

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

Meeting convened at 6:00 p.m. on April 18, 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 *Omaha World-Herald*, a newspaper of general circulation in Cass County, 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 6:05 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, Christine Gibson, David L. Martin and Robert Karr. Absent: none.

ITEM 4

Following discussion with Monty Poland regarding the District contracting with a single trash hauler, the Chair directed Mr. Johnson to place the matter for consideration on the agenda for the next meeting.

ITEM 5

Motion by Meisinger, seconded by Martin to direct Mr. Johnson to send a request to the County for more detailed signage to identify the blind intersection at Cedar Creek Road and Windward Drive to increase safety for traffic exiting onto Cedar Creek Road and to help avoid drivers from missing the turn into the District and proceeding west to the next driveway and backing out onto Cedar Creek Road and blocking the road. On roll call those voting aye: Karr, Meisinger, Grotrian, Martin and Gibson. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

ITEM 6

Motion by Martin, seconded by Grotrian to approve and authorize the Chair to execute a lease with

Country Mile Wireless for space on the water tower as part of its wireless internet service subject to completion of the paragraph identifying the frequencies on which operating would be prohibited. On roll call those voting aye: Karr, Meisinger, Grotrian, Martin and Gibson. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

ITEM 7a

The Chair laid over discussion concerning the probable cost for remodeling of Well House No. 1 to create an office for the District's utility operator and a central monitoring station for the water and wastewater systems and the breakdown of that cost between water and wastewater.

ITEM 7b

The Chair laid over consideration of requesting an amendment to the State Revolving Fund loan if the decision is made to remodel Well House No. 1 to create an office for the District's utility operator and a central monitoring station for the water and wastewater systems.

ITEM 7c

The Chair laid over discussion and consideration of approving a contract amendment with Building Crafts, Inc. to remodel Well House No. 1 to create an office for the District's utility operator and a central monitoring station for the water and wastewater systems.

ITEM 7d

For the water and wastewater committee report, Trustee Martin advised that zone 4 of the sanitary sewer was jetted; work on the Sterling Court lift station will begin on or about April 24; cleaning the outside of the water tower is planned for the summer; the wastewater treatment plant improvements will be tested in May; blending of water from the two operating wells will start in May; and replacement of the pressure reducing valves located on Fairway Drive at Buccaneer Blvd and on Davy Jones Drive will begin approximately May 15.

ITEM 7e

With Mr. Messer absent for a family matter, there was no PeopleService report for Water/Wastewater and Water billing.

ITEM 7f

The Chair advised that a meeting with officials from the City of Plattsburgh is scheduled for April 19 regarding the District's possible connection to a water main that the City of Plattsburgh may construct to connect to Metropolitan Utilities District.

ITEM 7g

Trustee Martin advised that in addition to the committee report, leaks in existing hydrants were discovered and may require replacement.

ITEM 7h

After discussion, it was determined that the lot address without a residence was used rather than the lot address with the house and that it might be necessary to resend the communication if the letter returned undelivered was that of the Ewel Court address rather than the mailing address shown in the assessor's records.

ITEM 7h(1)

Motion by Martin, seconded by Grotrian to proceed with having Topple Tree Service clear a path in the side yard lot line easements between the properties located at 19815 and 19903 Ewel Ct, to access the Ewel Court/Becker Court lift station after communicating with the owners unless communication was effectively already made with the owners. On roll call those voting aye: Karr, Meisinger, Grotrian, Martin and Gibson. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

ITEM 7i

After discussion concerning the need for additional information and concern over providing equipment that could be used at other sites, the Chair laid over consideration of purchasing an Ipad Pro at an approximate cost of \$1,200 for use by the District's operator to monitor and manage the District's water and waste water systems.

ITEM 7j

The Chair laid over approval of obtaining Internet service required for wastewater operations after Trustee Martin advised that he was still waiting on responses to his requests for additional information concerning details on the needed service.

ITEM 7k

The Chair acknowledged receipt of the favorable results of testing pump efficiency and water drawdown for Well 2011-1 conducted February 28, 2023 by Sargent Drilling.

ITEM 7l

The Chair acknowledged receipt of notification from Lower Platte South Natural Resources District that the 2022 Groundwater Plan Annual Review had been completed and was available for review on the NRD's website.

