

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

Meeting convened at 6:00 p.m. on October 18, 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 6:12 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, Christine Gibson and David L. Martin. Absent: none.

ITEM 4

The following trustees were assigned as second members to the designated committees:

		<u>Chair</u>	<u>Second Member</u>
a	Water and Wastewater	Martin	Karr
b	Street and Storm water management	Karr	Gibson
c	Grounds	Grotrian	Gibson
d	Finance/budget/audit	Meisinger	Grotrian

ITEM 5

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

ITEM 6a

Trustee Martin provided a verbal water and wastewater committee report, announcing that general maintenance was ongoing and that blending of water from two of the three wells would soon start since the process has been approved by the Nebraska Department of Environment and Energy.

ITEM 6b

The Chair presented Mr. Messer’s report, which is attached, regarding water and wastewater.

ITEM 6c

No action was necessary following a general discussion of the wastewater treatment plant improvements including the need for a change order and some change in the work involving removal of the UV unit, filling the storage tank and salvaging of two pumps for the District, and to move some of the improvements.

ITEM 6d

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 6e

Following discussion regarding increases in operating costs and higher rates charged by other water and wastewater systems, a change in the Consumer Price Index, and that the last actual change in rates occurred by ordinance adopted on April 19, 2017, motion by Martin, seconded by Grotrian to direct Mr. Johnson to prepare an ordinance revising only the rates for water and sanitary sewer services, to be effective January 1, 2023 as follows:

<u>Increase:</u>	<u>From:</u>	<u>To:</u>
Base Sewer Rate:	\$10.90	\$13.10
Base Water Rate:	\$10.90	\$13.10
5,001 to 10,000 gallons	\$ 2.56	\$ 3.10
10,001 to 20,000	\$ 2.70	\$ 3.25
Over 20,001	\$ 2.84	\$ 3.40

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

ITEM 6f

Motion by Meisinger, seconded by Martin to approve Pay Application No. 7 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, Gibson, Meisinger, Grotrian and Martin. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

ITEM 6g

The Chair reiterated that the Nebraska Department of Environment and Energy had issued a letter of noncompliance due in large part to issues related to plant improvements and due to the actual partial shut down to construct the improvements. The Chair acknowledged receipt of a follow up letter from NDEE advising that the plant was now in compliance.

ITEM 6h

The Chair acknowledged receipt of the renewed permit to operate the wastewater treatment plant.

ITEM 6i

Motion by Meisinger, seconded by Martin to approve a contract with Topple Tree Service & Snow Removal, L.L.C. to clear a path for servicing the lift station on Ewel Ct. if Mr. Johnson can confirm that the plat of the lots includes side yard easements between Lots 26 and 27R, Block 17. On roll call those voting aye: Karr, Gibson, Meisinger, Grotrian and Martin. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

ITEM 6j

Motion by Grotrian, seconded by Gibson to ratify the decisions of Trustee Martin as chair of the water/wastewater committee and Trustee Grotrian as chair of the grounds committee to contract with Topple Tree Service to clear the following areas and to add one or both areas to the mowing contract:

- (1) to comply with a state requirement, contract with Topple Tree Service to clear an 8 foot wide path for a drainage pipe leading from the wastewater treatment plant to Four Mile Creek;
- (2) amend the mowing contract to add the path for the wastewater drain pipe to Four Mile Creek; and
- (3) contract with Topple Tree Service to clear for a path to the Rainy Circle lift station so a crane can be used for maintenance.

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

ITEM 6k

In light of the action taken on Item 6i, no action was necessary.

ITEM 7a

Trustee Karr advised that a storm drain on Buccaneer Blvd west of the Golf Course Clubhouse was repaired and that other items were addressed in other agenda items.

ITEM 7b

Trustee Karr advised he was still attempting to get a definitive start date for the \$300,000 street repair project based on items 1 through 5 of the report prepared by Mr. Dolezal.

ITEM 8a

Trustee Grotrian provided a general grounds committee report.

ITEM 8b

Trustee Karr advised that construction of the 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 had begun.

ITEM 8b(1)

The Chair laid over action regarding the installation of street lights to light the parking lot and mail boxes until after Mr. Dolezal had contacted OPPD.

ITEM 8c

No action was called for regarding a general discussion about the installation of lawn irrigation systems or other improvements on SID lots having 10' wide strips of land leading to the streets from outlots.

ITEM 8d

Motion by Meisinger, seconded by Martin to direct Mr. Johnson, the attorney for the District, to contact Sudbeck Homes demanding the relocation of the lawn sprinkler system for a lot adjacent to the 10' strip of Outlot H on Buccaneer Blvd and to record a notice of the demand in the Office of the Register of Deeds. On roll call those voting aye: Karr, Gibson, Meisinger, Grotrian and Martin. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

ITEM 9a

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

ITEM 9b

Trustee Meisinger presented the County Treasurer's report for the month ended September 30, 2022.

