



**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 **May 25, 2016**, at 8901 South 154th Street, Omaha, Nebraska. Present were Trustees: Ann Rasmussen, Linda J. Paesl and Tim Albers. Absent: Stephanie Adams and Aaron Thornton. Also present Jake Zimmer, Engineer for the District, Steven J. Olson, Attorney for the District and Adam Flannigan, Kuehl Capital Corporation.

Notice of the meeting was given in advance thereof by publication in *The Papillion Times*, Papillion, Nebraska, on May 11, 18 and 25, 2016, 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 stated that the public hearing on the proposed Resolution of Necessity for the 2015 Street Repair, Phase 1 and Phase 2 would be held. The Chairman presented the proof of publication that notice of the hearing on the proposed Resolution of Necessity had been published in the *Papillion Times* on May 11, 18 and 25, 2016. The Clerk certified that the notice of the hearing on the proposed Resolution of Necessity had been posted in three conspicuous places within the boundaries of the District prior to this meeting. The Chairman also stated that no petition opposing the Resolution of Necessity had been filed by any of the property owners within the District or by any other persons. No persons appearing at the meeting made any objections to the proposed Resolution of Necessity.

Mr. Olson advised the Resolution of Necessity and Advisability proposed by the Board of Trustees on April 28, 2016 referred to the project in Resolution "A" as the 2015 Street Repair - Phase 1 and referred to the project in Resolution "B" as the 2015 Street Repair - Phase 2 and it would be advisable to change the project name designation to 2015 Pavement Repairs - Phase I and 2015 Pavement Repairs - Phase II, respectively.

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

BE IT RESOLVED the Resolution of Necessity and Advisability proposed by the Board of Trustees on April 28, 2016 is hereby amended to provide the project name designation of 2015 Street Repair - Phase 1 in Resolution "A" is changed to the 2015 Pavement Repairs - Phase I; and

BE IT FURTHER RESOLVED the Resolution of Necessity and Advisability proposed by the Board of Trustees on April 28, 2016 is hereby amended to provide the project name designation of 2015 Street Repair - Phase 2 in Resolution "B" is changed to the 2015 Pavement Repairs - Phase II.

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

After full and careful review of same and full discussion, the following resolution was then duly moved and seconded, to wit:

RESOLUTION "A"

BE IT RESOLVED by the Board of Trustees of Sanitary and Improvement District No. 92 of Sarpy County, Nebraska, that said District finds and determines that it is advisable and necessary for the District to reconstruct approximately 185.8 square yards of deteriorated street pavement, and installation of 3 concrete collars around existing manhole covers, all within the boundaries of S.I.D. No. 92. The work shall consist of the removal of deteriorated, cracked, and displaced concrete pavements, the reconstruction of the street pavement subgrades, the replacement of removed concrete with new portland cement concrete paving, surface restoration, and concrete testing.

The improvement is to be located in dedicated public right-of-way within the Sanitary and Improvement District or on real property owned by the Sanitary and Improvement District. The improvement shall be designated as 2015 Pavement Repairs - Phase I. All work shall be as shown on the project drawings and described by the specifications and construction contract documents.

The plans, specifications and cost estimate for this improvement have been made and filed, prior to the First Publication of this Resolution, with the Clerk of the District by the District's engineering firm, Olmsted & Perry Consulting Engineers, Inc. The engineer's estimate of the total cost of this improvement, including all engineering fees, legal fees, interest, administration costs and miscellaneous costs is \$24,700.00.

To pay for the cost of said improvement the Board of Trustees shall have the power to issue negotiable bonds after such improvements have been constructed or installed; said bonds to be called "Sanitary and Improvement District Bonds" and to be payable and to bear interest as provided by the statutes by the State of Nebraska. The Board of Trustees shall have the power to assess, to the extent of special benefits, the cost of such portions of the improvement as are local improvements against properties found specially benefited thereby. All special assessments which may be levied upon properties specially benefited shall, when collected, be set aside and constitute a sinking fund for the payment of interest and principal of said bonds. The District shall also cause to be levied annually a tax upon the assessed value of all taxable property in the District, except intangible property, which together with said sinking fund, derived from special assessments, shall be sufficient to meet payments of interest and principal of said bonds as the same shall become due; said tax shall be known as the "Sanitary and Improvement District Tax" and shall be payable annually in money. The outer boundaries in which it is proposed to make special assessments for said improvements are the outer boundaries of said Sanitary and Improvement District No. 92 of Sarpy County, Nebraska.

