

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

Meeting convened at 6:00 p.m. on May 23, 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 6:03 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, David L. Martin and Robert Karr. Absent: Christine Gibson.

ITEM 4

Motion by Martin, seconded by Grotrian to solicit proposals for trash hauling services, with an alternate proposal to include containers for a spring and fall clean up, and to bill the service monthly with the water bill rather than to include the cost in the general fund tax levy. On roll call those voting aye: Karr, Meisinger, Grotrian and Martin. Voting nay: none. Absent: Gibson. Abstaining: none. The Chair declared the resolution adopted.

ITEM 5a

The Chair laid over discussion concerning the probable cost for remodeling of Well House No. 1 to create an office and a central monitoring station for the water and wastewater systems.

ITEM 5b

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 5c

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 5d

Trustee Martin presented a verbal water and wastewater committee report. Trustee Martin advised that (1) replacement of the pressure reducing valve, located at 3504 Fairway Drive, is scheduled for this or next week; (2) when work began on the Sterling Ct lift station, issues in design were discovered requiring changes to the plans and drawings with work expected to begin again on Tuesday, May 30; and (3) the District will begin sending notices for violations of the District's watering policy.

ITEM 5e

Mr. Messer presented the attached report, and verbally reported that water blending from two of the wells had begun, but that programing of the controls was still needed. By blending, water production should not exceed 650 gallons per minute and is currently adjusted to 575 gallons per minute.

ITEM 5f

Trustee Martin advised that engineers for the City of Plattsmouth were walking the District's outlot and the Treasure Island Road right-of-way for further environmental study of the area through which the City intends to construct a water main connecting the City of Plattsmouth to Metropolitan Utilities District.

ITEM 5g

In discussing the status of construction of the wastewater treatment plant improvements, Mr. Messer advised that BCI ordered the wrong test kit for the UV basin to test for e-coli and as a result repeat testing will be required when the correct test kits arrive; issues arose with the Sterling Ct lift station requiring modified plans; and additional programing of the controls was required. Resident James Shea, 19815 Sterling Ct, addressed the Trustees concerning a lack of communication between the engineer and the property owners affected, as well as runoff from the work into his garage and onto his property.

ITEM 5g(1)

Motion by Meisinger, seconded by Grotrian to approve Pay Application Nos. 10 and 11 for Building Crafts, Inc. related to construction of the expansion of the wastewater treatment plant as recommended by the engineer. On roll call those voting aye: Meisinger and Grotrian. Voting nay:

Karr and Martin. Absent: Gibson. Abstaining: none. The Chair declared the resolution failed.

Following further discussion, motion by Martin, seconded by Karr to reconsider approval of Pay Application Nos. 10 and 11 for Building Crafts, Inc. related to construction of the expansion of the wastewater treatment plant as recommended by the engineer. On roll call those voting aye: Karr, Meisinger, Grotrian and Martin. Voting nay: none. Absent: Gibson. Abstaining: none. The Chair declared the resolution adopted.

ITEM 5h

At the request of Trustee Martin, the Chair laid over discussion and action for the possible purchase of an Ipad Pro for monitoring and managing the District's water and wastewater systems.

ITEM 5i

Motion by Meisinger, seconded by Karr to authorize Trustee Martin to obtain internet service to the Well house, to operate the wastewater treatment plant, in an amount not to exceed \$250 for installation and \$100 for monthly service fees. On roll call those voting aye: Karr, Meisinger, Grotrian and Martin. Voting nay: none. Absent: Gibson. Abstaining: none. The Chair declared the resolution adopted.

ITEM 5j

Mr. Messer advised that there were issues with the Ridgeway lift station functioning properly and due to its age parts had been discontinued and are difficult to find. In response to a question from the Chair, Mr. Messer advised that, although not guaranteed, it should be possible to maintain the lift station for a year.

ITEM 5j(1)

The Chair laid over discussion of options for replacing the Ridgeway lift station indefinitely.

ITEM 5j(1)(a)

The Chair laid over consideration of replacing the Ridgeway lift station indefinitely.

