

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

Meeting convened at 6:00 p.m. on November 16, 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.

Following discussion, in the absence of the Chair, the Clerk announce that he would chair the meeting and Trustee Grotrian would sign the warrants in lieu of Trustee Meisinger.

**ITEM 1**

Meeting called to order at 6:00 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 and Dan Brandt. Absent: Kurt W. Meisinger and David L. Martin.

**ITEM 4**

George Tesar was present and addressed the Trustees regarding personal property being stored by someone on what appears to be SID property and he asked that the Trustees, before making recommendations to the county regarding planning matters, talk to residents living near the area involved.

**ITEM 5**

Motion by Grotrian, seconded by Karr to contract with Kerns Excavating Company, Inc. to raise designated fire hydrants at a cost not to exceed ten thousand dollars. On roll call those voting aye: Grotrian, Karr and Brandt. Voting nay: none. Absent: Martin and Meisinger. Abstaining: none. The Chair declared the resolution adopted.

**ITEM 6**

Motion by Grotrian, seconded by Karr to recommend to the County's zoning administrator, the Cass

County Planning Commission and the Cass County Board of Commissioners, approval of Buccaneer Bay Replat IV Lot 1 being a replat of Out Lot "A" Buccaneer Bay Replat III, Cass County, Nebraska. On roll call those voting aye: Grotrian, Karr and Brandt. Voting nay: none. Absent: Martin and Meisinger. Abstaining: none. The Chair declared the resolution adopted.

**ITEM 7a**

For the roads report, Trustee Karr advised that several signs had been replaced. He also advised that maintenance was required on about 10 potholes hopefully before winter. He advised that he would work with Mr. Dolezal to arrange the maintenance work that was expected to be less than \$5,000.

**ITEM 7b**

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 7c**

Mr. Dolezal advised that it appeared that to move the storm drain would cost between \$36,000 and \$41,000. For lack of a motion, no action was taken to approve relocating the storm drain on 3605 Buccaneer Blvd.

**ITEM 7d**

Motion by Brandt, seconded by Grotrian to approve the repair of up to 4 manholes by Lakeside Landscaping and Ryba Construction as identified by Mr. Dolezal which require attention to not interfere with snow plowing upon Mr. Dolezal's approval of the method and at a cost not to exceed \$16,000. On roll call those voting aye: Grotrian, Karr and Brandt. Voting nay: none. Absent: Martin and Meisinger. Abstaining: none. The Chair declared the resolution adopted.

**ITEM 7e**

The Chair laid over action related to the preparation of an ordinance to regulate the placement of utilities in the rights of way.

**ITEM 8a**

Trustee Grotrian presented a verbal grounds report and advised that he had reviewed the beaver dam as requested by a resident and determined it clearly was on golf course property and not something the District could address.

**ITEM 8b**

Mr. Johnson advised that proposals from two real estate agents were received regarding the sale of

the lots previously offered at auction and asked that the matter be laid over for Trustee Meisinger to compare from a financial standpoint. The Chair laid the matter over to the next meeting.

### **ITEM 8c**

Trustee Grotrian advised that the county inspected SID property and found no invasive plants and trees on outlots. No further action was necessary.

### **ITEM 9a**

In the absence of Trustee Martin, there was no water and wastewater committee report.

### **ITEM 9b**

Mr. Lance Messer, of PeopleService, presented the attached Water/Wastewater and Water billing report. Mr. Messer also advised that he would be doing maintenance items in the next couple of weeks.

### **ITEM 9c**

Mr. Messer reported that no other companies were interested in providing costs estimates to slip line a portion of the sanitary sewer main and that Johnson Service Company cannot make it until spring and would provide a new cost estimate.

### **ITEM 9d(1)**

Motion by Grotrian, seconded by Brandt to authorize and direct Mr. Johnson to deliver, as counsel for the District, his attorney opinion letter to the Nebraska Department of Environment and Energy related to an Agreement for Loan No. C318036 between the District and the Nebraska Department of Environment and Energy concerning the Waste Water Treatment Plant improvements. On roll call those voting aye: Grotrian, Karr and Brandt. Voting nay: none. Absent: Martin and Meisinger. Abstaining: none. The Chair declared the resolution adopted.

### **ITEM 9d(2)**

Motion by Grotrian, seconded by Brandt to authorize and direct the Chair of the District to execute and deliver to the Nebraska Department of Environment and Energy Exhibit G attached to the proposed an Agreement for Loan No. C318036 between the District and the Nebraska Department of Environment and Energy (NDEE). On roll call those voting aye: Grotrian, Karr and Brandt. Voting nay: none. Absent: Martin and Meisinger. Abstaining: none. The Chair declared the resolution adopted.

