



**PAPIO-MISSOURI RIVER
NATURAL RESOURCES DISTRICT
BOARD OF DIRECTORS MEETING MINUTES
March 14, 2019**

PLEDGE OF ALLEGIANCE

MEETING CALLED TO ORDER: A regular meeting of the Papio-Missouri River Natural Resources District Board of Directors was held at the Natural Resources Center, 8901 S. 154th Street, Omaha, NE on March 14, 2019. The meeting was called to order by Chairperson Thompson at 7:00 p.m.

NOTIFICATION OF OPEN MEETINGS ACT POSTING AND MEETING PROCEDURE

QUORUM CALL: The following Directors were present for the Quorum Call:

Danny Begley	Ted Japp
Larry Bradley	Tim McCormick
Fred Conley	Kevyn Sopinski
Tim Fowler	Jim Thompson
Mark Gruenewald	John Wiese

ADOPTION OF AGENDA:

- **MOTION NO. 1:** It was moved by Director Fowler and seconded by Director Conley that the meeting agenda be adopted.

Roll call vote was held on the motion. The motion carried on a vote of 10-yea.

Voting Yea	-	Begley, Bradley, Conley, Fowler, Gruenewald, Japp, McCormick, Sopinski, Wiese, Thompson
Voting Nay	-	None
Abstaining	-	None
Excused Absence	-	Tesar
Absent	-	Tesar

ADOPTION OF CONSENT AGENDA:

- **MOTION NO. 2:** It was moved by Director Conley and seconded by Director Fowler that the following resolution be adopted:

Agenda Item 4.:

BE IT RESOLVED that the absences of the following Directors from the March 14, 2019 Board of Directors Meeting are excused: Director Rich Tesar.

Agenda Item 7.A. and 7.B.:

BE IT RESOLVED that the February 14, 2019 Papio-Missouri River NRD Board Meeting minutes and the February 13, 2019 Dakota County Rural Water Advisory Board Meeting minutes are approved as printed.

Roll call vote was held on the motion. The motion carried on a vote of 10-yea.

Voting Yea - Begley, Bradley, Conley, Fowler, Gruenewald, Japp, McCormick, Sopinski, Wiese, Thompson
Voting Nay - None
Abstaining - None
Excused Absence - Tesar
Absent - Tesar

PROOFS OF PUBLICATION OF MEETING NOTICE: Notice of the meeting was published in the Omaha World Herald on March 7, 2019. The District's January 11, 2019 through February 14, 2019 expenditures were published in the Papillion Times on February 27, 2019. The Chairperson ordered the Proofs of Publication recorded in the minutes of this meeting. (They are contained as part of the file copy of these minutes.)

AGENCY AND ASSOCIATION REPORTS:

- A. Natural Resources Conservation Service Report: Neil Jensen, District Conservationist, gave the report of NRCS activities for the month of March. Neil's report is posted to the website and attached to the file copy of the meeting minutes.
- B. Nebraska Association of Resources Districts: Director Fowler stated he was not able to attend the NARD Board of Directors Meeting that was held March 11, 2019 at the Embassy Suites in Lincoln, NE, thus had nothing to report.
- C. Legislative Report – Husch Blackwell: General Manager Winkler gave the report on Legislative activities. His report can be heard on the District's podcast.
- D. Nebraska Natural Resources Commission: Director Bradley reported on the NNRC Meeting that was held March 6, 2019 in Kearney, NE. His report can be heard on the District's podcast.

SUBCOMMITTEE REPORTS:

- A. Programs, Projects and Operations Subcommittee: Director Conley reported that the PPO Subcommittee met on March 12, 2019 and gave a brief recap of the meeting.

•• **MOTION NO. 3:**

It was moved by Director Conley that the following recommendation be adopted:

PPO Recommendation #1:

Interlocal Agreement with City of Papillion for Water Sustainability Fund Application for West Papillion Levees:

It is recommended that the General Manager be authorized to execute the proposed Interlocal Agreement with the City of Papillion for Phase 1A of the West Papillion Levee Accreditation Project with a maximum not-to-exceed District contribution of \$17,613, subject to changes deemed necessary by the General Manager and approval as to form by District Legal Counsel.