ITEM 6a

In presenting a verbal street committee report, Trustee Karr advised that at least three significant sink holes have developed, with locations generally shown on the attached aerial photograph, which require immediate repair. Trustee Martin advised that it appeared that storm water runoff has created a significant washout at the curb inlet on Davy Jones Dr. Trustee Grotrian advised of a smaller washout near the golf course clubhouse. Mr. Dolezal, engineer, advised that he had arranged for a contractor, SMA, LLC, to repair the sink holes in the streets and that he would

arrange for SMA to repair the washouts.

ITEM 6b

Mr. Johnson advised that he had talked to the County about a modified sign on Cedar Creek Road to alert for turning traffic from Windward, and that as soon as the county's road sign staff returned to work, the county would present its idea for wording that would comply with the Manual on Uniform Traffic Control Devices.

ITEM 6c

No action was taken to contract with a company for street sweeping.

ITEM 6d

A report on the status of the parking lot construction will be addressed in Item 7b.

ITEM 6e

Various street repair issues were discussed.

ITEM 6e(1)

Motion by Meisinger, seconded by Karr to contract with SMA, LLC repair the sink holes and washouts; and by way of a change order to the existing contract, have Omni resurface Sterling Ct and provide crack sealing up to a cost of approximately \$75,000.00 which would result in a total change order for Omni of an amount not exceed \$400,000.00. On roll call those voting aye: Karr, Meisinger, Grotrian and Martin. Voting nay: none. Absent: Gibson. Abstaining: none. The Chair declared the resolution adopted.

ITEM 7a

In the grounds committee report, Trustee Grotrian advised that there was a dead tree near 19616 Sterling Ct. that appears to be on the common lot line between the outlot and the property at 19616 Sterling Ct. Trustee Grotrian advised he would look into it further but rather than expend the funds to determine the exact location, if the property owner would be willing to split the cost, he will have the tree taken down. Trustee Grotrian was contacted by a resident who stated that when installing fiber cable, a Windstream contractor hit a sprinkler head. Trustee Grotrian advised that if it was in the right-of-way, the resident would bear the cost of repairs but if on the resident's private property the repairs should be made by the contractor and to make a claim to Windstream. Trustee Grotrian also reported that the old announcement board at the Buccaneer Blvd entrance was removed and that with various construction projects happening, residents should not disturb the utility locate flags.

ITEM 7b

Trustee Grotrian advised that the lighting OPPD installed was working and that in order to allow for mowing he had contractor Wojo remove some debris. Mr. Dolezal stated that he had relieved the contractor on the project from that portion of the work to relocate the mail box clusters since the contractor could not perform and that the contract price adjusted accordingly. Mr. Dolezal was able to arrange for SMA, LLC to relocate the mailboxes for a price equal to the deduction from the CDS contract. The remaining work CDS will perform includes seeding and matting plus any punch list items that are discovered. SMA will relocate the mail boxes on Saturday, June 16, 2023.

ITEM 7c

The Chair laid over discussion and consideration of sending letters to residents known to occupy District property. Instead, the Chair recommended a form letter be sent to all residents abutting an outlot stating that if they have personal property on the outlot, it should be removed.

ITEM 7d

The Chair laid over discussion and consideration of authorizing corrective repairs to erosion behind 4004 Buccaneer Blvd if the same are related to the District's outlot.

ITEM 7e

Motion by Meisinger, seconded by Martin to execute a task order to have Topple Tree Service to remove dead or dying trees near the main entrance and on District land near Lakeside Drive . On roll call those voting aye: Karr, Meisinger, Grotrian and Martin. Voting nay: none. Absent: Gibson. Abstaining: none. The Chair declared the resolution adopted.

ITEM 8a

Trustee Meisinger presented the May finance report and the April utility revenue report, both of which are attached.

ITEM 8b

The Chair acknowledged receipt of the attached Treasurer's Reports for the month ended April 30, 2023.