RESOLUTION "B"

BE IT RESOLVED by the Board of Trustees of Sanitary and Improvement District No. 92 of Sarpy County, Nebraska, that said District finds and determines that it is advisable and necessary for the District to reconstruct approximately 259.8 square yards of deteriorated street pavement all within the boundaries of S.I.D. No. 92. The work shall consist of the removal of deteriorated, cracked, and displaced concrete pavements, the reconstruction of the street pavement subgrades, the replacement of removed concrete with new portland cement concrete paving, surface restoration, and concrete testing.

The improvement is to be located in dedicated public right-of-way within the Sanitary and Improvement District or on real property owned by the Sanitary and Improvement District. The improvement shall be designated as 2015 Pavement Repairs - Phase II. All work shall be as shown on the project drawings and described by the specifications and construction contract documents.

The plans, specifications and cost estimate for this improvement have been made and filed, prior to the First Publication of this Resolution, with the Clerk of the District by the District's engineering firm, Olmsted & Perry Consulting Engineers, Inc. The engineer's estimate of the total cost of this improvement, including all engineering fees, legal fees, interest, administration costs and miscellaneous costs is \$25,000.00.

To pay for the cost of said improvement the Board of Trustees shall have the power to issue negotiable bonds after such improvements have been constructed or installed; said bonds to be called "Sanitary and Improvement District Bonds" and to be payable and to bear interest as provided by the statutes by the State of Nebraska. The Board of Trustees shall have the power to assess, to the extent of special benefits, the cost of such portions of the improvement as are local improvements against properties found specially benefited thereby. All special assessments which may be levied upon properties specially benefited shall, when collected, be set aside and constitute a sinking fund for the payment of interest and principal of said bonds. The District shall also cause to be levied annually a tax upon the assessed value of all taxable property in the District, except intangible property, which together with said sinking fund, derived from special assessments, shall be sufficient to meet payments of interest and principal of said bonds as the same shall become due; said tax shall be known as the "Sanitary and Improvement District Tax" and shall be payable annually in money. The outer boundaries in which it is proposed to make special assessments for said improvements are the outer boundaries of said Sanitary and Improvement District No. 92 of Sarpy County, Nebraska.

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

Mr. Olson advised the Board of Trustees awarded a contract on December 16, 2015 for the 2015 Pavement Repairs - Phase I, in the amount of \$19,635.00 to Mackie Construction Inc. and awarded a contract for the 2015 Pavement Repairs - Phase II, in the amount of \$19,968.58 to Mackie Construction Inc. Mr. Olson advised since each bid proposal from Mackie Construction Inc. was less than \$20,000.00, *Neb. Rev. Stat. §31-741* allowed the Board to award the contract without twenty days notice of the terms and conditions of the contract to be let.

The Chairman then presented Change Order No. 1 which will decrease the contract between the District and Mackie Construction, Inc. for the 2015 Pavement Repairs - Phase I by \$185.00. Mr. Zimmerer advised that Change Order No. 1 was necessary to adjust the contract amount to reflect additional quantities of concrete and removal of testing allowance. 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 in the amount of \$185.00 (deductive) to the contract between the District and Mackie Construction, Inc., for 2015 Pavement Repairs - Phase I, 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: Ann Rasmussen, Linda Paesl and Tim Albers. 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 Application for Payment No. 1 in the amount of \$19,450.00, Contractor's Affidavit of Payment of Debts and Claims, and Payment Bond Waivers and Releases all in connection with the 2015 Pavement Repairs - Phase I. 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 Mackie Construction, Inc.'s Application for Payment No. I in the amount of \$19,450.00 and authorizes payment thereof in connection with the 2015 Pavement Repairs - Phase I.

