

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

Meeting convened at 6:00 p.m. on October 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 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 6:04 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 and David L. Martin. Absent: Christine Gibson and Robert Karr.

ITEM 4

The Chair opened the only response to the District's Request for Proposals for District-wide solid waste disposal. The proposal received was from Gretna Sanitation, and was as follows:

3 year contract-monthly per home

Alternate 1

1-Trash	
1-Recycling or yard waste/extra trash	\$21.95

Alternate 2

1-trash	
1-yard waste/extra trash	
1-recycling	\$22.95

5 year contract-monthly per home - years 4 & 5

Alternate 1

1-Trash
1-Recycling or yard waste/extra trash \$22.95

Alternate 2

1-trash
1-yard waste/extra trash
1-recycling \$23.95

The Chair laid the matter over for possible approval of the proposal following some clarification and subject to the preparation of a full contract and execution by the parties.

ITEM 5a

Trustee Martin presented a verbal water and wastewater committee report: fire hydrants had been painted; HVAC at the wastewater treatment plant had been installed and a remote temperature control has been ordered; monitoring issues for the wastewater system and the water system have been resolved; power outages at the wastewater treatment plant have been resolved; and radio communications for the lift stations functioned so the use of cellular is unnecessary.

ITEM 5b

Trustee Martin presented a verbal regarding the construction of improvements as part of the wastewater treatment plant project: Sterling Ct lift station was complete and the sod looks nice; and the valves and piping between the trains at the wastewater treatment plant are not in a condition to remain in service so the engineers are designing plans to replace the valves and piping.

ITEM 5c

No report was received from PeopleService report for Water/Wastewater and Water billing.

ITEM 5d

There was no new information regarding the status of water main connection between the City of Plattsmouth and Metropolitan Utilities District.

ITEM 5e

Motion by Meisinger, seconded by Grotrian to approve and adopt amended Water System and Sanitary Sewer System Rules and Regulations to provide that watering restrictions end on August 31 each year. On roll call those voting aye: Meisinger, Martin and Grotrian. Voting nay: none. Absent: Gibson and Karr. Abstaining: none. The Chair declared the resolution adopted.

ITEM 5f

Without objection Trustee Martin would arrange maintenance of the road to the wastewater treatment plant by grading and rocking the same.

ITEM 6a

For a Committee report, Trustee Karr provided an email as follows:

1. Concrete curbs on Fairway Circle and Davey Jones Drive were completed on Tuesday. There was no construction activity on Wednesday thru Friday due to the weather forecast because open trenching would fill with water if it rained.
2. Depending on weather, on Monday October 16 construction on Sterling Court was to begin.
3. Asphalt work is planned to start the end of the week of October 16.
4. Projected cost to date is \$427,450 for the following work:
 - a. Reconstruction of Fairway Circle;
 - b. Repair and overlay of Davey Jones Drive from Fairway Drive to 20' east of the set of curb inlets west of Davey Jones Circle;
 - c. Selective curb/gutter and asphalt repair on Sterling Court;
 - d. Paving of the 15' x 24' blowout section (currently rocked) on Windward Drive; and
 - e. Storm sewer construction on Windward Court (\$85k).
5. These projects do not yet include any small areas of random street repair or joint sealing.
6. The plan is to repair the intersection of Buccaneer Blvd and Fairway Drive as well as to perform crack sealing.
7. Repairs will be capped at approximately \$500k.
8. Little to no crack sealing of the curbs has been done, even on the

newer construction.

ITEM 6b

The Chair laid over indefinitely consideration of repairing pavement failures on Ewel Court.

ITEM 6c

The Chair opened and read aloud the sole proposal only proposal for the snow plowing contract which was received from Lakeside Landscaping, the current contractor. Motion by Meisinger, seconded by Martin to accept the proposal by, and award the snow3 plowing contract to, Lakeside Landscaping. On roll call those voting aye: Meisinger, Martin and Grotrian. Voting nay: none. Absent: Gibson and Karr. Abstaining: none. The Chair declared the resolution adopted.

ITEM 7a(1)

The written report from Trustee Karr advised as follows regarding the parking lot:

The parking lot has been graded and drill seeded. Since the seeding was out of the season for it, the contractor was advised that it might have to return in the spring and reseed if this seed does not take. The topsoil brought in is visually much better than anything in that area.

ITEM 7b(1)

The Chair acknowledged receipt of the Agency Disclosure Information for Buyers and Sellers related to the possible purchase of Lot 9, Block 1, Buccaneer Bay, a subdivision as surveyed, platted and recorded in Cass County, Nebraska.