ITEM 9

Motion by Martin, 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 April 18, 2023;
- b Approve payment of the claims and invoices; and
- c Transfer \$2,550.39 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 May 23, 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 May 23, 2023)

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$ 24,066.24	18383	Ehrhart Griffin	Inv. No. B8812 & B8813 (surveying & engineering services)
\$ 2,894.06	18384	OPPD	Inv. (service dates 4/4/23 - 5/4/23)
\$ 349.00	18385	Frankel Zacharia	Inv. Nos. 4005 (Tech) and 132343 (finance report)
\$ 7,741.76	18386	Roger K. Johnson	Inv. No. 423 (attorney fees & costs)
\$ 230.00	18387	Topple Tree Service	Inv. dated 4/25/23 (stump grinding)
\$ 957.17	18388	Wojo’s Outdoors & Custom Waterfronts, LLC	Inv. No. 1071 (sign repair & mowing)

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 May 23, 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 May 23, 2023)

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$ 8,215.63	18348	PeopleService, Inc.	Inv. No. 42919 (\$5,577.00 June ops; \$2,254.32 April bills; \$349.31 lab testing; \$35.00 NSF check)
\$ 647.50	18349	Embris Group, L.L.C.	Inv. No. 190 (meeting Plattsmouth water connection option)
\$ 71.74	18350	Windstream	Inv. dated 4/17/23 (well phone)
\$ 1,494.00	18351	Roger K. Johnson	Inv. No. 424 (attorney fees & costs)
\$ 9,317.60	18352	Trekk Design Group, LLC	Inv. Nos. C23-341 & -345 (sanitary sewer cleaning)
\$ 344.67	18353	Railroad Management III,	Inv. No. 480829 License 304259 (4" sewer main crossing)

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 May 23, 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 May 23, 2023:

CONSTRUCTION FUND WARRANTS
CONSENT AGENDA, ITEM 11b
(Due May 23, 2023)

\$ 1,656.25	18201	JEO Consulting Group, Inc.	Inv. No. 140697/Pay App No. 19 (WWTP expansion)
\$397,134.79	18202	Building Crafts, Inc.	Pay App. Nos. 10 & 11 (WWTP expansion)
\$ 19,939.55	18203	Roger K. Johnson	Inv. No. 14 (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, Meisinger and Karr. Voting nay: none. Absent: Gibson. Abstaining: none. The Chair declared the resolution adopted.

ITEM 10

Motion by Karr, seconded by Grotrian to approve Warrant No. 18354, dated May 23, 2023 and to be drawn on the Service Fee Fund, to reimburse Trustee Martin for advancing funds to pay Slick Innovations, LLC (Inv. No. 396248) which provides the resident text notification service. Trustee Martin declared his conflict of interest.

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 May 23, 2023 to be drawn on the Service Fee Fund, and which are redeemable upon presentation to the Cass County Treasurer:

MAY 23, 2023 WARRANT ITEM 10

SERVICE FEE FUND WARRANT

\$	529.00	18354	David Martin	Reimbursement for Slick Innovations, LLC Inv. No. 396248 (resident text notification service)
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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: Gibson. Abstaining: Martin. The Chair declared the resolution adopted.

ITEM 11

The Chair advised that the next meeting would be held at First State Bank Nebraska, second floor community room, 446 Main Street, Plattsmouth Nebraska on June 20, 2023.

ITEM 12a

Mr. Johnson advised that there was no need to consider 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 12b

Motion by Meisinger, seconded by Martin to enter closed session to protect the public interest for the purpose of discussing contract negotiations with PeopleService, Inc. for a water and sanitary sewer operator services and billing. On roll call those voting aye: Grotrian, Martin, Meisinger and Karr. Voting nay: none. Absent: Gibson. Abstaining: none. The Chair declared the resolution adopted.

The Chairman restated that the Board of Trustees would enter closed session at 7:56 p.m. for the

protection of the public interest to discuss contract negotiations with PeopleService, Inc. for water and sanitary sewer operator services and billing.

After allowing the public access to the meeting, motion by Meisinger, seconded by Martin to reconvene in open session at 8:05 p.m. On roll call those voting aye: Grotrian, Martin, Meisinger and Karr. Voting nay: none. Absent: Gibson. Abstaining: none. The Chair declared the resolution adopted.

ITEM 13

The agenda having been completed, the Chair adjourned the meeting 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