

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

Meeting convened at 6:00 p.m. on September 19, 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 6:10 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: James Grotrian, Kurt W. Meisinger, David L. Martin and Robert Karr. Absent: Christine Gibson.

ITEM 4

No action was taken regarding changes to committee assignments.

ITEM 5a

For the water and wastewater committee report, Trustee Martin advised that the water main valve and hydrant on Buccaneer Blvd were replaced; fire hydrants were tested for pressure and identified for cap color based on pressure; hydrant painting would follow shortly; another malfunctioning fire hydrant was discovered on Ewel Court; and a saddle clamp had failed and required replacement for which the homeowner would be billed.

ITEM 5b

For an update regarding the construction of improvements to the wastewater treatment plant, Trustee Martin reported that the engineer had completed the drawings for the changes to the UV pit design; Sterling Court Lift Station should be completed on September 20; and it was confirmed that the contractor failed to construct the UV pit according to the plans.

ITEM 5b(1)

Motion by Martin, seconded by Meisinger to approve the installation of a cellular system for communications with the lift stations on Sterling Court and Ridgeway and any other lift stations at which radio communications fails to work. On roll call those voting aye: Meisinger, Martin, Grotrian and Karr. Voting nay: none. Absent: Gibson. Abstaining: none. The Chair declared the resolution adopted.

ITEM 5c

The PeopleService report for water/wastewater and water billing is attached.

ITEM 5d

Engineers for the City of Plattsmouth were inspecting the proposed route for the water main it will connect to Metropolitan Utilities District's Platte River water plant and onto which the District might connect.

ITEM 5e

Motion by Martin, seconded by Karr to accept the proposal by Priority Mechanical Services at a cost not to exceed \$10,000 for the installation of a Mitsubishi Hyper heat mini-split with the electrical installation at the wastewater treatment plant. On roll call those voting aye: Meisinger, Martin, Grotrian and Karr. Voting nay: none. Absent: Gibson. Abstaining: none. The Chair declared the resolution adopted.

ITEM 6a

For a Streets Committee Report, Trustee Karr advised that the timing for Omni to perform the street repairs was uncertain; Fairway Cir. was seriously failing; Legacy Homes damaged the street on Lakeside Drive when it unloaded a piece of equipment; and the Windward Ct cul-de-sac might drain with the installation of three storm water drains.

ITEM 6a(1)

The Chair laid over discussion and consideration of pavement failure repairs on Ewel Court.

ITEM 6b

The Chair tabled indefinitely discussion and consideration of contracting to spray street gutter lines with vegetation killer, with the exception of Sterling Ct.

ITEM 6c

The Chair tabled indefinitely discussion and consideration of a possible 2024 street improvements project together with costs and the impact on the levy of an improvements project.

ITEM 6d

The Chair tabled indefinitely discussion and consideration of engaging an engineer to prepare final plans, together with an engineer's estimate of probable cost, for a 2024 street improvements project, seek approval of funding from Ameritas, the District's fiscal agent, and directing the preparation of a Resolution of Necessity proposing the project.

ITEM 7a

There was no general Grounds Committee report.

ITEM 7a1

Trustee Karr advised that the final work on the parking lot was not completed.

ITEM 7b

In the absence of Trustee Gibson, there was no discussion, nor action was taken, regarding the possible purchase of Lot 9, Block 1.

ITEM 7c

Motion by Martin, seconded by Grotrian to accept the proposal from Lakeside Landscaping, Inc. to repair a sink hole in the outlot and the encroachment into the backyard of 4004 Buccaneer Blvd and to request the homeowner to pay one-half the cost. On roll call those voting aye: Meisinger, Martin, Grotrian and Karr. Voting nay: none. Absent: Gibson. Abstaining: none. The Chair declared the resolution adopted.

ITEM 8a

The Chair presented the September 2023 finance report and the July 2023 utility revenue report, both of which are attached.

ITEM 8b

The Chair acknowledged receipt of the representation letter from Frankel, LLC related to the preparation of the budget.

ITEM 8c

As a duplicate agenda item, no action was taken regarding approval and adoption of a proposed budget for fiscal year July 1, 2023 through June 30, 2024.

ITEM 8d

Resolution introduced by Meisinger, seconded by Martin:

RESOLUTION

A RESOLUTION OF THE BOARD OF TRUSTEES OF SANITARY AND IMPROVEMENT DISTRICT NO. 5, CASS COUNTY, NEBRASKA TO ADOPT THE BUDGET FOR FISCAL YEAR JULY 1, 2023 THROUGH JUNE 30, 2024 WHICH INCLUDES THE BASE LIMITATION PERCENT INCREASE OF 2.5% AND THE ADDITIONAL DISCRETIONARY LIMITATION INCREASE OF 1%.

