

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

Meeting convened at 6:00 p.m. on February 21, 2023 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 6:00 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, David L. Martin , James Grotrian, Christine Gibson and Robert Karr. Absent: none.

ITEM 4

County Commissioner Taylor Boyle, who was invited to speak by the Trustees, addressed the Board regarding priorities and various issues. Discussion concerned the priority for paved county roads excluding the roads in the District which are dedicated to the public; providing a bike path on the shoulder of Bay Road which is believed to have been constructed to allow for such use; possible partnership in obtaining a grant for a public park within the District; railroad participation in removing the sand bar obstruction between the railroad bridges and Highway 75 bridge; County's plowing of District streets as is done in Sarpy and Douglas counties. Commissioner Boyle agreed to raise these issues with the other members of the County Board.

ITEM 5

Ms. Cheryl Myers and Mr. Chris Augustine addressed the Trustees regarding animal control within the District. No action could be taken.

ITEM 6

Motion by Grotrian, seconded by Martin 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 8 and 9, Block 19, Buccaneer Bay Subdivision, Cass County, Nebraska, into a single lot identified as Lot 18-R, Block 19, 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 the following verbal water and wastewater committee report:

- A builder has been constructing houses without contacting PeopleService and paying the connection fee and installing a meter. In addition, a determination needs to be made about whether the county building inspector issued a building permit for a newly constructed house when no water meter was installed.
- Blending of water from the separate wells will begin as soon as the controls are received.
- There is new construction at 2718 Bay Road, which is in the District, and no request has been made to connect to the District's water and sanitary sewer systems. A determination needs to be made about whether connection is mandatory and whether the builder intends to install a septic system that would be within 1,000 feet of a District water well which would likely be prohibited.

ITEM 7b

PeopleService report is attached. Mr. Messer also provided a verbal report and advised that washing the exterior of the water tower is scheduled for this spring and sewer jetting of the sanitary sewer main in area 4 is scheduled for April.

ITEM 7c

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 7d

Trustee Meisinger advised that there was nothing new to report regarding construction of the wastewater treatment plant improvements other than the contractor is still waiting on materials from manufacturers.

ITEM 7d(1)

Motion by Meisinger, seconded by Martin to approve Change Order No. 4 to the contract with Building Crafts, Inc. in the amount of \$9,660.96, to extend/relay the 8 inch sanitary sewer pipe from Manhole 1 to the UV Basin which was required to connect the new UV system to the existing

manhole due to grade variation between Manhole 2 and the existing surge tank and Manhole 1, and to authorize the Chair to execute the Change Order upon receipt. 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 7d(2)

Following discussion, the Chair laid over consideration of Proposed Change Order No. 5 in the amount of \$165,909.16 for electrical work to upgrade all existing lift stations and booster station by preparing the connection for a generator.

ITEM 7d(3)

Following discussion that construction observation hours were estimated and that additional observation is necessary, no action was necessary since JEO would continue to provide construction observation on an hourly bases at the stated hourly rates unless directed otherwise.

ITEM 7e

Motion by Meisinger, seconded by Karr to approve and authorizing replacement of the primary pressure relief valve for the water system in an amount not to exceed \$30,000. 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

Motion by Meisinger, seconded by Martin to approve and adopt Ordinance No. 23-01 entitled: 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. 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 7g

Motion by Meisinger, seconded by Martin to approve and adopt revised Water System and Sanitary Sewer System Rules and Regulations dated February 21, 2023 and to make the same effective February 22, 2023. The revised Water System and Sanitary Sewer System Rules and Regulations dated February 21, 2023 are attached hereto. 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 7h

After discussion of the engineer's estimate of probable cost, Trustee Meisinger discussed the possibility of including the remodel of remodeling well house no. 1 to provide office and testing space in the SRF loan from the Nebraska Department of Environment and Energy. The Chair laid the matter over pending a discussion with Mr. Billesbach and a response from NDEE.

ITEM 8a

Trustee Karr advised that he had receive several complaints about the snow plowing. However, some people could not identify their specific complaints. The Trustees discussed their opinions that overall the contractor did a good job plowing and sanding the street.

ITEM 9a

Trustee Grotrian advised that there was no report for Grounds.

