

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

Meeting convened at 6:00 p.m. on July 19, 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: Robert Karr, Kurt W. Meisinger, James Grotrian, Dan Brandt and David L. Martin. Absent: none.

**ITEM 4**

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

**ITEM 5**

No action was taken following discussion regarding the installation of an Emergency Siren System in the District. The Chair directed Mr. Johnson to request a representative of Cass County Emergency Management to discuss any Cass County emergency operations and any county warning system at the October meeting.

**ITEM 6a**

Trustee Martin provided a verbal water and wastewater committee report including the need to repair approximately 7 fire hydrants and replace the valve for Davy Jones Circle water main cross connection. A new pump was installed in Well 74-1, and the well was cleaned and repaired. A coliform test resulted in a negative result. The manganese test will be performed when HOA is on site to configure the water well blending.

### **ITEM 6b**

Mr. Messer presented the attached water and wastewater report. Mr. Messer also advised that a company was coming to treat for hornets in the wastewater treatment plant which had infested the walls. Mr. Messer advised that sometime last week there was a petroleum odor at the plant. The assumption was that a resident had disposed of a petroleum based product in the sanitary sewer. The odor cleared before the source could be identified.

### **ITEM 6c**

Mr. Messer reported, and JEO included in it minutes from the monthly construction progress meeting, that HOA advised that the plant controls could not be delivered until March 6, 2023 and would not answer questions regarding a completion date for installation of those controls. The Chair directed Mr. Johnson to investigate the refusal by HOA to address the expected completion date for installation.

### **ITEM 6d**

Trustee Meisinger reported generally on options for water system improvements. In regard to one option, Trustee Meisinger advised that a meeting with the City resulted in an update on the status of plans and an estimated completion for the City of Plattsmouth's connection to Metropolitan Utilities District water supply. Mr. Johnson advised that he would recommend limited discussion in open meetings on this matter if a decision was made to investigate a contract with the City rather than constructing a water treatment plant. Trustee Martin advised that well 93-1 has an issue with arsenic levels but that recent tests of wells 1974-1 and 2003-1 resulted in results of 2.7 and 2.6 parts per million and the maximum level for arsenic set by the Nebraska Department of Environment a Energy is 10 parts per million. Mr. Messer advised that he and Mr. Billesbach would be investigating the possibility of blending water from wells 74-1 and 11-1. Well 93-1 would not be included in blending and would only be placed back on line if a treatment plant was constructed.

### **ITEM 6e**

The Chair laid over discussion regarding the preparation of grant applications for water protection improvements until Mr. Billesbach completed an updated evaluation of the water system.

### **ITEM 6f**

Trustee Meisinger reported that there was a mass mailing to the residents with properties connected to the water system advising of the Water System and Sanitary Sewer System Rules and Regulations adopted March 22, 2022. Trustee Meisinger also advised that 20 notices had been mailed to residents for violating the restrictions on outside watering and that 6 more notices would be mailed shortly. No action was necessary. Trustee Meisinger also contacted the state regarding incorrect information about the District's water system and water placed on a Facebook page. Although such a complaint is in general confidential, the state representative discussed the issues with the Chair

since the posting included the state telephone number for people to call. The Chair advised the representative that the statements were not accurate.

**ITEM 7a**

Trustee Karr had nothing to report regarding roads. Trustee Grotrian advised that he had Wojo's place gravel in a sink hole near the end of Ridgeway Rd to address a tripping hazard while awaiting a repair.

**ITEM 7b**

The Chair laid over discussion and action regarding the roads maintenance project in the approximate amount of \$300,000, to include Windward Drive; crack and joint filling; and application of asphalt sealant until a detailed plan has been prepared by Dan Dolezal, engineer. Trustee Karr advised that he thought additional money should be included for this project.

**ITEM 7c**

The Chair laid over discussion and the consideration of any action to repair a sink hole in the back yard of 4004 Buccaneer Blvd. until further investigation had been completed.

**ITEM 8a**

Trustee Grotrian advised that there was no grounds report other than the possible repairs related to 4004 Buccaneer Blvd.

**ITEM 8b**

The Chair laid over consideration of the construction of a parking lot and to relocate the main entrance cluster mail boxes east of Buccaneer Blvd and east of Treasure Island Road between Bay Road north to well house 1 until final plan options were completed. The plans would take into account the potential future construction of park grounds, dog park, equipment and walking trail in that same area.

**ITEM 8c**

The Chair laid over consideration of possible action to address drainage from lot Lot 22, Block 29 until Mr. Dolezal had an opportunity to review the proposed plan presented by the builder.

**ITEM 8d**

No action was taken regarding issues related to the potential fire hazard on Outlot H. Mr. Johnson advised that since the park designation for Outlot H had been removed following discussion of how the same is used for a public purpose for storm water drainage at various locations, the Board might

consider placing “No Trespassing” signs on the Outlots not identified as parks. The Chair laid over action regarding the signage.

**ITEM 9a**

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

**ITEM 9b**

Trustee Meisinger presented the County Treasurer’s reports for the months ended June 30, 2022.

**ITEM 9c**

Trustee Meisinger disclosed his employment with Frankel Zacharia but advised he was not an owner in the firm. Mr. Johnson advised that voting on the item or abstaining was in his discretion since he was not an owner. Motion by Grotrian, seconded by Martin, to approve the Letter of Engagement with Frankel Zacharia, Certified Public Accountants, to compile the state budget form for July 2022 to June 2023 and to prepare monthly board reports. On roll call those voting aye: Karr, Grotrian, Brandt and Martin. Voting nay: none. Absent: none. Abstaining: Meisinger. The Chair declared the resolution adopted.

