

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

MARCH 19, 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 Mar. 19, 2008, at the D.C. West Public School Library 7th & Washington Streets, Waterloo, Nebraska.

PRESENT: Dean Miller Chairman
Steve Clark Trustee
Jerry Hraban Trustee
William Reppert Trustee

ABSENT: Ginger Parker Clerk

Notice of the Meeting was given in advance by publication in **The Daily Record**, a legal newspaper published in Douglas County, Nebraska, on Mar. 12, 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.

1. Role Call and call Meeting to Order: A majority of the Board Members being present, Chairman called the Meeting to order at 7:40 p.m.

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 the pamphlet containing the Act, would be on display at each meeting of the Trustees.

3. Approve Minutes of Meeting held on Feb. 27, 2008: Following discussion of the draft of the Minutes previously furnished the Trustees, Trustee Hraban moved that the Minutes be approved, and Trustee Clark seconded the motion. On roll call vote thereon, the following Trustees voted aye: Miller, Clark, Hraban and Reppert; voting nay: None. The Chairman, declared said Resolution duly passed and adopted.

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4. **PeopleService Report:** The PeopleService Report for Feb. (S.T.) was reviewed by the Board. Damaged areas will be repaired as soon as the soil dries out.

5. **Comments from audience:** None.

5.1 The Board discussed the request by Don Pearson and Al Gangestad for the Board to bebrief the bidders who were not awarded the Maintenance Contract. Don Pearson asked how the maintenance contract was bid, how bidders qualifications were determined, and suggested that several statutes had not been followed. The Chairman and other Trustees answered many questions, and during the extended discussion the Attorney stated that he was responsible for the Board following the statutes and that in his opinion the procedure complied with the law governing projects over \$20,000.00

5.2 The Board explained the water rates paid by the seven homes around McCarthy Circle without lake access. The Resolution adopted during the April, 2007 Meeting raising the 12,000 gal. base rate for these homes to 20,000 gal. Following discussion, the Board decided to review the water rate policy at the April Meeting.

6. **Reports and Business:**

6.1 **Water and Waste-water Plants:** No additional report.

6.2 **Lakes Management:** Trustee Reppert reported that he would like authority to stock the lakes. After discussing the types of fish to be stocked, Trustee Reppert proposed, and Trustee Hraban seconded the following Resolution:

RESOLUTION

RESOLVED, by the Board of Trustees of Sanitary and Improvement District No. 177 of Douglas County, Nebraska, that the Board authorize Trustee Reppert to spend up to \$3,000.00 in stocking the lakes.

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

6.3 **Grounds Management:** Trustee Clark reported that a chain and sign had been placed across the entrance to the waste-water treatment plant, and that the picnic tables would be removed.

The County has indicated that the District will be given wide latitude in selecting the type of parking signs to be utilized, and that signs installed by the County could be enforced by the Sheriff. Following an extended discussion of the summary presented by the Parking Committee, the Board decided to adopt parking regulations on the streets and on the common grounds at the next meeting.

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6.4 Legal: SID 177 vs. E. M. C.: The Attorney reported that following the settlement of the case he had deposited the \$20,000 payment by the Defendant (S.T.) in the District's General Fund with the Douglas County Treasurer on Mar. 6, 2008.

The Contingent Fee and Fee Agreement with Lamson, Dugan & Murray ("Firm") (S.T.) provides:

- 1) District will pay expenses in prosecuting the case;
- 2) Firm will not bill the District any fees for services;
- 3) In the event of a recovery or settlement the following conditions apply to any sum received:
 - a) All of the District's expenses paid in conjunction with the case shall be reimbursed first;
 - b) All recovery up to \$102,150 will be paid in the following manner:
 - District: 85%
 - Firm: 15%
 - c) Any additional recovery will be split 50/50.

The Firm's Summary of Account (S.T.) shows disbursements for copies, court reporters for depositions, long distance calls, and travel in the total amount of: \$2,930.96.

