

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

**MAY 18, 2009**

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 May 18, 2009, at the D.C. West Public School Library 7th & Washington Streets, Waterloo, Nebraska.

**PRESENT:**

Eric Nelson .....	Chairman
Jeff Holling .....	Trustee
William Reppert ....	Trustee
Ginger Parker .....	Clerk

**ABSENT:** None

Notice of the Meeting was given in advance by publication in **The Daily Record**, a legal newspaper published in Douglas County, Nebraska, on May 12, 2009, 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, the Chair called the Meeting to order at 7:40 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.

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**AGENDA ITEM 3. Approve Minutes of Meeting held on Apr. 22, 2009:** Following discussion of the draft of the Minutes previously furnished the Trustees, Trustee Parker moved that the Minutes be approved, and Trustee Holling seconded the motion. On roll call vote thereon, the following Trustees voted aye: Nelson, Parker, Holling and Reppert; voting nay: none. The Chair declared said Resolution duly passed and adopted.

**AGENDA ITEM 4. PeopleService Report:** Robert McLaughlin attended the meeting and presented the PeopleService Report for Apr. (S.T.) which was discussed with the Board.

**AGENDA ITEM 5. Reports and Business:**

**5.1 Old Business:** Before taking up old business the Chair opened the floor for comments from the audience:

During an extended discussion Robert Ulrich discussed the fact that he had been sued by a neighbor and gave the District one week in which to pay his legal fees (stated to be about \$20,000) in the case (Cooper v. Ulrich, Nick and SID 177) alleging that two members of the Board of Trustees had suggested that Tom Cooper file suit against him.

The Attorney advised him that the District had never taken the position that he should be sued, that if any Trustee made such a statement it would not constitute action by the Board, and that the District has no liability, responsibility or authority to compensate a resident for legal fees incurred by the resident.

Following the completion of the District's business the Trustees accepted the advice of the Attorney and decided to take no action in the manner.

Colleen Tuttle discussed the possibility of placing warning stickers on cars parked in violation of the parking restrictions in the District. During an extended discussion the Trustees advised Colleen to encourage members of the Citizens' Patrol to call 911 to report violations, not to have the patrol place notices on vehicles, and to continue to place notices in the Homeowners' news letters.

**5.1.1 Installation of speed control devices:** The County performed a two week traffic study and will have the results very soon. The criteria for the placement of speed bumps depends on the speed and volume of traffic. Trustee Holling will meet with Art Beccard, the District's Engineer, to discuss the placement of speed bumps and curbing.

**5.1.2 Vacancy created by death of Trustee Cawthon:** after discussing whether to fill the vacancy, the following Resolution was proposed by Trustee Holling, and seconded by Trustee Parker:

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**RESOLUTION**

**RESOLVED**, by the Board of Trustees of Sanitary and Improvement District No. 177 of Douglas County, Nebraska, that the vacant position of the Board of Trustees be filled by nominating a qualified resident of the District to serve on the Board.

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

After discussing the matter of nominating a duly qualified resident of the District to serve as a Trustee, the following Resolution was proposed by Trustee Parker and seconded by Trustee Reppert:

**RESOLUTION**

**RESOLVED**, by the Board of Trustees of Sanitary and Improvement District No. 177 of Douglas County, Nebraska, that Robert Lynn be nominated to serve as Trustee of the District, and that following his acceptance by taking the Oath of Office, his term of office as Trustee shall commence immediately and continue until the qualification of his successor.

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

Robert Lynn then took the Oath of Office (S.T.), was sworn in as a Trustee, and took his position with the Board.

**5.2 Water and Waste-water Plants:** Trustee Lynn assumed responsibility for the Water and Waste-water Plants and suggested that the roof of the Water Treatment Plant be replaced, that no change in the front windows of the Water Treatment building are necessary, and that shutters should be applied to the front of the building. He will secure bids for a new roof and for applying a second coat of paint on the building. The shutters will be installed by the maintenance contractor, Signature Grounds Management (Signature).

**5.3 Lakes Management - Trustee Reppert** reported that the fish stocking has been completed and the fishing Lake treated for algae. He reported on a meeting of the Nebraska Lakes Association and a scholarship fund which is being established. After discussing the repair of the Boat dock in the Boating Lake, it was decided to ask Signature to repair the dock.

**5.4 Grounds Management - Trustee Holling** discussed the monthly report submitted by Signature (S.T.), and reviewed the placement of mulch, repair of the pontoon boat another activities. He presented a proposal by Brad Bailey for the replacement of 17 sections of concrete.

