

**MINUTES OF THE MEETING OF  
SANITARY AND IMPROVEMENT DISTRICT NO. 5,  
CASS COUNTY, NEBRASKA**

Meeting convened at 6:00 p.m. on April 18, 2018 at 3200 Buccaneer Blvd, Plattsmouth, Nebraska, inside the clubhouse of Bay Hills Golf Club. Attached hereto are: the agenda for the meeting; the Affidavit of Printer regarding publication of notice of the meeting, which communicated the availability of the agenda, in the *Plattsmouth Journal*, Plattsmouth, Nebraska; advance notice of the meeting as provided to the County Clerk of Cass County and all Trustees; and the Trustees' acknowledgment of receipt of said notice and agenda. All proceedings were taken while convened with attendance open to the public.

**ITEM 1**

Meeting called to by order by the Chair, David Martin, at 6:00 p.m.

**ITEM 2**

The locations of the Open Meetings Act and the documents related to the agenda were announced.

**ITEM 3**

On roll call, those present: Trustees David L. Martin, Gary Petersen, Carol Walker, Mark Kula and James Grotrian. Those absent: none.

**ITEM 4**

No persons were present wishing to address the Board of Trustees.

**ITEM 5**

Motion by Grotrian, seconded by Kula, to approve and, authorize the Chair to execute, a contract with J-Spot Services, LLC, for utility locating services for the District, and to charge the same 50% to the Service Fee Fund and 50% to the 2017 Road and Storm Water Management Reconstruction Project, provided that if bond counsel objects to the charge to the project that the entire cost be charged to the Service Fee Fund. On roll call those voting aye: Walker, Petersen, Kula, Martin and Grotrian. Voting nay: none. Absent: none. Abstaining: None. The Chair declared the resolution adopted.

**ITEM 6a**

Trustee Kula advised that there was no general roads report.

### **ITEM 6b**

The Chair laid over discussion of additional speed tables on Buccaneer Bay Blvd and Fairway Drive at the request of Trustee Kula.

### **ITEM 6c**

At the request of Trustee Kula, the Chair laid over consideration of approving the repair of pot holes until the same could be identified as work was completed on the 2017 Street and Storm Water Drainage Project approved by Resolution of Necessity adopted September 27, 2017.

### **ITEM 6d**

Trustee Kula presented the attached report from Ehrhart Griffin Engineers regarding the road reconstruction phase of the 2017 Road and Storm Water Management Reconstruction Project adopted September 27, 2017.

### **ITEM 6e**

Trustee Kula presented the attached report from Ehrhart Griffin Engineers regarding the storm water reconstruction phase of the 2017 Road and Storm Water Management Reconstruction Project adopted September 27, 2017.

### **ITEM 7**

Trustee Walker advised that there was no general grounds report.

### **ITEM 8**

Trustee Grotrian presented the attached finance report and reiterated that the general fund is diminished as a result of approximately \$35,000 in costs associated with the June 16, 2017 storm, and as a result of three street failures that required immediate repairs. Mr. Johnson advised that the District avoided registering warrants in March as was initially anticipated because of collections in March and April, and that based on those collections no warrants would be registered for April.

### **ITEM 9a**

Mr. and Ms. Nelson of Urban Utilities presented the attached reports for water and wastewater operations and for water billing.

### **ITEM 9b**

The Chair advised that there was no general Committee Report.

**ITEM 9c**

Motion by Walker, seconded by Petersen, to approve payment of the semi-annual interest, principal and administrative fee for the Nebraska Department of Environmental Quality State Revolving Fund loan for the construction of the wastewater treatment plant, and to direct delivery of the same on or before June 15, 2018. On roll call those voting aye: Grotrian, Walker, Petersen, Martin and Kula. Voting nay: none. Absent: Martin. Abstaining: None. The Chair declared the resolution adopted.

The Chair advised that the balance due after the payment would be \$500,513.89 which is scheduled for payoff on December 15, 2025.

**ITEM 9d**

The Chair laid over to the next meeting consideration of a contract to clear dumped trees and debris, and to cut trees, on Outlot 1, Block 29 to provide access to water and/or sanitary sewer lines until it is determined whether and to what extent the same will be resolved by some work that is required as part of the 2017 Road and Storm Water Management Reconstruction Project adopted September 27, 2017.

**ITEM 9e**

The Chair laid over consideration of a contract with Kerns Excavating Company to grout manholes and laterals throughout Phase VI development.

**ITEM 9f**

The Chair laid over discussion regarding amendments to the ordinance setting water and sanitary sewer rates and charges.

