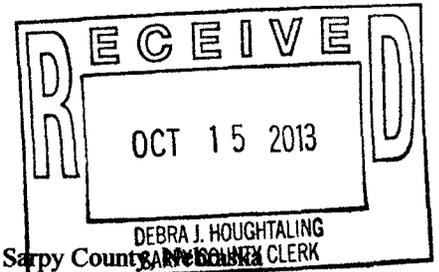


SANITARY AND IMPROVEMENT DISTRICT NO. 23
OF SARPY COUNTY, NEBRASKA

Minutes of Meeting of Board of Trustees
October 1, 2013



A meeting of the Board of Trustees of Sanitary and Improvement District No. 23 of Sarpy County, Nebraska was held on October 1, 2013 at 6:30 o'clock p.m. at Westmont Elementary School, 13210 Glenn Street, Omaha, Nebraska.

Present were Trustee Shirley Merritt (402.896.9047), Trustee Michael Quinn (402.699.1788), Trustee Jeannine Glesmann (402.616.5581), Trustee Mike Bendon (402.896.2250), and Trustee Bob Burbee (402.896.1084). Also present were Gerald Pesek of G.F. Pesek, Inc., Gary Shepherd of Professional Accounting Service, Accounts Receivable Clerk June Jordening, Accounts Payable Clerk Linda Comstock, Cassidy V. Chapman of Cassidy Chapman Law Office, and many residents

Notice of the meeting was given in advance thereof by publication in The Papillion Times on September 18, 2013. All proceedings hereafter shown were taken while the meeting was open to the attendance of the public.

- 1. Compliance with Open Meetings Law:** It was announced that in compliance with the Act, the attorney provided a current copy of the Nebraska Open Meetings Act on the table.
- 2. Election of Chairman and Clerk:** Trustee Bendon volunteered to do it if no one else was interested in the position. Trustee Merritt nominated Trustee Glesmann. A silent ballot vote was conducted. The attorney counted and announced that there was one vote for Trustee Bendon and there were four votes for Trustee Glesmann, thus making Trustee Glesmann the new Chairman.
A silent ballot vote was conducted without specific nominations for Clerk. Trustee Burbee received three votes, Trustee Bendon received one vote, and Trustee Quinn received one vote. Trustee Burbee declined the nomination; so another vote was conducted between Trustee Bendon and Trustee Quinn. Trustee Quinn received three votes and Trustee Bendon received two votes. Trustee Quinn consulted with former Clerk, Terry Knief, who was present as a resident. Mr. Knief explained the process that he used as the previous Clerk and told Trustee Knief that he would show him the specifics. Trustee Quinn accepted the position of Clerk.
- 3. Approval of Minutes:** Trustee Bendon noted that there was an error in the fund balance as reported in the September 2, 2013 minutes. The balance date should be June 30, 2013. Trustee Bendon also mentioned that the last paragraph of the minutes, which states that Trustee Quinn was "trimming" trees should say that he was "surveying" trees for trimming. Trustee Burbee motioned to approve the minutes as amended. Trustee Bendon seconded the motion and all voted in favor of approving the minutes as amended.
Mr. Knief provided a brief explanation for Trustee Quinn as to the duties of the clerk in filing and amending the meeting minutes.
Trustee Bendon motioned to approve the September 17, 2013 minutes. Trustee Quinn seconded. All Trustees voted in favor.
- 4. Next Meeting Date:** The next meeting of the Board will be held on November 5, 2013 at 6:30 p.m. at Westmont Elementary School, 13210 Glenn Street, Omaha, Nebraska. Trustee Quinn will notify the Papillion Times about the change in names and positions on the board. The attorney will notify Sarpy County.
- 5. Resident Concerns:** Resident Don Schuneman voiced many concerns to the board. He wants volleyball net at park. He stated that trees are growing over the fence on the tennis court and through the fence and over the parking lot. He said that the weeds need to be sprayed on the parking lot and the ball diamond. He mentioned that the trash still needs to be picked up and so does the cable around the park. Don Schuneman noted that there are two holes in the concrete at 11407 Westmont Drive just outside of driveway. He said that lights are out at Grissom Street and Westmont Street and the second light is out on Cooper Circle. He stated that the no parking signs across from Trustee Bendon's house were torn down. He also said that Trustee Bendon's fence is on District property. Trustee Bendon said that his fence was grandfathered in in writing. Mr. Schuneman said that there are gardens and flowers on Richland Drive and wood, and there should not be. He also said that the hydrant on Schirra and Richland needs to be cut out again. He noted that there is pine tree at 13404 Grissom Street and there should not be. He also said that the sidewalks and curbs are in disrepair at 132nd Street and Schirra. Mr. Schuneman stated that the trees at the end of Richland Drive need to be trimmed. Mr. Schuneman alleged that Kersten Construction overcharged on the repair work on Grissom Street and said that Gerard Pesek should be responsible, not the SID. He said that Kersten had to charge extra because Mr. Pesek didn't oversee the project properly. Mr. Schuneman stated that the pump house needs to be sold and that Mr. Pesek was supposed to find a buyer, but he hasn't. Mr. Schuneman stated that parking close to 132nd Street is a safety issue and that Sarpy County has already said it has to be dealt. He also said that he would like to see more sealed bids instead of allowing Mr. Pesek to do everything and charge whatever he wants. Mr. Schuneman noted that Sarpy County was supposed to provide a blinking light for in front of the school, but they haven't done it. He said that neighborhood watch signs should be picked up at sheriff's office. There are eight signs waiting to be picked up. He said that the Drug Free Zone signs on Richland and Carpenter need to be replaced because they have too faded. He noted that the school crossing signs on Richland and Glenn are crooked. Mr. Schuneman stated that there is an ad on the island that needs to be pulled. He also said that people are firing guns in the fields and riding ATVs and motorcycles without authorization. Mr. Schuneman said that he believes if a fence were installed around the maintenance building or shed, it would limit access so this activity wasn't happening. He also said that there needs to be a stop sign by the Westmart leaving Westmont. Mr. Schuneman suggested that Mr. Pesek should pay the District if he is going to continue storing his tractor. He noted that the cable is down around the maintenance building and needs to be picked up. He said that there is a cement truck that is always parked on

