

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

Meeting convened at 6:00 p.m. on February 20, 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 6:04 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, Robert Karr, Jennifer Sommer and David L. Martin. Absent: Kurt Meisinger.

In the absence of the Chair, Trustee Grotrian nominated Trustee Martin to act as Chair and Trustee Sommer to act as Clerk for the meeting. Upon a second by Trustee Karr, both Trustees accepted their nomination.

**ITEM 4**

Mr. Andy Harpenau, President of Gretna Sanitation, was present to discuss with the Trustees a contract for District-wide solid waste collection services. In response to questions, Mr. Harpenau advised that:

1. There would be no fuel surcharge during either a three-year contract even with a spike in fuel price. Neither would there be a surcharge during years 4 and 5 if a five-year contract was signed because changes in fuel prices were factored in the price increase for the solid waste services.
2. So long as at least 200 houses participate in yard waste services, each household can select any combination of the following containers: trash, yard waste and recyclables. Without the 200 yard waste consumers, any combination of trash and recyclables is allowed.
3. If yard waste is offered, assuming the 200 consumers selecting the

service, up to 5 paper yard waste bags may be set out with the yard waste container.

4. Gretna might be open to allowing residents to opt out so long as it was not too many residences.

#### **ITEM 4a**

The Chair laid over consideration of entering into a contract with Gretna Sanitation for District-wide trash collection services.

#### **ITEM 5a and 5a(1)**

For a water and wastewater committee report, Trustee Martin advised that (1) a new fire hydrant was installed as the final hydrant requiring replacement; (2) when the well house remodeling began, it was discovered that under the floor was open space which will require additional concrete work; and (3) as a result of a water tower inspection performed by Viking Painting, routine maintenance was approved to remove manganese from the bottom of the sphere in order to avoid damaging the tank.

#### **ITEM 5b**

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

#### **ITEM 5c**

Trustee Martin and Mr. Johnson advised that they, along with Trustee Karr and engineer Lucas Billesbach, attended a city-held public information meeting concerning the proposed route of the water main from MUD to Plattsmouth. The proposed route through the District remained mostly unchanged. The City advised that it wanted to delay discussions with the District about a wholesale seller/buyer agreement until after the City's connection to Metropolitan Utilities District in order to avoid potential issues with the Federal Emergency Management Agency and its substantial funding of the City's project.

#### **ITEM 5d**

The Chair advised that the District must, pursuant to a directive from the United States Environmental Protection Agency, determine the materials of the water lines serving customers. Specifically, the District must determine whether the lines are lead or copper. The deadline for the survey is on or about September 1, 2024.

#### **ITEM 5e**

Mr. Johnson discussed the inspection performed by Viking Painting of the installation of the Country Mile Wireless equipment. The Chair laid over further discussion and possible action.

**ITEM 5f**

The Chair discussed the attached Inspection Report of Inland Potable Services, Inc. No action was necessary.

**ITEM 6a**

For a Committee report, Trustee Karr reported that (1) installation of a permanent stop sign was scheduled in 3 weeks; (2) all temporary stop signs had been installed; and (3) he had met with JEO regarding the erosion issue at 4122 Buccaneer Blvd to see what type of plan JEO would develop as a repair so that at the next meeting it might include consideration of an engineering contract for the same.

**ITEM 6b**

Trustee Karr briefly discussed the project status report from Dan Dolezal, Ehrhart Griffin engineers, a copy of which is attached. Kerns Excavating was on site and had started work on Windward.

**ITEM 6c**

Trustee Karr briefly discussed the attached letter to Lakeside Landscaping regarding its performance during the last snow storm.

**ITEM 7a**

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

**ITEM 7b**

Trustee Karr met with JEO engineers regarding the ways to remediate erosion at 4122 Buccaneer Blvd. A further report will follow at the next meeting.

**ITEM 7c**

Item 7c is a duplicate of Item 7b.

**ITEM 8a**

The finance report for February 2024 is attached.

**ITEM 8b**

The Water Billing Report for January 2024 is attached.

**ITEM 8c**

The county treasurer’s report for the month ended January 31, 2024 is attached.

**ITEM 9**

Motion by Grotrian, seconded by Sommer to approve Warrant No. 18440, dated February 20, 2024, to be drawn on the General Fund, to reimburse Trustee Martin for funds advanced in the amount of \$959.40 to pay for renewal of the Microsoft 365 Business Professional account, Receipt No. 2929858638. 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 February 20, 2024, to be drawn on the General Fund, and which are redeemable upon presentation to the Cass County Treasurer.

**GENERAL FUND WARRANT**

**ITEM 9**

**(Due February 20, 2024)**

<b><u>Amount</u></b>	<b><u>Warrant</u></b>	<b><u>Service Provider</u></b>	<b><u>Purpose</u></b>
\$ 959.40	18440	David Martin	Rect 2929858638 (365 subscription)

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, Sommer and Karr. Voting nay: none. Absent: Meisinger. Abstaining: Martin. The Chair declared the resolution adopted.

**ITEM 10**

Motion by Grotrian, 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 January 31, 2024 meeting;
- b Approve payment of the claims and invoices; and
- c Transfer \$3,228.83 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 February 20, 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 February 20, 2024)**

<b><u>Amount</u></b>	<b><u>Warrant</u></b>	<b><u>Service Provider</u></b>	<b><u>Purpose</u></b>
\$ 992.84	18441	Frankel, LLC	Inv. Nos. 1014 (tech) and 137328 (finance reports & IRS filings for vendors)
\$ 1,875.00	18442	Lakeside Landscaping, Inc.	Inv. Nos. 6565 (snow plowing)
\$ 6,316.43	18443	Roger K. Johnson	Inv. No. 568 (attorney fees & costs)
\$ 3,595.58	18444	OPPD	Inv. service 1/5/24-2/5/24 (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 February 20, 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 February 20, 2024)**

<b><u>Amount</u></b>	<b><u>Warrant</u></b>	<b><u>Service Provider</u></b>	<b><u>Purpose</u></b>
\$ 330.00	18402	Embris Group, LLC	Inv. No. 401 (well house office)
\$ 2,628.00	18403	Roger K. Johnson	Inv. No. 569 (attorney fees & costs)
\$ 16,472.23	18404	PeopleService, Inc.	Inv. No. 104009 (\$11,115.00 March ops; \$2,292.00 Jan bills; \$3,030.23 4 <sup>TH</sup> quarter taxes; \$35.00 NSF check)
\$ 83.00	18405	Windstream	Acct. 090963225 (well house phone)

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 February 20, 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 February 20, 2024:

**CONSTRUCTION FUND WARRANTS**  
**CONSENT AGENDA, ITEM 10b**  
**(Due February 20, 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 and Karr. Voting nay: none. Absent: Meisinger. 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: March 19, April 23, May 21, and June 18, 2024. The agenda for the next meeting should include consideration of a contract for engineering services to repair erosion near 4122 Buccaneer Blvd.

**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 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 13**

The agenda having been completed, the Chair adjourned the meeting at 7:20 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

\_\_\_\_\_  
Robert Karr, Trustee

Recorded by:

\_\_\_\_\_  
Jennifer Sommer

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