My calculation of the result of the settlement indicates:

Settlement amount	\$20,000.00
Deduct fees to be paid by District	<u>2,930.96</u>
Balance of the recovery	\$17,069.04
District's share (85% x \$17,069.04)	14,508.68
Firm's share (15% x \$17,069.04)	2,560.36

The Firm Summary of Account (S.T.) shows that the Firm's accumulated fees from Aug. 30, 2004 through Feb. 27, 2008, (with as many as 13 persons working on the case) which in the absence of the Contingent Fee Arrangement would have been billed to the District, amounted to \$40,525.00.

Under these circumstances, including the fact that the District was instrumental in proceeding against the bonding company, it is recommended that the District and the Firm split the balance of the recovery 50/50 (1/2 of \$17,069.04 = \$8,534.52).

After discussion the Board rejected this proposal and decided to follow the contingent fee arrangement.

The Attorney reported on the new case of Cooper v. the District, and that he will follow up with the Sheriff on the damage to the waste-water treatment plant.

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6.5 **Payment of Bills:** Trustee Miller presented the current bills for discussion. After reviewing the bills the following Resolution was proposed for adoption by Trustee Clark and seconded by Trustee Reppert:

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. 5191 through 5201** 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 Mar. 19, 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

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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 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 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: Miller, Clark, Hraban, Parker, and Reppert; voting nay: None. The Chairman declared said Resolution duly passed and adopted by the Board.

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8. Set Next Meeting Date, Location and Time: The next Regular Meeting of the Board will be conducted on Apr. 16, 2008 at 7:30 p.m., at the D.C. West Public School Library, 7th & Washington Streets, Waterloo, Nebraska.

9. Adjourn Meeting: There being no further business to come before the Board, the Meeting was, upon motion by Trustee Hraban duly seconded by Trustee Reppert, with the following Trustees voting aye: Miller, Clark, Hraban, and Reppert; voting nay: None, the Meeting was adjourned at 10:30 p.m.

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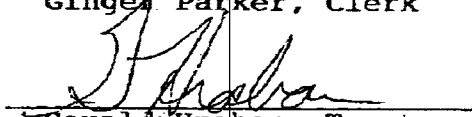


Dean Miller, Chairman

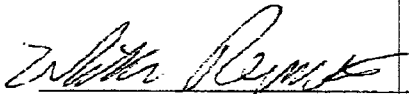
Ginger Parker, Clerk



Steve Clark, Trustee



Gerald Hraban, Trustee



William Reppert, Trustee

*Don*2008 March General Fund Warrants

<u>Date</u>	<u>Num</u>	<u>Transaction</u>	<u>Payment</u>	<u>Deposit</u>	<u>Balance</u>
03/19/08		General Fund Cat: (Special) memo: Transfer to General Fund		8,413.93	28,056.15
03/19/08	5191	Nebraska Department of Revenue Cat: Sales Taxes memo: Feb	427.66		27,628.49
03/19/08	5192	Paula Magiera cat: Prof Fees: Bookkeeping memo: Feb	115.44		27,513.05
03/19/08	5193	Ginger Parker cat: Clerk Fees memo: Feb	92.45		27,420.60
03/19/08	5194	Daily Record cat: Publication memo: Inv # 77008	21.20		27,399.40
03/19/08	5195	Omaha Public Power District cat: split memo: Feb	2,430.91		24,968.49
03/19/08	5196	Don Overholt cat: Professional Fees: Legal Fees memo: Feb	1,200.00		23,768.49
03/19/08	5197	Jane Putjunter cat: Publication memo: signs for parking forum	57.35		23,711.14
03/19/08	5198	Peoples Service cat: Repair/Maint.: Contractor Fees memo: Feb Inv #0013017 Acct 5104/6104	6,182.00		17,529.14
03/19/08	5199	Lamson, Dugan & Murray, LLP cat: Legal memo: #208822 Dock Encroachmt	1,000.00		16,529.14
03/19/08	5200	Thompson, Dreessen & Dornier, Inc. cat: Shelter Structural Eng memo: Sept # 81726	1,200.00		15,329.14
03/19/08	5201	Brian Toelle cat: Repair/Maint: Grounds memo: #0801, 0803	4,765.00		10,564.14

EXHIBIT "A"