Director Gruenewald had questions regarding the federal/local funding amounts and Director Japp asked about the current flooding impact on this levee. Staff member Amanda Grint addressed their questions.

Roll call vote was held on the motion. The motion carried on a vote of 9-yea and 1-nay.

Voting Yea	-	Begley, Bradley, Conley, Fowler, Japp, McCormick, Sopinski, Wiese, Thompson
Voting Nay	-	Gruenewald
Abstaining	-	None
Excused Absence	-	Tesar
Absent	-	Tesar

Platte River Bridge Trail:

•• **MOTION NO. 4:**

It was moved by Director Conley that the following recommendation be adopted:

PPO Recommendation #2.a:

Selection of National Environmental Policy Act (NEPA) Services: It is recommended that the Board waive District Policy 15.2 Purchasing – Professional Services, and that the General Manager be authorized to send notification to Nebraska Department of Transportation to negotiate with HDR Engineering Inc. for NEPA services related to the Platte River Bridge Trail.

Roll call vote was held on the motion. The motion carried on a vote of 10-yea.

Voting Yea	-	Begley, Bradley, Conley, Fowler, Gruenewald, Japp, McCormick, Sopinski, Wiese, Thompson
Voting Nay	-	None
Abstaining	-	None
Excused Absence	-	Tesar
Absent	-	Tesar

•• **MOTION NO. 5:**

It was moved by Director Conley that the following recommendation be adopted:

PPO Recommendation #2.b:

Selection of Professional Engineering (PE) Services: It is recommended that the Board waive District Policy 15.2 Purchasing – Professional Services, and that the General Manager be authorized to send notification to Nebraska Department of Transportation to negotiate with Schemmer for Professional Engineering services related to the Platte River Bridge Trail.

Roll call vote was held on the motion. The motion carried on a vote of 10-yea.

Voting Yea	-	Begley, Bradley, Conley, Fowler, Gruenewald, Japp, McCormick, Sopinski, Wiese, Thompson
Voting Nay	-	None
Abstaining	-	None
Excused Absence	-	Tesar
Absent	-	Tesar

•• **MOTION NO. 6:**

It was moved by Director Conley that the following recommendation be adopted:

PPO Recommendation 3:

Elkhorn River Improvement Project Area (IPA) Operation and Maintenance Assessment: It is recommended that a special assessment for the operation and maintenance of the Elkhorn River Bank Stabilization Improvement Project Area be levied against the benefited parcels in the total amount of \$20,000 for calendar year 2019 and that the following Resolution be adopted:

BE IT RESOLVED by the Board of Directors of the Papio-Missouri River Natural Resources District that each of the lots and parcels of ground in Douglas County, Nebraska, identified in the “2019 Assessment Schedule,” attached hereto as Exhibit “A” and incorporated herein by reference, has been specially benefited by the District’s program of operation and maintenance upon the construction and capital improvements involved with the District’s Elkhorn River Bank Stabilization Improvement Project; that special benefits from such program of operation and maintenance are correctly set out in the respective amounts appearing opposite the designation of said lots and parcels of ground in said schedule; that such respective amounts appearing opposite said lots and parcels of ground in said schedule are hereby levied as special assessments against such lots and parcels of ground; and, that said assessments shall become due fifty (50) days after date, to-wit: shall become due on May 3, 2019, and may be paid within said time without interest, but if not paid by May 3, 2019, each such assessment shall draw interest at the rate of nine per cent (9%) per annum from and after date until delinquent; and, from and after date that each installment become delinquent, shall draw interest at the rate of fourteen per cent (14%) per annum until paid.

BE IF FURTHER RESOLVED that the Secretary of the District shall certify a copy of this levy resolution to the County Clerk and County Treasurer of Douglas County, Nebraska, for spreading the same on the tax records of such County, and such special assessments shall be collected by the County Treasurer as provided by law.

Roll call vote was held on the motion. The motion carried on a vote of 10-yea.