### **ITEM 9d(3)**

Resolution introduced by Grotrian for adoption, seconded by Brandt:

**RESOLUTION  
BOARD OF TRUSTEES OF SANITARY AND IMPROVEMENT  
DISTRICT NO. 5, CASS COUNTY, NEBRASKA**

A RESOLUTION TO APPROVE THE AGREEMENT FOR LOAN NO. C318036 (THE "LOAN AGREEMENT") BETWEEN THE BORROWER AND THE NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY ("NDEE") AND THE ISSUANCE OF A PROMISSORY NOTE (THE "NOTE") BY THE BORROWER TO THE NDEE, AND TO DIRECT AND AUTHORIZE THE CHAIR AND CLERK OF THE DISTRICT TO EXECUTE THE SAME

WHEREAS, Sanitary and Improvement District No. 5, Cass County, Nebraska, commonly known as Buccaneer Bay, recognizes that a properly functioning sanitary sewer system is necessary to the health and welfare of the citizens of the District; and

WHEREAS, the Chairperson and District Board of Trustees have determined that portions of the DISTRICT sanitary sewer system are in need of significant repair and improvement; and

WHEREAS, funding for the cost of the repair and improvement of portions of the District sanitary sewer system may be obtained by loan from the Nebraska Department of Environment and Energy, subject to certain requirements and obligations.

NOW, THEREFORE, BE IT RESOLVED by the Chairperson and District Board of Trustees of Sanitary and Improvement District No. 5, Cass County, Nebraska that they should execute the contract for loan between the Nebraska Department of Environment and Energy and Sanitary and Improvement District No. 5, Cass County, Nebraska designated as Project No. C318036, incorporated by reference into this Resolution as if fully set forth; and

BE IT FURTHER RESOLVED, Kurt Meisinger, Chairperson, is hereby directed to execute the Agreement and all other documents necessary to facilitate the Loan between the Nebraska Department of Environment and Energy and Sanitary and Improvement District No. 5, Cass County, Nebraska for the purpose of repairing and improving the District's sanitary sewer system; and

BE IT FURTHER RESOLVED THAT Dan Brandt, Clerk, be authorized and directed to sign all necessary documents, to furnish such assurances to the State of Nebraska as may be required by law or regulations, and to receive payment on behalf of the applicant.

PASSED AND APPROVED THIS 16<sup>TH</sup> day of November 2021.

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Kurt Meisinger, Chairperson  
Sanitary and Improvement District No. 5,  
Cass County, Nebraska

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 16<sup>TH</sup>  
day of November 2021.

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Dan Brandt, Clerk  
Sanitary and Improvement District No. 5,  
Cass County, Nebraska

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

**ITEM 9d(4)**

Motion by Grotrian, seconded by Brandt to authorize and direct the Chair to execute the Promissory Note related to the Loan Agreement considered in Item 9e(3) upon approval of the final documents by Mr. Johnson. On roll call those voting aye: Grotrian, Karr and Brandt. Voting nay: none. Absent: Martin and Meisinger. Abstaining: none. The Chair declared the resolution adopted.

**ITEM 9d(5)**

Motion by Grotrian, seconded by Karr to authorize and direct Mr. Johnson to forward to the Nebraska Department of Environment and Energy the executed loan agreement, executed promissory note, executed Exhibit G and signed attorney opinion letter to the Nebraska Department of Environment and Energy and to request approval and execution of the Loan Agreement by NDEE. On roll call those voting aye: Grotrian, Karr and Brandt. Voting nay: none. Absent: Martin and Meisinger. Abstaining: none. The Chair declared the resolution adopted.

**ITEM 9d(6)**

Motion by Grotrian, seconded by Karr to authorize and direct Mr. Johnson to prepare and file a court proceeding in the District Court of Cass County, Nebraska, at the appropriate time, to have the Promissory Note for the Agreement for Loan No. C318036 converted to a Bond to provide parity of the Note with Bonds issued by the District once the Loan Agreement is executed by the Nebraska Department of Environment and Energy. On roll call those voting aye: Grotrian, Karr and Brandt. Voting nay: none. Absent: Martin and Meisinger. Abstaining: none. The Chair declared the resolution adopted.

**ITEM 9d(7)**

Trustee Brandt acknowledged receipt of the Engineer's Final Opinion of Probable Cost and the Engineer's recommendation of award to Building Crafts Inc. in the amount of \$2,219,000.

