

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

Meeting convened at 6:00 p.m. on January 31, 2024, 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: Kurt Meisinger, James Grotrian, Robert Karr and David L. Martin. Absent: none.

ITEM 4

The Chair advised that three residents expressed an interest in filling the vacancy on the Board of Trustees resulting from the resignation of Christine Gibson. One resident advised the Chair that he was no longer interested in appointment to the Board of Trustees. The Chair advised that the remaining two people expressing an interest in appointment to the Board were Jennifer Sommer and John Bolton. Both Ms. Sommer and Mr. Bolton discussed their interest in serving on the Board. Motion by Grotrian, seconded by Martin to appoint Jennifer Sommer to the Board of Trustees to fill the vacancy created by the resignation of Christine Gibson from the Board. On roll call those voting aye: Meisinger, Grotrian, Martin and Karr. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

ITEM 5

After discussion, no action was taken to add a community page, with a welcome packet, on the District's website. Trustee Martin advised that many items were already on the website and that he would add a link to the community Facebook page.

ITEM 6a

For a water and wastewater committee report, Trustee Martin advised that due to the weather, fire hydrant replacement will be in the spring and well house remodeling will begin soon.

ITEM 6b

There was no report from PeopleService regarding water/wastewater operations and water billing.

ITEM 6c

Trustees Meisinger and Martin, and Mr. Johnson, advised that there was nothing new to report on discussions with the City of Plattsburgh concerning becoming a wholesale buyer of water following the City's connection to Metropolitan Utilities District as a wholesale buyer.

ITEM 6d

Motion by Meisinger, seconded by Grotrian to award a contract to Midwest Mechanical Industrial Services for construction services to replace valves and manual actuators at the Wastewater Treatment Plant in the amount of \$78,119.00. On roll call those voting aye: Meisinger, Grotrian, Martin and Karr. Voting nay: none. Absent: none. Abstaining: Sommer. The Chair declared the resolution adopted.

ITEM 7a

For a Committee report, Trustee Karr advised that he met with JEO regarding its review of the streets and was in the process of comparing JEO's report to that of Ehrhart Griffin.

ITEM 7b

The 2023 street repairs accounting and report is attached.

ITEM 7c

Lengthy discussion was had regarding Lakeside Landscaping's performance plowing the streets following the recent snow. Several major deficiencies were identified sufficient to consider whether Lakeside was in breach of contract. Deficiencies included, but are not limited to, the following:

1. the parking lot and mailboxes were missed entirely, and Trustee's call about the lot and boxes was not returned;
2. a stop sign was knocked down;
3. Windward and Lakeside Dr. were not cleared anywhere near curb to curb;
4. most streets in the District were not cleared curb to curb;
5. Davy Jones Cir. was narrowed to 1 lane or less;
6. a storm drain inlet cover was hit and required replacement; and

7. a manhole cover was hit and damaged.
No specific action was taken regarding a declaration that Lakeside was in breach. The Chair directed Mr. Johnson to communicate to Lakeside that due to inadequate performance the Board would at a future meeting consider taking action to terminate the contract.

ITEM 8a

For a grounds committee report, Trustee Grotrian advised that there was nothing new.

ITEM 8b

Motion by Martin, seconded by Grotrian to authorize the issuance of a request for proposals to provide mowing services to the district with three options:

1. 2024 and 2025 mowing seasons;
2. 2024 through 2026 mowing seasons; or
3. 2024 through 2027 mowing seasons.

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

ITEM 8c

Mr. Johnson reported that the deed for the purchase of Lot 9, Block 1, Buccaneer Bay, Cass County, Nebraska had been recorded.

ITEM 9a

The finance report for January 2024 is attached.

ITEM 9b

The Water Billing Report for December 2023 is attached.

ITEM 9c

The county treasurer's report for the month ended December 31, 2023 is attached.

ITEM 9d

The Chair acknowledged receipt of the Sanitary and Improvement District No. 5 of Cass County, Nebraska Financial Statements and Independent Auditor's Reports for fiscal year ended June 30, 2023 prepared by Lengemann & Associates.

ITEM 9e

The Chair acknowledged receipt of the Governance Communications letter from Lengemann & Associates related to the District’s Board of Trustees role with respect to finances of the District.

ITEM 10

Motion by Meisinger, 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 the December 19, 2023 meeting;
- b Approve payment of the claims and invoices; and
- c Transfer \$2,845.96 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 January 31, 2024, 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 January 31, 2024)

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$ 465.00	18433	Frankel Zacharia	Inv. Nos. 4475 (tech) and 136683 (finance reports)
\$ 45,842.90	18434	OMNI Engineering	Pay App No. 4 (street paving)
\$ 484.82	18435	Ehrhart Griffin & Assoc	Inv. Nos. B9374 (\$686.76) & B9376 (\$552.06); credit B9336CR (\$754.00) (engineering & surveying)
\$ 7,400.00	18436	Lengemann & Assoc.	Inv. dated December 27, 2023 (audit services year ended June 30, 2023)

\$ 6,649.47	18437	Roger K. Johnson	Inv. No. 552 (attorney fees & costs)
\$ 27,375.00	18438	Lakeside Landscaping, Inc.	Inv. Nos. 6264; 6319; 6371; 6409; 6465; and 6511 (snow plowing)
\$ 3,198.14	18439	OPPD	Inv. service 12/5/23-1/5/24 (electric)

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 January 31, 2024 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 January 31, 2024)

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$ 1,341.25	18396	Embris Group, LLC	Inv. No. 387 (well house office)
\$ 81.38	18397	Windstream	Inv. dated 12/15/23 & 1/17/24 (well house)
\$ 85.41	18398	Papillion Sanitation	Inv. No. 6814646T050 (waste water treatment plant solid waste service)
\$ 1,782.00	18399	Roger K. Johnson	Inv. No. 553 (attorney fees & costs)
\$ 13,761.65	18400	PeopleService, Inc.	Inv. No. 103790 (\$11,115.00 Feb ops; \$2,300.00 Dec bills; \$35.00 NSF check; \$311.65 NDHHS testing)
\$ 527.50	18401	Hydro Optimization	Inv. No. 11647 (WWTP controls)

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 January 31, 2024, 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 January 31, 2024:

CONSTRUCTION FUND WARRANTS
CONSENT AGENDA, ITEM 10b
(Due January 31, 2024)

None.

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, Grotrian, Sommer, Karr and Meisinger. Voting nay: none. Absent: none. 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: February 20, March 19, April 23, May 21, and June 18, 2024.

ITEM 12a

Mr. Johnson advised that the judge had not yet issued an order on the District's motion for summary judgment so there was no 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 12b

Motion by Meisinger, seconded by Martin to enter closed session to protect the public interest to discuss fuel surcharges in contract negotiations with Gretna Sanitation for single trash hauler services. On roll call those voting aye: Grotrian, Martin, Sommer, 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 7:07 p.m. to discuss fuel surcharges in contract negotiations with Gretna Sanitation for single trash hauler services.

After allowing the public access to the meeting, motion by Meisinger, seconded by Karr to reconvene in open session at 7:37 p.m. On roll call those voting aye: Grotrian, Sommer, Martin, Meisinger and Karr. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

ITEM 13

The Chair laid over consideration of a contract with Gretna Sanitation for District-wide solid waste collection services.

ITEM 14

The agenda having been completed, the Chair adjourned the meeting at 7:38 p.m.

James Grotrian, Trustee

Kurt W. Meisinger, Trustee

David L. Martin, Trustee

Robert Karr, Trustee

Recorded by:

Jennifer Sommer

Roger K. Johnson, Attorney for the District