

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

Meeting convened at 6:00 p.m. on March 28, 2018 at Plattsmouth State Bank, second floor community room, 446 Main Street, Plattsmouth Nebraska. 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 Petersen, to approve the Master Services Agreement for Ehrhart Griffin & Associates, engineers, for general engineering services on a continuing basis pursuant to task orders for work. 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 6**

The Chair advised that he was continuing to seek proposals for a contract to provide utility locating services to the District.

**ITEM 7**

Motion by Martin, seconded by Grotrian, to approve and authorize the Chair to execute a right of way agreement with Spiral Communications, LLC for the placement of fiber optic cable and other related improvements in relationship to Spiral's communications business offered to the general public conditioned upon approval of plans calling for an adequate depth of the fiber installed to avoid conflicts with water and sanitary sewer utilities and the submission to the District of as built plans upon completion of the installation. 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 8**

Motion by Grotrian, seconded by Walker, to recommend approval to the County's zoning administrator, the Cass County Planning Commission and the Cass County Board of Commissioners regarding the replat of Lots 4 and 5, Block 18, Buccaneer Bay Subdivision, Cass County, Nebraska to create Lot 5-R, Block 18, Buccaneer Bay Subdivision, Cass County, Nebraska and authorize the Chair and Clerk to sign the mylar. 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 9d**

Motion by Grotrian, seconded by Walker, to terminate and discontinue all efforts to submit a request to the Federal Emergency Management Agency for FEMA funds to receive reimbursement for the costs associated with the June 16, 2017 storm. 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 9a**

No action was necessary based on Item 9d.

**ITEM 9b**

No action was necessary based on Item 9d.

**ITEM 9c**

No action was necessary based on Item 9d.

**ITEM 10a**

Trustee Kula provided a general report regarding roads, advising that for snow removal \$23,200 of the \$25,000 budgeted was used.

**ITEM 10b**

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

**ITEM 10c**

At the request of Trustee Kula, the Chair laid over consideration of approving the repair of pot holes until the reconstruction plans were used to identify those that would be repaired as part of the reconstruction project.

**ITEM 10d**

Motion by Walker, seconded by Kula, to authorize the Cass County Sheriff's office to place its portable speed trailer on District property at locations throughout the District. 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 10e**

Trustee Kula advised that the road reconstruction phase of the 2017 Road and Storm Water Management Reconstruction Project adopted September 27, 2017 should commence approximately May 1, 2018.

**ITEM 10f**

Trustee Kula advised that Kerns Excavating had begun work on the storm water reconstruction phase of the 2017 Road and Storm Water Management Reconstruction Project adopted September 27, 2017.

**ITEM 10g**

Motion by Martin, seconded by Kula, to direct the attorney for the District to prepare and publish a notice of public hearing for the April meeting to consider amending the Resolution of Necessity adopted September 27, 2017 for the addition of streets to the street reconstruction phase of the project and to have the attorney obtain the approval of plans for the reconstruction of the additional streets by the Board of County Commissioners for Cass County, Nebraska. 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 11**

Trustee Walker advised that she had met with Aspen Lawns and that everything was set to begin spring mowing.

**ITEM 12**

Trustee Grotrian presented the attached finance report and reiterated that since the general fund is diminished by the approximately \$35,000 as a result of the June 16, 2017 storm, the District would be registering general fund warrants for the timebeing.

**ITEM 13a**

Ms. Nelson of Urban Utilities presented the attached reports from Urban Utilities for the water and wastewater systems and for water billing.

**ITEM 13b**

The Chair advised that there was no general Committee Report.

**ITEM 13c**

The Chair advised that the remaining balance due on the Bond obtained from the Nebraska Department of Environmental Quality for the construction of the wastewater treatment plant is \$529,476.01 following the December 15, 2017 payment and which is scheduled for payoff on December 15, 2025.

**ITEM 13d**

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 13e**

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

**ITEM 13f**

Motion by Grotrian, seconded by Martin, to approve the attached contract with Ehrhart Griffin & Associates for two water main connections and one sanitary sewer main connection for the lots east of 3200 Buccaneer Blvd. 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 13g**

The Chair laid over consideration of advertising for bids for a contract to paint the exterior of the water tower.

