

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

Meeting convened at 6:00 p.m. on September 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

The Chair called the Meeting to order at 6:01 p.m.

ITEM 2

The Chair announced the locations of the Open Meetings Act and the documents related to the agenda items.

ITEM 3

Roll Call: Present: Jennifer Sommer, Kurt Meisinger, Frank Gorhau Jr. and David L. Martin.
Absent: John Bolton.

ITEM 4

No persons appeared to address the Board as part of open session for public comment.

ITEM 5a

For a Utilities Committee Report, Trustee Martin advised that the following have been completed: plants winterized; all water meters read; and all work on the water tower.

ITEM 5b

The September and October 2024 PeopleService reports for Water/Wastewater and Water billing are attached.

ITEM 5c

The Chair laid over discussion and possible approval of a proposal from HOA to provide Cyber

Protection Information Technology services for the water/wastewater as an infrastructure protective measure.

ITEM 6b

Trustee Sommer advised that she had met with Kerns Excavation Co., Inc. who will submit a proposal to repair erosion at the rear property of the lot located at 4004 Buccaneer Blvd.

Trustee Bolton arrived at the meeting at 6:06 p.m.

ITEM 6a

Attached is Trustee Bolton's written report. For a Roads and Storm Water Management Committee report Trustee Bolton added that the Trustees would need to decide exactly what streets would need to be milled and overlaid in the spring. Fifty to sixty potholes were repaired and all those identified by residents.

ITEM 6c

The Chair advised that there were issues with a contractor working for Omaha Public Power District that was boring to construct infrastructure. The Chair stated that since he was out of town and Trustee Martin was out of town, he directed Mr. Messer of PeopleService to contact Mr. Johnson to handle the matter. The Chair further explained that Mr. Johnson issued a work Stop Order and letter advising of the requirements to have the Stop Order lifted. No response to the letter had been received, although Mr. Johnson advised that the company would not have received the letter that long ago.

Trustee Martin explained that the contractor declined to use a GIS map provided by Operator Lance Messer and refused to pothole to locate the plastic lines, which have no tracer wire. The contractor also stated that it would be hitting more service lines and the water main which resulted in the issuance of the Stop Order. Trustee Martin advised that Windstream and Cox Communications fairly recently installed infrastructure by boring. Both companies used the GIS map and potholed to locate the water lines, and neither struck a water line.

ITEM 6c1

Mr. Jeff Hart and Mrs. Karen Hart, 19320 Spyglass Ct. addressed the trustees regarding the contractor boring into the water service line supplying 19320 Spyglass resulting in a broken water service line and a loss of water to the house. Issues included in their complaint were that PeopleService did not assist in locating the service line; did not shut the water off in a timely manner at the main; and sending unqualified staff to address the issue.

ITEM 6d

Motion by Martin, seconded by Meisinger to have Mr. Johnson contact JEO to determine whether the District would qualify for a grant from the Lower Platte South Natural Resources District under its Community Assistance Program for Spyglass Ct Drainage Improvements and to prepare a grant application if the District is eligible for the grant. On roll call those voting aye: none. Voting nay: Martin, Gorhau, Bolton, Sommer and Meisinger. Absent: None. Abstaining: none. The Chair declared the resolution failed.

The Chair directed Mr. Johnson to contact the JEO to to get a cost estimate to have JEO determine whether the District is eligible for a grant under the Lower Platte South Natural Resources District under its Community Assistance Program.

ITEM 6e

Following discussion regarding the Application to occupy the right-of-way filed by the City of Plattsmouth for the construction of a water main, no action was necessary.

ITEM 6f

Motion by Gorhau, seconded by Meisinger to approve the Application to occupy the right-of-way filed by the City of Plattsmouth together with the right-of-way agreement for the construction of a water main and authorize the Chair to execute the agreement. On roll call those voting aye: Sommer, Gorhau, Meisinger, Martin and Bolton. Voting nay: none. Absent: None. Abstaining: none. The Chair declared the resolution adopted.

