

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

Meeting convened at 6:00 p.m. on January 18, 2022 at First State Bank Nebraska, 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 order at 6:01 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 5

Mr. Robert Sorenson introduced himself to the Trustees as a candidate for Cass County Sheriff and discussed issues he saw in the Sheriff's office and his intention to change the interaction between the department and the cities and communities in Cass County, including sanitary and improvement districts.

ITEM 6a

Trustee Karr discussed the snow plowing during the month indicating only one call and it involved turf damage in the right-of-way.

ITEM 6b

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 6c

Following general discussion, the Chair directed Mr. Johnson to prepare an ordinance to regulate the placement of utilities in the rights of way for possible adoption.

ITEM 6d

Mr. Johnson advised that he had contacted Senator Clements' office regarding a statutory amendment concerning the eligibility of sanitary and improvement district for Highway Allocation funds.

ITEM 7a

Trustee Martin reported that there were some issues at the wastewater treatment plant. A pump failed and there was difficulty replacing it. There also was a power loss and the generator did not automatically start. PeopleService will have a company look into repairing whatever the problem is with the generator.

ITEM 7b

Mr. Johnson advised that Mr. Messer was unable to attend the meeting but would be submitting a written report as usual concerning water/wastewater and water billing

ITEM 8a

Trustee Grotrian advised that there were dead shrubs at the entrance that would have to be removed in the spring.

ITEM 8b

Following general discuss of an interest in dedicating funds from the sale of District lots to the reconstruction of the entrance to move the mailboxes off the road and to begin the development of the area as proposed by RDG Planning and Design discussed at meetings over the summer and fall of 2021. The proceeds would be from the sale of 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)

ITEM 8c(1)

The Chair announced a temporary recess of the Board of Trustees and the Trustees convening as Board of Adjustment and Equalization at 7:28 p.m. to address consideration of lifting a special assessment levied on a lot previously owned by the District.

ITEM 8c(2)

The Chair opened a public hearing at 7:28 p.m. to hear support, opposition, criticism, suggestions or observations of all interested parties concerning the possible passage of the following Resolution related to lifting special assessments previously imposed on lots now owned by Sanitary and Improvement District No. 5, Cass County, Nebraska on Lot 8R, Block 14, Buccaneer Bay, a Subdivision as Surveyed, Platted and Recorded in Cass County, Nebraska:

A RESOLUTION OF THE BOARD OF TRUSTEES OF SANITARY AND IMPROVEMENT DISTRICT NO. 5, CASS COUNTY, NEBRASKA TO LIFT SPECIAL ASSESSMENTS FOR WATER MAIN, SANITARY SEWER MAIN, STORM WATER SEWER MAIN AND PAVING IMPROVEMENTS PREVIOUSLY IMPOSED ON CERTAIN BENEFITTED LOTS ACQUIRED BY THE DISTRICT.

No persons spoke either in favor or opposition to the Resolution. The Chair closed the public hearing at 7:29 p.m.

ITEM 8c(3)

The Chair adjourned the meeting of the Board of Adjustment and Equalization and resumed the meeting of the Board of Trustees in open session at 7:29 p.m.

ITEM 8c(4)

Resolution introduced by Meisinger, seconded by Brandt:

RESOLUTION TO LIFT SPECIAL ASSESSMENTS

A RESOLUTION OF THE BOARD OF TRUSTEES OF SANITARY AND IMPROVEMENT DISTRICT NO. 5, CASS COUNTY, NEBRASKA TO LIFT SPECIAL ASSESSMENTS FOR WATER MAIN, SANITARY SEWER MAIN, STORM WATER SEWER MAIN AND PAVING IMPROVEMENTS PREVIOUSLY IMPOSED ON CERTAIN BENEFITTED LOTS ACQUIRED BY THE DISTRICT.

WHEREAS, the Board of Trustees of Sanitary and Improvement District No. 5, Cass County, Nebraska in prior years constructed improvements including water main, sanitary sewer main, storm water sewer main and paving improvements all located within the boundaries of the District which boundaries which are located in Sections 32, 33 and 34, T13N, R13E of the 6th P.M., Cass County, Nebraska, and Sections 4 and 5, T12N, R13E of the 6th P.M.

WHEREAS, special assessments were imposed on lots which were owned by a party other than Sanitary and Improvement District No. 5, Cass County, Nebraska to the extent such lots were specially benefitted by the improvements and only to the extent of such benefit.

WHEREAS, Sanitary and Improvement District No. 5, Cass County, Nebraska has now acquired fee simple title to the lots listed herein and any payment of the same would constitute payment from public funds and would no longer benefit the public.

