

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

Meeting convened at 6:00 p.m. on June 21, 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 6:00 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, Kurt W. Meisinger and James Grotrian. Absent: Dan Brandt and David L. Martin. In the absence of Trustee Brandt, clerk, the Chair appointed Trustee Grotrian as acting clerk for the meeting.

**ITEM 4**

No citizens not on the agenda were present to address the Board.

**ITEM 5a**

The Chair reported that he and Trustee Karr had received a complaint from a neighbor that the complainant had observed lawn watering on Monday's which is prohibited by the rules and regulations applicable to water use. The Chair advised that he had not observed the watering on Monday. As a member of the water and wastewater committee, the Chair advised he and Trustee Martin who was the other member of the committee would receive complaints from other Trustees or from representatives from PeopleService and then send out a standardized letter that he would prepare for a warning on the first violation, and fines thereafter as set forth in the rules and regulations. He further advised that they would allow 10 calendar days for a response and compliance to the warning letter and 7 days for compliance with any fine letter. If further violations occur after the warning letter, the Committee would report the amount of any fines to PeopleService billing for inclusion on the person's next water and sewer bill.

### **ITEM 5b**

Mr. Messer presented the attached water and wastewater report. He further advised that the Water Quality determination came back with no violations for the water system and that the notice had been published in the Plattsmouth Journal.

### **ITEM 5c**

Mr. Messer advised that he had met with Lucas Billesbach, engineer, to evaluate the replacement of the HVAC system at the wastewater treatment. Based on that meeting, Mr. Messer was going to replace the current Carrier unit with a like Carrier unit.

### **ITEM 5d**

The Chair advised that this item would be laid over since there was no additional information regarding the City of Plattsmouth's connection to Metropolitan Utilities District water supply.

### **ITEM 5e**

Following general discussion, preparation of grant applications for water protection improvements was laid over until Mr. Billesbach completed an updated evaluation of the water system.

### **ITEM 5f**

The Trustees discussed reports and schedules regarding the Wastewater Treatment Expansion.

### **ITEM 6a**

Trustee Karr provided a verbal roads report. He recommended that repairs and joint and crack sealing on Windward be moved up in priority on the list of streets needing some repair.

### **ITEM 6a(1)**

Mr. Johnson advised that he recently received a plan for managing the storm water runoff from Lot 22, Block 29 based on the way in which it was constructed. Mr. Johnson recommended that the matter be laid over until Mr. Dolezal, the engineer, had reviewed and commented on the plan.

### **ITEM 6b**

As a result of health issues, Mr. Dolezal had not had a chance to identify what would constitute about \$300,000 for joint and crack filling, street sealing and other road and drainage repairs. The Chair laid the matter over to the next meeting.

### **ITEM 6c**

The Chair advised that Mr. Johnson had research the records on Dutch Harbor Drive. Based on this records search, County Surveyor Charles Jordan will advise GIS to show Dutch Harbor Drive as under the control of the District and not privately owned.

### **ITEM 7a**

Trustee Grotrian identified Item 7(b) as the primary matter for grounds.

### **ITEM 7b**

Mr. Johnson advised that he received a cost estimate from Mr. Dolezal for the construction of a parking lot and the relocation of the cluster mailboxes. The estimate without contingencies was \$134,242.50 and with a 20% contingency \$161,091.00. Mr. Johnson advised that he attempted multiple times to discuss the mailbox relocation, as part of the construction of a parking lot on the east side of Treasure Island Road just inside the entrance. Mr. Johnson advised that the Postmaster but never called from the messages left from personally stopping at the post office on multiple occasions, nor any return calls from multiple phone calls made to the Postmaster. He also received no response from emailing plan #3 to a staff person who provided their email address to pass the plan along to the Postmaster. However, Mr. Johnson advised that Mr. Dolezal had a return call from the Postmaster who outlined some additional requirements for the relocation of the cluster boxes and confirmed that the District would handle the relocation. Mr. Dolezal advised that he would put together final plans for approval by both the Postmaster and the Board of Trustees. Motion by Grotrian, seconded by Karr, to authorize Mr. Dolezal, once plans are finalized, to advertise for bids for a parking lot and mailbox relocation based on 20 parking stalls and based on 27 parking stalls. On roll call those voting aye: Karr, Grotrian and Meisinger. Voting nay: none. Absent: Brandt and Martin. Abstaining: None. The Chair declared the resolution adopted.