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Following an extended discussion the Bailey proposal was tabled pending a determination that the concrete will contain fiber, rebar at joints, be 8" thick rather than the 6" specified in the proposal, and meet all County specifications.

Trustee Parker reported problems in getting Hamilton General Contracting to clean up a site west of Waterloo Drive and requested the District's Attorney to prepare a letter to the Company, which he submitted to the Board.

After discussion the following Resolution was proposed by Trustee Nelson and seconded by Trustee Parker:

**RESOLUTION**

**RESOLVED**, by the Board of Trustees of Sanitary and Improvement District No. 177 of Douglas County, Nebraska, that the letter submitted by the District's Attorney (S.T.) be sent to Hamilton General Contracting.

On roll call vote thereon, the following Trustees voted aye: Nelson, Parker, Holling, Lynn and Reppert; voting nay: None. The Chair declared said Resolution duly passed and adopted.

**5.5 Legal - Cooper v. SID 177 Settlement:**

**5.4.1** The Settlement Agreement in this case provides that the District will:

"A. Consider, in good faith, adopting regulations covering construction of docks in the lakes contained within Riverside Lakes subdivision. Riverside Lakes' analysis and determination of the content of these regulations will be tempered with its analysis as to the impact such regulation may have on Riverside Lakes immunity under the Nebraska Recreational Liability Act. Neb. Rev. Stat. §§37-729 to 37-736, or other applicable Nebraska statutes. Consideration of said regulations will occur in public meetings.";

During the Apr. 22nd public meeting of the Board of Trustees, when the Plaintiff was asked what action he proposed that the District take in order to comply with item A, he responded that the Rules suggested by the District should be provided to the Nebraska Game and Parks Commission for inclusion in its Rules and Regulations so that the Rules can be enforced. The Trustees agreed to submit suggested Rules to Game and Parks.

Following up on this agreement that the Board would be in compliance with item A. of said Settlement Agreement by submitting its proposed Rules for Installation of Boat Docks in the District's Lakes to Nebraska Game and Parks Commission, the following Resolution was proposed by Trustee Parker, and seconded by Trustee Holling:

**MINUTES of S.I.D. 177 MEETING of TRUSTEES****May 18, 2009****RESOLUTION**

**RESOLVED**, by the Board of Trustees of Sanitary and Improvement District No. 177 of Douglas County, Nebraska, that pursuant to the Settlement Agreement in the case of Cooper v. SID 177, et al., and the District's stipulation with the Plaintiff, the Board will submit the District's proposed "Rules for Installation of Boat Docks in the District's Lakes" to Nebraska Game and Parks Commission (S.T.) for inclusion in its Rules and Regulations so that the Rules can be enforced.

When the authority of the Board to control the installation of facilities in the lakes was raised, the Chair pointed out that the District had received an opinion from the law firm of Lampson-Dugan that the Trustees have no authority to regulate this activity. While not disagreeing with the opinion, the Attorney for the District pointed out that the District was not adopting the Rules, but rather was submitting the Rules for adoption by the Commission so that the Rules could be enforced.

On roll call vote thereon, the following Trustees voted aye: Parker, Holling, Lynn and Reppert; voting nay: Nelson. The Chair declared said Resolution duly passed and adopted.

**5.4.2** The Settlement Agreement in this case provides that the District will:

"B. Riverside Lakes shall adopt an alternative dispute resolution process through which property owners could, at their own expense, pursue alternative methods to resolve conflicts short of litigation."

During the Apr. 22nd public meeting of the Board of Trustees the Plaintiff was asked what action he proposed that the District take in order to comply with this item B, and he suggested that District provide a list of 5 Mediators to residents requesting such a list.

Pursuant to the Plaintiff's stipulation with the Trustees the Attorney submitted a list of six Mediators to be provided residents requesting the same. (S.T.)

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

**RESOLUTION**

**RESOLVED**, by the Board of Trustees of Sanitary and Improvement District No. 177 of Douglas County, Nebraska, that pursuant to the Settlement Agreement in the case of Cooper v. SID 177, et al., and the District's stipulation with the Plaintiff, the Board will provide the list of Mediators submitted by the Attorney to any resident requesting the same.

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On roll call vote thereon, the following Trustees voted aye: Nelson, Parker, Holling, Lynn and Reppert; voting nay: None. The Chair declared said Resolution duly passed and adopted.

