

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

Meeting convened at 6:00 p.m. on August 23, 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 6:02 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, Kurt W. Meisinger, James Grotrian, Dan Brandt and David L. Martin. Absent: none.

ITEM 4

Resident Jerry Dartman addressed the Trustees inquiring whether the District intended to seed or sod in locations where fire hydrants were replaced or raised and whether water restrictions would apply to hinder caring for the same. Trustee Meisinger indicated that seeding would happen in the fall and Trustee Martin advised that the hydrant work had been completed and that there is an exception to watering restrictions for new seed or sod. No other persons asked to address the Trustees.

ITEM 5

Trustee Meisinger noted that the September meeting was to take place at First State Bank Nebraska. Discussion resulted in making a determination that the newly elected Board of Trustees would make a determination at the September meeting but that The Bank remained a better alternative to avoid the meeting adjournment requirement of 8:00 p.m. at the golf course club house

ITEM 6

Motion by Grotrian, seconded by Brandt to recommend approval to the County's zoning

administrator, the Cass County Planning Commission and the Cass County Board of Commissioners regarding approval of the replat of Lots 9 and 10, Block 4, into a single lot identified as Lot 10-R, Block 4, Buccaneer Bay, Cass County, Nebraska and authorize the Chair to execute the mylar. On roll call those voting aye: Karr, Meisinger, Grotrian, Brandt and Martin. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

ITEM 7a

Trustee Martin provided a verbal water and wastewater committee report indicating that the fire hydrant repairs and replacement had been completed; work to replace certain water main valves, and to install certain new water main valves to allow for system isolation, would be delayed until cooler weather to avoid stress on the system; and that several more violation notices would be issued regarding watering restrictions based on time of day and day of week. Trustee Martin advised that when he had completed preparing proposed revisions to the Water System and Sanitary Sewer System Rules and Regulations adopted March 22, 2022 they would include removing the time of day limitation on watering.

ITEM 7b

Mr. Messer presented the attached water and wastewater report. Mr. Messer advised that the primary issue related to problems with the pressure reducing valve at the booster stations. He also discussed the possibility of installing water testing stations to end the need to enter homes to obtain water test sample.

ITEM 7c

Trustee Meisinger and Mr. Lucas Billesbach, engineer, discussed the delay in the manufacture of certain materials needed for the wastewater treatment plant improvements. Mr. Billesbach also advised that construction work pretty much remained on schedule except for the delays in work related to the materials shortage.

ITEM 7d

Trustee Meisinger reported that no additional meetings had occurred between the District and the City of Plattsmouth regarding the District connecting to a water main that the City likely would be installing across the Platte River to purchase water from Metropolitan Utilities District to replace its water supply.

ITEM 7e

Mr. Lucas Billesbach, an engineer for the District, advised that he had collected all the data needed to fully evaluate the options of purchasing water from the City or constructing a treatment plant, but that more information was needed about the City's connection to MUD before a written report could be prepared with recommendations.

Trustee Martin and Mr. Billesbach advised of the availability of grants for water system security projects, including the purchase and installation of back up generators for system components. Motion by Martin, seconded by Meisinger to authorize Mr. Billesbach to prepare and submit to the Nebraska Department of Environment and Energy for a grant to acquire a portable generator for the water system and to obtain pricing for a possible second generator which would not be grant eligible. On roll call those voting aye: Karr, Meisinger, Grotrian, Brandt and Martin. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

ITEM 7f

Trustee Martin asked that the Chair lay over discussion and possible action related to proposed revisions to the Water System and Sanitary Sewer System Rules and Regulations adopted March 22, 2022. Following discussion of a revision to address easing some of the watering restrictions, the Chair laid the matter over to the next meeting.

ITEM 7g

No action was necessary following discussion of the Letter of Noncompliance dated August 9, 2022 issued by the Nebraska Department of Environment and Energy regarding permits, and regarding operation and maintenance of the wastewater plant. Mr. Messer advised that the only real issues were repairing the gate between the north and south chambers of the plant and replacing the aspirator in the north chamber. Mr. Messer had referred those two issues to project engineer Roger Protzman to address since the improvements project called for replacement of those system components.

