

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

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

**ITEM 4**

Lieutenant Lawrence "Ike" Burke addressed the Trustees and residents in attendance to announce his candidacy for Cass County Sheriff.

**ITEM 5**

Resident John Fey discussed an opportunity to connect the minutes from the Trustees' meetings to the development's newsletter for which he is now the editor.

**ITEM 6a**

Trustee Martin advised that he had reviewed text messaging systems for emergency announcements for interested residents. Trustee Martin also advised that Mr. Messer, system operator for PeopleService, has prepared a plan for jetting 25% of the sanitary sewer system each year, following the first year then 3 of the 4 areas would be jetted, to clean the same from blockages caused by, for example, tree roots.

## **ITEM 6b**

System operator Lance Messer of PeopleService presented the attached report and discussed the following matters: (1) Sargent Drilling performed maintenance on well 2011-1, including cleaning the screens, camera inspection, general cleaning and treating; (2) well cleaning is not a long term solution to manganese and other chemical elements naturally occurring in the water; (3) intention to restart well 2011-1 on the morning of March 23 and taking well 74-1 off line at that time; (4) well 1993-1 remains off line due to arsenic levels; and (5) the water testing performed by Midwest Laboratory, before Sargent Drilling performed the cleaning work, resulted in finding that manganese levels were within limits and that based on the advice of the Nebraska Department of Environment and Energy had advised to hold off on issuing any manganese level notices until this further testing was performed and as a result, there would be no need to issue the warning.

## **ITEM 6c**

Motion by Martin, seconded by Brandt to request a change order from JEO Consulting Group engineers to provide for including the necessary work to design transfer switches for generators at each of the five lift stations as part of the 2021 Wastewater Treatment Plant Expansion project. 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 6d**

The Chair laid over consideration of the HVAC installation at the wastewater treatment plant and the water well house until the needs are determined for the system controls that will be installed for the systems.

## **ITEM 6e**

Discussion was had involving the possible water system solution being the construction of a water treatment plant to treat for, among other things, arsenic and manganese; status of Plattsmouth's connection to Metropolitan Utilities District; and updating the water needs study by Embris Group, LLC, engineers. No action was taken regarding construction of a water treatment plant.

## **ITEM 6f**

Motion by Martin, seconded by Brandt to approve and authorize the clean out of the Becker Ct lift station. 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 6g**

Motion by Martin, seconded by Brandt to approve amendments to the Water System and Sanitary Sewer System Rules and Regulations as presented which were previously adopted October 23, 2018.

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

#### **ITEM 6h**

Motion by Meisinger, seconded by Martin to enter into a contract with Thiele Geotech, Inc. for Material Testing Services on the 2021 Wastewater Treatment Plant Expansion project and authorize the Chair to execute the same. 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 6i**

No action was taken following discussion of the status of the project in which the City of Plattsmouth connecting to Metropolitan Utilities District for purchasing water. While originally it was thought to be five years out, it is now considered only two years out.

#### **ITEM 6j**

Motion by Meisinger, seconded by Martin to approve and authorize the chair to execute a contract with Embris Group, LLC, engineers, to update the water system needs assessment. 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 6k**

Motion by Meisinger, seconded by Brandt to approve and authorize the chair to execute a contract with Johnson Service Company to slip line part of the sanitary sewer main located near Spyglass Court. 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 6l**

Motion by Meisinger, seconded by Brandt to refer to insurance the Claim of W. Dupre' for house repairs sue to a sanitary sewer back up at 3118 Davy Jones Drive. 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 6m**

Motion by Meisinger, seconded by Brandt to approve a contract for a text messaging service which will advise residents of emergency notifications for matters such as water and streets announcements to residents who opt in to receive such notices as selected by Trustee Martin, with the Trustees and Mr. Messer having authority to send notices, and to request PeopleService to pay the invoices from

the messaging service and then include that cost in its bill to the District. 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 7a**

Trustee Karr provided a verbal report regarding roads and advised that Wojo's had installed additional street signs.

#### **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**

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

#### **ITEM 7d**

Motion by Meisinger, seconded by Brandt to refer to authorize the Roads Committee to arrange every other year, beginning this year, the maintenance of Buccaneer Blvd off of Cedar Creek Road, in the form of graveling from Cedar Creek Road to the far side of the driveway of 4218 Cedar Creek Road, taking into account the amount of taxes collected from that property. 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 8a**

Trustee Brandt advised that a damaged tree had been removed from District property.

#### **ITEM 8b**

The Chair laid over discussion and action regarding the specific uses for proceeds from the sale of following lots:

- (1) Lot 30R, Buccaneer Bay 1<sup>ST</sup> 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**

The Chair announced that Mr. Johnson had contacted the Postmaster at Plattsmouth who advised that her office would have to approve on proposed plans for relocating the mailbox clusters currently located on Buccaneer Blvd in the right-of-way at the main entrance. Trustee Meisinger also voiced some concern over whether in major floods the lot at the front entrance would be subject to flooding. The Chair asked that the Trustees review and evaluate other alternatives as a result, and the Chair laid over consideration of the matter.

