

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

Meeting convened at 6:00 p.m. on January 17, 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 6:02 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: Kurt W. Meisinger, David L. Martin , James Grotrian and Robert Karr. Absent: Christine Gibson.

ITEM 4

No citizens not on the agenda addressed the Board regarding a matter of business.

Trustee Christine Gibson arrived at 6:03 p.m.

ITEM 5a

Trustee Martin provided the following verbal water and wastewater committee report:

- the water tower was inspected and no major issues were discovered.
- PeopleService will seek proposals to paint the water tower which has developed the common ring of mold around the base of the tank.
- an antenna for the remote communications system will be replaced.
- Trustee Martine advised he will price smaller trash containers because the trash from the wastewater treatment plant is exceeding the capacity of the 96 gallon cart.
- after training on January 25, PeopleService will take over maintenance of the new screen installed as part of the wastewater treatment plant improvements.
- manganese tests on well no. 74-1 remain high after cleaning the well so it is necessary to blend water from that well with well no. 2011-1.

- the date on which meters will be read will change but the billing cycle will not change.

ITEM 5b

There was no PeopleService report regarding water and wastewater operations.

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 advised that there was nothing new to report regarding construction of the wastewater treatment plant improvements.

ITEM 5e

Trustee Meisinger presented a rendering prepared by Embris engineers for remodeling well house no. 1 to provide office and testing space. No objections were made to the rendering and Trustee Meisinger directed Mr. Johnson to communicate this to Embris but to inquire about adding an adequate door between the office space and the operations space to protect the office from moisture. Trustee Meisinger advised that the next step would be for Embris to develop an estimate of cost.

ITEM 5e(1)

Until Embris developed a probable cost for the remodeling, no action was necessary to approve the solicitation of proposals for the remodeling of Well House 1.

ITEM 5f

In discussing options to clear a path for access the Ewel Court/Becker Court lift station, Mr. Johnson advised that the plat of the District did not include side yard lot line easements. Without this easement, the developer at the time granted separate side yard lot line easements to Omaha Public Power District and the telephone service which were separately recorded against all lots. Trustee Meisinger recalled that the covenants and restrictions recorded against the properties might have contained easement language. Mr. Johnson advised that the District itself is not a party to the covenants and restrictions. Trustee Meisinger advised that he would review the electronic copy on his computer system. Mr. Johnson advised that had the power district and phone service been satisfied with an easement set forth in the covenants and restrictions, they would not have required separate easements.

ITEM 5g

No action was necessary regarding approval of a contract to inspect and clean the interior of the water tower.

ITEM 6a

Trustee Karr advised that he received a complaint that a resident thought sand and salt applications were being made when not necessary. Discussion involved allowing the contractor to use judgement since no everyone would necessarily agree in all cases about the applications.

ITEM 6b

Mr. Johnson advised that engineer Dan Dolezal reported that the survey crew had begun its work for developing the 2023 street repair plans and that unless the Trustees objected, he would develop an opinion as to cost and he would approach Omni, the contractor on the current repair project, to provide pricing.

ITEM 7a

Trustee Grotrian advised that the only issue at this time was clearing a path for access the Ewel Court/Becker Court lift station addressed above.

ITEM 7b

Mr. Johnson reported that engineer Dan Dolezal advised that even though OPPD had completed the lighting plans for the parking lot he had not heard back regarding an installation date.

ITEM 8a

Trustee Meisinger presented the attached finance and utilities revenue reports for January 2023.

ITEM 9

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 December 20, 2022
- b Approve payment of the claims and invoices
- c Transfer \$2,609.50 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 January 17, 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 9b
(Due January 17, 2023)

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$16,800.00	18363	Lakeside Landscaping, Inc.	Inv. Nos. 5389, 5415, 5447, 5578, 5579, 5580, 5581 & 5582 (sand/salt streets)
\$ 558.00	18364	Frankel Zacharia	Inv. Nos. 3752 (Tech) and 129311 (financial & other fiscal reports)
\$ 6,734.89	18365	Roger K. Johnson	Inv. No. 368 (attorney fees & costs)
\$ 7,400.00	18366	Lengemann & Associates	Inv. dated December 12, 2022 (audit fiscal year ended June 30, 2022)
\$ 300.00	18367	Andrew Nekuda dba Nekuda Bros.	Inv. 0002 (pack & transport boxes)
\$ 2,953.15	18368	OPPD	Inv. (service dates 12/05/22 - 1/05/23)

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 January 17, 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 9b
(Due January 17, 2023)

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
----------------------	-----------------------	--------------------------------	-----------------------

\$12,024.94	18324	PeopleService, Inc.	Inv. No. 42055 (\$5,577.00 Jan ops; \$2,266.14 Nov bills; \$52.50 labor low level alarm; \$391.00 testing; \$3,094.50 lab supplies; \$643.50 work on ATS generator)
\$ 61.18	18325	Windstream	Inv. dated December 15, 2022 (well house phone)
\$ 71.52	18326	Papillion Sanitation	Inv. No. 6477117T050 (WWTP & well house trash hauling)
\$ 378.00	18327	Roger K. Johnson	Inv. No. 362 (attorney fees & costs)
\$ 525.00	18328	Embris Group, L.L.C.	Inv. No. 124 (well house remodeling)

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 January 17, 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 January 17, 2028:

CONSTRUCTION FUND WARRANTS
CONSENT AGENDA, ITEM 9b
(Due January 17, 2023)

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$ 3,673.75	18197	JEO Consulting Group, Inc.	Inv. No. 138249/Pay App No. 17 (WWTP expansion)
\$ 183.69	18198	Roger K. Johnson	Inv. No. 12 (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, Martin, Gibson, Meisinger and Karr. Voting nay: none. Absent: none. Abstaining: None. The Chair declared the resolution adopted.

ITEM 10

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 February 21, March 21, April 18, May 23 and June 20, 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, but that a closed session would be in order to address Item 11a, “possible purchase of land within the District.”

Motion by Meisinger, seconded by Karr to enter closed session to protect the public interest for the purpose of discussing a possible purchase of land within the District. 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 7:00 p.m. to protect the public interest for the purpose of discussing a possible purchase of land within the District.

After allowing the public access to the meeting, motion by Martin, seconded by Karr, to reconvene in open session at 7:11 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 12

Motion by Meisinger, seconded by Grotrian directing Mr. Johnson take action as discussed in closed session to proceed with a possible purchase of land by the District.

ITEM 13

The agenda having been completed, on motion by Karrf, recognized by the Chair, the meeting adjourned at approximately 7:12 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