ITEM 8a

In regard to the street committee report, Trustee Karr advised of damage to Fairway Dr as a result of the recent rain storm and the deposit of considerable amounts of sand and asphalt.

ITEM 8b

Following lengthy discussion concerning general street conditions in the District, long term solutions and a review of the proposed 2023 street repair project outlined by Ehrhart Griffin engineers, motion by Meisinger, seconded by Grotrian to have Ehrhart Griffin only proceed with repairs to Sterling Court as part of a change order to the contract with Omni Engineering for the 2022 street repairs project, and to have Ehrhart Griffin provide information at the next meeting concerning dates by which various contractors could complete crack sealing throughout the District if Omni cannot provide such services during the time it is doing the Sterling Court work, but nothing else. On roll call those voting aye: Karr, Meisinger, Grotrian, Martin and Gibson. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

ITEM 8c

Following discussion, the Chair directed Mr. Johnson to review state law regarding maintenance of street rights-of-way.

ITEM 9a

Trustee Grotrian advised that there was no grounds report beyond the agenda items.

ITEM 9b

Trustee Grotrian advised that OPPD had just installed the light poles but since it was daytime, he was uncertain whether OPPD had connected them to the power source. Trustee Grotrian further commented that the contractor was obligated to return to complete the concrete work and move the cluster mail boxes.

ITEM 9c

Following discuss regarding the installation of an information and notification board near the cluster mail boxes near the entrance, no action was taken.

ITEM 9d

Trustee Grotrian advised that the erosion issue behind 4004 Buccaneer Blvd had returned and that he would continue working on the matter to attempt to find a long term solution.

ITEM 10a

Trustee Meisinger presented the attached reports regarding finance and utility revenue reports for March 2023.

ITEM 10b

The Chair acknowledged receipt of the Treasurer’s Reports for the month ended March 31, 2023.

ITEM 11

Motion by Meisinger, seconded by Grotrian 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 March 21, 2023;
- b Approve payment of the claims and invoices; and
- c Transfer \$2,480.43 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 April 18, 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 April 18, 2023)

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$29,603.95	18379	Ehrhart Griffin	Inv. No. B8728 (surveying & misc services)
\$ 2,824.61	18380	OPPD	Inv. (service dates 3/06/23 - 4/04/23)
\$ 349.00	18381	Frankel Zacharia	Inv. Nos. 3942 (Tech) and 131012 (financial & IRS Forms)

\$ 7,791.25 18382 Roger K. Johnson Inv. No. 413 (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 April 18, 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 April 18, 2023)

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$11,017.94	18339	PeopleService, Inc.	Inv. No. 42699 (\$5,577.00 May ops; \$2,266.44 March bills; \$34.50 NDHHS; \$3,105.00 pump Treatment plant; \$35.00 NSF check)
\$ 647.50	18340	Embris Group, L.L.C.	Inv. Nos. 169 & 170 (well house remodeling & general engineering)
\$ 67.16	18341	Windstream	Inv. dated 03/15/23 (well phone)
\$ 1,353.00	18342	Roger K. Johnson	Inv. No. 411 (attorney fees & costs)
\$ 2,875.00	18343	Inland Potable Serv, Inc.	Inv. No. C23-11723 (clean & inspect pedestal tower)
\$ 85.41	18344	Papillion Sanitation	Inv. No. 6561036T050 (trash removal)
\$ 344.67	18345	Railroad Management III	Inv. No. 478349 License 303465 (10" waterline crossing)
\$ 493.90	18346	Sargent Drilling	Inv. No. 39418 (well & pump test)
\$ 400.00	18347	Neb. Rural Water Assoc.	2023 Membership

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 April 18, 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 April 18, 2028:

CONSTRUCTION FUND WARRANTS
CONSENT AGENDA, ITEM 11b
(Due April 18, 2023)

\$ 2,998.13	18199	JEO Consulting Group, Inc.	Inv. No. 139984/Pay App No. 18 (WWTP expansion)
\$ 149.91	18200	Roger K. Johnson	Inv. No. 13 (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 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 May 23, June 20, July 18 and August 22, 2023.

ITEM 13

Mr. Johnson advised that there was no need for a closed session regarding the 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 agenda having been completed, the Chair adjourned the meeting at approximately 8:25 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