

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

Meeting convened at 6:00 p.m. on November 16, 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.

In the absence of the Chair, Trustee Grotrian nominated Trustee Martin to act as Chair for the meeting and to have Trustee Karr act as Clerk for the meeting. Both Trustees accepted their nomination.

**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: James Grotrian, Robert Karr and David L. Martin. Absent: Christine Gibson and Kurt Meisinger.

**ITEM 4**

Motion by Grotrian, seconded by Martin to recommend to the County's zoning administrator, the Cass County Planning Commission and the Cass County Board of Commissioners approval of the plating of Lot 22-R, Lot 24-R, and Outlot U-R, Block 31 - Replat II, Buccaneer Bay Subdivision, and Administrative Subdivision, being a replat of all of Outlot "U", and all of Lots 22 and Lot 24, Block 31, Buccaneer Bay - Replat II, a subdivision as surveyed, platted and recorded, in the SE 1/4 of the NE 1/4 of Section 5-T12N-R13E of the 6<sup>TH</sup> p.m., Cass County, Nebraska and to authorize execution of the mylar. On roll call those voting aye: Martin, Karr and Grotrian. Voting nay: none. Absent: Gibson and Meisinger. Abstaining: none. The Chair declared the resolution adopted.

**ITEM 5**

The Chair laid over consideration of authorizing the negotiation of a contract with Gretna Sanitation for District-wide trash collection services.

### **ITEM 6a**

Trustee Martin advised that Kerns Excavating would be fixing a fire hydrant and that maintenance was needed for the access to the wastewater treatment plant.

### **ITEM 6b**

Trustee Martin advised that work to construct improvement to the wastewater treatment plant was complete and that the closeout documents for the project would be the following items.

#### **ITEM 6b(1)**

The Chair acknowledged receipt a report from JEO Consulting Group regarding completion of the improvements at the wastewater treatment plant.

#### **ITEM 6b(2)**

Motion by Martin, seconded by Grotrian to approve Change Order No. 5 to the contract with Building Crafts, Inc., for construction of improvements to the wastewater treatment plant related to the replacement of leaking 2" waste valves on trains 1 & 2 and to lift station CPR 015 - Sterling Court additional and to authorize the acting Chair for the meeting to execute the change order. On roll call those voting aye: Martin, Karr and Grotrian. Voting nay: none. Absent: Gibson and Meisinger. Abstaining: none. The Chair declared the resolution adopted.

#### **ITEM 6b(3)**

Motion by Grotrian, seconded by Martin to approve the Partial Certificate of Substantial Completion related to the Ultraviolet Disinfection Equipment and all work pertaining to Specification Section 44 42 37 Vertical Fine Screen. On roll call those voting aye: Martin, Karr and Grotrian. Voting nay: none. Absent: Gibson and Meisinger. Abstaining: none. The Chair declared the resolution adopted.

#### **ITEM 6b(4)**

Motion by Martin, seconded by Grotrian to approve the Partial Certificate of Substantial Completion related to all work pertaining to Specification Section 11 37 80 – ISAM. On roll call those voting aye: Martin, Karr and Grotrian. Voting nay: none. Absent: Gibson and Meisinger. Abstaining: none. The Chair declared the resolution adopted.

#### **ITEM 6b(5)**

Motion by Martin, seconded by Karr to approve the Final Certificate of Substantial Completion related to all work. On roll call those voting aye: Martin, Karr and Grotrian. Voting nay: none. Absent: Gibson and Meisinger. Abstaining: none. The Chair declared the resolution adopted.

**ITEM 6b(6)**

Motion by Grotrian, seconded by Martin to approve Pay Application No. 13R1 for Building Crafts, Inc., for \$363,913.72, based on the recommendation of JEO Engineers, related to construction of improvements to wastewater treatment plant as recommended by the engineer. On roll call those voting aye: Martin, Karr and Grotrian. Voting nay: none. Absent: Gibson and Meisinger. Abstaining: none. The Chair declared the resolution adopted.

**ITEM 6b(7)**

Motion by Martin, seconded by Karr to approve the JEO Invoice, No. 145307, for services related to the construction of improvements to wastewater treatment plant. On roll call those voting aye: Martin, Karr and Grotrian. Voting nay: none. Absent: Gibson and Meisinger. Abstaining: none. The Chair declared the resolution adopted.

**ITEM 6b(8)**

Motion by Martin, seconded by Grotrian to approve the Wastewater System Fiscal Sustainability Plan, Cass County, Nebraska – SID #5 dated November 7, 2023 related to the construction of improvements to wastewater treatment plant. On roll call those voting aye: Martin, Karr and Grotrian. Voting nay: none. Absent: Gibson and Meisinger. Abstaining: none. The Chair declared the resolution adopted.

