

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

Meeting convened at 6:00 p.m. on March 19, 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 6:00 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 Meisinger, Robert Karr, Jennifer Sommer and David L. Martin. Absent: none.

ITEM 4

Mr. Jim Paustian and Ms. Cheryl Myers addressed the Board regarding District-wide trash collection service. Following additional discussion, motion by Grotrian, seconded by Martin to direct Mr. Johnson to negotiate a 5-year contract with Gretna Sanitation for District-wide trash collection services with a goal of July 1, 2024 as a start day, subject to final approval by the Board of Trustees. On roll call those voting aye: Martin, Grotrian, Meisinger, Sommer and Karr. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

ITEM 5

Following discussion, the Chair renamed the Grounds Committee to Grounds and Recreation with those Trustees currently serving on the Grounds Committee to continue serving on the Grounds and Recreation Committee. Grounds and Recreation is charged with grounds maintenance and park development and maintenance. No formal action was necessary.

ITEM 6a

Trustee Martin provided a verbal Water and Wastewater Committee report including, but not limited

to, an update on the progress of the well house remodeling and issues with the installation of the UV sump pump.

ITEM 6b

The water tower inspection report prepared by Viking Industrial Painting is attached. The report identifies repairs needed over the next few years. Viking representatives will attend the April meeting to discuss the report and future repairs, and to propose a contract for future inspections.

ITEM 6c

Following discussion of the benefits from Viking's inspection of the water tower to evaluate the installation of equipment by Country Mile Wireless, motion by Martin, seconded by Meisinger to equally share the cost of the inspection with Country Mile Wireless. On roll call those voting aye: Martin, Grotrian, Meisinger, Sommer and Karr. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

ITEM 6d

PeopleService did not submit a report regarding water/wastewater operations and water billing.

ITEM 6e

No action was necessary following discussion of Plattsmouth's proposed route for a water main from the Metropolitan Utilities District's well site on the north side of the Platte River across from the District to the City.

ITEM 6f

No action was necessary following discussion of the directive of the United States Environmental Protection Agency to conduct a survey by September 1, 2024 to identify lead and copper water lines for customers of the District.

ITEM 6g

The 2023 Annual Water Quality Report is attached. The Chair directed Mr. Johnson to confirm that PeopleService is arranging the required publication of the report.

ITEM 6h

The current water and sewer rates ordinance is attached along together with a water rates survey for similar sized water systems. Rates are, overall, in line with other systems. Also attached is a financial analysis of current and projected water and sewer revenue compared to year to date and projected expenses.

ITEM 6i

Following discussion, no action was taken to amend the Water and Wastewater Fees Ordinance.

ITEM 6j

Motion by Meisinger, seconded by Martin to authorize Mr. Johnson to seek an amendment to the State Revolving Fund loan, in the approximate amount of \$55,000, for the construction of Wastewater Treatment Plant improvements to cover costs resulting from discoveries during construction. On roll call those voting aye: Martin, Grotrian, Meisinger, Sommer and Karr. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

ITEM 6k

Motion by Meisinger, seconded by Grotrian to approve Change Order No. 1 to the Jet Pump Backflush Modifications & UV Building Sump Pit project. On roll call those voting aye: Martin, Grotrian, Meisinger, Sommer and Karr. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

ITEM 6l

Motion by Martin, seconded by Karr to approve Pay Application No. 1 of Midwest Mechanical related to work on the Jet Pump Backflush & UV Bldg Sump Pit project. On roll call those voting aye: Martin, Grotrian, Meisinger, Sommer and Karr. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

ITEM 6m

Motion by Meisinger, seconded by Sommer to approve, and authorize the Chair to execute, an engineering contract with JEO Consulting Group design to design an alternative for the flow of water when the water tower is drained to avoid erosion caused by the current discharge location. On roll call those voting aye: Martin, Grotrian, Meisinger, Sommer and Karr. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

ITEM 6n

Motion by Martin, seconded by Meisinger to authorize a refund to Melvin Sudbeck Homes for an overpayment of water and sewer connection charges. On roll call those voting aye: Martin, Grotrian, Meisinger, Sommer and Karr. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

ITEM 7a

Trustee Karr provided a verbal roads committee report. He advised that he had requested an update

on the costs to complete the current road repair project and costs estimated for upcoming projects.

