

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

Meeting convened at 6:00 p.m. on July 23, 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

The Chair called the Meeting 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: Jennifer Sommer, Kurt Meisinger and David L. Martin. Absent: James Grotrian and Robert Karr.

ITEM 4

No persons appeared who wanted to address the Trustees as part of public comment.

ITEM 5a

The Chair continued the street committee report until later in the agenda to provide additional time for Trustee Karr to arrive.

ITEM 5b

Mr. Layne Kettelhaker, an engineer with JEO Consulting Group, presented two options for the Trustees to consider regarding drainage improvements on Spyglass Ct. Following discussion, the Chair laid the matter over to the August meeting to allow time to study the options.

Trustee Karr arrived at 6:04 p.m. during discussion of 5b.

ITEM 5a

For a Roads Committee report, Trustee Karr advised that he had met with engineer Dan Dolezal regarding options to improve the front entrance and road repairs for fall.

ITEM 6a

For a Utilities Committee report Trustee Martin advised that: (1) PeopleService has agreed to pay to furnish the office space at the well house; (2) there also was an issue with the utility billing software which has been resolved; and (3) water usage reached 400,000 gallons a day.

ITEM 6b

There was no report from PeopleService regarding Water/Wastewater and Water billing.

ITEM 6c

Trustee Martin reported that the valves to complete the work at the wastewater treatment plant were received and should be installed within a week. Otherwise, only a few minor issues remain.

ITEM 6d

The general consensus among the Trustees was that implementation of a District-wide trash collection service by Gretna Sanitation went smoothly.

ITEM 7a

For a grounds committee report, Trustee Sommer raised an issue with vehicles parking overnight in the parking lot. She advised that she would contact the county to see if they had any signs with standard language allowing temporary use to collect mail.

ITEM 7b

Trustee Sommer advised that there was nothing to report beyond what Trustee Karr previously stated.

ITEM 8a

The finance report for July 2024 is attached.

ITEM 8b

The Water Billing Report for billing through June 30, 2024 is attached.

ITEM 8c

The county treasurer’s report for the month ended June 30, 2024 is attached.

ITEM 8d

Motion by Martin, seconded by Sommer to approve the Frankel Letter of Engagement for work on the July 1, 2024 thru June 30, 2025 budget and to authorize the Clerk to execute the same. Trustee Meisinger advised of a potential conflict of interest as an employee of Frankel and stated that he would abstain from voting. On roll call those voting aye: Karr, Sommer and Martin. Voting nay: none. Absent: Grotrian. Abstaining: Meisinger. The Clerk declared the resolution adopted.

The Chair advised that Item 8f would be taken up before Item 8e.

ITEM 8f

Motion by Meisinger, seconded by Martin to approve the Letter of Engagement with Lengemann & Associates to conduct the audit of the financial records for fiscal year July 1, 2023 thru June 30, 2024. On roll call those voting aye: Meisinger, Karr, Sommer and Martin. Voting nay: none. Absent: Grotrian. Abstaining: none. The Chair declared the resolution adopted.

ITEM 8e

Trustee Meisinger outlined in detail the dollar amounts he thought were appropriate for the fiscal year July 1, 2024 thru June 30, 2025. Trustee Meisinger asked the rest of the Trustees to carefully review the initial draft and bring to the August meeting ideas for equipment purchases and other changes to the funding of the initial draft of the budget he prepared.

ITEM 9

Motion by Meisinger, seconded by Martin 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 June 18, 2024 meeting
- b Approve payment of the claims and invoices
- c Transfer \$7,032.74 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 July 23, 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 9b
(Due July 23, 2024)

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$ 305.00	18474	Frankel, LLC	Inv. Nos. 1325 (tech) & 141212 (finance report & water billing)
\$ 2,200.00	18475	Topple Tree Service LLC	Inv. No. 24104 (tree service)
\$ 225.00	18476	Angela Gianelli	Inv. attached (election mailing expense)
\$ 93.75	18477	Anthony Gianelli	Inv. attached (election mailing expense)
\$ 200.00	18478	Luis Waters	Inv. attached (election mailing expense)
\$ 6,400.00	18479	JEO Consulting Group, Inc.	Inv. No. 152114 (Spyglass drainage)
\$ 3,388.60	18480	OPPD	Inv. service 5/7/24-6/5/24 (electric)
\$ 4,375.94	18481	OPPD	Inv. service 6/5/24-7/6/24 (electric)
\$ 18,621.00	18482	Dodge Partners Insurance	Inv. No. 156101 (liability insurance)
\$ 1,078.00	18483	Roger K. Johnson	Inv. No. 656 (Gibbons attorney fees)
\$ 5,862.55	18484	Roger K. Johnson	Inv. No. 660 (attorney fees & costs)
\$ 713.39	18485	Roger K. Johnson	Inv. No. 655 (election expenses)

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 July 23, 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 9b
(Due July 23, 2024)

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$ 71.67	18437	Windstream	Inv. issued 6/17/24 (well house phone)
\$ 1,480.00	18438	TREKK	Inv. No. 785 (haul sludge)
\$ 16,513.01	18439	PeopleService, Inc.	Inv. No. 105165 (\$11,115.00 Aug ops; \$2,300.00 June billing; 2 ND Q sales tax; \$35.00 NSF check)
\$ 95,902.00	18440	Total Home Maintenance	Inv. No. 913 (well house remodeling)
\$ 10,815.00	18441	JEO Consulting Group, Inc.	Inv. No. 151458 (water tower overflow)
\$ 3,341.61	18442	AR Fabrication	Inv. No. 49259 (custom diffusers)
\$ 12,874.95	18443	Gretna Sanitation	July trash collection
\$ 1,710.00	18444	Roger K. Johnson	Inv. No. 657 (attorney fees & costs)

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 July 23, 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 July 23, 2024:

CONSTRUCTION FUND WARRANTS
CONSENT AGENDA, ITEM 9b
(Due July 23, 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: Sommer, Martin, Meisinger and Karr. Voting nay: none. Absent: Grotrian. Abstaining: none. The Chair declared the resolution adopted.

ITEM 10

Trustee Martin asked that the agenda for the next meeting include a discussion of prohibiting new private wells within the District boundaries. The Chair advised that the remaining 2024 meetings would be held at First State Bank Nebraska on August 20, September 17, October 22, November 19 and December 17, unless a new Board decided on different dates following the election.

ITEM 11

Motion by Meisinger, seconded by Martin to enter closed session to protect the public interest for the purpose of discussing 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: Case No. CI21-307. On roll call those voting aye: Martin, Sommer, Meisinger and Karr. Voting nay: none. Absent: Grotrian. Abstaining: none. The Chair declared the resolution adopted.

The Chair restated that the Board of Trustees would enter closed session at 7:18 p.m. to protect the public interest for the purpose of discussing 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: Case No. CI21-307.

Motion by Martin, seconded by Sommer, to reconvene in open session at 7:31 p.m. On roll call those voting aye: Meisinger, Sommer, Karr and Martin. Voting nay: none. Absent: Grotrian. Abstaining: None. The Chair declared the resolution adopted.

ITEM 12

Motion by Meisinger, seconded by Martin to direct Mr. Johnson to send letters to people who have placed obstructions in rights-of-way directing the removal of the same. On roll call those voting aye: Meisinger, Sommer, Karr and Martin. Voting nay: none. Absent: Grotrian. Abstaining: None. The Chair declared the resolution adopted.

ITEM 13

The agenda having been completed, the Chair adjourned the meeting at 7:35 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