

**MINUTES OF THE MEETING OF THE BOARD OF TRUSTEES  
OF SANITARY AND IMPROVEMENT DISTRICT NO. 92  
OF SARPY COUNTY, NEBRASKA**



A meeting of the Board of Trustees of Sanitary and Improvement District No. 92 of Sarpy County, Nebraska, was convened at 6:30 p.m. on **August 31, 2011**, at 8901 South 154<sup>th</sup> Street, Omaha, Nebraska. Present were Trustees Tim Albers, Stephanie Adams, Ann Rasmussen, Linda J. Paesl and Aaron Thornton (appearing at approximately 7:00 o'clock p.m. for Agenda items 5, 6 and 7). Absent: None. Also present Steven J. Olson, Attorney for the District and Jim Olmsted, Olmsted & Perry Consulting Engineers, Engineers for the District.

Notice of the meeting was given in advance thereof by publication in The Papillion Times, Papillion, Nebraska, on August 24, 2011, a copy of the Proof of Publication being attached to these Minutes. Notice of this meeting was sent to the Sarpy County Clerk, Sarpy County Courthouse, Highway 370 and 84th Street, Papillion, Nebraska, not less than seven (7) days prior to the date of this meeting. Notice of this 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 published 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 Chairman presented Change Order No. 1 for time extension in regard to the contract between the District and Swain Construction, Inc. for the 2010 Street Reconstruction. Mr. Olmsted advised that Change Order No. 1 was necessary to adjust the contract time by two weeks changing the date of substantial completion from June 1 to June 15, 2011 and June 15 to July 1, 2011 as ready for final payment date. After full and careful discussion, the following resolution was then duly moved and seconded, to wit:

BE IT RESOLVED that Change Order No. 1, a copy of which is attached hereto changing the date of substantial completion from June 1, to June 15, 2011 and changing June 15, to July 1, 2011 as ready for final payment date is hereby approved and the Chairman is hereby authorized to execute such Change Order on behalf of the District.

On roll call on the foregoing motion, the following Trustees voted aye: Tim Albers, Stephanie Adams, Ann Rasmussen, and Linda J. Paesl. Voting nay thereon were the following Trustees: None. The Chairman then declared said resolution to be duly carried and adopted.

The Chairman then presented Change Order No. 2 which increased the contract between the District and Swain Construction for the 2010 Street Reconstruction by \$4,076.54. Mr. Olmsted advised that Change Order No. 2 was necessary to adjust the contract amount to reflect additional street panel reconstruction. After full and careful discussion, the following resolution was then duly moved and seconded, to wit:

BE IT RESOLVED that Change Order No. 2, a copy of which is attached hereto

in the amount of \$4,076.54 (+) to the contract between the District and Swain Construction, Inc. is hereby approved and the Chairman is authorized to execute said change order on behalf of the District.

On roll call on the foregoing motion, the following Trustees voted aye: Tim Albers, Stephanie Adams, Ann Rasmussen, and Linda J. Paesl. Voting nay thereon were the following Trustees: None. The Chairman then declared said resolution to be duly carried and adopted.

The Chairman then presented for the Board's consideration the Contractor's Final Application for Payment in the amount of \$88,305.57, the Engineer's Recommendation of Payment, Certificate of Substantial Completion, Consent of Surety Company to Final Payment and Contractor's Affidavit of Payment of Debts and Claims, all in connection with the 2010 Street Reconstruction. Mr. Olmsted noted that the date of substantial completion was June 24, 2011 and the beginning of the two year warranty period. The Chairman noted that the recommendation of payment from the District's engineer certified that Swain Construction, Inc.'s Application for Payment meets the requirements of the contract documents, and the contractor is entitled to payment in the sum of \$88,305.57. After full and careful discussion, the following resolution was duly moved and seconded, to wit:

BE IT RESOLVED that the Board of Trustees of Sanitary and Improvement District No. 92 of Sarpy County, Nebraska herewith approves Swain Construction, Inc.'s Final Application for Payment in the amount of \$88,305.57 and authorizes payment thereof, and accepts the Certificate of Substantial Completion in connection with the 2010 Street Reconstruction Project.

On roll call on the foregoing motion, the following Trustees voted aye: Tim Albers, Stephanie Adams, Ann Rasmussen, and Linda J. Paesl. Voting nay thereon were the following Trustees: None. The Chairman then declared said resolution to be duly carried and adopted.

