

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

Meeting convened at 6:00 p.m. on June 20, 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 verifying that notice of the meeting, stating the availability of the Agenda, was published 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 6:02 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, James Grotrian, David L. Martin and Robert Karr. Absent: Christine Gibson.

ITEM 4

Following discussion, the Chair laid over consideration of contracting with Viking Industrial Painting to inspect the installation of equipment on the water tower by Country Mile Wireless, Inc. The Chair directed Mr. Johnson to discuss the contract price with Scot Wolcott to see if he is aware of a lesser cost.

ITEM 5

Following discussion, the Chair laid over consideration of a request for proposals for a single trash hauler for the District in order to further consider options for the request.

ITEM 6a

Trustee Martin provided an verbal Water and Wastewater Committee report. Trustee Martin advised that he had been issuing an extremely high number of notices and violation letters for non-compliance with the water conservation rule.

ITEM 6b

The PeopleService report is attached.

ITEM 6c

Trustee Martin and Mr. Messer, wastewater treatment plant operator, presented a verbal report on issues related to construction of the wastewater treatment plant improvements.

ITEM 6c1

The UV test kits arrived but performing the tests will be delayed until the Nebraska Department of Environment and Energy staff has released a report resulting from an inspection of the plant improvements.

ITEM 6c2

The reconstruction of the Sterling Ct. lift station portion of the project was nearly complete. With the season to seed having passed, the contractor will lay sod which the neighbor has agreed to water the sod once in place in exchange for a \$50 credit on his water bill.

ITEM 6c3

The contractor cleaned up of the mud runoff from the Sterling Ct. lift station construction.

ITEM 6c4

HOA Solutions and Fluidyne Corporation are scheduled to install plant operational controls the week of July 26 as part of the wastewater treatment plant improvements.

ITEM 6c5

Internet service has been installed at Well House No. 1 to serve the wastewater treatment plant.

ITEM 6c6

Trustee Martin identified several issues that had arisen with the construction of the wastewater treatment plant improvements.

Between June 8 and 9, 30000 gallons of raw sewage was discharged into 4 mile creek as the result of JEO Consulting Groups's non-licensed engineer adjusting controls to force a decant of the sequencing batch reactor (SBR). This discharge violated state standards and when discovered was immediately reported to the Nebraska Department of Environment and Energy. It is presently unknown what

actions the State will take at this time.

Engineers from the Nebraska Department of Environment and Energy inspected the wastewater treatment plant on June 16, 2023. The engineers advised that they would consult with Permitting department regarding the plant and provide information addressing the issues. They inspected and discussed the height of the overflow pipes between the SBRs; the stilling wells for the SBR probes; using influent as a method of estimating effluent; capacity issues with the UV sterilization; and issues with draining in the UV pit. Regarding these items, the engineers advised that a written report will be issued by June 23, 2023.

The engineers did, however, provide guidance and advice on the following issues: (1) UV pit drainage and on using influent to estimate effluent, the District will be permitted to use influent readings to estimate effluent readings; (2) the drain for the UV pit must be corrected which will permit the District to bypass the UV unit in the winter months; and (3) the UV sterilization likely should be a larger UV unit and/or an additional of a holding tank should be constructed. The engineers also advised that the written report will address these issues as well.

ITEM 6c7

Pay Application No. 12 for Building Crafts, Inc. was not received.

ITEM 6c8

Following discussion of the damages sustained by the District as the result of potentially faulty design of the plant improvements and changing controls at the plant resulting in a violation for discharging 30,000 gallons of raw sewage, to avoid the suspension of engineering services for the plant improvements, motion by Meisinger, seconded by Karr to approve Pay Application No. 20 for JEO Consulting Group, Inc. with the issuance of a letter to JEO, with a reservation of rights to address the District's financial damages and to address design issues including, without limitation, either the installation of a holding tank or a larger UV filter. 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 6d

After noting that there was no new information concerning a possible connection to a water main the City of Plattsmouth may construct to connect to Metropolitan Utilities District, the Chair laid the matter over.

ITEM 6e

At the request of Trustee Martin, the Chair laid over consideration of purchasing a laptop computer

or similar device for use by the District's operator to monitor and manage the District's water and waste water systems.

ITEM 7

Streets Committee: Mr. Dolezal's report is attached.

ITEM 7a

Trustee Karr advised that all three emergency sink holes in the streets identified at the last meeting have been repaired.

ITEM 7b

Trustee Karr advised that the washout at the curb inlet on Davy Jones Dr. has been filled with dirt.

ITEM 7c

Trustee Karr advised that the small washout near the golf course clubhouse had been repaired.

ITEM 7d

Trustee Karr provided a verbal street committee report and noted that the storm water inlet at the end of Sterling Ct was sinking and required repair.

ITEM 7e

Trustee Meisinger reported that the County will install a new sign for the intersection of Cedar Creek Road and Windward Drive to identify the turn ahead, with a distance, in a more detailed way.

