

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

Meeting convened at 6:00 p.m. on November 29, 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 6:04 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: Kurt W. Meisinger, James Grotrian and David L. Martin. Absent: Robert Karr and Christine Gibson.

**ITEM 4**

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

Trustee Gibson arrived at 6:05.

**ITEM 5**

Motion by Grotrian, seconded by Meisinger to terminate the current domain name management and engage Frankel Zacharia Technology Services to migrate from Register.com to GoDaddy and to subscribe to Microsoft Business 365 for hosting buccaneerbay-ne.org and for purposes of an email server. On roll call those voting aye: Meisinger, Grotrian, Gibson and Martin. Voting nay: none. Absent: Karr. Abstaining: none. The Chair declared the resolution adopted.

**ITEM 6a**

Trustee Martin provided a verbal water and wastewater committee report, advising that the company which was to dive the water tower for an inspection has failed to do the inspection since August and that the intention was to move to a different contractor; and that the valve from the main to Davy

Jones Dr.

**ITEM 6b**

Trustee **Martin** advised that Mr. Messer had a family emergency and was unable to prepare a written report, nor attend the meeting.

**ITEM 6c**

Mr. Lucas Billesbach, engineer, advised that there was no new information concerning water system improvements related to a new treatment plant or a connection to a water main the City of Plattsmouth intends to construct to connect to Metropolitan Utilities District's water system. No action was necessary regarding the matter.

**ITEM 6d**

Ordinance introduced for adoption by Motion, seconded by Grotrian:

**ORDINANCE**

**WATER AND SANITARY SEWER RULES,  
REGULATIONS, FEES AND RATES**

**AN ORDINANCE OF SANITARY AND IMPROVEMENT DISTRICT NO. 5,  
CASS COUNTY, NEBRASKA, TO ESTABLISH RULES AND  
REGULATIONS, FEES AND RATES FOR WATER AND SANITARY  
SEWER SERVICES; TO REPEAL ALL ORDINANCES AND  
RESOLUTIONS IN CONFLICT; AND TO PROVIDE AN EFFECTIVE  
DATE.**

**BE IT ORDAINED BY THE BOARD OF TRUSTEES OF SANITARY AND  
IMPROVEMENT DISTRICT NO. 5, CASS COUNTY, NEBRASKA:**

**Section 1.** General provisions for water and sanitary sewer services offered by the District.

a. All homes, businesses and other properties which utilize water and sanitary sewer services shall connect to the District's water and sanitary sewer systems no later than completion of construction.

b. Once connected to the District's water and/or sanitary sewer systems, the owner or user of the property becomes a customer of the District.

c. Billing shall be monthly.

d. Payment of all such billings is due by the 15<sup>TH</sup> day of each month and may be paid in the manners set forth on the District's website found at [www.buccaneerbay-ne.org](http://www.buccaneerbay-ne.org).

**Section 2.** Applicants for new water and sanitary sewer connections must pay all fees and costs in advance. New connections are subject to the following fees and costs:

- |    |   |                        |
|----|---|------------------------|
| a. | One time connection fee that includes account setup fees: | \$1,000.00             |
| b. | Water meter and remote radio reader costs:                | District's actual cost |

Account transfers, such as upon sale of a home with an existing service, are subject to a fee of \$50.00.

**Section 3.** The Board of Trustees hereby determines that the fee structure for services and products provided by the District for water and sanitary sewer shall be revised as follows:

- |     |  |          |
|-----|--|----------|
| a.  | WATER SERVICE FEES   |          |
| (1) | Turn off/on charge, first time, during business hours after disconnection for delinquency:           | \$100.00 |
| (2) | Turn off/on charge, all subsequent times, during business hours after disconnection for delinquency: | \$250.00 |
| (3) | Voluntary turn off charge during business hours:   | \$100.00 |
| b.  | WATER SERVICE USE RATES  |          |
| (1) | Base fee for up to 5,000 gallons:  | \$13.10  |
| (2) | Additional charge per 1,000 gallons used based on gallons used:                                      |          |

5,001 to 10,000	\$3.10
10,001 to 20,000	\$3.25
Over 20,001	\$3.40

- (3) Rates for service outside the district boundaries: 1.5 times all above rates

c. SEWER SERVICE USE FEES

- (1) Wastewater Treatment Plant Debt Service

Fee plus tax: \$16.00

This fee continues per month billed to the property owner, regardless of whether water is turned on or off.