**ITEM 9g**

Motion by Martin, seconded by Grotrian, to approve, and authorize the Chair to execute, a contract with Kerns Excavating Company, Inc. for the installation of water supply lines and a sanitary sewer stub out to the two lots east of 3200 Buccaneer Blvd but that work not be authorized until the costs of the work had been received from the property owners. On roll call those voting aye: Grotrian, Walker, Petersen, Martin and Kula. Voting nay: none. Absent: Martin. Abstaining: None. The Chair declared the resolution adopted.

**ITEM 9h**

Motion by Martin, seconded by Grotrian, to approve, and authorize the Chair to execute, a contract with Kerns Excavating Company, Inc. to approve a contract and authorize the Chair to execute the same to relocate the fire hydrant at 3320 Fairway Drive but that work not be authorized until the costs of the work had been received from the property owner. On roll call those voting aye: Grotrian, Walker, Petersen, Martin and Kula. Voting nay: none. Absent: Martin. Abstaining: None. The Chair declared the resolution adopted.

### **ITEM 10**

The Chair laid over action until additional revenues were received to pay for the work necessary to resolve the issues to obtain recorded easements necessary for storm water drainage and/or for water and sewer infrastructure:

- a. Lot 9, Blk 1- drainage Buccaneer Blvd. and Becker Court. Drainage flows to the Golf Course property and could be a potential problem in the future
- b. Lots 2 & 3, Block 18 - on Becker Court and has a sewer force main requiring an easement if not located within the side yard lot line easement
- c. Lot 17, Block 5 - drains Cypress Court
- d. Lot 16, Block 3 - a lift station and storm water drainage from Rainey Court to the golf course which may result in a potential problem in the future
- e. Lot 10, Block 17 - drainage from Ewel Court which could become an issue
- f. Lots 26 & 27, Block 17 - a sewer line which may or may not be located in the side yard lot line easements and feeds a lift station at the bottom of the hill between Ewel & Becker Court

### **ITEM 11**

Motion by Kula, seconded by Martin:

Be It Resolved by the Board of Trustees of Sanitary and Improvement District No. 5 of Cass County, Nebraska to approve the consent agenda:

- a. Approve the minutes of the meeting of Trustees on March 28, 2018
- b. Pay the attached claims and invoices
- c. Approve payment of invoices for services related to the 2017 Road and Storm Water Management Reconstruction Project approved by the Resolution of Necessity adopted September 27, 2017

Be It Further Resolved by the Board of Trustees of Sanitary and Improvement District No. 5 of Cass County, Nebraska that the following bills, statements and invoices be and hereby are approved, and that the Chair or Vice Chair and in the absence of the Clerk that Trustee Walker, be and hereby are authorized to execute and deliver warrants for the payment of the same, all dated April 18, 2018, with

the warrants to be drawn on the General Fund account and to be redeemed no later than April 18, 2021:

**General Fund Account  
(Due April 18, 2021)**

Warrant No. 17085 in the amount of \$2,449.92, payable to Omaha Public Power District, for electrical usage March 2018, with a copy of the invoice attached hereto.

Warrant No. 17086 in the amount of \$273.70, payable to Frankel Zacharia, for finance committee work for March 2018, Invoice No. 95071, a copy of which is attached hereto.

Warrant No. 17087 in the amount of \$3,000.00 and Warrant No. 17088 in the amount of \$998.25, in the total amount of \$3,998.25, payable to Roger K. Johnson, for general legal and related services for March 2018, Invoice No. 21948, a copy of which is attached hereto.

Warrant No. 17089 in the amount of \$214.01, payable to Railroad Management, for the license to operate the 10" water pipeline crossing, Invoice No. 366720, a copy of which is attached hereto.

Warrant No. 17090 in the amount of \$860.00, payable to Timber Tree Service, for the removal of a tree related to the June 16, 2017 storm, with a copy of the invoice attached hereto.

Be It Further Resolved by the Board of Trustees of Sanitary and Improvement District No. 5 of Cass County, Nebraska that the following bills, statements and invoices be and hereby are approved, and that the Chair or Vice Chair and the Clerk be and hereby are authorized to execute and deliver warrants for the payment of the same, all dated April 18, 2018, with the warrants to be drawn on the Service Fee Fund account, which warrants are redeemable upon presentation to the Cass County Treasurer:

**Service Fee Fund Account**

Warrant No. 17036 in the amount of \$1,242.00, payable to Roger K. Johnson, for general legal and related services for March 2018, Invoice No. 21948, a copy of which is attached hereto.