ITEM 9b

Trustee Meisinger noted that he observed that OPPD had staked the location and route of the lighting of the parking lot lights and that relocation of the main entrance cluster mail boxes would wait until the lights had been installed for the lot.

ITEM 9c

Motion by Martin, seconded by Grotrian to approve the repairs to the drainage and erosion issues near 3314 Fairway Dr. and Outlot 1, Block 29, to enter into a contract with Kerns Excavating Company, Inc. in an amount not to exceed \$60,000 and to authorize the Chair to execute the contract upon receipt from the engineer. 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 January 2023.

ITEM 10b

Trustee Meisinger acknowledge receipt of the Treasurer's Reports for months ended December 31, 2022 and January 31, 2023.

ITEM 11

Trustee Martin declared a conflict of interest in regard to the claims based on a claim he submitted

for reimbursement of costs to Godaddy.com to subscribe to Microsoft 365, to change the website host and to set up email for each Trustee. Motion by Meisinger, seconded by Grotrian to approve the Consent Agenda and the additional claims of Trustee Martin for reimbursement of monies advanced to subscribe to Microsoft 365, to change the website host and to set up email for each Trustee:

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 January 17, 2023
- b Approve payment of the claims and invoices
- c Transfer \$2,627.14 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 February 21, 2023, 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 February 21, 2023)

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$13,450.00	18369	Lakeside Landscaping, Inc.	Inv. Nos. 5679, 5681, 5682 & 5683 (plowing & sand/salt streets)
\$ 14,828.97	18370	Erhart Griffin & Assoc	Inv. Nos. B8675 & B8676 (survey work; parking lot; Fairway culvert; pavement reconstruction & misc engineering)
\$ 2,791.85	18371	OPPD	Inv. (service dates 1/05/23 - 2/03/23)
\$ 1,375.00	18372	Frankel Zacharia	Inv. Nos. 3810 (Tech) and 129911 (financial & other fiscal reports)
\$ 5,603.97	18373	Roger K. Johnson	Inv. No. 384 (attorney fees & costs)

\$ 692.59 18374 David L. Martin Inv. Nos. 2459372665, 2467950656 & 2467961114 (reimbursement for costs advanced to Godaddy.com to subscribe to Microsoft 365, to change the website host and to set up email for each Trustee)

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 February 21, 2023, 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 February 21, 2023)

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$10,299.90	18329	PeopleService, Inc.	Inv. No. 42274 (\$5,577.00 March ops; \$2,262.40 Jan bills; \$2,426.00 4 th Quarter tax return; \$34.50 testing)
\$ 2,537.50	18330	TREKK Design Group LLC	Inv. No. 22-001627 (haul sludge)
\$ 740.00	18331	Embris Group, L.L.C.	Inv. No. 133 (well house remodeling)
\$ 2,859.04	18332	Core & Main	Inv. No. 97318 (wastewater treatment plant)
\$ 66.86	18333	Windstream	Inv. dated 01/17/23 (well phone)
\$ 1,008.00	18334	Roger K. Johnson	Inv. No. 385 (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 February 21, 2023, 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 February 21, 2028:

CONSTRUCTION FUND WARRANTS
CONSENT AGENDA, ITEM 11b
(Due February 21, 2023)

None.

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

ITEM 12

The Chair advised that the next several meetings would be held at First State Bank Nebraska, second floor community room, 446 Main Street, Plattsmouth Nebraska on March 21, April 18, May 23 and June 20, 2023.

ITEM 13

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, but that a closed session would be in order to address Item 13b, "legal advice regarding creations and use of utility and related easements."

Motion by Karr, seconded by Martin to enter closed session to protect the public interest for the

purpose of receiving legal advice regarding creations and use of utility and related easements. On roll call those voting aye: Grotrian, Martin, Meisinger, Karr and Gibson. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

The Chairman restated that the Board of Trustees would enter closed session at 8:06 p.m. to protect the public interest for the purpose of receiving legal advice regarding creations and use of utility and related easements.

After allowing the public access to the meeting, motion by Karr, seconded by Grotrian, to reconvene in open session at 8:20 p.m. On roll call those voting aye: Grotrian, Martin, Meisinger, Karr and Gibson. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

ITEM 14

The agenda having been completed, the Chair adjourned the meeting at approximately 8:20 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