The Chairman then presented for the Board's consideration a letter to the District's attorney from the attorney for the adjoining sanitary and improvement district, SID No. 165 of Sarpy County, dated May 18, 2011 along with enclosure. The Chairman noted that the SID 165 was requesting that the District credit a \$5,000.00 bill for drainage repairs to SID 92's park against the amounts due SID 92 for SID 165's share of the park maintenance costs. The Chairman noted that SID 165 representatives were nonresponsive to requests from SID 92's engineers to justify the bill. After full and careful discussion, the following resolution was then dully moved and seconded, to wit:

BE IT RESOLVED that the attorney for the Board of Trustees, Steven J. Olson, is hereby directed to prepare and send a letter to the attorney for SID 165 rejecting the request in Mr. Fullenkamp's letter of May 18, 2011.

On roll call on the foregoing motion, the following Trustees voted aye: Tim Albers, Stephanie Adams, Ann Rasmussen, Linda J. Paesl and Aaron Thornton. Voting nay thereon were the following Trustees: None. The Chairman then declared said resolution to be duly carried

and adopted.

The Chairman also presented the hereinafter described bills, statements and invoices.

After full and careful discussion, the following resolutions were then duly moved and seconded, to wit:

BE IT RESOLVED by the Board of Trustees of Sanitary and Improvement District No. 92 of Sarpy County, Nebraska, that the Chairman and Clerk be, and hereby are authorized and directed to execute and deliver warrant nos. 2168 through 2173 dated the date of this meeting to following payees and in the following amounts, said warrants to be drawn on the General Fund account of the District and to draw interest at the rate of 7% per annum and to be redeemed no later than the date noted below, to wit:

GENERAL FUND ACCOUNT  
(Due August 31, 2014)

- (a) Warrant No. 2168 in the sum of \$4,029.95, payable to Steven J. Olson, in payment of legal services rendered;
- (b) Warrant No. 2169 in the sum of \$1,000.00, payable to Bankers Trust Company, in payment of refunding bonds services 2003 and series 1998;
- (c) Warrant No. 2170 in the sum of \$300.00, payable to Clean Sweep Commercial Inc. Parking Lot Services, in payment of street sweeping;
- (d) Warrant No. 2171 in the sum of \$2,200.00, payable to Martin D. Hocevar, PC, in payment of 2011 audit and 2012 budget;
- (e) Warrant No. 2172 in the sum of \$4,869.99, payable to Omaha Public Power District, in payment of acct #4504100020 May - August;
- (d) Warrant No. 2173 in the sum of \$2,130.00, payable to Sun Daze Inc., in payment of mowing April - July;

BE IT RESOLVED by the Board of Trustees of Sanitary and Improvement District No. 92 of Sarpy County, Nebraska, that the Chairman and Clerk be, and they hereby are, authorized and directed to execute and deliver Warrant Nos. 1675 through 1684, dated the date of this meeting, to the following payees and in the following amounts to be drawn on the Construction Fund of the District and to draw interest at the rate of 7% per annum, interest to be payable on July 1 of each

year, and to be redeemed no later than the date noted below, subject to extension of said maturity date by order of the District Court, Sarpy County, Nebraska, after notice is given as required by law, to wit;

CONSTRUCTION FUND  
(Due August 31, 2016)

- (a) Warrant No. 1675, in the sum of \$10,000.00, payable to Swain Construction Inc., in payment of 2010 Street Reconstruction project;
- (b) Warrant No. 1676, in the sum of \$10,000.00, payable to Swain Construction Inc., in payment of 2010 Street Reconstruction project;
- (c) Warrant No. 1677, in the sum of \$10,000.00, payable to Swain Construction Inc., in payment of 2010 Street Reconstruction project;
- (d) Warrant No. 1678, in the sum of \$10,000.00, payable to Swain Construction Inc., in payment of 2010 Street Reconstruction project;
- (e) Warrant No. 1679, in the sum of \$10,000.00, payable to Swain Construction Inc., in payment of 2010 Street Reconstruction project;
- (f) Warrant No. 1680, in the sum of \$10,000.00, payable to Swain Construction Inc., in payment of 2010 Street Reconstruction project;
- (g) Warrant No. 1681, in the sum of \$10,000.00, payable to Swain Construction Inc., in payment of 2010 Street Reconstruction project;
- (h) Warrant No. 1682, in the sum of \$10,000.00, payable to Swain Construction Inc., in payment of 2010 Street Reconstruction project;
- (i) Warrant No. 1683, in the sum of \$8,305.57, payable to Swain Construction Inc., in payment of 2010 Street Reconstruction project;
- (j) Warrant No. 1684, in the sum of \$11,924.63, payable to Olmsted & Perry Consulting Engineers Inc., in payment of engineering services rendered in 2010 Street Reconstruction project;

BE IT FURTHER RESOLVED by the Board of Trustees of Sanitary and Improvement District No. 92 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 upon 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. 92 of Sarpy County, Nebraska, that the District hereby covenants, warrants and agrees as follows: (a) to take all actions necessary under current 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 obligation" under Section 265(b)(3)(B)(ii) 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.