ITEM 8a

For a general grounds committee report, Trustee Grotrian and the Chair discussed advising the homeowner at the Buccaneer Blvd entrance to the District to remove logs placed the edge of the pavement, as well as gravel creating the appearance of a driveway access to his property. The discussion also included the District's removal of a nearby lawn sprinkler owned by the District.

ITEM 8b

Action on this item to remediate erosion at 4122 Buccaneer Blvd is a duplicate to Item 6m.

ITEM 8c

Mr. Johnson will redistribute a mowing contract request for proposals. Upon receipt, the Grounds and Recreation Committee will determine the lowest cost qualified proposal and award the contract.

ITEM 8d

No action was necessary regarding the award of a mowing contract.

ITEM 8e

Motion by Meisinger, seconded by Grotrian to request JEO engineers to inspect the current drainage issues involving the culvert between 19230 and 19238 Spyglass Ct., to prepare plans to correct the same and to prepare a proposed contract for JEO to administer bidding/requesting construction proposals, contract administration and construction observation. On roll call those voting aye: Martin, Grotrian, Meisinger, Sommer and Karr. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

ITEM 9a

The finance report for March 2024 is attached.

ITEM 9b

The Water Billing Report for March 2024 is attached.

ITEM 9c

The county treasurer's report for the month ended February 29, 2024 is attached.

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 February 20, 2024 meeting;
- b Approve payment of the claims and invoices; and
- c Transfer \$2,913.67 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 March 19, 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 March 19, 2024)

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$ 585.00	18445	Frankel, LLC	Inv. Nos. 1069 (tech) and 137972 (finance report, water billing report and review county treasurer’s report)
\$ 1,875.00	18446	Lakeside Landscaping, Inc.	Inv. Nos. 6624 & 6673 (apply salt)
\$ 5,957.00	18447	Roger K. Johnson	Inv. No. 581 (attorney fees & costs)
\$ 3,280.11	18448	OPPD	Inv. service 2/5/24-3/6/24 (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 March 19, 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 March 19, 2024)

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$ 1,333.75	18406	Embris Group, LLC	Inv. Nos. 426 & 429 (well house office & Plattsmouth water supply)
\$ 2,286.00	18407	Roger K. Johnson	Inv. No. 582 (attorney fees & costs)
\$ 13,411.00	18408	PeopleService, Inc.	Inv. No. 104243 (\$11,115.00 April ops; \$2,296.00 Feb bills)
\$ 88.53	18409	Windstream	Acct. 090963225; Inv. issued 2/15/24 (well house phone)
\$ 1,700.00	18410	Viking Industrial Painting	Inv. No. 104348 (inspect water tower)
\$ 180.00	18411	Country Mile Wireless	Inv. No. AZ2UF2 (Internet Service)
\$ 37,943.00	18412	Midwest Mechanical	Inv. No. T4547 (jet pump backflush & UV building sump)
\$ 9,360.00	18413	Kerns Excavating Co. Inc.	Inv. No. 17815 (sewer treatment plant grade and rock)

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 March 19, 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 March 19, 2024:

CONSTRUCTION FUND WARRANTS
CONSENT AGENDA, ITEM 10b
(Due March 19, 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, Meisinger, Sommer and Karr. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

ITEM 11

There were no items identified for the next meeting agenda.

ITEM 12

Motion by Meisinger, seconded by Sommer to enter closed session to protect the public interest to discuss 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. On roll call those voting aye: Grotrian, Martin, Meisinger, Sommer and Karr. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

The Chair stated that the Board of Trustees would enter closed session at 7:51 p.m. for the protection of the public interest to discuss 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.

After allowing the public access to the meeting, motion by Sommer, seconded by Grotrian to reconvene in open session at 8:15 p.m. On roll call those voting aye: Grotrian, Martin, Meisinger, Sommer and Karr. Voting nay: none. Absent: none. Abstaining: none. The Chair declared the resolution adopted.

ITEM 13

The agenda having been completed, the Chair adjourned the meeting at 8:16 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