

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

Meeting convened at 6:00 p.m. on February 23, 2021 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 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: Kurt W. Meisinger, Robert Karr, David L. Martin, Dan Brandt and James Grotrian.
Absent: none.

ITEM 4

No persons were present to address the Trustees on issues not otherwise on the agenda.

ITEM 5

No action was taken following discussion of authorizing the digitization and cloud storage of the District's records.

ITEM 6a

Trustee Martin advised that there was no water and wastewater committee report outside of the items on the agenda.

ITEM 6b

The report from PeopleService regarding Water/Wastewater and Water billing is attached. Mr. Wilson of PeopleService also advised that in the severe cold, ice has formed in the water tower.

ITEM 6c

The Chair laid over consideration of a contract with Johnson Service Company, Kearney, Nebraska to slip line repair a portion of the sanitary sewer main.

ITEM 6d

Mr. Johnson advised regarding receipt of a letter from counsel for 14C, LLC that constructed a house adjacent to District property and damaged the lot during construction. Several Trustees advised that the company continued to trespass on the District's lot by having sanitary facilities located on the lot. Mr. Johnson advised that he would obtain a proposal for placing seed mats on the lot and forward that cost to the attorney for 14C, LLC and also inform the attorney of the continued trespass as a response to the settlement offer.

ITEM 6e

Lucas Billesbach of JEO engineering discussed the initial state engineer's response to the proposed improvements to the wastewater treatment plant and wastewater system. No action was necessary.

ITEM 6f

Lucas Billesbach of JEO engineering advised that the scope of work was reduced, and therefore the cost for geotechnical testing for the proposed wastewater treatment plant and wastewater system improvements. Motion by Martin, seconded by Grotrian, to approve a revised contract with Theile Geotech, Inc., as a subconsultant to JEO Consulting Group, Inc. for soils testing related to the wastewater treatment plant and other wastewater system improvements. On roll call those voting aye: Grotrian, Martin, Karr, Brandt and Meisinger. Voting nay: none. Absent: none. Abstaining: None. The Chair declared the resolution adopted.

ITEM 7a

Trustee Karr provided a verbal roads report.

ITEM 7b

Following review of bids and the recommendation of the engineer, motion by Brandt, seconded by Martin, to award, and authorized the chair to execute, a contract to Kerns Excavating Co., Inc. for the extension of a storm drain discharge pipe at 3618 Becker Court. On roll call those voting aye: Grotrian, Martin, Karr, Brandt and Meisinger. Voting nay: none. Absent: none. Abstaining: None. The Chair declared the resolution adopted.

ITEM 7c

Mr. Johnson discussed an issue related to the possible realignment of Treasure Island Road in 1994

and determining whether it in fact was realigned but certain documents not recorded with the county. Mr. Johnson recommended having the area in question surveyed to avoid title issues for property owners. Motion by Meisinger, seconded by Brandt, to contract with Jordan Surveying of Plattsouth to survey the 1994 realignment of Treasure Island Road from approximately Captain Morgan Court through Lot 32 and to have Mr. Wilson mark the water and sanitary sewer locations to determine the accuracy of plans. On roll call those voting aye: Grotrian, Martin, Karr, Brandt and Meisinger. Voting nay: none. Absent: none. Abstaining: None. The Chair declared the resolution adopted.

ITEM 8a

Several trustees as part of the grounds committee report indicated that it appeared that no trespassing signs and a fence had been put up on Outlot P owned by the District. The Chair asked Mr. Johnson to have Jordan Surveying confirm the corner pin locations on Outlot P to confirm the placement of the signs and fencing is on the outlot. Trustee Brandt provided an update regarding the town hall meetings conducted by RDG Planning and Design earlier in the day concerning resident input on the District's growth and development. Trustees Grotrian and Brandt otherwise advised that the remaining items were on the agenda.

ITEM 8b

After discussion of the zoning changes likely to be adopted by the County, the Grounds Committee will review all the lots owned by the District and advise Mr. Johnson on which lots to contact the County requesting appropriate zoning classification with a Conservation District (Overlay) classification.

ITEM 8c

The Chair laid over discussion of the request of Jacob and Erica Hike to purchase approximately 18 acres of Outlot H from the District.

ITEM 8d

The Chair laid over discussion of the possible future sale of additional ground in Outlot H to residents owning property abutting Outlot H.

ITEM 9a

Trustee Meisinger presented the attached finance report.

ITEM 10

Mr. Johnson advised that the state Legislature held its committee hearing concerning Legislative Bill 83 related to authorizing virtual meetings pursuant to the Open Meetings Act when emergencies

have been declared. The League of Nebraska Municipalities opposed amending LB83 to address the 7 day advance notice of meetings to the county for SID's as required by Neb. Rev. Stat. §31-727.02. Mr. Johnson and Trustee Grotrian recommended requesting Senator Clements to submit an amendment to a Legislative Bill concerning sanitary and improvement districts to address emergency meetings for natural and other similar disasters without complying with the 7 day notice to the county.

ITEM 11

Motion by Brandt, seconded by Martin, to approve the Consent Agenda as follows:

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 January 19, 2021 Meeting of the Board of Trustees.
- b Approve payment of the claims and invoices.

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 February 23, 2021, to be drawn on the General:

GENERAL FUND WARRANTS
CONSENT AGENDA, ITEM 11b

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$ 2,789.16	18211	OPPD	Inv. service dates 1/5/21-2/4/21
\$ 380.00	18212	Frankel Zacharia	Inv. No. 115203 (financial reports)
\$ 5,309.15	18213	Roger K. Johnson	Inv. No. 79 (attorney fees & costs)
\$18,025.00	18214	Lakeside Landscaping, Inc.	Inv. Nos. 4126, 4129, 4217, 4247, 4280, 4316, 4353 and 4387)

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 the Clerk, be and hereby are authorized to execute and deliver warrants for the payment of the same, all dated February 23, 2021, 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 WARRANTS
CONSENT AGENDA, ITEM 11b

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$ 169.91	18170	Midwest Laboratories	Inv. No. 1027626 (wastewater testing)
\$ 6,925.86	18171	PeopleService, Inc.	Inv. No. 37238 (March service \$4,850.00; Jan. billing \$2,075.86)
\$ 2,592.00	18172	Roger K. Johnson	Inv. No. 79 (attorney fees & costs)
\$ 57.14	18173	Windstream Comm	Inv. dated 1/15/21 (utilities phone)
\$ 7,000.00	18174	JEO Consulting Group, Inc.	Inv. No. 122292 (Pay request No. 1 wastewater system improvements)

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 February 23, 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 February 23, 2026:

Construction Fund Account
(Due February 23, 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.

Be It Further Resolved by the Board of Trustees of Sanitary and Improvement District No. 5 of Cass County, Nebraska that \$2,559.13 be transferred from the Service Fee Fund to the General Fund (OPPD electric service less the cost of street lighting).

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

ITEM 12

The trustees requested that the next agenda include repairs to the lift station on Sterling Court and the website update. The Chair advised that the next two meetings are tentatively set for 6:00 p.m. on March 23 and April 20, 2021 at 3200 Buccaneer Blvd, Plattsmouth, Nebraska, inside the clubhouse of Bay Hills Golf Club, if possible, or if not then at a location in Plattsmouth and virtual only if no space is available in Plattsmouth.

ITEM 13

The agenda having been completed, on motion by Brandt, recognized by the Chair, the meeting adjourned at approximately 8:08 p.m.

Dan Brandt, Trustee

Kurt W. Meisinger, Trustee

David L. Martin, Trustee

Robert Karr, Trustee

James Grotrian, Trustee