BE IT RESOLVED BY THE BOARD OF TRUSTEES OF SANITARY AND IMPROVEMENT DISTRICT NO. 5, CASS COUNTY, NEBRASKA, AS FOLLOWS:

WHEREAS, a public hearing was held by the Board of Trustees of Sanitary and Improvement District No. 5, Cass County, Nebraska, as required by Nebraska law, to receive public comment concerning the proposed budget for fiscal year July 1, 2023 through June 30, 2024;

WHEREAS, a super majority (75%) of the Trustees must vote to approve the additional discretionary limitation increase of 1.0%; and

WHEREAS, it is in the best interests of the District that the property tax request for fiscal year 2023 - 2024 be a different amount than the property tax request for the prior year.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of Sanitary and Improvement District No. 5, Cass County, Nebraska that:

1. The budget for Sanitary and Improvement District No. 5, Cass County, Nebraska, is adopted for fiscal year of July 1, 2023 through June 30, 2024 in the total amount of \$976,700.
2. The dollar amounts include the base limitation percent increase of 2.5%.
3. The dollar amounts include the additional discretionary limitation

increase of 1.0%.

4. The property tax request will result in a total tax rate of \$0.569991 per \$100 of assessed valuation.

BE IT FURTHER RESOLVED that a copy of the budget and this Resolution be certified and forwarded to the Nebraska State Auditor and Cass County Clerk on or before September 30, 2023.

PASSED AND APPROVED this 19TH day of September 2023.

By: /s/ Kurt Meisinger
Kurt Meisinger, Chair

ATTEST:
/s/ David Martin
David Martin, Clerk

On roll call those voting aye: Meisinger, Martin, Grotrian and Karr. Voting nay: none. Absent: Gibson. Abstaining: none. The Chair declared the resolution adopted.

ITEM 8e

Resolution introduced by Meisinger, seconded by Martin:

RESOLUTION

A RESOLUTION OF THE BOARD OF TRUSTEES OF SANITARY AND IMPROVEMENT DISTRICT NO. 5, CASS COUNTY, NEBRASKA TO SET THE PROPERTY TAX REQUEST FOR FISCAL YEAR JULY 1, 2023 THROUGH JUNE 30, 2024 AT AN AMOUNT DIFFERENT FROM THE PROPERTY TAX REQUEST FOR THE PRIOR YEAR.

BE IT RESOLVED BY THE BOARD OF TRUSTEES OF SANITARY AND IMPROVEMENT DISTRICT NO. 5, CASS COUNTY, NEBRASKA, AS FOLLOWS:

WHEREAS *Neb. Rev. Stat. §77-1632* provides that the governing body of Sanitary and Improvement District No. 5, Cass County, Nebraska passes by a majority vote a resolution or ordinance setting the property tax request; and

WHEREAS, a special public hearing was held as required by law to hear and consider comments concerning the property tax request.

NOW, THEREFORE, BE IT RESOLVED BY the Governing Body of

Sanitary and Improvement District No. 5, Cass County, Nebraska that:

1. 2023-2024 property tax request be General Fund \$496,900; and Bond Fund \$479,800
2. The resulting levy request is: General Fund: 0.289985; and Bond Fund: 0.280006.
3. The total assessed value of property differs from last year's by 0.62 percent.
4. The tax rate which would levy the same amount of property taxes as last year, when multiplied by the new total assessed value of property would be 0.559078 per \$100 of valuation.
5. The Governing Body of Sanitary and Improvement District No. 5, Cass County, Nebraska adopts a property tax request that will cause its tax rate to 0.569991 per \$100 of valuation.
6. Based on the proposed property tax request and changes in other revenue, the total operating budget of Sanitary and Improvement District No. 5, Cass County, Nebraska will increase or decrease last year's budget by -31.92 percent.
7. A copy of this resolution be forwarded to the County Clerk by October 15, 2023.

PASSED AND APPROVED this 19TH day of September 2023.

By: /s/ Kurt Meisinger
Kurt Meisinger, Chair

ATTEST:
/s/ David Martin
David Martin, Clerk

On roll call those voting aye: Meisinger, Martin, Grotrian and Karr. Voting nay: none. Absent: Gibson. Abstaining: none. The Chair declared the resolution adopted.

