

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

Meeting convened at 6:00 p.m. on August 15, 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 6:003 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, Mark Kula, Gary Petersen and James Grotrian. Those absent: Carol Walker.

**ITEM 4**

No persons were present to address the Board who were not otherwise on the agenda.

**ITEM 5a**

Trustee Kula advised that there was no general roads report.

**ITEM 5b**

Motion by Grotrian, seconded by Kula, to approve contracting for the repair of the manhole located at 4004 Buccaneer Blvd at a cost not to exceed \$3,500, and to authorize the chair to execute a contract for the same. On roll call those voting aye: Grotrian, Petersen, Kula and Martin. Voting nay: none. Absent: Walker. Abstaining: None. The Chair declared the resolution adopted.

**ITEM 5c**

The Chair acknowledged receipt of a letter from the Nebraska Public Service Commission regarding train crossings. No action was necessary.

#### **ITEM 5d**

Mr. Dan Dolezal, engineer, reported on the status of the road reconstruction phase of the 2017 Road and Storm Water Management Reconstruction Project adopted September 27, 2017. The contractor anticipates 2 to 3 more weeks to finish the work and the engineer is developing a punch list of items to correct.

#### **ITEM 5e**

Mr. Dolezal provided a general report concerning the storm water reconstruction phase of the 2017 Road and Storm Water Management Reconstruction Project adopted September 27, 2017, and advised that the work was winding down but that certain work remained to support the road reconstruction work.

#### **ITEM 6a**

The Chair advised that there was no grounds report.

#### **ITEM 6b**

Trustee Grotrian advised that he continued to make contacts with other public agencies regarding the possible sale or development of the 90 acres of park ground owned by the District so that the same could be developed into walking trails and other improved park space.

#### **ITEM 7a**

Trustee Grotrian presented the attached finance report and noted that the general fund remained healthy compared to the fund a year ago following the financial impact from the June 16, 2017 storm.

#### **ITEM 7b**

Trustee Grotrian and Kurt Meisinger, of Frankel Zacharia, certified public accountants, presented an outline for the likely budget for fiscal year July 1, 2018 - June 30, 2019. Following discussion concerning advisable improvements to the water and sanitary sewer systems and regarding additional road reconstruction that would be necessary, Mr. Meisinger advised that he would revise the projected expenditures for the budget meeting in September. In addition to the remaining costs to complete the 2017 Road and Storm Water Management Reconstruction Project adopted September 27, 2017, Mr. Meisinger advised that the would budget for additional resolution of necessity type projects for roads and for the water and sanitary sewer systems.

#### **ITEM 8a**

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

operations and for water billing.

**ITEM 8b**

The Chair advised that there was no committee report other than the intention to consider the improvements to the water and sanitary sewer systems resulting from the JEO engineering study.

**ITEM 8c**

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 8d**

Mr. Johnson presented the proposed contract for water and wastewater operations by PeopleService, Inc. if the contract with Urban Utilities, Inc. was terminated early as requested. Discussion followed concerning no increase in cost and in regard to bill payment options offered that are not currently available through the bank, along with the need for a provision to negotiate a price reduction or terminate the contract if system improvements reduced the effort required to operate the systems. Trustee Petersen requested a discussion concerning insurance and the tort claims act after which Mr. Johnson read the applicable statute.

Motion by Grotrian, seconded by Kula, to approve and authorize the Chair to execute a contract with PeopleService Inc. to operate the District's water and wastewater systems effective October 1, 2018 if accepted by PeopleService; and to modify the contract proposal to specifically allow for negotiations to reduce the monthly fee if improvements were made to the systems which would reduce the labor required for the operations. On roll call those voting aye: Grotrian, Petersen, Kula and Martin. Voting nay: none. Absent: Walker. Abstaining: None. The Chair declared the resolution adopted.

**ITEM 8e**

Following discussion and notation that there would be no increase in contract price, motion by Grotrian, seconded by Martin, to approve the request of Urban Utilities, Inc. for early termination of the contract for the operation of the District's water and wastewater systems effective October 1, 2018. On roll call those voting aye: Grotrian, Petersen, Kula and Martin. Voting nay: none. Absent: Walker. Abstaining: None. The Chair declared the resolution adopted.

**ITEM 8f**

No action was taken regarding a contract for consulting services with Urban Utilities for a transition in services to PeopleService for the operation of the District's water and wastewater systems.

**ITEM 8g**

The Chair laid over to the next meeting consideration of a contract to seal the manhole located near Wedgewood and Windward.

