

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

Meeting convened at 6:00 p.m. on February 22, 2022 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 6:02 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: Robert Karr, Dan Brandt and Kurt W. Meisinger. Absent: James Grotrian and David L. Martin.

ITEM 4

Resident Jennifer Sommer introduced resident John Fey. Mr. Fey advised that he had accepted the responsibility of preparing the monthly newsletter that resident Janet McCartney started around 25 years ago.

Trustee David Martin arrived at 6:11 p.m.

ITEM 5a

Trustee Martin advised that the newest water well required significant maintenance work. Lance Messer, the water system operator from PeopleService, had contacted and was arranging to have Sargent Drilling perform maintenance including cleaning the screens, camera inspection, cleaning and treating.

Trustee Martin, operator Lance Messer of PeopleService and engineer Lucas Billesbach of JEO Consulting Group also advised that there were issues related to manganese levels in the water produced from well 2011-1. The level was measured on site by testing materials obtained by PeopleService. The level in well 2011-1 was found to be just in excess of 300 micrograms/liter. The

levels in well 1974-1, which measured high in 2019, were significantly higher now, in excess of the levels suggested for water consumed by anyone. While in 2019 well 1974-1 water could be used if blended with water from well 2011-1, it now had to be shut off because the level exceeded that which is recommended for human consumption. If at some point guidance from the Nebraska Department of Environment and Energy requires the issuance of a warning to system users, the District would send the required notice. In the meantime, further work on the wells would proceed and testing repeated. No action was necessary, nor taken, following discussion concerning water treatment or connecting to another source such as directly with Metropolitan Utilities District, the City of Plattsmouth if they connected to Metropolitan Utilities District or Cass County Rural Water District. It was discussed that during the summer it likely will be necessary to impose water restriction.

ITEM 5b

The PeopleService report is attached. Mr. Messer also advised by verbal report that a new transducer had been installed in well 1974-1, just before the manganese levels were tested.

ITEM 5c

Mr. Billesbach, engineer with JEO Consulting Group reviewed the additional services requested and provided prior to final plans. Mr. Billesbach also noted that the preconstruction conference to kickoff the project and have it begin March 1 would be held at 9:00 a.m. on Thursday February 24. Motion by Meisinger, seconded by Karr to approve and authorize the chair to execute Amendment No. 1 to the Owner-Engineer Agreement for Project No. 170,921.02, 2021 Wastewater Treatment Plant Expansion. On roll call those voting aye: Martin, Karr, Brandt and Meisinger. Voting nay: none. Absent: Grotrian. Abstaining: None. The Chair declared the resolution adopted.

ITEM 5d

Following extensive discussion about a temporary solution being transfer switches at the booster station and the 5 lift stations, and the purchase of one portable generator to use during power outages, the Chair laid over to the next meeting a decision regarding the same. Mr. Billesbach advised that actual detailed needs and plans, and actual generator sizing would be required.

ITEM 5e

The Chair laid over to the next meeting discussion and a decision on the replacement of the HVAC at the water treatment facility and well house.

ITEM 6a

Trustee Karr provided a verbal report regarding roads and advised that Wojo's should be completely done with street sign replacement by February 26.

ITEM 6b

Trustee Meisinger advised that Mr. Anthony Wojtalewicz had inquired about gaining access to the 18 acres of ground on which he proposed a storage facility within the District by way of an old roadway northbound which is at the property line of the property east of the main entrance. Trustee Meisinger indicated that this was the area being considered for developing a park, parking lot with relocation of the main entrance cluster mailboxes, and possible dog park. There also was discussion concerning the significant increase in valuation of the property if used for commercial storage which would significantly impact tax revenues.

ITEM 6c

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 6d

The Chair laid over consideration of an ordinance to regulate the placement of utilities in the rights-of-way.

ITEM 7a

Trustee Brandt advised that there was one tree to be removed from District property.

ITEM 7b

The Chair laid over discussion and action regarding the possible uses of the approximately \$181,155.25 proceeds from the sale of lots, with one sale remaining to close.

ITEM 7c

The Chair laid over consideration of relocating the mailbox clusters currently located on Buccaneer Blvd in the right-of-way at the main entrance, and directed Mr. Johnson to contact the Postmaster to see if they would be receptive having the District move the cluster boxes.