ITEM 7h

Motion by Meisinger, seconded by Grotrian to approve the attached Change Order No. 1 to the contract with Building Crafts, Inc. for the expansion of the wastewater treatment plant to include sales tax and to authorize the Chair to execute the same. On roll call those voting aye: Karr, Meisinger, Grotrian, Brandt and Martin. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

ITEM 7i

Motion by Meisinger, seconded by Martin to approve Pay Application No. 5 for Building Crafts, Inc. related to construction of the expansion of the wastewater treatment plant as recommended by the engineer and to authorize the Chair to execute the same. On roll call those voting aye: Karr, Meisinger, Grotrian, Brandt and Martin. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

ITEM 7j

Motion by Meisinger, seconded by Brandt to approve Invoice Nos. 76836 and 77418 for contract

services provided by Thiele Geotech, Inc. related to materials testing for the expansion of the wastewater treatment plant. On roll call those voting aye: Karr, Meisinger, Grotrian, Brandt and Martin. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

ITEM 8a

Trustee Karr advised that there was no general roads report other than issues related to the other agenda items.

ITEM 8b

Following discussion, motion by Meisinger, seconded by Grotrian to approve and authorize the letting of bids for the proposed street maintenance project prepared by Dan Dolezal, engineer, consisting of the repair work alternative, items 1 through 5, of the report prepared by Mr. Dolezal and to have the roads committee determine the areas to receive priority such that the limit on cost stayed within a \$300,000.00 project cost. On roll call those voting aye: Karr, Meisinger, Grotrian, Brandt and Martin. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

ITEM 8c

Trustee Grotrian and Mr. Dolezal discussed a review of a sink hole in the back yard of 4004 Buccaneer Blvd. The District previously moved a storm sewer pipe for street runoff and fixed the sink hole caused by the pipe which fixed the problem resulting from the District's storm water management, and that at this point the sink hole is solely on the property owner's lot and a private matter to repair.

ITEM 9a

Trustee Grotrian advised that a dead tree had been removed on Bay Circle; that Asplund Tree Service contacted him to advise that a tree required removal on the north side of the OPPD substation; and that he would contact Mike Jensen, the county inspector, to address the weeds growing on the private lot near the main entrance to the Bay.

ITEM 9b

Mr. Dan Dolezal, an engineer for the District, presented plans and specifications for the construction of a parking lot east of Buccaneer Blvd and east of Treasure Island Road between Bay Road north to well house 1 and the relocation of the main entrance cluster mail boxes with future plans to construct park grounds with playground equipment, a dog park and walking trail. Motion by Grotrian, seconded by Karr to approve the attached plans for the construction of a parking lot east of Buccaneer Blvd and east of Treasure Island Road between Bay Road north to well house 1 and the relocation of the main entrance cluster mail boxes with the mail box location be moved to the

east side of the lot and that the Chair is authorized to sign a contract with the low bidder determined by the engineer to be qualified to do the work. On roll call those voting aye: Karr, Meisinger, Grotrian, Brandt and Martin. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

Lighting for the parking lot and mailboxes also was discussed and would be considered in a separate contract for installation to save a general contractor's overhead and related fees in addition to the electrician's fees. Me. Dolezal advised that he first would reach out to OPPD regarding the installation of street lights to light the parking lot and mail boxes.

ITEM 9c

Following discussion with Mr. Dolezal regarding his review of the contractor's proposed storm water management for Lot 22, Block 29, the Chair directed Mr. Johnson to work with Mr. Dolezal to communicate a proper drainage plan for water runoff from the lot. Mr. Dolezal advised he would investigate the source of the tube. Mr. Dolezal advised he would contact the county inspector Mike Jensen regarding any drainage plan submitted at the time of applying for the building permit application.

ITEM 9d

Following discussion of the offer of Country Mile Wireless, Inc. to lease space on the water tower for the placement of equipment to operate wireless Internet, motion by Brandt, seconded by Martin, to have Mr. Johnson attempt to negotiate a lease agreement for the same accepting the dollar offer from Country Mile Wireless. On roll call those voting aye: Karr, Meisinger, Grotrian, Brandt and Martin. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

ITEM 9e

Motion by Meisinger, seconded by Martin to approve the application and the proposed right of way agreement, and to authorize the Chair to execute the Right of Way Agreement for the same. On roll call those voting aye: Karr, Meisinger, Grotrian, Brandt and Martin. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

ITEM 10a

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

ITEM 10b

Trustee Meisinger presented the County Treasurer's reports for the month ended July 31, 2022.