**5.5 Payment of Bills:** The Chair presented the current bills for discussion. After reviewing the bills the following Resolution was proposed for adoption by Trustee Reppert and seconded by Trustee Nelson:

**RESOLUTION**

**RESOLVED**, by the Board of Trustees of Sanitary and Improvement District No. 177 of Douglas County, Nebraska, that the Chairman execute and deliver **Warrant Nos. 5396 through 5409** 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 **May 18, 2012**, 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.

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**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)(11) 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 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.

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On roll call vote thereon, the following Trustees voted aye: Nelson, Parker, Holling Lynn and Reppert; voting nay: None. The Chair declared said Resolution duly passed and adopted.

Trustee Parker explined that the Board will need to approve its new budget in Sep. and it was decided that the Sep. meeting will be held on Sep. 17th.

Trustee Parker then explained the financial condition of the District and proposed the following resolution, which was second-ed by Trustee Holling:

**RESOLUTION**

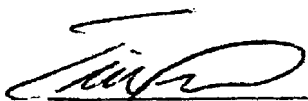
**RESOLVED**, by the Board of Trustees of Sanitary and Improvement District No. 177 of Douglas County, Nebraska, that \$100,000.00 be transferred from the District's General Fund to its Bond Fund.

On roll call vote thereon, the following Trustees voted aye: Nelson, Parker, Holling, Lynn and Reppert; voting nay: None. The Chair declared said Resolution duly passed and adopted.

**AGENDA ITEM 6. Set Next Meeting Date, Location and Time:** The next Regular Meeting of the Board will be conducted on Jun. 17, 2009, at 7:30 p.m., at the D.C. West Public School Library, 7th & Washington Streets, Waterloo, Nebraska.

**AGENDA ITEM 7. Adjourn Meeting:** There being no further business to come before the Board, the Meeting was, upon motion by Trustee Parker, seconded by Trustee Lynn, with the following Trustees voting aye: Nelson, Parker, Holling, Lynn and Reppert; voting nay: none; adjourned at 10:40 p.m.

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

  
Eric Nelson, Chairman

  
Ginger Parker, Clerk

  
Jeff Holling, Trustee

  
Robert Lynn, Trustee

  
William Reppert, Trustee



2009 May General Fund Warrants

<u>Date</u>	<u>Num</u>	<u>Transaction</u>	<u>Payment</u>	<u>Deposit</u>	<u>Balance</u>
05/18/09		General Fund Cat: (Special) memo: Transfer to General Fund		7,966.17	24,725.92
05/18/09	5396	Nebraska Department of Revenue Cat: Sales Taxes memo: April	404.92		24,321.00
05/18/09	5397	Paula Magiera cat: Prof Fees: Bookkeeping memo: April	115.44		24,205.56
05/18/09	5398	Ginger Parker cat: Clerk Fees memo: April	92.45		24,113.11
05/18/09	5399	Daily Record cat: Publication memo: Inv # 86567	22.40		24,090.71
05/18/09	5400	Don Overholt cat: Professional Fees: Legal Fees memo: April	1,200.00		22,890.71
05/18/09	5401	Peoples Service cat:Repair/Maint.: Contractor Fees memo: April	6,423.00		16,467.71
05/18/09	5402	Omaha Public Power District cat: split May	1,159.34		15,308.37
05/18/09	5403	Signature Grounds Management, Inc cat: Repair/Maint: Grounds memo: April #5406	3,919.00		11,389.37
05/18/09	5404	Menards cat: Repair/Maint: Lakes memo: Inv. 8710,8783,13400	71.34		11,318.03
05/18/09	5405	Ace Hardware cat: Repair/Maint: Lakes memo: Inv. 58000	31.53		11,286.50
05/18/09	5406	Lamson, Dugan, & Murray, LLP cat: Repair/Maint: Legal memo: Dock Lawsuit #235005	3,028.33		8,258.17
05/18/09	5407	Bill Reppert cat: Repair/Maint: Lakes memo: Island vines/sprayer	152.41		8,105.76
05/18/09	5408	Jeff Holling cat:Repair/Maint.: Grounds memo: keys,weed spray	91.92		8,013.84
05/18/09	5409	K. C. Sweeping cat: Repair/Maint: Grounds memo: street sweeper	525.00		7,488.84
05/18/09		OPPD cat: electricity deposit-lakes memo: Refd on deposit for lake wells		1,767.50	9,256.34
05/18/09		Douglas County Prop Tax Receipts cat: remaining 2nd half tax collections memo: 2008 tax collection		15,000.00	24,256.34

EXHIBIT "A"