**ITEM 9d**

Trustee Meisinger presented the attached documents related to a preliminary budget for fiscal year July 1, 2022 through June 30, 2023 prepared for discussion. He stated the dollar amounts he used as assumed revenue and expenses for the budget and advised that the projected increase in valuation obtained from the assessor was actually higher, although not final, than the assumption he used for preparing the draft budget. Unless Trustees request changes, he expected that the general levy could remain the same unless it had to be lowered because of the statutory lid limits. He also expected a decrease in the bond levy. Trustee Meisinger asked that each trustee review the assumptions and budget needs and let him know if they had any recommendations for revisions. Trustee Meisinger advised that a budget would have to be approved at the August meeting as a proposed budget for publication and would be considered for adoption at the September meeting. No action was necessary. Trustee Meisinger advised that the anticipated expenses in the Service Fee Fund would exceed revenues and that water and/or wastewater rates would have to be increased; and that for two years there would be two (2) State Revolving Fund loans related to the original wastewater treatment plant construction and to the current plant improvements and expansion, and that during this period there likely would be a requirement to have a reserve of \$50,000 for each loan resulting in a total \$100,000, thereby necessitating an increase for two (2) years.

Trustee Meisinger discussed the meeting date and the upcoming election. It is likely that the election results and notice to those elected will happen before the September meeting. If he is not reelected, he would plan on attending the meeting to explain the budget to the Board of Trustees.

**ITEM 10**

Motion by Martin, 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 the Minutes of the regular meeting held on June 21, 2022;
- b the payment of the claims and invoices; and
- c the transfer of \$3,553.66 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 July 19, 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 July 19, 2022)**

<b><u>Amount</u></b>	<b><u>Warrant</u></b>	<b><u>Service Provider</u></b>	<b><u>Purpose</u></b>
\$ 521.80	18320	Frankel Zacharia	Inv. Nos. 3357 (Tech) and 126004 (financial reports; water billing data; update data from treasurer's reports)
\$2,257.00	18321	Wojo's Outdoors	Inv. No. 1056 (mowing, mulch and shrubs)
\$6,568.87	18322	Roger K. Johnson	Inv. No. 275 (attorney fees & costs)
\$3,947.59	18323	OPPD	Service dates 6/6/22 - 7/5/22
\$ 130.00	18124	Angela Gianelli	Inv. attached (election mailing)
\$ 100.00	18125	Nicky Costello	Inv. attached (election mailing)

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 July 19, 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 July 19, 2022)**

<b><u>Amount</u></b>	<b><u>Warrant</u></b>	<b><u>Service Provider</u></b>	<b><u>Purpose</u></b>
\$2,782.00	18282	Core & Main	Inv. Nos. 94210 (software support WWTP)
\$ 218.75	18283	Embris Group, LLC	Inv. No. 38 (water facilities analysis and report)
\$9,779.02	18284	PeopleService, Inc.	Inv. No. 40752 (\$5,112.00 August operations; \$2,226.04 June billing; sales tax \$2,410.98; and NSF check \$30.00)
\$1,707.90	18285	Roger K. Johnson	Inv. No. 279 (attorney fees & costs)
\$ 73.22	18286	Windstream Comm	Inv. dated 6/15/22 (well house phone)
\$1,631.28	18287	ESI	Inv. No.847184 (STD class of service)
\$ 71.52	18288	Papillion Sanitation	Inv. No. 6306381T050 (trash removal WWTP)
\$ 110.00	18189	Angela Gianelli	Inv. attached (mailing water and wastewater regulations)
\$ 110.00	18190	Nicky Costello	Inv. attached (mailing water and wastewater regulations)

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 July 19, 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 July 19, 2027:

**CONSTRUCTION FUND WARRANTS**  
**CONSENT AGENDA, ITEM 10b**  
**(Due July 19, 2022)**

<b><u>Amount</u></b>	<b><u>Warrant</u></b>	<b><u>Service Provider</u></b>	<b><u>Purpose</u></b>
\$109,044.00	18176	Building Crafts, Inc.	Pay App. No. 4 (WWTP expansion)
\$ 12,777.50	18177	JEO Consulting Group, Inc.	Pay App No. 11 (WWTP expansion)
\$ 582.00	18178	Thiele Geotech	Inv. No. 77125 (concrete and other testing for the WWTP)
\$ 6,120.18	18179	Roger K. Johnson	Inv. No. 281 (attorney fee WWTP)

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

## **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 August 23 and September 20, 2022, with the August meeting at First State Bank Nebraska, second floor community room, 446 Main Street, Plattsmouth Nebraska and the September meeting at the golf course club house room if possible and if not, then at First State Bank Nebraska, second floor community room, 446 Main Street, Plattsmouth Nebraska.

**ITEM 12**

Motion by Martin, seconded by Brandt, 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, Brandt and Martin . 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 7:50 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.

Trustees Martin and Brandt left the meeting at 8:20 p.m.

In open session, motion by Grotrian, seconded by Karr, to reconvene in open session at 8:39 p.m. On roll call those voting aye: Grotrian, Karr and Meisinger. Voting nay: none. Absent: Brandt and Martin. Abstaining: none. The Chair declared the resolution adopted.

**ITEM 13**

The agenda having been completed, on motion by Karr, recognized by the Chair, the meeting adjourned at approximately 8:40 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:

James Grotrian, Trustee

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Roger K. Johnson  
Attorney for the District