

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

APRIL 22, 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 Apr. 22, 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:**
- Paul Cawthon Deceased

Notice of the Meeting was given in advance by publication in **The Daily Record**, a legal newspaper published in Douglas County, Nebraska, on Apr. 14, 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 7:35 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 Mar. 24, 2009: Following discussion of the draft of the Minutes previously furnished the Trustees, Trustee Parker moved that the Minutes be approved, and Trustee Reppert 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: The PeopleService Report for Mar. (S.T.) was reviewed by the Board.

AGENDA ITEM 5. Reports and Business: The bid to remove the center shutter from the window and replace the roof on the Water Treatment Plant were tabled.

5.1 Lakes Management - Trustee Reppert reported that: he has arranged for OPPD to turn on power to the lake pumps, stocking of the lakes will be completed tomorrow, mulch has been delivered for the trees, and brush on the islands has been cleaned up.

5.2 Grounds Management - Trustee Holling asked Joe to provide monthly reports. Joe reported that he had removed the snow fence, applied pre-emergent; and cleaned up branches. He will be asked to build a gate in the fence across from the SID lot to permit parking on the common grounds when necessary. Following an extended discussion of the installation of curbing and repair of streets, the following Resolution was proposed by Trustee Holling 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 Resolution adopted during the March 24th Meeting be amended to accept the proposal submitted by A-1 Concrete: to replace two slabs for \$1,550; install curbing from the front entrance to the ramp parking lot for \$2,448; and replace two additional slabs for \$1,098 be accepted by the District.

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

After discussing the problems with bag worms on the District's evergreen trees, 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 Turf and Tree be authorized to spray all the evergreen trees in the District two times at a cost of \$1,950.00 per spraying.

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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.

5.3 Parking and Speed Limit Enforcement: Residents along Southshore have requested the installation of speed humps. After discussing the speeding problems on Southshore and Waterloo Drive, it was decided to contact Douglas County for assistance in locating and designing speed humps. The cost is estimated to be approximately \$600.00 for each 25'x 6' hump.

5.4 Legal:

5.4.1 Discussion of Settlement: The Attorney reported that the case of Cooper v. SID 177 had been settled following extensive mediation efforts. A copy of the Fax to the Nebraska Department of Insurance requesting that Scottsdale Insurance Company and Darwin Insurance Company each contribute \$6,280.81 in payment of the District's cost of \$12,561.63 defending the case has been provided the Trustees (S.T.).

Following discussions with the Attorneys representing Darwin and Scottsdale the proposed settlement included in the (S.T.) was negotiated.

After discussing the proposed settlements with Darwin Insurance Company and Scottsdale Insurance Company 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 following Darwin Insurance Company's payment of \$3,780.81, the District will execute a complete release of its claims arising out of the case of Thomas Cooper v. Robert A Ulrich, Troy Nick, Sanitary Improvement District 177, Jerry Hraban, Dean Miller, Bill Reppert, Ginger Parker and Steve Clark in their official capacity, Doc. 1080, No. 996, District Court Douglas County, Nebraska; and indemnify Darwin Insurance Company from and against any claims by Scottsdale Insurance Company for any contribution to the District's settlement of its claims against both carriers.

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.

After discussing the proposed settlements with Darwin Insurance Company and Scottsdale Insurance Company the following Resolution was proposed by Trustee Parker and seconded by Trustee Holling:

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RESOLUTION

RESOLVED, by the Board of Trustees of Sanitary and Improvement District No. 177 of Douglas County, Nebraska, that following scottsdale Insurance Company's payment of \$5,000.00, the District will execute a complete release of its claims arising out of the case of Thomas Cooper v. Robert A Ulrich, Troy Nick, Sanitary Improvement District 177, Jerry Hraban, Dean Miller, Bill Reppert, Ginger Parker and Steve Clark in their official capacity, Doc. 1080, No. 996, District Court Douglas County, Nebraska; and indemnify Scottsdale Insurance Company from and against any claims by Darwin Insurance Company for any contribution to the District's settlement of its claims against both carriers.

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.

The Settlement Agreement with the Plaintiff 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."

"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."

Copies of the Attorney's opinion on the subject and the Rules adopted by the previous Board are included in the Supplemental Transcript (S.T.).

The Plaintiff was asked what action he proposed that the District take in order to comply with this item A, and he responded that the Rules suggested by the District should be provided to the Nebraska Game and Parks Department 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.

The Plaintiff suggested that item B. be handled by the District providing a list of 5 Mediators to residents requesting the assistance with issues. The Trustees agreed to provide such a list.

This item will be placed on the Agenda for the May meeting for public discussion, and the Attorney will continue to research the matter.

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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. 5386 through 5395** 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 Apr. 22, 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.

