

**MINUTES OF THE MEETING OF THE BOARD OF TRUSTEES OF SANITARY AND IMPROVEMENT DISTRICT NO. 97 OF SARPY COUNTY, NEBRASKA HELD AT 5:00 P.M. ON MAY 17, 2011 AT PLATTEVIEW HIGHSCHOOL, SPRINGFIELD, NEBRASKA**

The meeting of the Board of Trustees of Sanitary and Improvement District No. 97 of Sarpy County, Nebraska was convened in open and public session at 5:00 p.m. on May 17, 2011, at Platteview High School, Springfield, Nebraska, 68059.

Present at the meeting were Trustees Michael Ostransky, Judy Jacobsen, Aaron Raszler, Eugene Kloewer and Ruth Evangelisti. Also present was Brian C. Doyle, attorney for the District; Mark Westergard and Tom Rasmussen of E & A Consulting Group; and Rene and Joy Nelson of Urban Utilities. No Trustee was absent.

The Chairman then 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.

Notice of the meeting was given in advance thereof by publication in The Papillion Times on May 11, 2011, a copy of the Proof of Publication being attached to these minutes. Notice of the 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. Notice of the 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 publicized 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 Clerk then certified that notice of this meeting had been given to the Sarpy County Clerk at least seven days prior to the time set by the Board of Trustees for this meeting and filed the Certificate to that effect, said Certificate being attached to these minutes and made a part hereof by this reference.

The Board welcomed guests from the City of Papillion to discuss water distribution by Papillion to the residents of the District. Present from the City of Papillion was Mayor David Black, City Manager Dan Hoins, Public Works Director Marty Lemming, and Jeff Thompson

engineer with the City of Papillion.

Mayor Black began with introductions of all parties. He then presented to the Board that the City of Papillion would like to provide its treated water service to the District. A line has been installed down 87<sup>th</sup> Street for the purpose of pumping water from the City's wells to the treatment plant and also to provide service to those adjacent properties, such as the District, that desire to use Papillion water. The Mayor presented the City's two tier rate structure for City residents and non-city residents. The Mayor also provided a Memorandum to the Board outlining some costs involved and the rate structure comparison between rates in the District versus the out of town rates the City proposes. The proposed rate structure is approximately double the rates currently charged by the District to its residents.

Trustee Raszler expressed concern about the increased water rates and whether the residents would be willing to pay higher rates. Trustee Ostransky expressed concern about the proposal on who would maintain the current water lines within the District. The Mayor and City Manager pointed out that an SID that is outside of the City but is provided City water is responsible for the maintenance of their own water lines. The Board and City officials discussed that the District situation was unique compared to other SID's because it isn't required to use City water and it is able to provide its own water service presently. The Board expressed concern over giving up a revenue source from the sale of water and still being burdened with the expense of maintaining its water lines. City officials said they would look into this issue.

Trustee Evangelisti inquired whether the City would consider offering wholesale water to the District. The City expressed interest in considering this proposal but said there may be issues relating to treating different SID's differently. The City had concerns about legal issues relating to this idea and said they would have their new City Attorney review.

The City then addressed some advantages they see to their water system; the water is treated, it would be adequate for fire flows, and more consistency.

Trustee Raszler inquired with the City about the issue regarding septic tanks for the properties at the long island rail road. The City reported that they are installing a holding tank and pumping waste from that tank. The tank design is double walled and has been approved by the Nebraska Department of Environmental Quality. The double walled tank was a requirement because of the proximity to the new wells dug by the City and its existing well field. The City

currently has 12 wells and pumps approximately 20 million gallons per day.

The Board and City next discussed that the City had taken coupon samples of the water system pipes and had found them to be adequate for the pressure level of City Water. Rene Nelson of Urban Utilities reported that the District currently maintains pressure levels between 85 and 105 psi.

The Mayor then summarized the discussion and stated the City would examine issues relating to the rate structure and wholesale delivery of water along with maintenance of water system infrastructure.

The Board next heard the monthly report of Urban Utilities who reported nothing major and they are working on a long term budget for the treatment plant.

The Chairman next proposed that the Service Fee Fund bills be considered, which included the following statements for payment from the District's Service Fee Fund:

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| a.) | Urban Utilities, Inc. for WWTP May, maintenance, Postal Service charges, copies, etc. (#6400).           | \$3,090.97 |
| b.) | Urban Utilities, Inc. for meter reading/invoicing, NE Dept. of Revenue form prep., etc. for May (#6401). | \$1,182.78 |
| c.) | Midwest Laboratories, Inc. for water testing and report filing (#609506).                                | \$ 68.45   |

Upon motion made by Trustee Ostransky and seconded by Trustee Jacobsen the Board voted five (5) "ayes" and zero (0) "nay" votes to approve the payment from the Service Fee Fund. The Clerk was then directed to attach copies to these minutes and to attach a copy of the report reflecting payments made from the Service Fee Fund established at the Sarpy County Treasurer's office.

The Board then discussed the dike wall outlet structure construction and the sanitary sewer lining.

The Clerk then stated that no petition opposing the Resolution of Necessity had been filed by any of the property owners within the District nor by any other person and no person appeared at the meeting or made any objections to the proposed Resolution of Necessity for the construction of the Outlet Structure – 2011.

By Trustees Michael Ostransky, Judy Jacobsen, Aaron Raszler, Eugene Kloewer and Ruth Evangelisti, this proposed Resolution of Advisability and Necessity was then passed and

adopted, being the same Resolution adopted in form at the meeting of the Board of Trustees held on April 19, 2011, which Resolution is set forth in full in the Proof of Publication attached hereto; the Trustees then passed the following resolution:

BE IT RESOLVED by the Board of Trustees of Sanitary and Improvement District No. 97 of Sarpy County, Nebraska that the Resolution of Necessity for the Outlet Structure – 2011, be and hereby is approved as proposed at the meeting of the Board of Trustees held on April 19, 2011.