Richland Drive and it shouldn't be parked there. Finally, Mr. Schuneman said that he wanted to welcome the new board. He said that he has a lot of hard feelings and he doesn't want to continue to be that way. He thinks that the board needs to Mr. Pesek and Linda Comstock because there is a little cartel/espionage going on. He said he thinks that the District needs people that aren't going to talk to people outside of the board. Mr. Pesek's bill is at least \$3,000.00 per month and he doesn't itemize it even though he has been asked to do so. Linda Comstock stated that she thought the bills were public record. She said that she has ten years of bills sitting in her basement.

Next, Resident Dave Jasa expressed concern over someone who had to move his fence on Shepard Street because Trustee Bendon told him previously that he had to do it, but Trustee Bendon didn't have to do the same with his fence because he was grandfathered in. He also stated that Trustee Bendon and the former attorney asked former Trustee Paula Bidrowsky to resign so someone else could be on the board following a previous election. He said that he knows that Trustee Bendon wants Larry Foreman back as the attorney for the District. Mr. Jasa also said that he heard that Trustee Bendon was trying to get everyone together for a meeting even though it's against the law. He said that Trustee Bendon previously allowed Kim Meyer's past-due water bill to slide as long as she was on the board. He stated that Trustee Bendon didn't seek out bids out for mowing in the past, and just paid Mr. Pesek to do it. He also said that Trustee Burbee never took the meeting minutes but that he charged for it when he was on the board in the past. Lastly, he stated that a year ago at fall clean up, Trustee Bendon raked all of his leaves into the street for the street sweeper to pick up.