- (2) Monthly base fee, plus tax: \$13.10

- (3) Rates for service outside the District boundaries: 1.5 times all above rates

**Section 4. DELINQUENT ACCOUNTS**

a. Late accounts will receive a notice after 30 days. For payments which are over 45 days delinquent, the District will notify the resident via a disconnect notice served by certified United States mail, postage prepaid, and may thereafter shut off the water service and refuse to sell water to such water user. If water service is disconnected, in addition to the reconnect charge set forth above, the resident will be required to make a payment based on an estimated amount for the next months water service together with payment in full of the delinquent amount.

b. To collect unpaid water and/or sanitary sewer bills, the District may seek recovery in a civil action, or it may be certified to the county assessor and assessed against the premises served, and collected or returned in the same manner as other district taxes are certified, assessed, collected, and returned.

**Section 5.** For all checks or other forms of payment which are returned for insufficient funds, closed account or any other reason, there shall be imposed a \$35.00 charge, plus any bank fees paid by the District.

**Section 6.** For all emergencies related to water and sanitary sewer, please see the District's website: [www.buccaneerbay-ne.org](http://www.buccaneerbay-ne.org). For water turn on and turn off, please attempt to provide at least 24 hours advance notice.

**Section 7.** All other ordinances and resolutions approved prior to the passage, approval, and publication or posting of this ordinance which conflict with these provisions are repealed.

**Section 8.** This ordinance shall take effect January 1, 2023 and new rates shall apply to all services provided after the dates on which meters are read in January 2023.

Passed and approved this 29<sup>TH</sup> day of November 2022.

By: /s/ Kurt Meisinger  
Kurt Meisinger, Chair

ATTEST:  
/s/ David Martin  
David Martin, Clerk

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

**ITEM 6e**

Attached are minutes prepared by Roger Protzman of the monthly progress meeting related to construction of the expansion of the wastewater treatment plant.

**ITEM 6e(1)**

Motion by Grotrian, seconded by Martin to approve Pay Application No. 8 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: Gibson, Meisinger, Grotrian and Martin. Voting nay: none. Absent: Karr. Abstaining: none. The Chair declared the resolution adopted.

**ITEM 6e(2)**

Motion by Martin, seconded by Meisinger to approve, as recommended by Roger Protzman, JEO engineer, and authorize the chair to execute Change Order Proposal No. 3 from Building Crafts, Inc.

related to electrical changes at the lift station in an amount not to exceed \$22,000.00. On roll call those voting aye: Gibson, Meisinger, Grotrian and Martin. Voting nay: none. Absent: Karr. Abstaining: none. The Chair declared the resolution adopted.

**ITEM 6f**

Motion by Martin, seconded by Meisinger to authorize Embris engineers to prepare and concept drawing and provide and estimate of probable cost to remodel the well house and other spaces at District facilities to convert unused space into an office for the District’s utility operator, a central monitoring location for all of the water and wastewater systems and other purposes. On roll call those voting aye: Gibson, Meisinger, Grotrian and Martin. Voting nay: none. Absent: Karr. Abstaining: none. The Chair declared the resolution adopted.

**ITEM 6f(1)**

Motion by Meisinger, seconded by Grotrian to authorize the Clerk and Trustee Grotrian to arrange for rented storage space for District records. On roll call those voting aye: Gibson, Meisinger, Grotrian and Martin. Voting nay: none. Absent: Karr. Abstaining: none. The Chair declared the resolution adopted.

**ITEM 6g**

The chair advised the it was the generator at the well house that ran on propane. The generator at the treatment plant runs on diesel fuel. Motion by Martin, seconded by Grotrian, to ratify any documents the Chair was required to sign in order to have propane delivered and to approve and authorize the Chair to execute any additional necessary documents to establish an account with Frontier Coop for propane purchases. On roll call those voting aye: Gibson, Meisinger, Grotrian and Martin. Voting nay: none. Absent: Karr. Abstaining: none. The Chair declared the resolution adopted.