ITEM 7f

After discussion concerning costs and the impact on the levy, the Chair laid over discussion of a comprehensive 2024 Street Reconstruction project to update the actual impact on the levy.

ITEM 7g

The Chair laid over consideration of engaging an engineer to prepare final plans, together with an engineer's estimate of probable cost, for District wide street reconstruction as needed.

ITEM 7h

The Chair laid over consideration of confirming with Ameritas, the District's fiscal agent, that it will accept engagement of the financing of the project and if approved to prepare a Resolution of

Necessity proposing the project.

ITEM 8a

Trustee Grotrian reported that the cluster mail boxes had been relocated but the order of the boxes have to be changed which is expected to happen in the next day or two.

ITEM 8b

The Chair laid over indefinitely discussion and consideration of either sending a general letter to District residents, or a letter to those abutting District property, reminding them that personal property should not be placed on the District's property and to remove any property that has been placed on the District's property.

ITEM 8c

There was no specific Grounds Committee Report other than the items on the agenda.

ITEM 8d

Trustee Grotrian advised that removal of the dead tree near 19616 Sterling Ct. was completed.

ITEM 8e

Motion by Martin, seconded by Meisinger to approve a contract with Topple Tree Service & Snow Removal LLC, in the estimated amount provided by Topple, for the removal of the trees and branches on Buccaneer Blvd; Spyglass Ct; Lakeside Dr; Captain Morgan Ct.; Treasure Island Rd; Davy Jones; Becker Ct; Fairway Dr; and at the main entrance to the District. 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 9a

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

ITEM 9b

The Chair advised that the Treasurer's Report had not been received.

ITEM 9c

Motion by Martin, seconded by Grotrian to approve and execute a Letter of Engagement with Frankel Zacharia, CPA's for preparation of the budget for fiscal year July 1, 2023 thru June 30,

2024. Trustee Meisinger advised that he would be abstaining based on his employment by Frankel Zacharia. On roll call those voting aye: Grotrian, Martin and Karr. Voting nay: none. Absent: Gibson. Abstaining: Meisinger. The Chair declared the resolution adopted.

ITEM 10

Motion by Meisinger, seconded by Karr to approve Warrant No. 18355, dated June 20, 2023 and to be drawn on the Service Fee Fund, to reimburse Trustee Martin for advancing funds for mailing materials ordered from Amazon (Inv. Nos. 5133043 & 3409800) and The Postal Store, (Invoices dated 6/4/23 & 6/20/23). 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 June 20, 2023 to be drawn on the Service Fee Fund, and which are redeemable upon presentation to the Cass County Treasurer:

JUNE 20, 2023 WARRANT ITEM 10
SERVICE FEE FUND WARRANT

\$	529.00	18355	David Martin	Reimbursement for Amazon Inv. Nos. 5133043 & 3409800 & The Postal Store, Invoices dated 6/4/23 & 6/20/23 (envelopes, labels & stamps watering violation notices)
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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

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 May 23, 2023
- b Approve payment of the claims and invoices
- c Transfer \$3,558.07 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 June 20, 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 June 20, 2023)

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$ 3,901.66	18389	OPPD	Inv. (service dates 5/4/23 - 6/6/23)
\$ 632.50	18390	Frankel Zacharia	Inv. Nos. 4067 (Tech) and 132999 (finance report)
\$ 6,226.75	18391	Roger K. Johnson	Inv. No. 433 (attorney fees & costs)
\$ 450.00	18392	Topple Tree Service	Inv. dated 6/6/23 (½ tree removal)
\$ 3,690.00	18393	Wojo’s Outdoors & Custom Waterfronts, LLC	Inv. No. 1073 (mow & remove rubble)

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 June 20, 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 June 20, 2023)

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$ 7,878.44	18356	PeopleService, Inc.	Inv. No. 43140 (\$5,577.00 July ops; \$2,266.44 May bills; \$35.00 NSF check)
\$ 138.75	18357	Embris Group, L.L.C.	Inv. No. 213 (general engineering)
\$ 67.46	18358	Windstream	Inv. dated 5/16/23 (well phone)
\$ 648.00	18359	Roger K. Johnson	Inv. No. 434 (attorney fees & costs)
\$ 11,475.00	18360	Trekk Design Group, LLC	Inv. Nos. C23-555 & -585 (pump lift stations)
\$ 330.00	18361	Country Mile Wireless	Inv. 0PKYE4 (wireless Internet service)

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 June 20, 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 June 20, 2023:

CONSTRUCTION FUND WARRANTS
CONSENT AGENDA, ITEM 11b
(Due June 20, 2023)

\$ 6,247.50	18204	JEO Consulting Group, Inc.	Inv. No. 141510/Pay App No. 20 (WWTP expansion)
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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 12

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 July 18, 2023; August 22; September 19; October 17; November 14; and December 19, 2023.

ITEM 13

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 8:33 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 Karr to

reconvene in open session at 8:50 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 14

The agenda having been completed, the Chair adjourned the meeting at approximately 8:51 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