The Clerk then stated that no petition opposing the Resolution of Necessity had been filed by any of the property owners within the District nor by any other person and no person appeared at the meeting or made any objections to the proposed Resolution of Necessity for the construction of the Sanitary Sewer Lining Phase I – 2011.

By Trustees Michael Ostransky, Judy Jacobsen, Aaron Raszler, Eugene Kloewer and Ruth Evangelisti, this proposed Resolution of Advisability and Necessity was then passed and adopted, being the same Resolution adopted in form at the meeting of the Board of Trustees held on April 19, 2011, which Resolution is set forth in full in the Proof of Publication attached hereto; the Trustees then passed the following resolution:

BE IT RESOLVED by the Board of Trustees of Sanitary and Improvement District No. 97 of Sarpy County, Nebraska that the Resolution of Necessity for the Sanitary Sewer Lining Phase I – 2011, be and hereby is approved as proposed at the meeting of the Board of Trustees held on April 19, 2011.

The Board then discussed the survey for the drainage easement between Lots 99 and 100. The survey shows that the sea wall and other permanent improvements infringe upon the area of the easement. The Board instructed its attorney to draft a letter to the owner of Lot 100 regarding the encroachment.

The Board then discussed with its attorney preliminary projections regarding financing using the construction/bond fund of the District for major infrastructure projects. The Districts fiscal agent provided projections based upon \$866,800.00 in spending for construction projects including the slide gate, sewer lining and resurfacing streets. The Board pointed out that the preliminary estimate for streets at \$500,000.00 was much less than expected. The Board and their attorney would look into the discrepancy with its engineer. Preliminary projections show

that the current outstanding debt along with new debt for the projects, using available cash and assuming current market interest rates would result in a bond fund tax levy of approximately \$0.25 per \$100.00 of valuation. Those projections are preliminary and subject to change. The Board discussed the use of cash in the bond fund to pay for things and paying with bonds over the long term.

The Chairman then presented the following statements for payment from the General Fund Account of the District:

a.)	Papillion Sanitation for trash removal and hauling at 7801 Kona Circle (No. 2167815).	\$ 65.04
b.)	E & A Consulting Group for engineering services relating to various projects of the District (No. 114440).	\$ 440.00
c.)	Parking Area Maintenance for various asphalt repairs within the District.	\$8,605.00
d.)	UNICO Group of Papillion for renewals of umbrella, general liability and surplus insurance policies (No. 495984, 496129).	\$10,459.65
e.)	Kuehl Capital Corporation for placement of General Fund warrant(s) issued at this meeting (5%).	\$ 978.48

Upon motion made by Trustee Ostransky and seconded by Trustee Jacobsen, the Board voted five (5) “ayes” and zero (0) “nay” votes to approve the payment from the General Fund Account. The Clerk was then directed to attach copies of the invoices to these minutes.

After discussion the Resolution contained herein below and by this reference incorporated herein was duly introduced, seconded and upon a roll call vote of “aye” by the Trustees Michael Ostransky, Aaron Raszler, Judy Jacobsen, and Ruth Evangelisti, was unanimously adopted; the Trustees then passed the following resolutions:

BE IT RESOLVED by the Board of Trustees of Sanitary and Improvement District No. 97 of Sarpy County, Nebraska that the Chairman and Clerk be and hereby are authorized and directed to execute and deliver Warrants No. 3628 through 3637, of the District, dated the date of this meeting, to the following payees, for the following services and in the following amounts, said warrants to draw interest at the rate of 7% per annum and to be payable from the General Fund Account of the District, to be redeemed no later than three (3) years of the date hereof, being May 17, 2014, subject to extension of said maturity date by order of the District Court of Sarpy County, Nebraska after notice is given as required by law,

to-wit:

- a.) Warrant No. 3628 for \$65.04 made payable to Papillion Sanitation for trash removal and hauling.
- b.) Warrant No. 3629 for \$440.00 made payable to E & A Consulting Group for engineering services.
- c.) Warrant No. 3630 and 3631 for \$3,000.00 and Warrant No. 3632 for \$2,605.00, all made payable to Parking Area Maintenance for various road repairs within the District.
- d.) Warrant No. 3633 thru 3635 for \$3,000.00 each and Warrant No. 3636 for \$1,459.65, all made payable to UNICO Group of Papillion for various insurance policies of the District.
- e.) Warrant No. 3637 for \$978.48 made payable to Kuehl Capital Corporation for placement of General Fund warrants issued at this meeting (5%).

BE IT FURTHER RESOLVED by the Board of Trustees of Sanitary and Improvement District No. 97 of Sarpy 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.

BE IT FURTHER RESOLVED by the Board of Trustees of Sanitary and Improvement District No. 97 of Sarpy 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 reasonable 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.

BE IT FURTHER RESOLVED by the Board of Trustees of Sanitary and Improvement District No. 97 of Sarpy 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 of Sarpy 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 less of: (a) 10% of the net principal proceeds of the above Warrants, (b) the maximum annual debt service due on the above Warrants, or (c) 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 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 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 exceptions 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 Sections 1.148-2 (b) (2) of the Income Tax Regulations under the Internal Revenue Code of 1986, as amended, and under the Internal Revenue Code of 1986.

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There being no further business to come before the meeting, a motion was duly made, seconded and unanimously adopted to adjourn the meeting.

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Michael Ostransky, Chairman

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Judy Jacobsen, Clerk