

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

Meeting convened at 6:00 p.m. on December 16, 2021 in the Auditorium of the Plattsmouth Public Library, 401 Avenue A, 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 order at 6:04 p.m.

ITEM 2

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

ITEM 3

Roll Call: Present: James Grotrian, Robert Karr, Dan Brandt, Kurt W. Meisinger and David L. Martin. Absent: none.

ITEM 4

No persons were present seeking to address the Trustees regarding items not on the agenda.

ITEM 5a

Trustee Grotrian reported that the manhole elevations had been repaired so that it should allow for better clearing of snow from the streets. There were no other items reported.

ITEM 5b

The Chair laid over consideration of requesting an engineering contract proposal from Ehrhart Griffin and Associates for the design of road and drainage improvements selected from the report prepared by Dan Dolezal, engineer, from the District wide survey of roads, drainage and related.

ITEM 5c

Following some general discussion, the Chair directed Mr. Johnson to prepare a discussion draft of an ordinance to regulate the placement of utilities in the rights of way.

ITEM 5d

Mr. Johnson discussed his conversations with the Nebraska Department of Transportation and Lenny Thorne regarding Highway Allocation funding by the State and maintenance of the roads if claimed in the County's inventory. Mr. Johnson advised that NDOT reported that the District's roads were not included in the County's inventory for purposes of claiming Highway Allocation funds. Mr. Johnson then advised that he had discussed with Lenny Thorne, head of the Cass County Department of Roads, the possibility of the county including the District's roads in the county's inventory. Mr. Thorne provided the outline of how allocation funds are determined. It was Mr. Thorne's position that the roads in the District would result in insufficient funds to cover the cost of snow plowing in the District. Following further discussion, the Chair directed Mr. Johnson to reach out to Senator Robert Clements to inquire about introducing a legislative bill to make Sanitary and Improvement Districts eligible for Highway Allocation based on the lane miles within the district so long as those lane miles were not included in the inventory of the county in which the district is located.

ITEM 6a

Trustee Grotrian related that other than one down tree from the storm which is on District property, there was nothing new to report for grounds.

ITEM 6b

The Chair advised that he and Mr. Johnson carefully reviewed the proposals submitted by Ms. Patty Scarlett and Ms. Jill Bobenhouse-Tesar. In reviewing the calculation of realtor fees for selling the lots, Ms. Tesar's proposal resulted in lower realtor fees. The trustees also reviewed the lots to list with Ms. Tesar. Motion by Grotrian, seconded by Martin to engage Ms. Tesar's services to offer to the public for sale the following lots:

- (1) Lot 30R, Buccaneer Bay 1ST Addition, an Administrative Replat, as Surveyed, Platted and Recorded in Cass County, Nebraska
- (3) Lot 11RR, Block 7, Buccaneer Bay Administrative Replat, a Subdivision as Surveyed, Platted and Recorded in Cass County, Nebraska
- (4) Outlot Y, Buccaneer Bay - Replat II, as Surveyed, Platted and Recorded in Cass County, Nebraska (.46)
- (18) Lot 7R, Block 7, Buccaneer Bay Replat, a Subdivision as Surveyed, Platted and Recorded in Cass County, Nebraska
- (19) Lot 8R, Block 7, Buccaneer Bay, a Subdivision as Surveyed, Platted and Recorded in Cass County, Nebraska
- (21) Lot 2R, Block 14, Buccaneer Bay, a Subdivision as Surveyed, Platted and Recorded in Cass County, Nebraska
- (22) Lot 3R, Block 14, Buccaneer Bay, a Subdivision as Surveyed, Platted and Recorded in Cass County, Nebraska
- (23) Lot 4R, Block 14, Buccaneer Bay, a Subdivision as Surveyed, Platted and Recorded in Cass County, Nebraska