### **ITEM 7c**

No action was necessary following the action taken on Item 7(b).

### **ITEM 7d**

No action was necessary following the action taken on Item 7(b).

### **ITEM 7e**

Following discussion of removing the park designation from outlots H, K and T, and Outlot 1, Block 29, because the same are required to handle storm water runoff from street drainage which satisfies the legal requirement that the land be used for a public purpose, motion by Meisinger, seconded by Grotrian, to remove the park ground designation for outlots H, T and K, and Outlot 1 of Block 29, Buccaneer Bay, a subdivision as surveyed, platted and recorded in Cass County, Nebraska. On roll

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

**ITEM 7f**

Motion by Meisinger, seconded by Grotrian, to approve and authorize the Chair to execute an amendment to the mowing contract with Wojo's Outdoor and Custom Water Fronts, LLC to include the frontage of Outlot H Buccaneer Bay Replat II adjacent to Buccaneer Blvd, between Lot 4C, Buccaneer Bay Replat II, as Surveyed, Platted and Recorded in Cass County, Nebraska (3202 Buccaneer Blvd) and the Golf Course Clubhouse (3200 Buccaneer Blvd). On roll call those voting aye: Karr, Grotrian and Meisinger. Voting nay: none. Absent: Brandt and Martin. Abstaining: None. The Chair declared the resolution adopted.

**ITEM 7g**

No action was taken following a presentation by Scott Wolcott of Country Mile Wireless regarding a lease of space on the water tower to provide wireless internet service in the Plattsmouth area.

**ITEM 7h**

Trustee Grotrian advised that he was contacted by the owner of 4004 Buccaneer Blvd who requested the inspection of erosion in his back yard that might be the result of street water runoff. Trustee Grotrian contacted Mr. Dolezal who was experiencing some health problems. Trustee Grotrian advised the home owner the Mr. Dolezal would inspect the erosion once recovered.

**ITEM 8a**

Trustee Meisinger presented the attached finance and utilities revenue reports for June 2022.

**ITEM 8b**

Trustee Meisinger presented the County Treasurer's reports for the months ended May 31, 2022.

**ITEM 8c**

Motion by Meisinger, seconded by Karr, to approve the Lengemann & Associates' engagement letter for the audit of the District's financial records, fiscal year ended June 30, 2022, and to authorize the Chair to execute the same. On roll call those voting aye: Karr, Grotrian and Meisinger. Voting nay: none. Absent: Brandt and Martin. Abstaining: None. The Chair declared the resolution adopted.

**ITEM 9**

Motion by Karr, seconded by Grotrian 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 May 17, 2022;
- b Approve payment of the claims and invoices; and
- c Transfer \$4,962.17 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 June 21, 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 June 21, 2022)**

<b><u>Amount</u></b>	<b><u>Warrant</u></b>	<b><u>Service Provider</u></b>	<b><u>Purpose</u></b>
\$ 419.00	18312	Frankel Zacharia	Inv. Nos. 3271 (Tech) and 125762 (financial reports; water billing data; update data from treasurer's reports)
\$ 1,209.00	18313	Wojo's Outdoors	Inv. No. 1052 (mowing and sign installation)
\$ 237.00	18314	Rohlfing Constrction	Inv. dated June 6, 2022 (sod installation at 19503 Spyglass Ct.)
\$18,116.00	18315	Kerns Excavating Co.	Inv. Nos. 16926 & 16932 (manhole repairs on various streets)
\$14,679.00	18316	Dodge Partners Ins.	Inv. No. 87792 (insurance renewal)
\$ 5,183.74	18317	Roger K. Johnson	Inv. No. 248 (attorney fees & costs)
\$ 2,722.12	18318	OPPD	Service dates 4/4/22 - 5/4/22
\$ 3,027.81	18319	OPPD	Service dates 5/4/22 - 6/6/22