ITEM 10c

Trustee Meisinger presented a draft budget for fiscal year July 1, 2022 through June 30, 2023 for discussion. Trustee Meisinger advised that the proposed budget in light of the new valuation of the properties in the District would result in a reduction of the levy for the bonded indebtedness from \$0.33 to \$0.28 and reduction in the general fund levy from \$0.29 to \$0.2825. Absent objection, Trustee Meisinger advised he would advertise the notices for hearings on the budget and levy based on the budget has presented.

ITEM 11

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 the Minutes of the regular meeting held on July 19, 2022;
- b the payment of the claims and invoices; and
- c the transfer of \$4,399.99 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 August 23, 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 11b
(Due August 23, 2022)

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$ 767.00	18326	Frankel Zacharia	Inv. Nos. 3426 (Tech) and 126565 (financial reports; water billing data; update data from treasurer’s reports; form preparation for 2022-2023 fiscal year)
\$ 1,847.50	18327	Wojo’s Outdoors	Inv. No. 1059 (mowing, spraying and

			minor road repairs)
\$ 5,740.49	18328	Roger K. Johnson	Inv. No. 290 (attorney fees & costs)
\$ 4,793.93	18329	OPPD	Service dates 7/5/22 - 8/4/22
\$ 3,781.50	18130	Kerns Excavating Co.	Inv. 17055 (hydrant repairs)
\$13,692.26	18131	Ehrhart Griffin	Inv. 8293 (platting, surveying, hydrant repair, pavement and parking lot)
\$ 400.00	18132	Sam McCandless d/b/a Timber Tree Service	Inv. attached (tree removal services)

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 August 23, 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 11b
(Due August 23, 2022)

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$ 5,722.00	18291	GPM Environmental	Inv. No. NE-6521 (wastewater treatment plant)
\$ 481.25	18292	Embris Group, LLC	Inv. No. 50 (water facilities analysis and report)
\$28,229.47	18293	Sargent Drilling	Inv. No. 28699 (pump, jetting, well treatment, sampling and related)
\$ 7,723.85	18294	PeopleService, Inc.	Inv. No. 40971 (\$5,112.00 September operations; \$2,222.00 July billing; lab \$389.85)
\$ 1,980.00	18295	Roger K. Johnson	Inv. No. 291 (attorney fees & costs)
\$ 67.40	18296	Windstream Comm	Inv. dated 7/15/22 (well house phone)

\$ 7,825.00	18297	TREKK Design Group	Inv. Nos. 662 & 749 (sludge hauling)
\$ 2,472.15	18298	Hydro Optimization	Inv. Nos. 10507 & 10508 (WWTP 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 August 23, 2022, with the warrants to be drawn on the Construction Fund account and if registered to draw interest at 7.00% per year and to be redeemed no later than August 23, 2027:

CONSTRUCTION FUND WARRANTS
CONSENT AGENDA, ITEM 11b
(Due August 23, 2022)

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$154,462.50	18180	Building Crafts, Inc.	Pay App. No. 5 (WWTP expansion)
\$ 14,990.00	18181	JEO Consulting Group, Inc.	Pay App Nos. 12 & 13 (WWTP expansion)
\$ 2,728.00	18182	Thiele Geotech	Inv. Nos. 76836 & 77418 (concrete and other testing for the WWTP)
\$ 8,609.03	18183	Roger K. Johnson	Inv. No. 292 (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 © 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 12

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 September meeting for the budget hearing would be held at 6:00 p.m. on September 20, 2022 at First State Bank Nebraska, second floor community room, 446 Main Street, Plattsmouth Nebraska and that the regular meeting would immediately follow that budget hearing meeting.

ITEM 13

Mr. Johnson advised that there was no need for a closed session to discuss 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.

ITEM 14

The agenda having been completed, on motion by Brandt, recognized by the Chair, the meeting adjourned at approximately 8:36 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