

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

Meeting convened at 6:00 p.m. on June 20, 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 Clerk James Grotrian at 6:02 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 Carol Walker, Mark Kula, Gary Petersen and James Grotrian. Those absent: David L. Martin.

ITEM 4

Resident Doris Larson addressed the Board regarding erosion issues involving her lot which she believes is caused by storm water runoff from the streets. Trustee Grotrian advised that he would stop to look at the property and report back at the next meeting.

Trustee Martin arrived at 6:08 p.m.

ITEM 5

Dane Simonsen of JEO Consulting roup, engineers, presented the attached partial report on the water and wastewater systems and the possible expansion of the wastewater plant. Mr. Simonsen advised that he intended to present the final report at the July meeting.

ITEM 6a

Trustee Kula advised that the street project was progressing well and that most complaints were related to inconvenience.

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

Motion by Grotrian, seconded by Martin, to approve engaging Omni Engineering while on site to make pothole repairs identified by Trustee Kula and the engineer at a cost not to exceed \$20,000. 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 6d

Trustee Kula reported that about 4 - 6 weeks remained on the road reconstruction phase of the 2017 Road and Storm Water Management Reconstruction Project adopted September 27, 2017.

ITEM 6e

Trustee Kula reported that Kerns Excavating was working through the District for the storm water reconstruction phase of the 2017 Road and Storm Water Management Reconstruction Project adopted September 27, 2017, but that it had to move from location to location in order to accommodate Omni Engineering's work on the street reconstruction phase.

ITEM 6f

In light of item 6c above, no action was taken regarding the preparation of a second amendment to the Resolution of Necessity adopted September 27, 2017 to add the reconstruction of Windward to the street reconstruction phase of the project.

ITEM 7a

Trustee Walker presented a verbal grounds report regarding completion of the repair of ruts on outlots and that neighborhood block captains were taking charge of the litter pickup project for the neighborhood which would include the District's outlots.

ITEM 7b

Trustee Grotrian advised that he had participated in a meeting with at least one political subdivision regarding a possible Interlocal Cooperation Agreement for the purpose of disposing 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 7c

Motion by Martin, seconded by Kula, to approve a contract modification with Aspen Landscaping to add spring and fall weed treatment at a cost of \$500 per treatment. 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 8a

Trustee Grotrian presented the attached finance report and noted some recovery of the general fund from the costs associated with the June 16, 2017 storm and noted that June 30 is the end of the current fiscal year.

ITEM 8b

Trustee Grotrian discussed generally the budget for fiscal year July 1, 2018 - June 30, 2019 and the use of the likely increase in the valuation for the District and the need to replenish the general fund in order to have an adequate reserve for road and storm water runoff control maintenance, as well as water and sanitary sewer rates to address increases in operational costs and upcoming improvements to the systems that would be necessary based on the increase in the size of the District.

ITEM 8c

Motion by Grotrian, seconded by Walker, to approve and authorize the Chair to execute an engagement letter with Frankel Zacharia CPAs for financial services related to monthly compilations, the 2018 - 2019 budget, support work related to the audit for fiscal year ending June 30, 2018 and other financial services other than the independent audit for the year ending June 30, 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 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

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

Following discussion, no action was yet taken regarding the request of Urban Utilities to terminate the contract for the operation of the District’s water and wastewater systems early, with a proposed date of on or about October 1, 2018. Discussion involved the need to have in place other contractors to provide the necessary services.

ITEM 9e

The Chair directed Mr. Johnson to prepare as soon as possible, for review by a committee consisting of the Chair and Clerk, a proposed request for statements of qualifications to solicit interest in a contract for the operation and maintenance of the District’s water and wastewater systems. The Chair noted that it likely would result in multiple contracts to cover the services provided by Urban Utilities.

ITEM 10

Motion by Walker, seconded by Kula:

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 May 16, 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 June 20, 2018, with the warrants to be drawn on the General Fund account and to be redeemed no later than June 20, 2021:

**General Fund Account
(Due June 20, 2021)**

Warrant No. 17097 in the amount of \$2,806.34, payable to Omaha Public Power District, for electrical usage May 2018, with a copy of the invoice attached hereto.

Warrant No. 17098 in the amount of \$357.00, payable to Frankel Zacharia, for finance committee work for May 2018, Invoice No. 97428, a copy of which is attached hereto.

Warrant No. 17099 in the amount of \$2,250.00, payable to Aspen Landscaping, for the front entrance maintenance and mowing for May 2018 together with weed spraying and tree trimming, Invoice No. 1371, a copy of which is attached hereto.

Warrant No. 18000 in the amount of \$3,992.50, payable to Roger K. Johnson, for general legal and related services for May 2018, Invoice No. 21975, 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 June 20, 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. 17045 in the amount of \$1,584.00, payable to Roger K. Johnson, for general legal and related services for May 2018, Invoice No. 21975, a copy of which is attached hereto.

Warrant No. 17046 in the amount of \$1,638.00, payable to JEO Consulting Engineers, for services related to a study of necessary improvements to the water and wastewater systems, Invoice No. 102891, a copy of which is attached hereto.

Warrant No. 17047 in the amount of \$122.20, payable to Midwest Laboratories, for wastewater testing for May 2018, Invoice No. 898148, a copy of which is attached hereto.

Warrant No. 17048 in the amount of \$5,975.00, payable to Kerns Excavating for the installation of water and sanitary sewer main connections at 3180 Buccaneer Blvd, the cost of which has been reimbursed by the property owner, Invoice Nos. 14535 and 14536, copies of which are attached hereto.

Warrant No. 17049 in the amount of \$11,451.62, payable to Urban Utilities, Inc., for June 2018 operation and maintenance of the water

and wastewater systems, and water and wastewater billing services, together with expenses, Invoice No. 8370, 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 June 20, 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 June 20, 2023:

**Construction Fund Account
(Due June 20, 2023)**

Warrant Nos. 17022 through 17031 each in the amount of \$10,000 and Warrant No. 17032 in the amount of \$6,354.80, 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. 3, a copy of which is attached hereto.

Warrant Nos. 17033 through 17072 each in the amount of \$10,000, and Warrant No. 17073 in the amount of \$1,185.21, payable to OMG Midwest (Omni), for street reconstruction services related to the 2017 Road and Storm Water Management Reconstruction Project, Progress Estimate No. 2, a copy of which is attached hereto.

Warrant Nos. 17074 through 17077 each in the amount of \$10,000, and Warrant No. 17078 in the amount of \$2,162.45, payable to Ehrhart Griffin & Associates, engineers, for the 2017 Road and Storm Water Management Reconstruction Project, Invoice No. B5036, a copy of which is attached hereto.

Warrant Nos. 17079 and 17080 each in the amount of \$10,000, and Warrant No. 17081 in the amount of \$7,485.12, 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 \$2,496.79 be transferred from the Service Fee Fund to the General Fund (OPPD electric service for May 2018 less the cost of street lighting and for warrant preparation costs for June 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 11

The Chair noted that the election for the Board of Trustees was in September 2018 and that the District would be sending notice containing the deadlines.

ITEM 12

The Chair set the next regular meeting for July 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 13

The agenda having been completed, the meeting adjourned on motion by Martin at approximately 8:09 p.m.

James Grotrian, Trustee

Gary Petersen, Trustee

David L. Martin, Trustee

Carol Walker, Trustee

Mark Kula, Trustee