebraska, that the District hereby accepts the Certificates of the Election Commissioner for Douglas County, Nebraska, and hereby declares that the following named individuals receiving the highest number of votes on ballots 1 and 2 were duly elected to the Board of Trustees of this District, and that, following their acceptance by taking the Oath of Office, the term of office for each Trustee shall be from the date of the Oath until the qualification of his or her successor.

Elected on Ballot #1:

Bill Reppert
Jeff Holling
Paul V. Cawthon

Elected on Ballot #2:

Eric M. Nelson
Ginger Parker

On roll call vote thereon, the following Trustees voted aye: Parker, Clark, Hraban and Reppert; voting nay: None. The Clerk declared said Resolution duly passed and adopted by the Board.

Agenda Item 7. Oath of Office administered to Trustees. The newly elected Trustees were then sworn in by the Attorney for the District and each executed an Oath of Office (S.T.). The elected Board Members then assumed their positions.

The two outgoing Trustees thanked the remaining Trustees for their service and urged the members of the audience to support the Board, consider serving on the Board, and avoid negative input during meetings.

Agenda Item 8. Election of Chair and Clerk of the District: After discussion, the following Resolution was then proposed for adoption by Trustee Parker and seconded by Trustee Reppert:

MINUTES of S.I.D. 177 MEETING of TRUSTEES

Oct. 22, 2008

RESOLUTION

RESOLVED, by the Board of Trustees of Sanitary and Improvement District No. 177 of Douglas County, Nebraska, that Trustee Nelson be elected to serve as Chairman of the Board and that Trustee Ginger Parker be elected to serve as Clerk of the District.

On roll call vote thereon, the following Trustees voted aye: Cawthon, Holling, Nelson, Parker and Reppert; voting nay: none. The Chairman declared said Resolution duly passed and adopted by the Board.

The Clerk agreed to secure the appropriate Bonds required by law for the Chairman and the Clerk.

Agenda Item 9. Trustee Assignments. The new Board then discussed the assignment of Trustee responsibilities for various areas of activity and concluded that the Trustee assigned to each area will be responsible for proposing new projects, soliciting bids, coordinating activities, and reporting on the status at Board Meetings, and the engagement of persons to perform services for the District.

After discussion, the following Resolution was then proposed for adoption by Trustee Parker and seconded by Trustee Holling:

RESOLUTION

BE IT RESOLVED, by the Board of Trustees of Sanitary & Improvement District No. 177 of Douglas County, Nebraska, that the following Trustees were duly nominated and elected to serve in the following capacities until further action by the Board:

AREA OF RESPONSIBILITY	TRUSTEE
Budget and Payment of Bills	Trustee Parker
Water and Wastewater Plants	Trustee Cawthon
Grounds Management	Trustee Holling
Lakes Management	Trustee Reppert

FURTHER RESOLVED that the following individuals shall be retained by the District to perform the following services:

Bryan Toelle	Various Projects
Thompson, Dreesen & Dorner, Inc.	Engineer
Pat Lavelle (Dutton & Associates)	Accountant
D. A. Davidson & Co.	Fiscal Agent
Jeff Jorgensen, Inspro Insurance	Insurance Agent
Don Overholt	Attorney
Paula Magiera	Bookkeeper
PeopleService Inc.	Water and Waste-water Treatment

MINUTES of S.I.D. 177 MEETING of TRUSTEES

Oct. 22, 2008

On roll call vote thereon, the following Trustees voted aye: Cawthon, Holling, Nelson, Parker and Reppert; voting nay: none. The Chairman declared said Resolution duly passed and adopted by the Board.

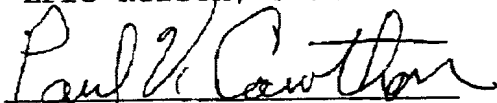
Agenda Item 10. Set Next Meeting Date, Location and Time: The next Regular Meeting of the Board will be conducted on Nov. 19, 2008, at 7:30 p.m., at the D.C. West Public School Library, 7th & Washington Streets, Waterloo, Nebraska.

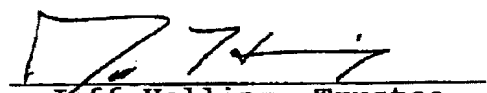
Agenda Item 11. Adjourn Meeting: There being no further business to come before the Board, the Meeting was, upon motion by Trustee Parker, seconded by Trustee Reppert, with the following Trustees voting aye: Cawthon, Holling, Nelson, Parker and Reppert; voting nay: none; adjourned at 8:45 p.m.

**SANITARY AND IMPROVEMENT DISTRICT NO. 177
DOUGLAS COUNTY NEBRASKA**


Eric Nelson, Chairman


Ginger Parker, Clerk


Paul Cawthon, Trustee


Jeff Holling, Trustee


William Reppert, Trustee

2008 October General Fund Warrants

<u>Date</u>	<u>Num</u>	<u>Transaction</u>	<u>Payment</u>	<u>Deposit</u>	<u>Balance</u>
10/22/08		General Fund Cat: (Special) memo: Transfer to General Fund		\$8,816.56	\$14,913.52
10/22/08	5301	Nebraska Department of Revenue Cat: Sales Taxes memo: September	\$448.14		\$14,465.38
10/22/08	5302	Paula Magiera cat: Prof Fees: Bookkeeping memo: September	\$115.44		\$14,349.94
10/22/08	5303	Ginger Parker cat: Clerk Fees memo: September	\$92.45		\$14,257.49
10/22/08	5304	Daily Record cat: Publication memo: Inv # 82045,81608	\$40.00		\$14,217.49
10/22/08	5305	Don Overholt cat: Professional Fees: Legal Fees memo: September	\$1,200.00		\$13,017.49
10/22/08	5306	Peoples Service cat: Repair/Maint.: Contractor Fees memo: Sept remainder/October	\$7,387.00		\$5,630.49
10/22/08	5307	Brian Toelle cat: Repair/Maint: Grounds memo: #819, misc.	\$5,176.46		\$454.03
10/22/08	5308	Ace Hardware cat: Repair/Maint: Grounds memo: Misc. Parts	\$1.92		\$452.11
10/22/08	5309	Midwest Coatings Company cat: Repair/Maint: Streets memo: St sealing;inv #8225	\$4,000.00		-\$3,547.89
10/22/08	5310	Omaha Public Power District cat: split memo: August	\$1,501.94		-\$5,049.83
10/22/08	5311	Stan & Sons cat: Repair/Maint: Grounds memo: July-Sept.	\$71.75		-\$5,121.58

EXHIBIT A-1

2008 October General Fund Warrants

10/22/08	5312	Dean Miller cat: Board Fees memo: 4th Qtr.	\$41.56	-\$5,163.14
10/22/08	5313	Ginger Parker cat: Board Fees memo: 4th Qtr.	\$41.56	-\$5,204.70
10/22/08	5314	Bill Reppert cat: Board Fees memo: 4th Qtr.	\$41.56	-\$5,246.26
10/22/08	5315	Jerry Hraban cat: Board Fees memo: 4th Qtr.	\$27.71	-\$5,273.97
10/22/08	5316	Steve Clark cat: Board Fees memo: 4th Qtr.	\$41.56	-\$5,315.53

EXHIBIT A-2