WHEREAS, Sanitary and Improvement District No. 5, Cass County, Nebraska has no deficiencies in its Bond Fund caused by the nonpayment of special assessments and therefore continues to have the ability to make its payments of interest and principal of all outstanding warrants and/or bonds.

NOW THEREFORE, BE IT RESOLVED that the Board of Trustees of Sanitary and Improvement District No. 5, Cass County, Nebraska, after having met as a Board of Adjustment and Equalization, find and determine that all outstanding special assessments, together with interest, regardless of the date of levy, against the following lot be lifted and not be subject to re-levy:

- (1) Lot 8R, Block 14, Buccaneer Bay, a Subdivision as Surveyed, Platted and Recorded in Cass County, Nebraska.

PASSED AND APPROVED this 18TH day of January 2022.

By: /s/ Kurt Meisinger
Kurt Meisinger, Chair

ATTEST:
/s/ Dan Brandt
Dan Brandt, Clerk

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

ITEM 8d

The Chair acknowledged receipt of the notice of public hearing before the Cass County Planning Commission regarding an application for a Conditional Use Permit for a storage facility that would be located on property within the District's boundaries.

ITEM 9a

The finance report for January is attached hereto.

ITEM 9b

The County Treasurer's report for December 2021 is attached.

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 all held on December 16, 2021
- b Approve payment of the claims and invoices
- c Transfer \$2,508.21 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

January 18, 2022, to be drawn on the General Fund, and which are redeemable upon presentation to the Cass County Treasurer.

GENERAL FUND WARRANTS
CONSENT AGENDA, ITEM 10b

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$ 397.75	18283	Frankel Zacharia	Inv. No. 122005 (financial reports and data for annual report)
\$7,903.92	18284	Roger K. Johnson	Inv. No. 177 (attorney fees & costs)
\$4,532.90	18285	Ehrhart Griffin & Assoc.	Inv. No. B7838 (Spyglass storm sewer; 4006 Buccaneer Blvd replace curb; manhole approaches; 3605 Buccaneer Blvd storm sewer)
\$1,642.75	18286	Wojo's Outdoors & Custom Waterfronts, LLC	Inv. No. 1040 (street sign installation, replacement and related work)
\$7,300.00	18287	Lengemann & Assoc	Inv. dated December 18, 2021 (audit services fiscal year ended June 30, 2021)
\$3,350.00	18288	Lakeside Landscaping, Inc.	Inv. Nos. 4810 & 4811 (snow plowing 12/28/21 & 1/1/22)
\$2,896.82	18289	OPPD	Service dates 12/6/21 - 1/06/22

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 January 18, 2022, 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 10b

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$ 792.00	18238	Roger K. Johnson	Inv. No. 180 (attorney fees & costs)

\$ 66.04	18239	Windstream Comm	Inv. dated 12/15/21 (well house phone)
\$ 63.30	18240	Papillion Sanitation	Inv. No. 6134265 (trash service WWTP)
\$9,698.85	18241	PeopleService, Inc.	Inv. No. 39487 (\$5,112.00 for Feb. operations; \$2,197.76 Dec. bills; \$2,389.09 Quarter 4 sales tax)

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 January 18, 2022, 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 January 18, 2027:

**Construction Fund Account
(Due January 18, 2027)**

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 Martin, seconded by Karr to enter closed session to protect the public interest for the purposes of:

- (a) 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; and
- (b) reviewing the listing and sale of the following SID owned lots listed with Ms. Tesar, Nebraska Realty:
 - (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.

The Chairman then restated that the Board of Trustees would enter closed session at 7:32 p.m. for the protection of the public interest for the purposes of:

- (a) 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; and
- (b) reviewing the listing and sale of the following SID owned lots listed with Ms. Tesar, Nebraska Realty:
 - (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)
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 - (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).

Motion by Grotrian, seconded by Martin to reconvene in open session at 7:58 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

Motion by Martin, seconded by Karr to:

- a. approve and ratify the chair entering into purchase agreements for, and to authorize the Chair and Clerk to sign all necessary documents to close on, the sale of 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)
- (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); and

b. authorize the Chair to make counter offers to RJW Construction Inc. for the sale of the lots listed in paragraph (1) below, which lots differ from the original offer by RJW as listed in paragraph (2) below, so that the District receives the reserve price set for the auction:

- (1) (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
- (2) (3) Lot 11RR, Block 7, Buccaneer Bay Administrative Replat, a Subdivision as Surveyed, Platted and Recorded in Cass County, Nebraska
- (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
- (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; and

- c. if the sale to RJW Construction is unsuccessful, the Chair is authorized to continue negotiating the sale of remaining lots at prices discussed in closed session.

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 13

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

ITEM 14

The agenda having been completed, on motion by Grotrian and recognized by the Chair, the meeting adjourned at approximately 8:07 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