Trustee Bendon noted that if Mr. Schuneman wanted to throw stones, he questioned why didn't Mr. Schuneman take care of the noted problems while he was the Chairman.

6. **Professional Accounting Service:** Gary Shepherd reported that fund balances as of August 31, 2013, were as follows:

General Fund	\$	149,837.38
Bond Fund	\$	169,627.92
Bond Investment	\$	0.00
Water Deposits	\$	9,150.00
Bond Reserve Fund	\$	6,478.08

Mr. Shepherd distributed to the Trustees copies of his graphs of general fund activities and a review of those graphs ensued. Total usage was 523,173. Average usage was 1318 cubic feet. Minimum users were 243. Total users were 397. The average water bill was \$32.52.

Mr. Shepherd next distributed to the Trustees his accounts receivable analysis showing those accounts currently in a delinquent status. Shut-off notices will be mailed with regard to the following accounts if balances are not received by October 15, 2013: Accounts Sarah Teetzal (1017), Brandon Smith (1022), Craig Sullivan (1025), Nicholas Vincent (1037), Jerald Dzingle (1048), Claude Bettin (1060), Richard Moss (1065), Alisha Barrett (1076), Derek Clark (1080), Mathew Lutz (1086), Bob Christensen (1088), Jordan Sims (1101), Russell Swanson (1105), Jim Hamilton (1141), David Boynton (1147), Jed Porter (1155), Richard Girdner (1161), K. Bielenberg (1163), Curt Roesler (1172), Derrick Solomon (1177), Kim Callahan (1197), Ronald Van Dyne (1201), Floyd E. Hult (1208), Andrew Johnson (1214), Joshua Eason (1220), Jerry Bothel (1222), Tim Stohlmann (1240), David Bidrowsky (1241), Nicole Nedbalock (1260), Brad Simpson (1272), Steven Pope (1282), John Stapp (1283), Julie VanRoy (1296), Dale Johnson (1308), Amber Peters (1310), Michael Ivey (1318), Stephen Warren (1319), Colin Carlson (1321), Lauren M. Cecil (1326), Howard Greene (1329), Kathy Lang (1336), Sarah Hentschel (1337), Jake Hammer (1345), Mary Doeden (1348), Jessica Hawthorne (1349), Scott Nebel (1382), and Ryan Jeffery (1383).

Mr. Shepherd reported Account 1220 Matthew Rolfs calls every day for his deposit refund. Linda Comstock said that she has been waiting on an email from the Clerk to determine if the refund can be made. Mr. Shepherd said that he has no idea what the bond reserve fund is for and that it has never moved. He stated that water shut off has been more effective lately, but that he needs to know from Mr. Pesek who is shut off. Mr. Pesek stated that he needs the shut off notice to put in the door. He said that the previous Clerk Terry used to prepare it, but it was very generic. Trustee Bendon will provide Trustee Quinn with his draft to prepare the shut off notices. Discussion was had regarding how to communicate shut offs between the necessary parties.

7. **Accounts Receivable:** June Jordening reported that \$13,343.16 was deposited into the general fund for the month of September. She stated that Account 1368 Westmont Elementary School is playing a game by paying \$50.56 of a balance of over \$90.00. The payment is always late. This did not used to be an issue. Discussion was had. The attorney agreed to write a letter to the school district to let them know that the water is going to be shut off if the payments are not made in full and on time.
8. **Report from G.F. Pesek:** Both wells are cycling properly. The routine monthly coliform test was negative. The annual test for nitrate from both wells reported results of 0.0864 mg/l and 0.0915 mg/l. The results are under MCL of 10.0 set by the EPA. A required written Routine Sanitary Survey response was sent to the NDHHS Department of Public Health within 30 days from the date of their letter, which was August 13, 2013. A copy of the Deficiency Corrective Action Plan was presented with this document to the board for information and action.
- Trustee Bendon suggested contacting TD2 regarding complying with the deficiencies. Trustee Bendon motioned that the Chairman or the Clerk contact TD2 regarding the Deficiency Corrective Actions Required. Trustee Quinn suggested that the handyman deal with the vines on the fence. Mr. Pesek stated that he is most concerned with needing to secure the areas by the well. He thinks this needs to be done first. Trustee Bendon stated that he can contact Bob Sheehan and suggested that it be done on an emergency basis since this needs to be done by December 1, 2013. Trustee Quinn motioned for Trustee Bendon to contact Bob Sheehan and then Cutters to get bids that he will then communicate via email with the board to decide whom to contract with