ITEM 7a(2)

Motion by Grotrian, seconded by Martin to approve the offer from the District to purchase Lot 9, Block 1, Buccaneer Bay, a subdivision as surveyed, platted and recorded in Cass County, Nebraska contingent on the Selling Broker Compensation of \$1,500.00 and the BAC of \$200.00 were reduced to a combined total of \$750.00. On roll call those voting aye: Meisinger, Martin and Grotrian. Voting nay: none. Absent: Gibson and Karr. Abstaining: none. The Chair declared the resolution adopted.

ITEM 8a

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

ITEM 8b

The Chair presented the Treasurer’s Reports for the months ended August 31 and September 30, 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 minutes for the budget hearing meeting held September 19, 2023;
- b Approve the minutes for the regular meeting held September 19, 2023;
- c Approve payment of the claims and invoices; and
- d Transfer \$4,328.58 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 October 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 9c
(Due October 17, 2023)

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$ 3,855.00	18414	Frankel Zacharia	Inv. Nos. 4305 (Tech) and 134955 (finance, budget and related report)
\$ 15,980.00	18415	Buss Lincoln Painting	Inv. dated 10/9/23 (fire hydrant painting)
\$ 5,138.91	18416	Roger K. Johnson	Inv. No. 515 (attorney fees & costs)

\$ 4,673.18	18417	OPPD	Inv. service dates 9/5/23 - 10/4/23 (electricity)
\$ 6,700.00	18418	Topple Tree Service	Inv. No. 2347 (tree trimming and removal)
\$ 2,455.00	18419	Wojo's Outdoors & Custom Waterfronts, LLC	Inv. No. 1082 (treat, mow & trim)

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 October 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 11b
(Due October 17, 2023)

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$ 79.10	18381	Windstream	Inv. dated 9/15/23 (well phone)
\$ 41,983.70	18382	Kerns Excavating Co.	Inv. Nos. 17646 (saddle) & 17649 (valve & fire hydrant)
\$ 2,178.00	18383	Roger K. Johnson	Inv. No. 516 (attorney fees & costs)
\$ 85.41	18384	Papillion Sanitation	Inv. No. 6730513T050 (trash service well house & wastewater plant)
\$ 2,312.50	18385	Trekk Design Group LLC	Inv. No. 1573 (pump and haul sludge)
\$ 24,149.00	18386	PeopleService, Inc.	Inv. No. 103108 (\$5,538.00 adjust Oct ops; \$11,115.00 Nov ops; \$2,304.00 Sept billing; \$5,167.00 maintenance overage; \$25.00 gov filing)
\$ 8,705.10	18387	Priority Mechanical Serv	Inv. No. 3675 (install Mitsubishi Hpyer heat mini-split at WWTP)

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 October 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 October 17, 2023:

CONSTRUCTION FUND WARRANTS
CONSENT AGENDA, ITEM 11b
(Due October 17, 2023)

\$	802.00	18215	JEO Consulting Group, Inc.	Inv. No. 144514/Pay App No. 24 (WWTP expansion)
\$	40.10	18216	Roger K. Johnson	Inv. No. 19 (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 and Grotrian. Voting nay: none. Absent: Gibson and Karr. 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 November 14 or, if a quorum is available, November 15, 2023; December 19, 2023; January 23, 2024; February 20, 2024; March 19, 2024; and April 23, 2024.

ITEM 11

The Chair acknowledged receipt of an engagement letter for mediation services with Michael Kinney and a Mediation Agreement related to a court order for mediation in Gibbons v. Bock 27 Lake Lot Owners Assn v Kappas Enterprises, LLC, Burlington Northern Railroad, SID 5 of Cass County Nebraska et al; and Gibbons v. Kappas Enterprises, LLC and SID 5 of Cass County Nebraska; and SID 5 v. Kappas, Cases Numbered CI21-307. Motion by Martin, seconded by Grotrian to approve and authorize the Chair to execute the Mediation Agreement contingent on striking the language regarding binding arbitration. On roll call those voting aye: Meisinger, Martin and Grotrian. Voting nay: none. Absent: Gibson and Karr. Abstaining: none. The Chair declared the resolution adopted.

ITEM 12

Mr. Johnson advised that, as a matter of public record, there is a hearing on Monday related to various motions including a motion for summary judgement filed on behalf of the District. Mr. Johnson then advised that there was no need for a closed session.

ITEM 13

The agenda having been completed the Chair adjourned the meeting at 7:48 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