#### **ITEM 8d**

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

#### **ITEM 8e**

Mr. Johnson reviewed the bids and advised that Jake's Custom Lawns, LLC was the highest bid; that Aspen Landscaping, Inc. had failed to bid 3 parcels which resulted in it being a nonconforming proposal; and that Wojo's Outdoors & Custom Waterfronts, LLC was the lowest qualified proposal. Motion by Meisinger, seconded by Martin to award the mowing contract for mowing seasons 2022 and 2023 to Wojo's Outdoors & Custom Waterfronts, LLC as the lowest confirming proposal. On roll call those voting aye: Martin, Karr, Grotian, Brandt and Meisinger. Voting nay: none. Absent: none. Abstaining: None. The Chair declared the resolution adopted.

**ITEM 9a**

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

**ITEM 9b**

The County Treasurer's report for February 2022 is attached hereto.

**ITEM 10**

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 February 22, 2022
- b      Approve payment of the claims and invoices
- c      Transfer \$2,695.02 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 March 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 10b**  
**(Due March 22, 2022)**

<b><u>Amount</u></b>	<b><u>Warrant</u></b>	<b><u>Service Provider</u></b>	<b><u>Purpose</u></b>
\$3,089.20	18294	OPPD	Service dates 2/3/22 - 3/7/22
\$ 628.80	18295	Frankel Zacharia	Inv. No. 123178 (financial reports & financing options)
\$6,609.63	18296	Roger K. Johnson	Inv. No. 215 (attorney fees & costs)
\$2,500.00	18297	Lakeside Landscaping, Inc.	Inv. No. 4971 (2/22 & 2/24)

\$ 25.00	18298	Frankel Zacharia Tech Serv	Inv. No. 3066 (hosting services)
\$3,840.15	18299	Omni Engineering	Inv. No. 132117 (pothole 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 March 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 10b**  
**(Due March 22, 2022)**

<b><u>Amount</u></b>	<b><u>Warrant</u></b>	<b><u>Service Provider</u></b>	<b><u>Purpose</u></b>
\$ 7,545.01	18248	PeopleService, Inc.	Inv. No. 39908 (\$5,112.00 for April operations; \$2,217.96 Feb. billing; \$215.05 lab testing)
\$ 1,620.00	18249	Roger K. Johnson	Inv. No. 212 (attorney fees & costs)
\$ 66.35	18250	USA Blue Book	Inv. No. 883474 (Hatch DR 300 Iron)
\$ 56.14	18251	Windstream Comm	Inv. dated 2/16/22 (well house phone)
\$13,165.00	18252	TREKK Design Group	Inv. Nos. 21-1032, 21-1235 & 22-10 (sanitary system cleaning)
\$ 643.50	18253	14C, LLC & Bojan Ninkovic	Settlement dispute payment of water and waste water connection fees and damage to SID lot
\$ 390.00	18254	Weedcope, Inc.	Inc. No. 26839 (spray weeds WWTP)
\$ 529.00	18255	Slick Text	Inv. No. 222216 (emergency text messaging service)

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 March 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 March 22, 2027:

**CONSTRUCTION FUND WARRANTS**  
**CONSENT AGENDA, ITEM 10b**  
**(Due March 22, 2022)**

<b><u>Amount</u></b>	<b><u>Warrant</u></b>	<b><u>Service Provider</u></b>	<b><u>Purpose</u></b>
\$ 210.00	18161	Angela Gianelli	Inv. attached (mailing contractor for notice of hearing SRF court proceeding WWTP expansion project)
\$ 40.00	18162	Nicky Costello	Inv. attached (mailing contractor for notice of hearing SRF court proceeding WWTP expansion project)
\$ 9.36	18163	Roger K. Johnson	Inv. No. 210 (reimburse postage & mailing WWTP expansion court proceeding)
\$1,000.47	18164	Roger K. Johnson	No. 2 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, Grotrian, Brandt and Meisinger. Voting nay: none. Absent: none. Abstaining: None. The Chair declared the resolution adopted.

### **ITEM 11**

The Chair advised that the next meetings would be 6:00 p.m. on April 19 and May 17, 2022, tentatively at 3200 Buccaneer Blvd, Plattsmouth, Nebraska, inside the clubhouse of Bay Hills Golf Club.

### **ITEM 12**

No closed session was held. Mr. Johnson advised that the court had overruled his motion to dismiss the District from the lawsuit 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. Mr. Johnson also advised that he had been told that a settlement between the Gibbons and Kappas Enterprises had failed and that either a new case would be filed including the District, or the current case amended, to seek an order for Kappas Enterprises to remove the gate placed in the publically dedicated road right of way and to not interfere with Gibbons use of the right of way.

### **ITEM 13**

The agenda having been completed, on motion by Brandt and recognized by the Chair, the meeting adjourned at approximately 8:37 p.m.

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Dan Brandt, Trustee

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Kurt W. Meisinger, Trustee

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David L. Martin, Trustee

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Robert Karr, Trustee

Recorded by:

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James Grotrian, Trustee

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Roger K. Johnson  
Attorney for the District