**ITEM 9**

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 July 18, 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 August 15, 2018, with the warrants to be drawn on the General Fund account and to be redeemed no later than August 15, 2021:

**General Fund Account  
(Due August 15, 2021)**

Warrant No. 18005 in the amount of \$3,168.47, payable to Omaha Public Power District, for electrical usage July 2018, with a copy of the invoice attached hereto.

Warrant No. 18006 in the amount of \$9,952.00, payable to N.P. Dodge Insurance Agency, as the premium for property and general liability insurance, Invoice No. 32209, a copy of which is attached hereto.

Warrant No. 18007 in the amount of \$1,185.55, payable to Ehrhart Griffin & Associates, engineers, for survey work related to alleged damage to property from storm water runoff, Invoice No. B5106, a copy of which is attached hereto.

Warrant No. 18008 in the amount of \$484.00, payable to Frankel Zacharia, for finance committee work for July 2018, Invoice No. 98268, a copy of which is attached hereto.

Warrant No. 18009 in the amount of \$6,012.00, payable to Roger K. Johnson, for general legal and related services for July 2018, Invoice No. 21995, a copy of which is attached hereto.

Warrant No. 18010 in the amount of \$1,000.00, payable to Aspen Landscaping, for mowing for July 2018, Invoice No. 1374 a copy of which is attached hereto.

Warrant No. 18011 in the amount of \$2,204.70, payable to Ehrhart Griffin & Associates, engineers, for emergency road repair services, Windward Drive, Invoice No. B5170, 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 August 15, 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. 18005 in the amount of \$3,528.00, payable to Roger K. Johnson, for general legal and related services for July 2018, Invoice No. 21995, a copy of which is attached hereto.

Warrant No. 18006 in the amount of \$132.50, payable to J-Spot for services to locate underground utilities and provide mapping of the same, Invoice No. 18165, a copy of which is attached hereto.

Warrant No. 18007 in the amount of \$202.40, payable to Midwest Laboratories, for wastewater testing for July 2018, Invoice No. 906950, a copy of which is attached hereto.

Warrant No. 18008 in the amount of \$2,948.25, payable to JEO Consulting Engineers, for services related to a study of necessary improvements to the water and wastewater systems, Invoice No. 104125, a copy of which is attached hereto.

Warrant No. 18009 in the amount of \$7,494.82, payable to Urban Utilities, Inc., for August 2018 operation and maintenance of the water and wastewater systems, and water and wastewater billing services, together with expenses, Invoice No. 8427, 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 August 15, 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 August 15, 2023:

**Construction Fund Account  
(Due August 15, 2023)**

Warrant Nos. 18038 through 18049 each in the amount of \$10,000, and Warrant No. 18050 in the amount of \$7,907.64, payable to OMG Midwest (Omni), for street reconstruction services related to the 2017 Road and Storm Water Management Reconstruction Project, Progress Estimate No. 4, a copy of which is attached hereto.

Warrant Nos. 18051 through 18056 each in the amount of \$10,000 and Warrant No. 18057 in the amount of \$6,493.80, 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. 5, a copy of which is attached hereto.

Warrant Nos. 18058 through 18059 each in the amount of \$10,000, and Warrant No. 18060 in the amount of \$361.50, payable to Ehrhart Griffin & Associates, engineers, for the 2017 Road and Storm Water Management Reconstruction Project, Invoice No. B5172, a copy of which is attached hereto.

Warrant No. 18061 in the amount of \$256.25, payable to Roger K. Johnson, for legal and related services regarding the 2017 Road and Storm Water Management Reconstruction Project, J-Spot services.

Warrant No. 18062 in the amount of \$10,000, and Warrant No. 18063 in the amount of \$738.15, 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 \$2,858.77 be transferred from the Service Fee Fund to the General Fund (OPPD electric service for July 2018 less the cost of street lighting and for warrant preparation costs for August 2018).

On roll call those voting aye: Grotrian, Petersen, Walker, Kula and Martin. Voting nay: none. Absent: none. Abstaining: None. The Chair declared the resolution adopted.

#### **ITEM 10**

The Chair noted that the next meeting would be September 11, 2018 at 6:30 at 3200 Buccaneer Blvd, Plattsmouth, Nebraska, inside the clubhouse of Bay Hills Golf Club, or at Plattsmouth State Bank if the clubhouse became unavailable.

#### **ITEM 11**

The agenda having been completed, the meeting adjourned on motion by Martin at approximately 7:42 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