**ITEM 7a**

Trustee Karr was unable to attend the meeting to provide an general roads committee report.

**ITEM 7a(1)**

Trustee Karr had distributed an email advising that Wojo Outdoor & Custom Waterfronts has been scheduled to install a replacement “Curve Ahead” sign near 4308 Windward damaged by wind using two posts for stability.

**ITEM 7b**

Mr. Johnson advised that he had discussed with engineer Dan Dolezal that status of the \$300,000 street repair project. Mr. Dolezal advised that weather permitting, the contractor would start near

the end of the week. Mr. Dolezal also advised that he anticipated about \$70,000 of work getting accomplished this season.

**ITEM 7b(1)**

Mr. Johnson advised that Mr. Dolezal also inquired about whether the Trustees would be interested in a 2023 construction season project using the balance of the funds budgeted for the current year's road repair and adding to it any amount budgeted for streets in the next fiscal year to accomplish a project to select maybe two blocks and proceed to reconstruct failing pavement by removing and replacing failing curb, replacing failing base, and milling and overlaying the entire street with crown. After brief discussion, the Chair laid the matter over to the next meeting.

**ITEM 7c**

The Chair referred to a photograph provided by Trustee Karr regarding storm water runoff near 3314 Fairway Dr. and inquiring whether that runoff was causing the erosion on the neighboring lot owned by the District. Mr. Johnson advised that Mr. Dolezal's opinion was that the erosion in the outlot was the result of concentrated stormwater from the field across the street which was conveyed through a tube that had been constructed years earlier and that the erosion depicted in Trustee Karr's photograph was minor erosion from street runoff. The Chair laid over further discussion and action on the overall erosion repair near 3314 Fairway Dr.

**ITEM 7d**

Following discussion regarding the possible purchase of Lot 9, Block 1 Buccaneer Bay, Cass County, Nebraska, the Chair laid over discussion and possible action related to authorizing the filing of a court proceeding to establish by decree an easement on Lot 9, Block 1 Buccaneer Bay, Cass County, Nebraska for the storm water drain pipe that has been in place for over 10 years or consideration of an attempt to purchase the lot.

**ITEM 8a**

Trustee Grotrian advised that there was nothing new, in general, to report regarding grounds.

**ITEM 8b**

No action was needed following general discussion that the construction of the parking lot east of Buccaneer Blvd and east of Treasure Island Road between Bay Road north to well house 1 was nearly complete.

**ITEM 8b(1)**

Mr. Johnson advised that Mr. Dolezal had made contact with a few different persons at OPPD but that he was still waiting for a return call regarding the plans to light the parking lot under

construction.

**ITEM 8c**

Mr. Johnson advised upon receiving the District’s demand letter, Sudbeck Homes removed the lawn irrigation system it had installed in one of the 10' wide strip of land leading to the streets from outlots.

**ITEM 9a**

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

**ITEM 9b**

Trustee Meisinger presented the County Treasurer’s report for the month ended October 31, 2022.

**ITEM 10**

Motion by Meisinger, seconded by Martin 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 meeting minutes for October 18, 2022;
- b Approve payment of the claims and invoices; and
- c Transfer \$2,594.78 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 November 29, 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 November 29, 2022)**

<b><u>Amount</u></b>	<b><u>Warrant</u></b>	<b><u>Service Provider</u></b>	<b><u>Purpose</u></b>
\$ 506.50	18344	Wojo’s Outdoors	Inv. No. 1068 (mowing)