immediately. Trustee Burbee seconded the motion. All voted in favor.

Trustee Bendon stated that Mr. Pesek's hands are often tied during water shut offs because of the curb stop placement, so he needs to call Kerstens to come out and help. Trustee Bendon suggested that Mr. Pesek have authority to contact Kerstens himself to get that help without having to wait on the board's permission, but that he needs to communicate with the board that he is taking that action. Trustee Bendon motioned to approve this activity by Mr. Pesek. Trustee Quinn seconded. All voted in favor.

9. **Attorney Issues:** Discussion was had regarding the pending sidewalk litigation with Resident Dennis Kelly. The attorney explained what has happened over the past year since the case was filed. She stated that the case has been dismissed twice because it was inappropriately filed and that the third time, a counterclaim for frivolous action was filed, which is still pending. The attorney said that discovery has been served upon Mr. Kelly's attorney and should be received back within 30 days. Trustee Bendon asked what would happen if the District lost the lawsuit. The attorney stated that she did not believe that that was likely because the lawsuit does not comply with the Political Subdivision Torts Act. If it were to happen, though, the District could be ordered to repair or replace specific sidewalks. The attorney told Trustee Bendon that she believes that it would be a conflict of interest for him to have any input on the lawsuit as he is friends with Mr. Kelly and has communicated to people in the District that he wants to have the lawsuit dismissed and do what Mr. Kelly has asked. The attorney suggested that if the board needs to vote on further action or wants to reconsider current action, Trustee Bendon should excuse himself from taking any action.

10. **Engineer Reports:** No new engineering reports at this time.

11. **Payment of Bills:** All bills submitted for payment were approved by unanimous vote. Trustee Burbee motioned for approval. Trustee Quinn seconded. All voted in favor. The detail of the approved warrants as follows:

Warrant	Date	Issued to	Amount	Purpose	Invoice #
9331	9.17.13	Thompson, Dreessen, Dorner	819.96	Engineer's Fee	100560
9332	9.17.13	Century Link	84.92	Phone North Well	
9333	9.17.13	Century Link	84.92	Phone South Well	
9334	9.17.13	Omaha World Herald	7.79	Publication	130831-153698
9335	9.30.13	Century Link	122.44	Phone Water Tower	
9336	9.30.13	Abe's Trash Service	47.25	Trash Service	
9337	9.30.13	Nebraska Public Health	47.00	Water Testing	443594
9338	10.1.13	Mike Quinn	83.11	Meeting Attendance	
9339	10.1.13	Shirley Merritt	83.11	Meeting Attendance	
9340	10.1.13	Dave Jasa	55.41	Meeting Attendance	
9341	10.1.13	Don Schuneman	55.41	Meeting Attendance	
9342	10.1.13	Cutters Lawn Service	675.00	Mowing	1524, 1540, 1557, 1558
9343	10.1.13	Linda Comstock	306.90	Accounts Payable	
9344	10.1.13	Kersten Construction	1,121.85	Repairs Westmont/Grissom	31638
9345	10.1.13	Professional Accounting Service	1,116.41	Accounting Service	
9346	10.1.13	G.F. Pesek	3,215.00	September Maintenance	
9347	10.1.13	O.P.P.D.	2,478.96	Electrical Service	
9348	10.1.13	Abe's Trash Service	31.00	Trash Service	869762
9349	10.1.13	June Jordening	542.16	Accounts Receivable	
9350	10.1.13	Cassidy Chapman Law	1,916.29	Legal Fees	3244
9351	10.1.13	Thompson, Dreessen, Dorner	396.00	Engineering Fees	101101
9352	10.1.13	Terry Knief	123.15	Clerk Fees	
9353	10.1.13	Matthew Rohlfs	150.00	Deposit Refund	Acct 1220