**ITEM 13h**

Motion by Grotrian, seconded by Martin, to enter closed session to discuss the request of Urban Utilities to terminate the Water and Wastewater Systems Service Agreement effective September 30, 2018. On roll call those voting aye: Walker, Petersen, Kula, Martin and Grotrian. Voting nay: none. Absent: none. Abstaining: None. The Chair restated that the Trustees would enter closed session at 7:49 p.m. for the purpose of discussing the request of Urban Utilities to terminate the Water and Wastewater Systems Service Agreement effective September 30, 2018.

Motion by Martin, seconded by Kula, to reconvene in open session at 8:23 p.m. On roll call those voting aye: Walker, Petersen, Kula, Martin and Grotrian. Voting nay: none. Absent: none. Abstaining: None.

Motion by Kula, seconded by Walker, to appoint Trustees Martin and Grotrain as a committee to seek a solution to the request of Urban Utilities to terminate the Water and Wastewater Systems Service Agreement effective September 30, 2018.

**ITEM 13i**

No action was taken following general discussion regarding amendments to the ordinance setting water and sanitary sewer rates and charges.

**ITEM 14**

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 15**

Motion by Grotrian, seconded by Petersen:

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 February 21, 2018
- b Pay the attached claims and invoices, provided that the warrant to JEO Consulting Group be held until it is determined that JEO has satisfied the requirement to present a report at 60% complete within 120 days.
- 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 March 28, 2018, with the warrants to be drawn on the General Fund account and to be redeemed no later than March 28, 2021:

**General Fund Account  
(Due March 28, 2021)**

Warrant No. 17072 in the amount of \$2,494.71, payable to Omaha Public Power District, for electrical usage February 2018, with a copy of the invoice attached hereto.

Warrant No. 17073 in the amount of \$214.20, payable to Frankel Zacharia, for finance committee work for February 2018, Invoice Nos. 94296, a copy of which is attached hereto.

Warrant No. 17074 through 17075 each in the amount of \$3,000.00 and Warrant No. 17076 in the amount of \$804.00, in the total amount of \$6,804.00, payable to Roger K. Johnson, for

general legal and related services for February 2018, Invoice No. 21936, a copy of which is attached hereto.

Warrant No. 17077 in the amount of \$504.00, payable to Roger K. Johnson, for legal and related services regarding the June 16, 2017 storm, Invoice No. 21936, a copy of which is attached hereto.

Warrant No. 17078 through 17083 in each in the amount of \$3,000.00 and Warrant No. 17084 in the amount of \$700.00, in the total amount of \$18,700.00, payable to Lakeside Landscaping for snow removal and related services in February and March 2018, Invoice Nos. 1750, 1854, 1893 and 1936, copies of which are 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 March 28, 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. 17030 in the amount of \$2,736.00, payable to Roger K. Johnson, for general legal and related services for February 2018, Invoice No. 21936, a copy of which is attached hereto.

Warrant No. 17031 in the amount of \$3,713.20, payable to JEO Consulting Engineers, for services related to a study of necessary improvements to the water and wastewater systems, Invoice No. 101298, a copy of which is attached hereto.

Warrant No. 17032 in the amount of \$171.70, payable to Midwest Laboratories, for wastewater testing for February 2018, Invoice No. 885987, a copy of which is attached hereto.

Warrant No. 17033 in the amount of \$3,274.00, payable to Ehrhart Griffin & Associates, engineers, for services related to the sanitary sewer connection near 3200 Buccaneer Blvd, Invoice No. B4829, a copy of which is attached hereto.

Warrant No. 17034 in the amount of \$7,491.81, payable to Urban Utilities, Inc., for March 2018 operation and maintenance of the

water and wastewater systems, and water and wastewater billing services, together with expenses, Invoice No. 8295, a copy of which is attached hereto.

Warrant No. 17035 in the amount of \$4,514.00, payable to Urban Utilities, Inc., for water meters, touch pads and radios for District inventory, Invoice No. 8296, 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 March 28, 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 March 28, 2023:

**Construction Fund Account  
(Due March 28, 2023)**

Warrant No. 17011 in the amount of \$28,374.60, payable to Ehrhart Griffin & Associates, engineers, for the 2017 Road and Storm Water Management Reconstruction Project, Invoice No. B4828, a copy of which is attached hereto.

Warrant No. 17012 in the amount of \$1,418.73, 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 \$2,184.80 be transferred from the Service Fee Fund to the General Fund (OPPD electric service for February 2018 less the cost of street lighting and for warrant preparation costs for March 2018).

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

**ITEM 16**

The Chair set the next regular meeting for April 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 17**

The agenda having been completed, the meeting adjourned on motion by Martin at approximately 8:35 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