- (24) Lot 9R, Block 14, Buccaneer Bay, a Subdivision as Surveyed, Platted and Recorded in Cass County, Nebraska
- (25) Lot 22, Block 29, Buccaneer Bay, a Subdivision as Surveyed, Platted and Recorded in Cass County, Nebraska
- (37) Outlot U, Buccaneer Bay - Replat II, as Surveyed, Platted and Recorded in Cass County, Nebraska (2.85)

On roll call those voting aye: Grotrian, Karr, Martin, Meisinger and Brandt. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

ITEM 7a

Trustee Martin advised as the water and wastewater committee report the following:

- (1) the District's water operator, Lance Messer, was finding a number of maintenance items requiring attention which he would be giving in the near future;
- (2) the water leak on Becker Court was caused by a contractor hitting the water main while making a new connection;
- (3) with filters in a residents house becoming full and dark more quickly, Trustee Martin intended to discuss causes and options to correct this issue;
- (4) during the power outage, Mr. Messer had reported that all emergency equipment functioned as it was supposed to function; and
- (5) the Board of Trustees should consider again installing a generator for the booster station.

ITEM 7b

Mr. Lance Messer, of PeopleService, was unable to attend the meeting, but the written report was provided the Trustees.

ITEM 7c

Motion by Meisinger, seconded by Martin, to approve a contract with Kerns Excavating Company, Inc. to grout the manholes at locations in the District identified by Dan Dolezal, engineer, at a cost of \$85 per foot with a total amount not to exceed \$15,000 unless an overage would be needed to finish grouting a final manhole. On roll call those voting aye: Grotrian, Karr, Martin, Meisinger and Brandt. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

ITEM 7d

Mr. Johnson reported on the status of the State Revolving Fund loan for the construction of the Wastewater Treatment Plant and System improvements. No action was necessary.

ITEM 7e

Motion by Martin, seconded by Brandt to approve a contract in the approximate amount of \$7,500 with Trekk Design Group to clean the Becker Ct lift station and jet the forced main in order to maintain the lift station with floating degreaser. On roll call those voting aye: Grotrian, Karr, Martin, Meisinger and Brandt. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

ITEM 7f

The Chair advised that he had signed as required one of the annual surveys, and had reviewed the other prepared by JEO Consulting Group, engineers, for wastewater and drinking water needs to establish eligibility for funding through the State Revolving Fund Program. No action was necessary.

ITEM 8a

The finance reports for November and December are attached, with Warrant No. 18282 not included in the December report.

ITEM 8b

The County Treasurer's report for November is attached.

ITEM 8c

Motion by Meisinger, seconded by Karr to approve and authorizing the Clerk to execute the annual statement for the District. On roll call those voting aye: Grotrian, Karr, Meisinger and Brandt. Voting nay: Martin. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

ITEM 8d

The Chair briefly reviewed the draft audit report for fiscal year ended June 30, 2021 which would be finalized and submitted as required by law.

ITEM 8e

The Chair advised that he had reviewed, executed, and submitted the management representation letter and Journal Entries, as required by auditing standards, to the District's auditor for the audit of the financial records of the District for year ended June 30, 2021.

ITEM 9

Motion by Meisinger, seconded by Brandt to approve the reimbursement of Trustee Martin for the

renewal of the website buccaneerbay-ne.com in the amount of \$167.44, General Fund Warrant No. 18281. On roll call those voting aye: Grotrian, Karr and Meisinger. Voting nay: Brandt. Absent: none. Abstaining: Martin. The Chair declared the resolution adopted.

ITEM 10

Motion by Brandt, seconded by Meisinger to approve the Consent Agenda:

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 regular meeting of November 16, 2021;
- b Approve payment of the claims and invoices stated below; and
- c Transfer \$2,371.68 from the Service Fee Fund to General Fund (water/wastewater electric systems usage)

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 and Clerk, be and hereby are authorized to execute and deliver warrants for the payment of the same, all dated December 16, 2021, to be drawn on the General Fund, and which are redeemable upon presentation to the Cass County Treasurer.