Voting Yea	-	Begley, Bradley, Conley, Fowler, Gruenewald, Japp, McCormick, Sopinski, Wiese, Thompson
Voting Nay	-	None
Abstaining	-	None
Excused Absence	-	Tesar
Absent	-	Tesar

•• **MOTION NO. 7:** It was moved by Director Conley that the following recommendation be adopted:

PPO Recommendation #4: LPRCA Water Quality Monitoring Network Funding: It is recommended that the District continue to partner in the LPRCA Water Quality Monitoring Network long-term gauges at Louisville, Ashland, and Waterloo, and partner in the site at Leshara, with a total cost not-to-exceed \$144,636, to be budgeted according to annual costs in the District's FY 2020, 2021, and 2022 budgets.

Director Japp asked how the gauges are being monitored, the costs associated with the monitoring, and who is responsible for the equipment. Staff members Eric Williams and Marlin Petermann addressed his questions.

Roll call vote was held on the motion. The motion carried on a vote of 10-yea.

Voting Yea	-	Begley, Bradley, Conley, Fowler, Gruenewald, Japp, McCormick, Sopinski, Wiese, Thompson
Voting Nay	-	None
Abstaining	-	None
Excused Absence	-	Tesar
Absent	-	Tesar

TREASURER'S REPORT:

•• **MOTION NO. 8:** It was moved by Director Bradley and seconded by Director Fowler that the following resolution be adopted:

BE IT RESOLVED that the Treasurer is authorized to expend general funds to pay: (1) claims listed in the February 2019 financial report; and, (2) any claims made prior to the next Board meeting for (a) earned salaries of District employees, (b) withholding taxes, (c) social security payments, (d) retirement program contributions, (e) utilities, (f) registration fees and expenses for upcoming meetings and conferences, (g) certified completed CAP and Special Project Area applications, (h) invoices which offer a credit or discount for payment made prior to the next

Board meeting, (i) postage, and, (j) building and grounds contract expenses.

BE IT FURTHER RESOLVED that the Treasurer is authorized to pay, from the respective operating accounts of the Washington County, Dakota County, and Thurston County Water Supply System, the Elkhorn Breakout Project, the Elkhorn River Stabilization Project, the Elk/Pigeon Creek Drainage Project, the Western Sarpy Drainage Project, the Papillion Creek Watershed Partnership, and the Southern Sarpy Watershed Partnership project bills listed on the February 2019 financial report, and future claims for project utilities.

BE IT FURTHER RESOLVED that the financial reports be affixed to and made a part of the minutes.

Roll call vote was held on motion. The motion carried on a vote of 9-yea and 1-nay.

Voting Yea	-	Begley, Bradley, Conley, Fowler, Japp, McCormick, Sopinski, Wiese, Thompson
Voting Nay	-	Gruenewald
Abstaining	-	None
Excused Absence	-	Tesar
Absent	-	Tesar

LEGAL UPDATE:

- **MOTION NO. 9:** It was moved by Director Conley and seconded by Director Fowler that the Board to into Executive Session to discuss pending litigation and land acquisition for the Missouri River R613/R616 Levee Improvement Project.

Roll call vote was held on the motion. The motion carried on a vote of 10-yea.

Voting Yea	-	Begley, Bradley, Conley, Fowler, Gruenewald, Japp, McCormick, Sopinski, Wiese, Thompson
Voting Nay	-	None
Abstaining	-	None
Excused Absence	-	Tesar
Absent	-	Tesar

The Board went into Executive Session at 7:29 p.m.

- **MOTION NO. 10:** It was moved by Director Fowler and seconded by Director Gruenewald that the Board return to General Session:

Roll call vote was held on the motion. The motion carried on a vote of 10-yea.

Voting Yea	-	Begley, Bradley, Conley, Fowler, Gruenewald, Japp, McCormick, Sopinski, Wiese, Thompson
Voting Nay	-	None
Abstaining	-	None
Excused Absence	-	Tesar

Absent - Tesar

The Board returned to General Session at 7:40 p.m.