**ITEM 9d(8)**

Motion by Grotrian, seconded by Karr to award a contract for the 2021 Wastewater Treatment Plant Expansion, JEO Consulting Group, Inc. Project No. 170921.02, to Building Crafts, Inc. in the amount of \$2,219,000 contingent upon: (1) the Nebraska Department of Environment and Energy approving and executing the Agreement for Loan No. C318036 between Sanitary and Improvement District No. 5 of Cass County, Nebraska and NDEE; (2) the Nebraska Department of Environment and Energy approving the Contract and the bid documentation and process; (3) that the contract also is not final until it is so approved and is executed by the Contractor; (4) a Decree is entered by the District Court of Cass County converting the Promissory Note for the Agreement for Loan No. C318036 to provide parity of the Note with Bonds issued by the District; and (5) that the Chair be authorized to execute the contract only after (a) approval by the Nebraska Department of Environment and Energy, (b) execution by the Contractor, and (c) written confirmation from the Nebraska Department of Environment and Energy that the funds from the State Revolving Fund Loan Agreement No. C318036 are available; and (6) Mr. Johnson's approval of the final draft of the documents for the Loan. On roll call those voting aye: Grotrian, Karr and Brandt. Voting nay: none. Absent: Martin and Meisinger. Abstaining: none. The Chair declared the resolution adopted.

**ITEM 9e**

Trustee Brandt laid over discussion and approval of a contract with Kerns Excavating Company, Inc. to grout the manholes throughout the District at a cost of \$85 a foot.

**ITEM 9f**

Mr. Messer advised that the transducer at Well No. 1 had stopped working and it would be necessary to replace the same at an approximate cost of \$3,500. The trustees discussed the matter as a maintenance item.

**ITEM 10a**

In the absence of Trustee Meisinger, there was no finance report.

**ITEM 10b**

The County Treasurer's report had not been received.

**ITEM 11**

Motion by Brandt, seconded by Grotrian to approve the Consent Agenda and authorize Trustee

Grotrian to execute the warrants in the absence of Trustee Meisinger:

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 October 19, 2021;
- b Approve payment of the claims and invoices; and
- c Transfer \$2,648.05 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 November 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**

<b><u>Amount</u></b>	<b><u>Warrant</u></b>	<b><u>Service Provider</u></b>	<b><u>Purpose</u></b>
\$ 3,033.28	18267	OPPD	Service dates 10/4/21 - 11/03/21
\$ 700.90	18268	Frankel Zacharia	Inv. No. 121117 (financial reports and assimilation of audit information)
\$ 6,662.92	18269	Roger K. Johnson	Inv. No. 153 (attorney fees & costs)
\$ 1,600.00	18270	Aspen Landscaping	Inv. No. 149 (mowing)
\$ 430.00	18271	Wojo's Outdoors	Inv. No. 1037 (mowing)
\$ 6,811.40	18272	Ehrhart Griffin & Assoc.	Inv. Nos. B7704 (pavement analysis and miscellaneous work)
\$ 50.00	18273	David L. Martin	Reimbursement (payment for website with email to register.com)
\$41,417.00	18274	Kerns Excavating Co., Inc.	Inv. Nos. 16632 & 16633 (storm water management and erosion repairs near 2021 Beck Court sewer, near Buc. Blvd and Lakeside Cir, and near Buc.

Blvd booster station)

\$56,725.50    18275            Kerns Excavating Co., Inc.    Inv. Nos. 16636 (Spyglass Court storm water drainage 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 November 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**

<b><u>Amount</u></b>	<b><u>Warrant</u></b>	<b><u>Service Provider</u></b>	<b><u>Purpose</u></b>
\$7,633.53	18230	PeopleService, Inc.	Inv. No. 39069 (\$5,112.00 for Dec. operations; \$2,209.88 Oct bills; \$311.65 lab testing)
\$ 558.00	18231	Roger K. Johnson	Inv. No. 154 (attorney fees & costs)
\$ 70.85	18232	Windstream Comm	Inv. dated 10/15/21 (well house phone)

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 November 16, 2021, with the warrants to be drawn on the Construction Fund account:

**CONSTRUCTION FEE FUND WARRANTS**  
**CONSENT AGENDA, ITEM 11b**

<b><u>Amount</u></b>	<b><u>Warrant</u></b>	<b><u>Service Provider</u></b>	<b><u>Purpose</u></b>
\$ 550.00	18156	UMB Bank, N.A.	Inv. 858408 (bond paying agent fee)
\$ 181.74	18157	Roger K. Johnson	Inv. 146 (reimbursement for publication of Notice to Bidders on the WWTP expansion 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.

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

**ITEM 12**

Trustee Brandt advised that the December meeting would be held on the 16<sup>TH</sup> and would be in the Auditorium of the Plattsmouth Public Library, 401 Avenue A, Plattsmouth, Nebraska.

**ITEM 13**

The agenda having been completed, on motion by Grotrian and recognized by Trustee Brandt, the meeting adjourned at approximately 7:20 p.m.

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Dan Brandt, Trustee

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Kurt W. Meisinger, Trustee

\_\_\_\_\_  
David L. Martin, Trustee

\_\_\_\_\_  
Robert Karr, Trustee

Recorded by:

\_\_\_\_\_  
James Grotrian, Trustee

\_\_\_\_\_  
Roger K. Johnson  
Attorney for the District