ITEM 10

Motion by Grotrian, seconded by Meisinger 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 budget hearing meeting minutes for September 20, 2022;
- b Approve the regular meeting minutes for September 20, 2022;
- c Approve payment of the claims and invoices;
- d Transfer \$3,196.41 from the Service Fee Fund to General Fund (water/wastewater electric systems usage);
- e Cancel inadvertently signed Service Fee Fund Warrant No. 18307 payable to GPM Environmental Sol. in the amount of \$5,722.00 for Inv. No. NE-6521 (sample kits & materials) based on the same having been paid in August 2022 and return Check No. 75910 issued for said warrant to the Cass County Treasurer; and
- f Approve Invoice No. 9197 from the Nebraska Department of Environment and Energy, State Revolving Fund, in repayment of the loan for the construction of the wastewater treatment plant, to transfer \$39,388.69 from the Service Fee Fund to the Construction fund for the loan payment, and to authorize the County Treasurer to make the payment to the Department.

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 October 18, 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 October 18, 2022)

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$ 5,593.50	18338	Frankel Zacharia	Inv. Nos. 3562 (Tech) and 127546 (financial & other fiscal reports)
\$ 1,980.00	18339	Wojo's Outdoors	Inv. No. 1064 (mowing & spraying)
\$ 8,496.09	18340	Roger K. Johnson	Inv. No. 314 (attorney fees & costs)
\$ 2,787.40	18341	Roger K. Johnson	Inv. No. 307 (reimbursement election cost; County Inv. September 14, 2022)

\$ 3,562.01	18342	OPPD	Service dates 9/6/22 - 10/04/22
\$ 40,582.00	18343	Kerns Excavating Co., Inc.	Inv. 17050 (fire hydrant replace & 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 October 18, 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 October 18, 2022)

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$ 393.75	18308	Embris Group, LLC	Inv. No. 76 (water blending and related licensing)
\$ 5,707.50	18309	TREKK Design Group	Inv. No. 22-1029 (sludge removal)
\$ 6,410.73	18310	Tri-State Pumping, LLC	Inv. 9330 (sludge pumping)
\$ 71.52	18311	Papillion Sanitation	Inv. No. 6306381T050 (trash removal WWTP)
\$ 1,476.00	18312	Roger K. Johnson	Inv. No. 315 (attorney fees & costs)
\$ 18,315.50	18313	PeopleService, Inc.	Inv. No. 41401 (\$5,577.00 November operations; \$2,246.24 September billing; \$2,418.41 3 rd quarter sales tax; \$573.85 lab; \$700.00 labor; \$6,800.00 maintenance overage)
\$ 70.06	18314	Windstream Comm	Inv. dated 9/15/22 (well house phone)

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 October 18, 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 October 18, 2027:

CONSTRUCTION FUND WARRANTS
CONSENT AGENDA, ITEM 10b
(Due October 18, 2022)

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$ 6,646.89	18187	JEO Consulting Group, Inc.	Inv. No. 135839 (WWTP expansion)
\$124,748.10	18188	Building Crafts, Inc.	Pay App. No. 7 (WWTP expansion)
\$ 6,569.75	18189	Roger K. Johnson	Inv. No. 9 (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, Gibson and Martin. Voting nay: none. Absent: none. Abstaining: None. The Chair declared the resolution adopted.

ITEM 11

The next meetings will be held at First State Bank Nebraska, second floor community room, 446 Main Street, Plattsmouth Nebraska on November 29, 2022; December 20, 2022; January 17, 2023; February 21, 2023; and March 21, 2023.

ITEM 12

Motion by Martin, seconded by Karr to contract with Erhart Griffin & Associates for a full survey of Treasure Island Rd right of way beyond the end of the pavement/cul de sac at a cost not to exceed \$8,000.00. On roll call those voting aye: Karr, Grotrian and Meisinger, Gibson and Martin. Voting

ay: none. Absent: none. Abstaining: None. The Chair declared the resolution adopted.

ITEM 13

There was no motion to enter closed session to protect the public interest to discuss current 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; and Gibbons v. Kappas Enterprises, LLC and SID 5 of Cass County Nebraska, Case No. CI21-307.

ITEM 14

The Chair advised that the letter had been sent to counsel for Kappas Enterprises regarding removal of the lock on the chain link gate blocking access to Treasure Island Rd west of the pavement end. The Chair advised that no specific action was necessary, nor was any required regarding the filing of any pleadings in 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; and Gibbons v. Kappas Enterprises, LLC and SID 5 of Cass County Nebraska, Case No. CI21-307. Based on the letter sent to counsel for Kappas Enterprises and the fact that the lock remains in place on the chain link gate, the Chair advised that if anyone interfered with the survey crew accessing the right-of-way, that arrangements would be made to remove the lock from the gate.

ITEM 15

The agenda having been completed, on motion by Grotrian, recognized by the Chair, the meeting adjourned at approximately 7:44 p.m.

Christine Gibson, Trustee

Kurt W. Meisinger, Trustee

David L. Martin, Trustee

Robert Karr, Trustee

Recorded by:

James Grotrian, Trustee

Roger K. Johnson
Attorney for the District