- **MOTION NO. 11:** It was moved by Chairperson Thompson and seconded by Director Conley that the following recommendation be adopted:

Temporary Construction Easement Agreement(s): It is recommended that the General Manager is authorized to execute a temporary construction easement agreement with PCS Nitrogen Fertilizer, L.P., for an area containing 61.176 acres of land for the Missouri River R613/R616 Levee Improvement Project, which requires the District and/or its contractors to indemnify PCS Nitrogen Fertilizer for any damages associated with the construction activity, subject to changes deemed necessary by the General Manager and approval as to form by District Legal Counsel.

Roll call vote was held on the motion. The motion carried on a vote of 9-yea and 1-nay.

Voting Yea - Begley, Bradley, Conley, Fowler, Japp, McCormick, Sopinski, Wiese, Thompson
Voting Nay - Gruenewald
Abstaining - None
Excused Absence - Tesar
Absent - Tesar

- **MOTION NO. 12:** It was moved by Chairperson Thompson and seconded by Director Conley that the following recommendation be adopted:

Land Acquisition for the Missouri River R613/R616 Levee Improvement Project: It is recommended that the following resolution be adopted:

BE IT RESOLVED that the Board authorizes District Legal Counsel to initiate the filing of a petition, if necessary, in the County Court of Sarpy County, Nebraska, on behalf of the District, pursuant to the procedures governing eminent domain provided by Neb. Rev. Stat. § 76-701, et seq., for the appointment of appraisers to ascertain and determine the damages that will be sustained by the following landowners:

PCS Nitrogen Fertilizer LP/Nutrien, Ltd. - R-613 Tracts 6, 7
Arcadian Fertilizer/ PCS Nitrogen Fertilizer LP - R-613 Tract 8
Jason Hagen - R-616 Tract 8
Fairview Golf Company, Inc. - R-613 Tract 32

from the District's acquisition of the necessary land rights for the Missouri River R613/R616 Levee Improvement Project; and that the following resolutions be adopted:

RESOLUTION

WHEREAS, the Papio-Missouri River Natural Resources District (“the DISTRICT”) has plans to construct, modify and improve the Missouri River R-613 and R-616/613 Levees (the “PROJECT”) in Sarpy County, Nebraska as the local sponsor of Levees R-613 and R-616/613; and,

WHEREAS, the PROJECT was and continues to be a plan, facility, work and program within the contemplation of Neb. Rev. Stat. § 2-3229, which provides as follows, to-wit:

2-3229 Districts; purposes. The purposes of natural resources districts shall be to develop and execute, through the exercise of powers and authorities granted by law, plans, facilities, works, and programs relating to (1) erosion prevention and control, (2) prevention of damages from flood water and sediment, (3) flood prevention and control, (4) soil conservation, (5) water supply for any beneficial uses, (6) development, management, utilization, and conservation of ground water and surface water, (7) pollution control, (8) solid waste disposal and sanitary drainage, (9) drainage improvement and channel rectification, (10) development and management of fish and wildlife habitat, (11) development and management of recreational and park facilities, and (12) forestry and range management.

and,

WHEREAS, the Board of Directors of the DISTRICT does hereby find and determine as follows, to-wit:

The PROJECT is reasonable and feasible and is and will be of predominantly general benefit to the DISTRICT, with only incidental special benefit, within the contemplation of Neb. Rev. Stat. § 2-3252; and, the PROJECT will be carried out with any available funds of the DISTRICT; and,

The DISTRICT has identified certain permanent easements (hereinafter referred to as the “PERMANENT EASEMENTS”), hereinafter described, in, on, over and across lands owned by PCS Nitrogen Fertilizer Limited Partnership, a Delaware limited partnership (“CONDEMNNEES”) part of Gov. Lot 1, Gov. Lot 2 and Lot 4; together with part of N1/2SE1/4 and part of N1/2 SW1/4 all in Section 25, T13, R13 and Tax Lot 1 of Gov. Lot 1, Section 31, T13, R14 of Sarpy County, Nebraska, that are necessary for the PROJECT; and,

The DISTRICT previously negotiated in good faith with CONDEMNNEES in that: the DISTRICT offered to CONDEMNNEES an amount of money equal to the full fair market value of the appraised damages that would be sustained by CONDEMNNEES as a result of the DISTRICT’S acquisition of the EASEMENTS; and, the DISTRICT’S representatives made reasonable efforts to induce CONDEMNNEES to accept the DISTRICT’S offer, but such offer was rejected by CONDEMNNEES, through a counteroffer that significantly exceeded the appraised damages presented to the DISTRICT, leaving the negotiations at an impasse.