BE IT FURTHER RESOLVED by the Board of Trustees of Sanitary and Improvement District No. 92 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 Treasurer 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 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(b)(2) of the Income Tax Regulations of the Internal Revenue Code of 1986, as amended.

On roll call on the foregoing motion, the following Trustees voted aye: Tim Albers, Stephanie Adams, Ann Rasmussen, Linda J. Paesl and Aaron Thornton. Voting nay thereon were the following Trustees: None. The Chairman then declared said resolution to be duly carried and adopted.

The Chairman then presented for the Board's consideration the proof of publication of the "Notice of Budget Hearing and Budget Summary" as published in the Papillion Times on August 24, 2011. No owners of property in the District appeared at this public hearing to oppose the budget. After full and careful discussion, the following resolution was then duly moved and seconded, to wit:

BE IT RESOLVED that the attached Budget is hereby adopted: that an additional 1% increase above the 2.5% Base Limitation Percent Increase in the Total Restricted Funds Authority from the Total Restricted Funds Authority in the budget for the last fiscal year is hereby approved; that the 2011/12 dollar requirement totaling \$212,000.00 is hereby established based upon a rate of \$.728631 per \$100.00 of taxable valuation; \$50,000.00 to be credited to the District's general fund based upon a rate of \$.171847 per \$100.00 of taxable valuation; and, \$162,000.00 to be credited to the District's construction or bond sinking fund based upon a rate of \$.556784 per \$100.00 of taxable valuation.

BE IT FURTHER RESOLVED that the Board of Trustees for the District hereby adopts a property tax request for the same amount as the property tax request for the prior year.

BE IT FURTHER RESOLVED that Steven J. Olson, Attorney for the District, be and hereby is directed on behalf of the Board of Trustees to forward a certified

copy of this resolution to the County Clerk of this County prior to October 13, 2011.

BE IT FURTHER RESOLVED that Steven J. Olson, Attorney for the District, be and hereby is directed on behalf of the Board of Trustees to certify said budget and dollar requirement to the County Board and County Clerk of this county, and is further directed to file or cause the same to be filed with the State Auditor of Public Accounts on or before September 20, 2011.

On roll call on the foregoing motion, the following Trustees voted aye: Tim Albers, Stephanie Adams, Ann Rasmussen, Linda J. Paesl and Aaron Thornton. Voting nay thereon were the following Trustees: None. The Chairman then declared said resolution to be duly carried and adopted.

The Chairman advised that it may be necessary and advisable for the District to issue bonds in order to redeem construction fund warrants issued in payment of the 2010 Street Reconstruction Project. The Chairman also advised that it may be advisable for the District to refund existing bond issues because lower interest rates could result in a savings for the District. Counsel for the District advised that the fiscal agent had indicated a willingness to underwrite a \$750,000 bond issue with interest rates between 1.3% and 2.65% and final maturity in 2016. After full and careful discussion, the following resolution was then duly moved and seconded, to wit:

BE IT RESOLVED that the attorney for the District is hereby authorized to prepare a resolution form for presentation to the Board at the next meeting to issue bonds in the sum of \$750,000 with final maturity in 2016 to refund existing bonds and redeem outstanding construction fund warrants.

On roll call on the foregoing motion, the following Trustees voted aye: Tim Albers, Stephanie Adams, Ann Rasmussen, Linda J. Paesl and Aaron Thornton. Voting nay thereon were the following Trustees: None. The Chairman then declared said resolution to be duly carried and adopted.

Under miscellaneous matters, the Board authorized the Chairman to execute the job arrangement letter with Martin Hocesvar, CPA to prepare the 2011 budget/audit. The Chairman also advised that Gretna Sanitation had recently been engaged to remove garbage from the District's park on a regular basis. The Board also discussed the need to either replenish the wood chips in the playground area of the park area or replace the wood chips with engineered wood fiber or rubber mats.

Thereupon the meeting adjourned.

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Tim Albers, Chairperson & Trustee

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Stephanie Adams, Clerk & Trustee

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Ann Rasmussen, Trustee

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Linda Paesl, Trustee

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Aaron Thornton, Trustee