GENERAL FUND WARRANTS
CONSENT AGENDA, ITEM 11b

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$ 2,756.85	18276	OPPD	Service dates 11/3/21 - 12/06/21
\$ 552.10	18277	Frankel Zacharia	Inv. No. 121546 (financial reports and data for annual report)
\$ 5,584.30	18278	Roger K. Johnson	Inv. No. 167 (attorney fees & costs)
\$12,474.48	18279	Ehrhart Griffin & Assoc.	Inv. Nos. B7763 & B7764 (Lots 11 and 12, Block 7 Administrative Replat; Spyglass Court Storm Sewer Extension; Buccaneer Blvd Repair; Manhole Approaches; Buccaneer Blvd Storm Sewer Reroute; Becker Court Sewer Extension; Pavement Analysis

and Miscellaneous)

\$ 1,175.00	18280	Sam McCandless d/b/a Timber Tree Service	Inv. Undated (cut down and trim various trees as directed)
\$13,050.00	18282	Hall Concrete Corp	Inv. 189 (manhole repair)

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 and Clerk, be and hereby are authorized to execute and deliver warrants for the payment of the same, all dated December 16, 2021, to be drawn on the Service Fee Fund, and which are redeemable upon presentation to the Cass County Treasurer:

SERVICE FEE FUND WARRANTS
CONSENT AGENDA, ITEM 11b

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$ 180.00	18233	Roger K. Johnson	Inv. No. 168 (attorney fees & costs)
\$ 72.21	18234	Windstream Comm	Inv. dated 11/16/21 (well house phone)
\$ 625.00	18235	TREKK Design Group	Inv. No. 21-1014 (sewer cleaning)
\$ 436.50	18236	Hydro Optimization & Automation Solutions, Inc.	Inv. No. 10009 (utility controls maintenance)
\$10,828.82	18237	PeopleService, Inc.	Inv. No. 39276 (\$5,112.00 for Jan. operations; \$2,197.76 Nov bills; \$284.05 lab testing; 2,144.75 air release valve replacement; 1090.26 pressure washer)

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 and Clerk, be and hereby are authorized to execute and deliver warrants for the payment of the same, all dated December 16, 2021, 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 December 16, 2026:

**Construction Fund Account
(Due December 16, 2026)**

None.

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.

On roll call those voting aye: Grotrian, Karr, Martin, Meisinger and Brandt. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

ITEM 11

Motion by Grotrian, seconded by Karr to enter closed session to protect the public interest for the purpose of discussing litigation entitled Gibbons v Bock 27 Lake Lot Owners Assn v Kappas Enterprises, LLC, Burlington Northern Railroad, SID 5 of Cass County Nebraska et al: Case No. CI21-307. On roll call those voting aye: Grotrian, Karr, Martin, Meisinger and Brandt. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

The Chairman then restated that the Board of Trustees would enter closed session at 7:24 p.m. to protect the public interest for the purpose of discussing litigation entitled Gibbons v Bock 27 Lake Lot Owners Assn v Kappas Enterprises, LLC, Burlington Northern Railroad, SID 5 of Cass County Nebraska et al: Case No. CI21-307.

Motion by Martin, seconded by Meisinger, to reconvene in open session at 7:42 p.m. On roll call those voting aye: Grotrian, Karr, Martin, Meisinger and Brandt. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

ITEM 12

The Chair advised that the next few meetings would be 6:00 p.m. on January 18, 2022 and February 22, 2022, tentatively at 3200 Buccaneer Blvd, Plattsmouth, Nebraska, inside the clubhouse of Bay Hills Golf Club.

ITEM 13

The agenda having been completed, on motion by Grotrian and recognized by the Chair, the meeting adjourned at approximately 7:43 p.m.

Dan Brandt, Trustee

Kurt W. Meisinger, Trustee

David L. Martin, Trustee

Robert Karr, Trustee

Recorded by:

James Grotrian, Trustee

Roger K. Johnson
Attorney for the District