On roll call on the foregoing motion, the following Trustees voted aye: Ann Rasmussen, Linda Paesl and Tim Albers. 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. 1 which will decrease the contract between the District and Mackie Construction, Inc. for the 2015 Pavement Repairs - Phase II by \$483.15. Mr. Zimmerer advised that Change Order No. 1 was necessary to adjust the contract amount to reflect additional quantities of concrete and removal of testing allowance. 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 in the amount of \$483.15 (deductive) to the contract between the District and Mackie Construction, Inc., for 2015 Pavement Repairs - Phase II 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: Ann Rasmussen, Linda Paesl and Tim Albers. 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 Application for Payment No. 1 in the amount of \$19,485.00, Contractor's Affidavit of Payment of Debts and Claims, and Payment Bond Waivers and Releases all in connection with the 2015 Pavement Repairs - Phase II. 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 Mackie Construction, Inc.'s Application for Payment No. 1 in the amount of \$19,485.00 and authorizes payment thereof in connection with the 2015 Pavement Repairs - Phase II.

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

The Chairman then 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 FURTHER 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. 2360 through 2365 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 May 25, 2019)

- (a) Warrant No. 2360 in the sum of \$988.72, payable to Omaha Public Power District, in payment of account no. 4504100020;
- (b) Warrant No. 2361 in the sum of \$54.00 payable to Gretna Sanitation, Inc., in payment of invoice #3460;
- (c) Warrant No. 2362 in the sum of \$1,190.00 payable to D&S Lawn Service, in payment of invoice 5/3/2016 – park mowing;
- (d) Warrant No. 2363 in the sum of \$1,425.00 payable to Mackie Construction Inc., in payment of invoice #1587;
- (e) Warrant No. 2364 in the sum of \$3,024.00 payable to Steven J. Olson, in payment of invoice #46645 legal services rendered;
- (d) Warrant No. 2365 in the sum of \$320.00 payable to Dostals Construction, in payment of graffiti removal, park playground;

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. 1708 through 1713, 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 dated 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 May 25, 2021)

- (a) Warrant No. 1708, in the sum of \$1,991.71, payable to Olmsted & Perry Consulting Engineers, Inc., in payment of engineering services 2015 Pavement Repairs - Phases I and II;
- (b) Warrant No. 1709, in the sum of \$10,000.00, payable to Mackie Construction, Inc., in payment of 2015 Pavement Repairs - Phase I;
- (c) Warrant No. 1710, in the sum of \$9,450.00, payable to Mackie Construction, Inc., in payment of 2015 Pavement Repairs - Phase I;
- (d) Warrant No. 1711, in the sum of \$10,000.00, payable to Mackie Construction, Inc., in payment of 2015 Pavement Repairs - Phase II;
- (e) Warrant No. 1712, in the sum of \$9,485.00, payable to Mackie Construction, Inc., in payment of 2015 Pavement Repairs - Phase II;
- (f) Warrant No. 1713, in the sum of \$1,023.17, payable to Kuehl Capital Corporation, in payment of contract fee for warrant nos. 1708-1712;

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: Ann Rasmussen, Linda J. Paesl and Tim Albers. Voting nay thereon were the following Trustees: None. The Chairman then declared said resolution to be duly carried and adopted.

Mr. Olson advised the District had Unused Restricted Funds Authority of \$74,330.45 which can be used to increase property taxes to pay for solid waste disposal in fiscal year 2016/2017. Therefore, it would not be necessary for the Board of Trustees to call for a special election to authorize exceeding the levy and "lid" limits for property taxes provided by Nebraska statutes.

Thereupon the meeting adjourned.

Ann Rasmussen, Chairman & Trustee

Linda Paesl, Clerk & Trustee

Tim Albers, Trustee

Aaron Thornton, Trustee