ITEM 8f

Ordinance introduced by Meisinger, seconded by Martin:

ORDINANCE NO. 23-03

AN ORDINANCE TO ADOPT THE BUDGET STATEMENT FOR SANITARY AND IMPROVEMENT DISTRICT NO. 5, CASS COUNTY, NEBRASKA FOR FISCAL YEAR JULY 1, 2023 THROUGH JUNE 30, 2024 WHICH SHALL BE TERMED THE ANNUAL APPROPRIATION BILL; TO APPROPRIATE SUMS FOR NECESSARY EXPENSES AND LIABILITIES; TO PROVIDE AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF SANITARY AND IMPROVEMENT DISTRICT NO. 5, CASS COUNTY, NEBRASKA:

Section 1. That after complying with all procedures required by law, the budget, attached as Exhibit A, presented and set forth in the budget statement, is hereby approved as the Annual Appropriation Bill for fiscal year beginning July 1, 2023 and ending June 30, 2024. All sums of money contained in the budget statement are hereby appropriated for the necessary expenses and liabilities of Sanitary and Improvement District No. 5, Cass County, Nebraska. A copy of the budget document (Exhibit A) shall be forwarded as provided by law to the Nebraska Auditor of Public Accounts and to the Clerk of Cass County, Nebraska, for use by the levying authority.

Section 2. This ordinance shall take effect and be in full force from and after its passage and approval as required by law.

PASSED AND APPROVED this 19TH day of September 2023.

By: /s/ Kurt Meisinger
Kurt Meisinger, Chair

ATTEST:
/s/ David Martin
David Martin, Clerk

On roll call those voting aye: Meisinger, Karr, Grotrian and Martin. Voting nay: none. Absent: Gibson. Abstaining: None. The Chair declared the resolution adopted.

ITEM 9

Motion by Karr, seconded by Meisinger to approve Warrant No. 18373, dated September 19, 2023 and to be drawn on the Service Fee Fund, to reimburse Trustee Martin for advancing funds for the cost of a laptop to assist in operating the wastewater treatment plant and for photocopies and related to prepare the water boil notices to post on the residents' doors (laptop Order No. H355675082 and printing materials Order No. 20101592006690758 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 September 19, 2023 to be drawn on the Service Fee Fund, and which are redeemable upon presentation to the Cass County Treasurer:

SEPTEMBER 19, 2023 WARRANT ITEM 9
SERVICE FEE FUND WARRANT

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$ 939.70	18373	David Martin	Reimbursement (WWTP operations laptop & for photocopies and related for water boil notice)

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 10

Motion by Martin, seconded by Meisinger 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 August 18, 2023
- b Approve payment of the claims and invoices
- c Transfer \$3,956.12 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 September 19, 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 10b
(Due September 19, 2023)

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$ 245.00	18408	Frankel Zacharia	Inv. Nos. 4246 (Tech) and 134442 (finance and related report)
\$ 2,972.50	18409	Wojo’s Outdoors & Custom Waterfronts, LLC	Inv. No. 1079 (mow & trim)
\$ 6,105.68	18410	Roger K. Johnson	Inv. No. 507 (attorney fees & costs)
\$ 4,300.77	18411	OPPD	Inv. (service dates 8/3/23 - 9/5/23)
\$ 2,107.01	18412	Ehrhart Griffin & Assoc.	Inv. No. B9088 (engineering services)
\$ 3,700.00	18413	Topple Tree Service	Inv. No. 23110 (tree/stump removal)

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 September 19, 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 September 19, 2023)

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$ 82.79	18374	Windstream	Inv. dated 8/16/23 (well phone)
\$ 180.00	18375	Country Mile Wireless	Inv. No. KPHZKX (wireless)
\$ 2,196.00	18376	Roger K. Johnson	Inv. No. 508 (attorney fees & costs)
\$ 31,211.90	18377	Engineered Systems, Inc.	Inv. No. 875767 (water main valve)
\$ 647.50	18378	Embris Group	Inv. No. 277 (well house remodel)
\$ 7,385.00	18379	MaGuire Iron	Inv. No. 4169 (water tower maintenance)
\$ 1,450.69	18380	PeopleService, Inc.	Inv. No. 43820 (\$5,577.00 Oct ops; \$2,298.76 July bills; after \$6,425.07 credit for August payment Warrant No. 18367)

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 September 19, 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 September 19, 2023:

CONSTRUCTION FUND WARRANTS
CONSENT AGENDA, ITEM 11b
(Due September 19, 2023)

\$ 9,343.75	18213	JEO Consulting Group, Inc.	Inv. No. 144011/Pay App No. 23 (WWTP expansion)
\$ 467.19	18214	Roger K. Johnson	Inv. No. 18 (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; © 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: Meisinger, Martin, Grotrian and Karr. Voting nay: none. Absent: Gibson. Abstaining: none. 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 October 17, 2023.

ITEM 12

Mr. Johnson advised that there was no need for a closed session.

ITEM 13

The agenda having been completed the Chair adjourned the meeting at 8:03 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