Economic and physical feasibility necessitates that the PROJECT be constructed in the location of the PERMANENT EASEMENTS.

Approvals by other agencies of this action are not required; and,

It is necessary that the DISTRICT exercise the right of eminent domain, granted to it by Neb. Rev. Stat. § 2-3234, in order to acquire for the PROJECT the PERMANENT EASEMENTS, evidenced and legally described in Exhibits A-1 and A-2 (“Easement Area”), conditioned as follows, to-wit:

(i) the District and its successors and assigns, shall have the permanent, full, and free right, liberty and authority to enter upon and use the Easement Area for the construction, operation and maintenance, repair and replacement of a flood control levee, and appurtenances along the Papillion Creek, Missouri River, and Platte River to reduce flooding, including, without limitation: clearing and snagging trees, brush, and other debris; construction, replacement, and repair of flood walls, flood barrier and storm water drainage structures (including, but not limited to relief wells); borrow and fill of earthen materials; flowage of waters and sediment; and, for pedestrian, vehicular and machine ingress and egress, including, without limitation, the right to have the air space above the Easement Area free from obstruction to such height as will permit passage and operation of machinery, all subject to the following:

1. There is reserved to the landowner, and its successors and assigns, the right and privilege to use the Easement Area at any time, in any manner and for any purpose not inconsistent with the full use by the District, its successors and assigns, of the rights herein granted; provided, however, no structures shall be erected, nor shall any other excavation, filling, or boring, nor any dumping or storage of personal property, be performed or permitted, nor any agricultural products or crops grown in the Easement Area without the prior written consent of the District, or its successors or assigns. In the event the landowner has property on either side of the Easement Area, the District will construct ramps sufficient to allow Landowner access and there shall be no severance of the landowner’s property.
2. The landowner shall not be responsible for operation or maintenance of any of the improvements contemplated by this easement.
3. This Easement shall not be construed to pass to the District any fee simple interest or title to the Easement Area.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the DISTRICT that the foregoing findings and determinations should be and are hereby made and adopted; and that, in the absence of voluntary conveyances of the PERMANENT EASEMENTS, the DISTRICT’S Legal Counsel should be, and is hereby, authorized and directed to initiate the filing of a petition in the County Court of Sarpy County, Nebraska, on behalf of the DISTRICT, pursuant to the procedures governing eminent domain provided by Neb. Rev. Stat. § 76-701, et seq., for the appointment of appraisers to ascertain and determine the damages that will be sustained by the respective landowners from the DISTRICT’S acquisition of the PERMANENT EASEMENTS.

RESOLUTION

WHEREAS, the Papio-Missouri River Natural Resources District (“the DISTRICT”) has plans to construct, modify and improve the Missouri River R-613 and R-616/613 Levees (the “PROJECT”) in Sarpy County, Nebraska as the local sponsor of Levees R-613 and R-616/613; and,

WHEREAS, the PROJECT was and continues to be a plan, facility, work and program within the contemplation of Neb. Rev. Stat. § 2-3229, which provides as follows, to-wit:

2-3229 Districts; purposes. The purposes of natural resources districts shall be to develop and execute, through the exercise of powers and authorities granted by law, plans, facilities, works, and programs relating to (1) erosion prevention and control, (2) prevention of damages from flood water and sediment, (3) flood prevention and control, (4) soil conservation, (5) water supply for any beneficial uses, (6) development, management, utilization, and conservation of ground water and surface water, (7) pollution control, (8) solid waste disposal and sanitary drainage, (9) drainage improvement and channel rectification, (10) development and management of fish and wildlife habitat, (11) development and management of recreational and park facilities, and (12) forestry and range management.