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

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(B)(i)(111) 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: Nelson, Parker, Holling 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 May 18, 2009, at 7:30 p.m., at the D.C. West Public School Library, 7th & Washington Streets, Waterloo, Nebraska.

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The Trustees expressed their condolences to the family of Trustee Cawthon upon his passing and their appreciation for his service to the District.


The Attorney advised the Board that there is no specific procedure for replacing Trustees, and that the Board could continue with four members or appoint any resident to replace Trustee Cawthon. The Trustees decided to table this item and place it on the Agenda for the May meeting.

AGENDA ITEM 7. Adjourn Meeting: There being no further business to come before the Board, the Meeting was, upon motion by Trustee Holling, seconded by Trustee Parker, with the following Trustees voting aye: Nelson, Parker, Holling, and Reppert; voting nay: none; adjourned at 9:40 p.m.

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


Eric Nelson, Chairman


Ginger Parker, Clerk


Jeff Holling, Trustee


William Reppert, Trustee

2009 April General Fund Warrants

| <u>Date</u> | <u>Num</u> | <u>Transaction</u> | <u>Payment</u> | <u>Deposit</u> | <u>Balance</u> |
|-------------|------------|--|----------------|----------------|----------------|
| 04/22/09 | | General Fund Cat: (Special) memo: Transfer to General Fund | | 10,170.96 | 33,952.20 |
| 04/22/09 | 5375 | Nebraska Department of Revenue Cat: Sales Taxes memo: March | 516.96 | | 33,435.22 |
| 04/22/09 | 5376 | Paula Magiera cat: Prof Fees: Bookkeeping memo: March | 115.44 | | 33,319.78 |
| 04/22/09 | 5377 | Ginger Parker cat: Clerk Fees memo: March | 92.45 | | 33,227.33 |
| 04/22/09 | 5378 | Daily Record cat: Publication memo: Inv # 86000 | 22.40 | | 33,204.93 |
| 04/22/09 | 5379 | Don Overholt cat: Professional Fees: Legal Fees memo: March | 1,202.25 | | 32,002.68 |
| 04/22/09 | 5380 | Peoples Service cat: Repair/Maint.: Contractor Fees memo: April | 6,423.00 | | 25,579.68 |
| 04/22/09 | 5381 | Omaha Public Power District cat: split April | 1,090.72 | | 24,488.96 |
| 04/22/09 | 5382 | Stan & Sons, Inc cat: Repair/Maint: Grounds memo: Jan-Mar | 71.75 | | 24,417.21 |
| 04/22/09 | 5383 | Menards cat: Repair/Maint: Lakes memo: Inv. 6881,7090,7396,7411 | 551.22 | | 23,865.99 |
| 04/22/09 | 5384 | Willow Lake Fish Hatchery cat: Repair/Maint: Lakes memo: Fish Inv. 6106 | 4,175.00 | | 19,690.99 |
| 04/22/09 | 5385 | Beck's Tree Farm cat: Repair/Maint: Grounds memo: Island Tree Project | 535.30 | | 19,155.69 |
| 04/22/09 | 5386 | Pinecrest Tree Farms cat: Repair/Maint: Grounds memo: island tree project inv 3086 | 1,279.49 | | 17,876.20 |
| 04/22/09 | 5387 | Jeff Holling cat: Repair/Maint.: Grounds memo: keys, front entry repair | 265.40 | | 17,610.80 |
| 04/22/09 | 5388 | Bill Reppert cat: Repair/Maint: Lakes NE Lakes Assoc Dues/Conference | 120.00 | | 17,490.80 |

EXHIBIT "A-1"

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|----------|------|---|--------|-----------|
| 04/22/09 | 5389 | Eric Nelson cat: Board Fees memo: 3rd Qtr Board Fees | 41.56 | 17,449.24 |
| 04/22/09 | 5390 | Ginger Parker cat: Board Fees memo: 3rd Qtr Board Fees | 27.71 | 17,421.53 |
| 04/22/09 | 5391 | Bill Reppert cat: Board Fees memo: 3rd Qtr Board Fees | 41.56 | 17,379.97 |
| 04/22/09 | 5392 | Jeff Holting cat: Board Fees memo: 3rd Qtr Board Fees | 41.56 | 17,338.41 |
| 04/22/09 | 5393 | Paul Cawthon cat: Board Fees memo: 3rd Qtr Board Fees | 41.56 | 17,296.85 |
| 04/22/09 | 5394 | Ginger Parker cat: Misc. Exp memo: P.Cawthon memorial | 37.10 | 17,259.75 |
| 04/22/09 | 5395 | Riverside Lakes Homeowner's Assoc cat: Office Expense memo: Annual Waves contribution | 500.00 | 16,759.75 |

EXHIBIT "A-2"