

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

Meeting convened at 6:00 p.m. on December 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 6:03 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 Meisinger, Robert Karr and David L. Martin. Absent: Christine Gibson and James Grotrian.

**ITEM 4**

Motion by Meisinger, seconded by Karr to acknowledge receipt of, and to accept, the resignation of Christine Gibson from the Board of Trustees of Sanitary and Improvement District No. 5, Cass County, Nebraska. On roll call those voting aye: Meisinger, Martin and Karr. Voting nay: none. Absent: Grotrian. Abstaining: none. The Chair declared the resolution adopted.

**ITEM 4a**

Following discussion, a consensus was reached to place a notice of vacancy in various media and to seek persons interested in filling the position on the Board and to then consider filling the vacancy at the January meeting.

**ITEM 5**

The Trustees generally discussed the use of a single trash hauler for the District. Trustee Meisinger noted that there were only 46 total responses to the request for input. Of the 46 responses, 22 were on the Facebook page, 22 were emailed, and 2 were on the facebook page and emailed. The Chair advised that any action would follow agenda item 5a which would allow residents to express their

thoughts and opinions on the issue.

### **ITEM 5a**

The following residents addressed the Trustees regarding the use of a single trash hauler for the District and the proposal from Gretna Sanitation:

Carolyn McKinley, Ridgeway  
David Mixan, Fairway  
Jim Weeks, Watersedge  
Brett Stalder, Buccaneer Blvd  
Jennifer Shallenberger, Fairway

Jerry Lynch, Windward Drive  
Spencer Thompson, Fairway  
Jim Shea, Sterling  
Linda Lynch, Windward  
Greg Shallenberger, Fairway

Points raised included the following:

- recycling should be a high priority
- an option to use 2 bins for recycling should be considered
- ensuring that Gretna Sanitation actually utilizes recycling centers rather than mixing it with trash and taking it to the landfill
- opposing a contract resulting in billing to all residents when some dispose of trash elsewhere and will not use the service
- should conduct a more extensive survey to determine interest in the District
- request an opt out to avoid getting billed for a service that won't be used
- the provider should be required to offer a yard waste without setting a minimum number of participants
- more expensive service for some
- recycle on own
- limits competition
- opposes including it on the water bill
- produce almost no trash
- single proposal received
- number of residents responding to the social media survey post

Motion by Martin, seconded by Meisinger to authorize the negotiation of a contract with Gretna Sanitation, based on its response to the request for proposals, for trash collection service District-wide. On roll call those voting aye: Meisinger, Martin and Karr. Voting nay: none. Absent: Grotrian. Abstaining: none. The Chair declared the resolution adopted.

Trustee Karr raised the issue of additional surveying of resident opinions. Trustees Meisinger and Martin agreed that additional surveying would be appropriate while contract negotiations were taking place.

### **ITEM 6a**

Trustee Martin advised that PeopleService was outlining a maintenance plan for water and

wastewater facilities, but based on work the last 2 years, would scale back the plan to the extent possible. Kerns Excavating was working on several District projects but still plan on replacing the remaining fire hydrant requiring attention. The testing of the effluent discharge from the wastewater treatment plant came back with the best test result ever produced by the plant.

#### **ITEM 6b**

Motion by Meisinger, seconded by Martin to approve revisions to the Combined Clean Water and Drinking Water State Fiscal Year 2025 Needs Survey related to the State Revolving Fund and authorize the Chair to sign and submit the same to the State. On roll call those voting aye: Meisinger, Martin and Karr. Voting nay: none. Absent: Grotrian. 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**

Trustee Meisinger advised that no actual contract had been proposed for action. Trustee Martin advised that the price proposed by a contractor to replace valves and related at the wastewater treatment plant was too high and that alternative solutions were under consideration. Mr. Johnson advised that to use the SRF loan, if the additional work was approved for inclusion, formal process, including bidding, would be required. The Chair laid the matter over to the next meeting.

#### **ITEM 6f**

Engineer Lucas Billesbach presented the proposal of Total Home Maintenance, LLC to remodel the well house to create office and related space. Motion by Martin, seconded by Karr to authorize the negotiation of a proposed contract Total Home Maintenance, LLC to remodel the well house to create office and related space at a price not to exceed \$100,000 and terms acceptable to both parties with approval of the contract considered at the January meeting. On roll call those voting aye: Meisinger, Martin and Karr. Voting nay: none. Absent: Grotrian. Abstaining: none. The Chair declared the resolution adopted.

### **ITEM 7a**

For a Committee report, Trustee Karr advised that the most work was completed before the asphalt plant was shut down and work was suspended for the year. The remaining work is to seal joints and cracks. While there is up to three years to seal the joint between the curb and the asphalt pavement edge, which is the remaining work for sealing, that work will be completed first thing next year. The remaining work on the manholes was completed. Work on Fairway looked good. Trustee Karr raised some questions about when Kerns Excavating would start work on Windward Court. Trustee Martin advised that Kerns was working at the wastewater treatment plant and had several maintenance projects for the District, but did plan on getting everything done, including Windward so long as the weather allowed.