\$ 2,800.00	18345	Topple Tree Service, LLC	Inv. dated 11/11/22 (clean path to drain pipe & for crane)
\$ 9,475.03	18346	Roger K. Johnson	Inv. No. 335 (attorney fees & costs)
\$ 61.00	18347	Register.com	Inv. No. 50929830 (domain & web service)
\$ 2,937.37	18348	OPPD	Service dates 10/04/22 - 11/04/22
\$ 541.75	18349	Frankel Zacharia	Inv. Nos. 3615 (Tech) and 128136 (financial & other fiscal reports)
\$ 510.00	18350	Kerns Excavating Co., Inc.	Inv. No. 17188 (inlet repair)
\$ 660.59	18351	Frontier Coop	Inv. dated 10/31/22 (generator propane)
\$ 14,212.26	18352	Ehrhart Griffin Assoc.	Inv. No. B8523 (surveying, pavement repair, pavement ponding & storm sewer piping)
\$ 338.00	18353	Thiele Geotech, Inc.	Inv. No. 78227 (WWTP compaction testing & senior engineer)

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 November 29, 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 November 29, 2022)**

<b><u>Amount</u></b>	<b><u>Warrant</u></b>	<b><u>Service Provider</u></b>	<b><u>Purpose</u></b>
\$ 660.00	18315	Kerns Excavating Co., Inc.	Inv. No. 17234 (rock for water tower)
\$ 6,132.58	18316	ESI	Inv. Nos. 855668 & 855669
\$ 677.10	18317	Hydro Optimization	Inv. No. 10670 (transducer & alarm)

\$ 8,516.22	18318	PeopleService, Inc.	Inv. No. 41620 (\$5,577.00 December operations; \$2,274.52 October billing; \$664.70 testing)
\$ 1,188.00	18319	Roger K. Johnson	Inv. No. 329 (attorney fees & costs)
\$ 67.76	18320	Windstream Comm	Inv. dated 11/16/22 (well house phone)
\$ 1,875.00	18321	TREKK Design Group LLC	Inv. No. 22-001337 (pump & and haul sludge)

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 November 29, 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 November 29, 2027:

**CONSTRUCTION FUND WARRANTS**  
**CONSENT AGENDA, ITEM 10b**  
**(Due November 29, 2022)**

<b><u>Amount</u></b>	<b><u>Warrant</u></b>	<b><u>Service Provider</u></b>	<b><u>Purpose</u></b>
\$ 3,817.50	18190	JEO Consulting Group, Inc.	Inv. Nos. 136499 & 137248 (WWTP expansion)
\$375,123.85	18191	Building Crafts, Inc.	Pay App. No. 8 (WWTP expansion)
\$ 18,947.07	18192-18194	Roger K. Johnson	Inv. No. 10 (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: Grotrian, Meisinger, Gibson and Martin. Voting nay: none. Absent: Karr. 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 December 20, 2022; January 17, 2023; February 21, 2023; March 21, 2023 and April 18, 2023.

Trustee Grotrian asked that Mr. Taylor Boyle who was elected to the Cass County Board of Commissioners be invited to the January or February meeting to discuss his plans for his district in which the District is located.

### **ITEM 12**

Mr. Johnson advised that he had not received a proposed agreement from counsel for Timothy and Rhonda Gibbons related to clearing a portion of Treasure Island Rd beyond the end of the pavement/cul de sac to reach their lots at the end of the platted.

### **ITEM 13**

Motion by Meisinger, seconded by Martin 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: Grotrian, Martin, Meisinger and Gibson. Voting nay: none. Absent: Karr. Abstaining: none. The Chair declared the resolution adopted.

The Chairman restated that the Board of Trustees would enter closed session at 7:38 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.

Motion by Grotrian, seconded by Gibson, to reconvene in open session at 8:06 p.m. On roll call those voting aye: Grotrian, Meisinger, Gibson and Martin. Voting nay: none. Absent: Karr. Abstaining: None. The Chair declared the resolution adopted.

**ITEM 14**

Motion by Meisinger, seconded by Martin to authorize Mr. Johnson to file certain pleadings and to take certain actions based on the legal advice received in closed session in the event that it appears 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 will be set for trial On roll call those voting aye: Grotrian, Meisinger, Gibson and Martin. Voting nay: none. Absent: Karr. Abstaining: None. The Chair declared the resolution adopted.

**ITEM 15**

The agenda having been completed, on motion by Martin, recognized by the Chair, the meeting adjourned at approximately 8:07 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