

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

Meeting convened at 6:00 p.m. on December 20, 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 Robert Karr. Absent: David L. Martin and Christine Gibson.

The Chair appointed Trustee Grotrian as acting clerk in the absence of Trustee Martin.

ITEM 4

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

ITEM 5a

Trustee Meisinger advised that there was no water and wastewater committee report.

ITEM 5b

PeopleService water and wastewater report is attached hereto.

ITEM 5c

Trustee Meisinger and Mr. Johnson indicated that they had no new information concerning water system improvements related to a new treatment plant or a connection to a water main the City of Plattsmouth.

ITEM 5d

Trustee Meisinger reported that in the construction of the wastewater treatment plant improvements there was an issue with installation of a pre-manufactured pipe which was built too long but that the issue had been resolved.. Trustee Meisinger also reported that equipment was installed the week of December 12, including a vertical fine screen and a control panel.

ITEM 5d(1)

Motion by Meisinger, seconded by Grotrian to approve Pay Application No. 9 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: Meisinger, Grotrian and Karr. Voting nay: none. Absent: Gibson and Martin. Abstaining: none. The Chair declared the resolution adopted.

ITEM 6a

Trustee Karr advised that he had talked to Lakeside Landscaping to add Treasure Island Rd to the sand and salt list and about narrowing the salt spreader gate to minimize salt up into driveways and yards. Trustee Karr also advised that the curve ahead sign which had been blown of the post had been replaced with 4 bolts instead of 2 after he did not hear back from the county regarding the purchase of another post for the signage.

ITEM 6b

Engineer Dan Dolezal advised that about \$29,000 of street patching repairs were made before the asphalt plants closed for the winter. project. Engineer Dan Dolezal presented an option to utilize the budget remaining from this season's street repair funds with next year's seasons funding to mill and overlay some of the areas needing the most attention. Trustee Grotrian suggested that an additional \$200,000 be added to the planned \$300,000 for next year to provide \$500,000 to add to the funds remaining from this year. Mr. Dolezal advised that he would have the survey crew begin gathering data to prepare plans for the work in May 2023 which could be paid in June and July for separate fiscal years or paid in full in July.

ITEM 6c

Engineer Dan Dolezal discussed the storm water runoff near 3314 Fairway Dr. and advised that most of the runoff was from the field which was following the nature watercourse and that construction of Fairway Dr was not handling the runoff which in turn was causing serious erosion across the road in the ditch located on SID property which was also part of the natural waterway. Mr. Dolezal advised that he had spoken with Kerns Excavating about a cost for the repair and that \$47,000 was quoted plus \$15,000 to haul off concrete and other debris which accumulated over the years from people using the ditch as a disposal site. The chair laid further discussion and possible action on the matter to the January meeting.

ITEM 7a

Trustee Grotrian advised that there was nothing new regarding grounds and that he had not received any phone calls regarding possible issues.

ITEM 7b

Engineer Dan Dolezal advised that the parking lot had been finished but moving the cluster mailboxes would be delayed until OPPD, which just completed the engineering for the two lights, could get them installed. Mr. Dolezal advised that the cost for OPPD to install the lights was between \$4,000 and \$5,000. Once the lights were installed, the general contractor would return and relocate the cluster boxes.

ITEM 7c

Motion by Meisinger, seconded by Grotrian to enter closed session to protect the public interest for the purpose of discussing the possible purchase of real estate within the district. On roll call those voting aye: Grotrian, Karr and Meisinger. Voting nay: none. Absent: Martin and Gibson. Abstaining: none. The Chair declared the resolution adopted. The Chair stated that at 6:38 p.m. the trustees would enter closed session to protect the public interest for the purpose of discussing the possible purchase of real estate within the district.

Motion by Karr, seconded by Meisinger, to reconvene in open session at 6:48 p.m. On roll call those voting aye: Grotrian, Meisinger and Karr. Voting nay: none. Absent: Gibson and Martin. Abstaining: None. The Chair declared the resolution adopted.

ITEM 7d

The Chair laid over consideration of the matter involving the possible purchase of real estate.

ITEM 8a

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

ITEM 8b

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

ITEM 9

Motion by Meisinger, seconded by Karr 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 November 29, 2022
- b Approve payment of the claims and invoices
- c Transfer \$2,280.75 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 December 20, 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 December 20, 2022)

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$ 15,225.00	18354	Omni Engineering	Inv. No. 134159 (street repairs)
\$112,092.00	18355	CDS Enterprise, LLC	Inv. No. 548 (parking lot construction)
\$ 1,000.00	18356	Lakeside Landscaping, Inc.	Inv. No. 5327 (sand/salt streets)
\$ 5,092.34	18357	Roger K. Johnson	Inv. No. 353 (attorney fees & costs)
\$ 42.49	18358	David Martin	Inv. No. 51743419 (reimburse for paying Register.com for web services)
\$ 2,623.40	18359	OPPD	Service dates 11/04/22 - 12/05/22
\$ 369.50	18360	Frankel Zacharia	Inv. Nos. 3680 (Tech) and 128652 (financial & other fiscal reports)
\$ 10,427.44	18361	Erhart Griffin & Assoc	Inv. B8588 (engineering)
\$ 600.00	18362	Nekuda Bros.	Inv. 0001 (pack & transport boxes)

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

December 20, 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 December 20, 2022)

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$ 7,855.56	18322	PeopleService, Inc.	Inv. No. 41837 (\$5,577.00 Jan ops; \$2,278.56 Nov bills)
\$ 360.00	18323	Roger K. Johnson	Inv. No. 354 (attorney fees & costs)

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 December 20, 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 December 20, 2027:

CONSTRUCTION FUND WARRANTS
CONSENT AGENDA, ITEM 9b
(Due December 20, 2022)

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$141,239.45	18195	Building Crafts, Inc.	Pay App. No. 9 (WWTP expansion)
\$ 7,061.97	18196	Roger K. Johnson	Inv. No. 11 (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: Grotrian, Meisinger and Karr. Voting nay: none. Absent: Martin and Gibson. Abstaining: None. The Chair declared the resolution adopted.

ITEM 10

The Chair advised that the next several meetings to be held at First State Bank Nebraska, second floor community room, 446 Main Street, Plattsmouth Nebraska had been set already, the next being January 17, 2023.

ITEM 11

Mr. Johnson advised that there was not need for a 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.

ITEM 12

The agenda having been completed, on motion by Grotrian, recognized by the Chair, the meeting adjourned at approximately 6:53 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