and,

WHEREAS, the Board of Directors of the DISTRICT does hereby find and determine as follows, to-wit:

A. The PROJECT is reasonable and feasible and is and will be of predominantly general benefit to the DISTRICT, with only incidental special benefit, within the contemplation of Neb. Rev. Stat. § 2-3252; and, the PROJECT will be carried out with any available funds of the DISTRICT; and,

The DISTRICT has identified certain permanent easements (hereinafter referred to as the “PERMANENT EASEMENTS”), hereinafter described, in, on, over and across lands owned by Arcadian Fertilizer, LP, a Delaware limited partnership, now owned by PCS Nitrogen Fertilizer Limited Partnership, a Delaware limited partnership (“CONDEMNNEES”) in the SW 1/4 of lying west of the Missouri River, Section 30, T13, R 14 of Sarpy County, Nebraska, that are necessary for the PROJECT; and,

The DISTRICT previously negotiated in good faith with CONDEMNNEES in that: the DISTRICT offered to CONDEMNNEES an amount of money equal to the full fair market value of the appraised damages that would be sustained by CONDEMNNEES as a result of the DISTRICT’S acquisition of the EASEMENTS; and, the DISTRICT’S representatives made reasonable efforts to induce CONDEMNNEES to accept the DISTRICT’S offer, but such offer was rejected by CONDEMNNEES, through a counteroffer that significantly exceeded the appraised damages presented to the DISTRICT, leaving the negotiations at an impasse.

Economic and physical feasibility necessitates that the PROJECT be constructed in the location of the PERMANENT EASEMENTS.

Approvals by other agencies of this action are not required; and,

It is necessary that the DISTRICT exercise the right of eminent domain, granted to it by Neb. Rev. Stat. § 2-3234, in order to acquire for the PROJECT the PERMANENT EASEMENTS, evidenced and legally described in Exhibit A-3 (“Easement Area”), conditioned as follows, to-wit:

(i) the District and its successors and assigns, shall have the permanent, full, and free right, liberty and authority to enter upon and use the Easement Area for the construction, operation and maintenance, repair and replacement of a flood control levee, and appurtenances along the

Papillion Creek, Missouri River, and Platte River to reduce flooding, including, without limitation: clearing and snagging trees, brush, and other debris; construction, replacement, and repair of flood walls, flood barrier and storm water drainage structures (including, but not limited to relief wells); borrow and fill of earthen materials; flowage of waters and sediment; and, for pedestrian, vehicular and machine ingress and egress, including, without limitation, the right to have the air space above the Easement Area free from obstruction to such height as will permit passage and operation of machinery, all subject to the following:

1. There is reserved to the landowner, and its successors and assigns, the right and privilege to use the Easement Area at any time, in any manner and for any purpose not inconsistent with the full use by the District, its successors and assigns, of the rights herein granted; provided, however, no structures shall be erected, nor shall any other excavation, filling, or boring, nor any dumping or storage of personal property, be performed or permitted, nor any agricultural products or crops grown in the Easement Area without the prior written consent of the District, or its successors or assigns. In the event the landowner has property on either side of the Easement Area, the District will construct ramps sufficient to allow Landowner access and there shall be no severance of the landowner's property.
2. The landowner shall not be responsible for operation or maintenance of any of the improvements contemplated by this easement.
3. This Easement shall not be construed to pass to the District any fee simple interest or title to the Easement Area.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the DISTRICT that the foregoing findings and determinations should be and are hereby made and adopted; and that, in the absence of voluntary conveyances of the PERMANENT EASEMENTS, the DISTRICT'S Legal Counsel should be, and is hereby, authorized and directed to initiate the filing of a petition in the County Court of Sarpy County, Nebraska, on behalf of the DISTRICT, pursuant to the procedures governing eminent domain provided by Neb. Rev. Stat. § 76-701, et seq., for the appointment of appraisers to ascertain and determine the damages that will be sustained by the respective landowners from the DISTRICT'S acquisition of the PERMANENT EASEMENTS.