12. **Old Business:**

- a. Bob Sheehan ordered no parking signs, but he had to cancel because there wasn't official approval. Trustee Bendon said that the sign mentioned by Mr. Schuneman was removed because the approval wasn't official. The attorney asked how he knew if that was the intent. He said that he just assumed. 12 signs are needed to cover both sides of the street pursuant to the resolution from the Board of Commissions of Sarpy County. Trustee Quinn has called the sheriff and they won't do anything without signs up. Discussion was had regarding whether the resolution was one of necessity. The attorney identified the use of the word "shall" in the resolution stating that the District "shall take steps to post appropriate signs according to the Manual on Uniform Traffic Control Devices at the locations indicated on the location plan." The attorney explained that the word "shall" creates a directive to do something, not a suggestion. Trustee Burbee motioned that signs be ordered and installed according to the rules and specifications as described in by the Board of Commissions of Sarpy County. Trustee _____ seconded the motion. Trustee Bendon voted nay because he didn't believe that the signs were necessary pursuant to the resolution. The other Trustees voted in favor, so the signs will be ordered and installed.
- b. Trustee Bendon suggested bringing the district to the Wi-Fi age to read meters with a special reader with a new bond. This idea was discussed approximately a year ago and the previous board determined that it was too expensive.

- c. Trustee Bendon motioned that Trustee Quinn contact Daren Konda from TD2 to move forward with publication for the additional sidewalks already approved on the east side of Richland Drive. Trustee Burbee seconded the motion. All voted in favor.
- d. Trustee Quinn finished surveying the District trees for trimming. It was discussed that a letter is usually sent out with the specifications. Trustee Bendon offered to assist with the letter. Trustee Quinn noted that 137 properties have trees that need to be trimmed. No were trimmed or billed last year. The letter will say that that trees need to be trimmed by October 28. Trustee Bendon stated that he maintains a list of all property owners as they come and go, so can use that information to assist in printing envelopes for the letter. Trustee Burbee motioned for approval. Trustee Quinn seconded. All voted in favor.
- e. The Black Hills Energy remote meter reader location cannot be changed. Trustee Quinn is noted his concern because the flags are not pulled and stated that he gets lots of complaints about it.

13. New Business:

- a. The attorney noted that Dutton & Associates had suggesting refinancing the District's bond last year because rates are good. It was decided that the board will come to the next meeting with proposals for potential new bond items. Trustee Quinn mentioned the ball fields and bathrooms as a potential item. Trustee Bendon asked if there was a written contract with any of the teams using the fields. Trustee Quinn stated that there are teams that would sign written contracts if certain work was done to the ball fields.
- b. The need for street repairs will be discussed at the next meeting.
- c. Trustee Burbee stated that all storm sewers need to be checked out.
- d. Trustee Bendon stated that he wants the board to consider hiring a media/IT manager for the website and a District Facebook page.
- e. Trustee Bendon said that he thinks that water deposit refunds need to be investigated.
- f. Gary Shepherd reminded that board that Omaha sewer rates have been going up. Trustee Burbee agreed that it is an issue that needs to be addressed. Mr. Shepherd stated that he could look into the numbers to figure out how much the District sewer fees should be raised. The attorney mentioned that TD2 had also suggested raising sewer rates. Trustee Burbee motioned to allow Mr. Shepherd to research and create a proposal for sewer fee increases. The Chairman seconded. All voted in favor.

Trustee Merritt motioned to adjourn. Trustee Burbee seconded. All voted in favor.

CLERK



CHAIRMAN