### **ITEM 7b**

Trustee Karr advised that OMNI Engineering had paved more street than called for. OMNI proposed to be paid for the work but in an amount equal to 50% of what the paving would have cost under the contract pricing. OMNI indirectly suggested that there was an issue with the scope of the work marked on the street. Trustee Martin advised that he looked at the area marked and it appeared correctly marked to him, but that the life of the street was extended. Motion by Karr, seconded by Meisinger to settle the claim at the proposed 50% cost. On roll call those voting aye: Meisinger, Martin and Karr. Voting nay: none. Absent: Grotrian. Abstaining: none. The Chair declared the resolution adopted.

### **ITEM 8a**

In Trustee Grotrian's absence there was no grounds report.

### **ITEM 8b**

Motion by Meisinger, seconded by Martin to authorize the Chair to execute all necessary documents related to closing on the purchase of Lot 9, Block 1, Buccaneer Bay, Cass County, Nebraska. On roll call those voting aye: Meisinger, Martin and Karr. Voting nay: none. Absent: Grotrian. Abstaining: none. The Chair declared the resolution adopted.

### **ITEM 8c**

The Chair laid over consideration of the terms of the mowing contract for the 2024 and 2025 seasons and consider authorizing offering the same for bids and advised that the trustees should send any comments to Mr. Johnson for review and possible inclusion in the contract. Three items for revisions include: (1) move parcels to be mowed to an exhibit; (2) a renewal clause; and (3) pricing for 2, 3 and 4 year contracts. The Chair laid the matter over to the January meeting for further consideration.

**ITEM 9a**

The finance reports for November and December 2023 are attached.

**ITEM 9b**

The Water Billing Report for November 2023 is attached.

**ITEM 9c**

The county treasurer’s reports for the months ended October 31 and November 30, 2023 are attached. The November report was included in the packet although just received the afternoon of the meeting.

**ITEM 10**

Motion by Karr, 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 minutes of the November 16, 2023 meeting;
- b Approve payment of the claims and invoices; and
- c Transfer \$2,715.74 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 December 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 December 19, 2023)**

<b><u>Amount</u></b>	<b><u>Warrant</u></b>	<b><u>Service Provider</u></b>	<b><u>Purpose</u></b>
\$ 451.25	18425	Frankel Zacharia	Inv. Nos. 4418 (Tech) and 136243 (finance reports & annual statement)

\$ 2,558.97	18426	Wojo's Outdoors	Inv. No. 1083 (mow, trim & gravel access to WWTP)
\$ 7,655.46	18427	Ehrhart Griffin & Assoc	Inv. Nos. B9307 & B9336 (engineering & surveying)
\$ 754.00	18428	Thiele Geotech, Inc.	Inv. No. 81391 (paving material tests)
\$ 9,107.00	18429	Roger K. Johnson	Inv. No. 540 (attorney fees & costs)
\$ 3,060.84	18430	OPPD	Inv. service dates 11/3/23 - 12/5/23 (electricity)
\$323,620.00	18431	OMNI Engineering	Pay App Nos. 2 & 3 (street paving)
\$ 11,248.00	18432	Ambassador Title Services	Closing Statement Lot 9, Block 1

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 December 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 10b**  
**(Due December 19, 2023)**

<b><u>Amount</u></b>	<b><u>Warrant</u></b>	<b><u>Service Provider</u></b>	<b><u>Purpose</u></b>
\$ 864.90	18391	Priority Mechanical Serv	Inv. No. 3675 (heat install WWTP)
\$ 84.10	18392	Windstream	Inv. dated 11/15/23 (well phone)
\$ 5,431.32	18393	Core & Main	Inv. No. S166792 (water system parts)
\$ 1,836.00	18394	Roger K. Johnson	Inv. No. 541 (attorney fees & costs)
\$ 13,634.57	18395	PeopleService, Inc.	Inv. No. 103560 (\$11,115.00 Jan ops; \$2,316.00 Nov bills; \$203.57 laptop anti-virus, case & mouse)
\$ 180.00	18396	Country Mile Wireless	Inv. No. 0BFJD6 (internet access)

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 December 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 December 19, 2023:

**CONSTRUCTION FUND WARRANTS**  
**CONSENT AGENDA, ITEM 10b**  
**(Due December 19, 2023)**

\$ 6,800.11 18221 JEO Consulting Group, Inc. Inv. No. 146437/Pay App No. 26  
(WWTP expansion)

\$ 340.00 18222 Roger K. Johnson Inv. No. 21 (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 Meisinger. Voting nay: none. Absent: Grotrian. Abstaining: none. The Chair declared the resolution adopted.

## **ITEM 11**

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: January 23, February 20, March



19, April 23, May 21, and June 18, 2024.

**ITEM 12**

Mr. Johnson advised that the judge had not yet issued an order on the District’s motion for summary judgment so there was not need for a closed session regarding 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; and Gibbons v. Kappas Enterprises, LLC and SID 5 of Cass County Nebraska; and SID 5 v. Kappas, Cases Numbered CI21-307.

**ITEM 13**

The agenda having been completed the Chair adjourned the meeting at 8:05 p.m.

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James Grotrian, 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:

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Roger K. Johnson, Attorney for the District