**ITEM 6b(9)**

Motion by Martin, seconded by Karr to approve execution of the Certification to the Nebraska Department of Environment and Energy Clean Water State Revolving Fund Program of the Fiscal Sustainability Plan (FSP) Certification, CWSRF Project No. 318035, Cass County SID #5, 2021 Wastewater Treatment Plant Expansion. On roll call those voting aye: Martin, Karr and Grotrian. Voting nay: none. Absent: Gibson and Meisinger. Abstaining: none. The Chair declared the resolution adopted.

**ITEM 6b(10)**

Motion by Martin, seconded by Grotrian to approve the Nebraska Department of Environment and Energy, State Revolving Fund Program, American Iron and Steel Products Final Certification for the State Revolving Fund SRF Project No. 318035, Cass County SID #5, 2021 Wastewater Treatment Plant Expansion. On roll call those voting aye: Martin, Karr and Grotrian. Voting nay: none. Absent: Gibson and Meisinger. Abstaining: none. The Chair declared the resolution adopted.

**ITEM 6c**

The report from PeopleService regarding water/wastewater operations and water billing is attached

hereto.

**ITEM 6d**

There was no new information regarding the status of water main connection between the City of Plattsmouth and Metropolitan Utilities District and the Chair laid the matter over to the next meeting.

**ITEM 6e**

Motion by Martin, seconded by Grotrian to approve and direct payment of Invoice No. 9590 from the Nebraska Department of Environment and Energy, State Revolving Fund, in repayment of the loan for the construction of the wastewater treatment plant, to transfer \$39,022.46 from the Service Fee Fund to the Construction fund for the loan payment, and to authorize the County Treasurer to make the payment to the Department. On roll call those voting aye: Martin, Karr and Grotrian. Voting nay: none. Absent: Gibson and Meisinger. Abstaining: none. The Chair declared the resolution adopted.

**ITEM 7a**

For a Committee report, Trustee Karr advised that the asphalt work for the street repairs had been completed but work on the manholes remained. The contractor paved an additional length of street in error, but it appears that the District might benefit. The contractor is expected to request some amount of payment based on any benefit to the District in terms of life of the existing paving and related.

**ITEM 8a**

Trustees Grotrian and Karr advised that additional work had been done on the parking lot but it was uncertain if all remaining work had been completed.

**ITEM 8b**

No action was necessary regarding the purchase of Lot 9, Block 1, Buccaneer Bay, a subdivision as surveyed, platted and recorded in Cass County, Nebraska.

**ITEM 9a**

The Chair presented the October utility revenue report, a copy of which is attached.

**ITEM 10**

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 minutes of October 17, 2023 meeting;
- b Approve payment of the claims and invoices; and
- c Transfer \$2,891.14 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 November 16, 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 November 16, 2023)**

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$ 602.50	18420	Frankel Zacharia	Inv. Nos. 4362 (Tech) and 135644 (finance & related reports; auditor documents request)
\$ 492.91	18421	Thomas & Thomas Ct Rptr	Inv. Nos. 423982 & 424018 (Gibbons v Block 27 depositions)
\$ 9,492.50	18422	Roger K. Johnson	Inv. No. 530 (attorney fees & costs)
\$ 3,236.07	18423	OPPD	Inv. service dates 10/4/23 - 11/3/23 (electricity)
\$ 7,215.66	18424	Ehrhart Griffin & Assoc	Inv. No. B9208 (engineering & surveying)

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 November 16, 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 November 16, 2023)**

<b><u>Amount</u></b>	<b><u>Warrant</u></b>	<b><u>Service Provider</u></b>	<b><u>Purpose</u></b>
\$ 81.73	18388	Windstream	Inv. dated 10/16/23 (well phone)
\$ 3,222.00	18389	Roger K. Johnson	Inv. No. 531 (attorney fees & costs)
\$ 16,269.25	18390	PeopleService, Inc.	Inv. No. 103333 (\$11,115.00 Dec ops; \$2,304.00 Oct billing; \$2,780.25 3 <sup>RD</sup> Q sales tax; \$70.00 bank fees NSF)

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 November 16, 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 November 16, 2023:

**CONSTRUCTION FUND WARRANTS**  
**CONSENT AGENDA, ITEM 11b**  
**(Due November 16, 2023)**

\$363,913.72	18217	Building Crafts, Inc.	Pay App. No. 13R1 (WWTP expansion)
\$ 3,167.50	18218	JEO Consulting Group, Inc.	Inv. No. 145307/Pay App No. 25 (WWTP expansion)
\$ 18,354.06	18219 & 18220	Roger K. Johnson	Inv. No. 20 (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: Martin, Karr and Grotrian. Voting nay: none. Absent: Gibson and Meisinger. 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 December 19, 2023.

**ITEM 12**

Mr. Johnson advised that, as a matter of public record, there is a hearing on 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 6:48 p.m.

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Christine Gibson, Trustee

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Kurt W. Meisinger, Trustee

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David L. Martin, Trustee

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Robert Karr, Trustee

Recorded by:

\_\_\_\_\_  
James Grotrian, Trustee

\_\_\_\_\_  
Roger K. Johnson, Attorney for the District