Warrant No. 17037 in the amount of \$182.40, payable to Midwest Laboratories, for wastewater testing for March 2018, Invoice No. 889678, a copy of which is attached hereto.

Warrant No. 17038 in the amount of \$6,710.00, payable to JEO Consulting Engineers, for services related to a study of necessary improvements to the water and wastewater systems, Invoice No. 101776, a copy of which is attached hereto.

Warrant No. 17039 in the amount of \$11,046.75, payable to Urban Utilities, Inc., for April 2018 operation and maintenance of the water and wastewater systems, and water and wastewater billing services, together with expenses, Invoice No. 8321, a copy of which is attached hereto.

Be It Further Resolved by the Board of Trustees of Sanitary and Improvement District No. 5 of Cass County, Nebraska that the following bills, statements and invoices be and hereby are approved, and that the Chair or Vice Chair and the Clerk be and hereby are authorized to execute and deliver warrants for the payment of the same, all dated April 18, 2018, with the warrants to be drawn on the Construction Fund account and to draw interest at 7.00% per year and to be redeemed no later than April 18, 2023:

**Construction Fund Account  
(Due April 18, 2023)**

Warrant No. 17013 in the amount of \$47,453.71, payable to Kerns Excavating Company, Inc. for storm water construction services related to the 2017 Road and Storm Water Management Reconstruction Project, Progress Estimate No. 1, a copy of which is attached hereto.

Warrant No. 17014 in the amount of \$14,641.40, payable to Ehrhart Griffin & Associates, engineers, for the 2017 Road and Storm Water Management Reconstruction Project, Invoice No. B4896, a copy of which is attached hereto.

Warrant No. 17015 in the amount of \$3,104.75, payable to Roger K. Johnson, for legal and related services regarding the 2017 Road and Storm Water Management Reconstruction Project.

Be It Further Resolved by the Board of Trustees of Sanitary and Improvement District No. 5 of Cass County, Nebraska that both the Board and the District find and determine, and covenant and warrant, and agree that (a) the facilities for

which the above Warrants are issued are for essential governmental functions and are designed to serve members of the general public on an equal basis; (b) there are no persons with rights to use said facilities other than as members of the general public; (c) ownership and operation of said facilities is with the District or another political subdivision; (d) none of the proceeds of the Warrants will be loaned to any person and to the extent that special assessments have been or are to be levied for any said facilities, such special assessments have been or are to be levied under Nebraska law as a matter of general application to all property specially benefitted by such facilities in the District; (e) the development of the land in the District is for residential or commercial use; (f) the development of the land in the District for sale and occupation by the general public is proceeding with reasonable speed and (g) the District hereby authorizes and directs the Chair or Clerk to file, when due, an Information Reporting Form pursuant to Section 149(e) of the Internal Revenue Code of 1986 pertaining to the above Warrants.

Be It Further Resolved by the Board of Trustees of Sanitary and Improvement District No. 5 of Cass County, Nebraska that the District 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)(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 \$10,000,000 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. 5 of Cass County, Nebraska that this and the preceding Resolutions are adopted as the Certificate with Respect to Arbitrage of the District pertaining to the above Warrants and the District and Chair and Clerk of the District hereby further certify, as of the date of the registration of the above Warrants with the County Treasurer of Cass County, Nebraska, as follows:

1. No separate reserve or replacement fund has been or will be established with respect to the above Warrants. This District reasonably anticipates that moneys in its Bond Fund reasonably attributable to the above Warrants in excess of the lesser 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 moneys. 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 moneys, 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.

Be It Further Resolved by the Board of Trustees of Sanitary and Improvement District No. 5 of Cass County, Nebraska that \$2,140.05 be transferred from the Service Fee Fund to the General Fund (OPPD electric service for March 2018 less the cost of street lighting and for warrant preparation costs for April 2018).

On roll call those voting aye: Walker, Petersen, Kula, Martin and Grotrian. Voting nay: none. Absent: none. Abstaining: None.

### **ITEM 12**

The Chair set the next regular meeting for May 18, 2018 at 6:00 p.m. at 3200 Buccaneer Blvd, Plattsmouth, Nebraska, inside the clubhouse of Bay Hills Golf Club, or Plattsmouth State Bank if the clubhouse is unavailable.

### **ITEM 12**

The agenda having been completed, the meeting adjourned on motion by Martin at approximately 6:45 p.m.

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James Grotrian, Trustee

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Gary Petersen, Trustee

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David L. Martin, Trustee

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Carol Walker, Trustee

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Mark Kula, Trustee