ITEM 6g

Issues regarding street pothole maintenance were addressed above, so no action was necessary.

ITEM 7a

For a Grounds and Recreation Committee Report, Trustee Sommer advised that the parking lot signs were effective.

Trustee Sommer left the meeting at 7:22 p.m.

ITEM 8a

The finance report for November 2024 is attached.

ITEM 8b

The water billing report for October 2024 is attached.

ITEM 8c

The county treasurer’s reports for the month ended October 31, 2024 had not been received.

ITEM nine

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 for the meeting held October 22, 2024;
- b Approve payment of the claims and invoices; and
- c Approve the transfer of \$3,408.80 from the Service Fee Fund to the 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 November 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 11c
(Due November 19, 2024)

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$ 978.40	18507	Frankel, LLC	Stmt No. 2021 (tech) & Inv. No. 143278 (finance report & audit)
\$ 1,628.00	18508	Roger K. Johnson	Inv. No. 722 (Gibbons attorney fees)
\$14,163.83	18509	Ehrhart Griffin & Assoc	Inv. No. C0131 (road repairs and surveying)
\$ 4,955.39	18510	Roger K. Johnson	Inv. No. 720 (attorney fees & costs)
\$ 3,775.86	18511	OPPD	Inv. service 10/7/24-11/5/24

(electric)

\$ 1,240.00 18512 Aspen Landscaping Inv. No. 226 (mowing)

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 November 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 11c
(Due November 19, 2024)

<u>Amount</u>	<u>Warrant</u>	<u>Service Provider</u>	<u>Purpose</u>
\$12,874.95	18466	Gretna Sanitation	Inv. No. 354809 (November trash collection)
\$ 83.05	18467	Windstream	Inv. issued 10/16/24 (well house phone)
\$ 175.13	18468	HTM Sales, Inc.	Inv. No. 41893-1 (relay and mounting socket)
\$ 2,088.00	18469	Roger K. Johnson	Inv. No. 721 (attorney fees & costs)
\$ 276.94	18470	Hydro Optimization	Inv. No. 12249 (remote service)
\$13,868.00	18471	PeopleService, Inc.	Inv. No. 106078 (\$11,560.00 Dec Serv; \$2,308.00)

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 November 19, 2024, to be drawn on the Construction Fund, and which are redeemable upon presentation to the Cass County Treasurer:

CONSTRUCTION FUND WARRANTS
CONSENT AGENDA, ITEM 11c
(Due November 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: Gorhau, Meisinger, Martin and Bolton. Voting nay: none. Absent: Sommer. Abstaining: none. The Chair declared the resolution adopted.

ITEM 10

The next meetings were set on January 21, 2025; February 18, 2025; March 18, 2025; April 22, 2025; May 20, 2025; and June 17, 2025.

ITEM 11

No items were identified for the next meeting.

ITEM 12

Motion by Martin, seconded by Meisinger to enter closed session to the 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, all at Case Number CI21-307; communications between meetings; approach to negotiations of an easement through certain outlots for the installation of a water main. On roll call those voting aye: Gorhau, Meisinger, Martin and Bolton. Voting nay: none. Absent: Sommer. Abstaining: none. The Chair declared the resolution adopted.

The Chair advised that at 7:30 p.m. the Trustees would enter closed session to the 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, all at Case Number CI21-307; communications between meetings; approach to negotiations of an easement through certain outlots for the installation of a water main

Motion by Meisinger, seconded by Bolton to return to open session at 7:52. On roll call those voting aye: Gorhau, Meisinger, Martin and Bolton. Voting nay: none. Absent: Sommer. Abstaining: none. The Chair declared the resolution adopted.

ITEM 14

The agenda having been completed, the Chair adjourned the meeting at 7:53 p.m.

Frank Gorhau, Jr., Trustee

Kurt W. Meisinger, Trustee

David L. Martin, Trustee

John Bolton, Trustee

Recorded by:

Jennifer Sommer, Trustee

Roger K. Johnson
Attorney for the District