ITEM 7d

The Chair laid over consideration of an engineering agreement with Ehrhart Griffin Associates to engineer the construction of a parking lot and the necessary improvements for the relocation of the main entrance mailbox clusters.

ITEM 7e

The Chair laid over awarding the mowing contract for the summers of 2022 and 2023.

ITEM 8a

The finance, and the water and wastewater revenue, reports for February are attached hereto.

ITEM 8b

The County Treasurer’s report for January 2022 is attached.

ITEM 9

Motion by Meisinger, seconded by Brandt 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 held on January 18, 2022
- b Approve payment of the claims and invoices
- c Transfer \$2,597.21 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 February 22, 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 9b
(Due February 22, 2022)

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$2,991.61	18290	OPPD	Service dates 1/6/22 - 2/3/22
\$1,025.00	18291	Frankel Zacharia	Inv. No. 122609 (financial reports and IRS filings)

\$9,442.32	18292	Roger K. Johnson	Inv. No. 195 (attorney fees & costs)
\$3,730.00	18293	Lakeside Landscaping, Inc.	Inv. Nos. 4874 & 4953 (snow plowing 1/14 and 1/15, 2022)

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 22, 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 9b
(Due February 22, 2022)

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$10,787.24	18242	PeopleService, Inc.	Inv. No. 39698 (\$5,112.00 for March operations; \$2,213.92 Jan. billing; \$69.00 lab testing; \$1,150.00 bury exposed water line; \$2,242.32 reimburse for submersible water level transmitter)
\$ 2,736.00	18243	Roger K. Johnson	Inv. No. 196 (attorney fees & costs)
\$ 8,822.38	18244	Iowa Pump Works	Inv. No. 16929 (ABS XFP100E)
\$ 172.50	18245	JEO Consulting Group, Inc.	Inv. No. 127981 (Project R170921.01 study WWTP options)
\$ 57.35	18246	Windstream Comm	Inv. dated 1/18/22 (well house phone)
\$ 1,116.73	18247	Hydro Optimization & Automation Solutions, Inc.	Inv. Nos. 10141 & 10154 (utility controls maintenance)

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 22, 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 February 22,

2027:

CONSTRUCTION FUND WARRANTS
CONSENT AGENDA, ITEM 9b
(Due February 22, 2022)

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$156,657.54	18158	JEO Consulting Group, Inc.	Inv. No. 3 Partial (remaining balance \$19,750) and Inv. Nos. 4, 5, 6 and 7 (WWTP expansion project)
\$ 719.25	18159	Roger K. Johnson	Inv. No. 194 (reimbursement for postage and court proceeding mailing materials and postage WWTP expansion project)
\$ 9,149.98	18160	Roger K. Johnson	No. 1 Attorney Fee Payment Sheet (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: Martin, Karr, Brandt and Meisinger. Voting nay: none. Absent: Grotrian. Abstaining: None. The Chair declared the resolution adopted.

ITEM 10

Motion by Brandt, seconded by Meisinger to enter closed session to protect the public interest for the purposes of discussing current and threatened litigation:

- (a) 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) Threatened litigation related to demand for a refund of the overpayment for water and sewer connections by 14C, LLC homebuilder in light of damage to the adjacent lot owned by the District.

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

The Chairman then restated that the Board of Trustees would enter closed session at 7:58 p.m. for the protection of the public interest for the purposes of discussing current and threatened litigation:

- (a) 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) Threatened litigation related to demand for a refund of the overpayment for water and sewer connections by 14C, LLC homebuilder in light of damage to the adjacent lot owned by the District.

Motion by Martin, seconded by Karr to reconvene in open session at 8:04 p.m. On roll call those voting aye: Martin, Karr, Brandt and Meisinger. Voting nay: none. Absent: Grotrian. Abstaining: None. The Chair declared the resolution adopted.

ITEM 11

Motion by Meisinger, seconded by Karr to settle the claim of 14C, LLC for a claim from a construction lien related to a District owned lot adjacent to one on which 14C, LLC was constructing a house as discussed on closed session. On roll call those voting aye: Martin, Karr, Brandt and Meisinger. Voting nay: none. Absent: Grotrian. Abstaining: None. The Chair declared the resolution adopted.

ITEM 12

The Chair advised that the next meetings would be 6:00 p.m. on March 22 and April 19, 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 Brandt and recognized by the Chair, the meeting adjourned at approximately 8:09 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