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 June 21, 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 June 21, 2022)**

<b><u>Amount</u></b>	<b><u>Warrant</u></b>	<b><u>Service Provider</u></b>	<b><u>Purpose</u></b>
\$ 1,295.52	18275	PowerTech	Inv. Nos. 1385 & 1386 (annual inspection WWTP & annual inspection WTP)
\$ 262.25	18276	Embris Group, LLC	Inv. No. 27 (water treatment plan amendment and report)
\$ 8,581.26	18277	PeopleService, Inc.	Inv. No. 40538 (\$5,112.00 July operations; \$2,246.24 May billing; NSF check \$35.00; \$516.35 lab; postage Cross Connection Survey \$671.67)
\$ 936.00	18278	Roger K. Johnson	Inv. No. 250 (attorney fees & costs)
\$ 73.20	18279	Windstream Comm	Inv. dated 5/16/22 (well house phone)
\$ 7,492.50	18280	TREKK Design Group	Inv. No. 22-000544 (sludge hauling)
\$ 358.46	18281	Lee Enterprises	Inv. No. 178197-1 (Plattsmouth Journal publication Water Quality Report)

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 June 21, 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 June 21, 2027:

**CONSTRUCTION FUND WARRANTS**  
**CONSENT AGENDA, ITEM 9b**  
**(Due June 21, 2022)**

<b><u>Amount</u></b>	<b><u>Warrant</u></b>	<b><u>Service Provider</u></b>	<b><u>Purpose</u></b>
\$ 550.00	18172	UMB Bank	Inv. No. 923075 (admin fees bonds)
\$55,980.04	18173	Building Crafts, Inc.	Pay App. No. 3 (WWTP expansion)
\$ 9,712.50	18174	JEO Consulting Group, Inc.	Pay App No. 10 (WWTP expansion)
\$ 3,284.63	18175	Roger K. Johnson	Inv. No. 237, Pay App 4 Atty Fee Sheet (BCI No. 2 & JEO No. 9 WWTP expansion)

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: Karr, Grotrian and Meisinger. Voting nay: none. Absent: Brandt and Martin. Abstaining: None. The Chair declared the resolution adopted.

#### **ITEM 10**

Motion by Meisinger, seconded by Grotrian, to enter closed session to protect the public interest for the purpose of 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. On roll call those voting aye: Karr, Grotrian and Meisinger. Voting nay: none. Absent:

Brandt and Martin. Abstaining: None. The Chair declared the resolution adopted.

The Chairman then restated that the Board of Trustees would enter closed session at 6:55 p.m. to protect the public interest for the purpose of 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.

In open session, motion by Meisinger, seconded by Grotrian, to reconvene in open session at 7:15 p.m. On roll call those voting aye: Karr, Grotrian and Meisinger. Voting nay: none. Absent: Brandt and Martin. Abstaining: None. The Chair declared the resolution adopted.

The Chair directed Mr. Johnson to discuss with Gibbons attorney solutions to the litigation.

### **ITEM 11**

Other than items laid over from this meeting, no other items were identified to include on the agenda for the next meeting. Trustee Meisinger announced that the next few meetings would be held at 6:00 p.m. on July 19 and August 23, 2022, all tentatively at First State Bank Nebraska, second floor community room, 446 Main Street, Plattsmouth Nebraska until the golf course club house room is available in the fall.

### **ITEM 12**

The agenda having been completed, on motion by Karr, recognized by the Chair, the meeting adjourned at approximately 7:53 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