RESOLUTION

WHEREAS, the Papio-Missouri River Natural Resources District ("the DISTRICT") has plans to construct, modify and improve the Missouri River R-613 and R-616/613 Levees (the "PROJECT") in Sarpy County, Nebraska as the local sponsor of Levees R-613 and R-616/613; and,

WHEREAS, the PROJECT was and continues to be a plan, facility, work and program within the contemplation of Neb. Rev. Stat. § 2-3229, which provides as follows, to-wit:

2-3229 Districts; purposes. The purposes of natural resources districts shall be to develop and execute, through the exercise of powers and authorities granted by law, plans, facilities, works, and programs relating to (1) erosion prevention and control, (2) prevention of damages from flood water and sediment, (3) flood prevention and control, (4) soil conservation, (5) water supply for any beneficial uses, (6) development, management, utilization, and conservation of ground water and surface water, (7) pollution control, (8) solid waste disposal and sanitary drainage, (9) drainage

improvement and channel rectification, (10) development and management of fish and wildlife habitat, (11) development and management of recreational and park facilities, and (12) forestry and range management.

and,

WHEREAS, the Board of Directors of the DISTRICT does hereby find and determine as follows, to-wit:

A. The PROJECT is reasonable and feasible and is and will be of predominantly general benefit to the DISTRICT, with only incidental special benefit, within the contemplation of Neb. Rev. Stat. § 2-3252; and, the PROJECT will be carried out with any available funds of the DISTRICT; and,

The DISTRICT has identified certain permanent easements (hereinafter referred to as the "PERMANENT EASEMENTS"), hereinafter described, in, on, over and across lands owned by Jason Hagen, an individual ("CONDEMNNEES") part of Tax Lot 14A in the Northeast Quarter (NE1/4) of Section 18, Township 13 North, R14 of Sarpy County, Nebraska, that are necessary for the PROJECT; and,

The DISTRICT previously negotiated in good faith with CONDEMNNEES in that: the DISTRICT offered to CONDEMNNEES an amount of money equal to the full fair market value of the appraised damages that would be sustained by CONDEMNNEES as a result of the DISTRICT'S acquisition of the EASEMENTS; and, the DISTRICT'S representatives made reasonable efforts to induce CONDEMNNEES to accept the DISTRICT'S offer, but such offer was rejected by CONDEMNNEES, through a counteroffer that significantly exceeded the appraised damages presented to the DISTRICT, leaving the negotiations at an impasse.

Economic and physical feasibility necessitates that the PROJECT be constructed in the location of the PERMANENT EASEMENTS.

Approvals by other agencies of this action are not required; and,

It is necessary that the DISTRICT exercise the right of eminent domain, granted to it by Neb. Rev. Stat. § 2-3234, in order to acquire for the PROJECT the PERMANENT EASEMENTS, evidenced and legally described in Exhibits A-4 ("Easement Area"), conditioned as follows, to-wit:

(i) the District and its successors and assigns, shall have the permanent, full, and free right, liberty and authority to enter upon and use the Easement Area for the construction, operation and maintenance, repair and replacement of a flood control levee, and appurtenances along the Papillion Creek, Missouri River, and Platte River to reduce flooding, including, without limitation: clearing and snagging trees, brush, and other debris; construction, replacement, and repair of flood walls, flood barrier and storm water drainage structures (including, but not limited to relief wells); borrow and fill of earthen materials; flowage of waters and sediment; and, for pedestrian, vehicular and machine ingress and egress, including, without limitation, the right to have the air space above the Easement Area free from obstruction to such height as will permit passage and operation of machinery, all subject to the following:

1. There is reserved to the landowner, and its successors and assigns, the right and privilege to use the Easement Area at any time, in any manner and for any purpose not inconsistent with the full use by the District, its successors and assigns, of the rights herein granted; provided, however, no structures shall be erected, nor shall any other excavation, filling, or boring, nor any dumping or storage of personal property, be performed or permitted, nor any agricultural products or crops grown in the Easement Area without the prior written consent of the District, or its successors or assigns. In the event the landowner has property on either side of the Easement Area, the District will construct ramps sufficient to allow Landowner access and there shall be no severance of the landowner's property.
2. The landowner shall not be responsible for operation or maintenance of any of the improvements contemplated by this easement.
3. This Easement shall not be construed to pass to the District any fee simple interest or title to the Easement Area.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the DISTRICT that the foregoing findings and determinations should be and are hereby made and adopted; and that, in the absence of voluntary conveyances of the PERMANENT EASEMENTS, the DISTRICT'S Legal Counsel should be, and is hereby, authorized and directed to initiate the filing of a petition in the County Court of Sarpy County, Nebraska, on behalf of the DISTRICT, pursuant to the procedures governing eminent domain provided by Neb. Rev. Stat. § 76-701, et seq., for the appointment of appraisers to ascertain and determine the damages that will be sustained by the respective landowners from the DISTRICT'S acquisition of the PERMANENT EASEMENTS.

RESOLUTION

WHEREAS, the Papio-Missouri River Natural Resources District ("the DISTRICT") has plans to construct, modify and improve the Missouri River R-613 and R-616/613 Levees (the "PROJECT") in Sarpy County, Nebraska as the local sponsor of Levees R-613 and R-616/613; and,

WHEREAS, the PROJECT was and continues to be a plan, facility, work and program within the contemplation of Neb. Rev. Stat. § 2-3229, which provides as follows, to-wit:

2-3229 Districts; purposes. The purposes of natural resources districts shall be to develop and execute, through the exercise of powers and authorities granted by law, plans, facilities, works, and programs relating to (1) erosion prevention and control, (2) prevention of damages from flood water and sediment, (3) flood prevention and control, (4) soil conservation, (5) water supply for any beneficial uses, (6) development, management, utilization, and conservation of ground water and surface water, (7) pollution control, (8) solid waste disposal and sanitary drainage, (9) drainage improvement and channel rectification, (10) development and management of fish and wildlife habitat, (11) development and management of recreational and park facilities, and (12) forestry and range management.

and,

WHEREAS, the Board of Directors of the DISTRICT does hereby find and determine as follows, to-wit:

A. The PROJECT is reasonable and feasible and is and will be of predominantly general benefit to the DISTRICT, with only incidental special benefit, within the contemplation of Neb. Rev. Stat. § 2-3252; and, the PROJECT will be carried out with any available funds of the DISTRICT; and,

The DISTRICT has identified certain permanent easements (hereinafter referred to as the “PERMANENT EASEMENTS”), hereinafter described, in, on, over and across lands owned by Fairview Golf Company, Inc. (“CONDEMNNEES”) part of Lot Two Hundred Fifty-Three (253) in Tregaron, a Subdivision, in Sarpy County, Nebraska, except that part platted in Village Green and except that part platted into Tregaron Replat I, that are necessary for the PROJECT; and,

The DISTRICT previously negotiated in good faith with CONDEMNNEES in that: the DISTRICT offered to CONDEMNNEES an amount of money equal to the full fair market value of the appraised damages that would be sustained by CONDEMNNEES as a result of the DISTRICT’S acquisition of the EASEMENTS; and, the DISTRICT’S representatives made reasonable efforts to induce CONDEMNNEES to accept the DISTRICT’S offer, but such offer was rejected by CONDEMNNEES, through a counteroffer that significantly exceeded the appraised damages presented to the DISTRICT, leaving the negotiations at an impasse.

Economic and physical feasibility necessitates that the PROJECT be constructed in the location of the PERMANENT EASEMENTS.

Approvals by other agencies of this action are not required; and,

It is necessary that the DISTRICT exercise the right of eminent domain, granted to it by Neb. Rev. Stat. § 2-3234, in order to acquire for the PROJECT the PERMANENT EASEMENTS, evidenced and legally described in Exhibits A-5 (“Easement Area”), conditioned as follows, to-wit:

(i) the District and its successors and assigns, shall have the permanent, full, and free right, liberty and authority to enter upon and use the Easement Area for the construction, operation and maintenance, repair and replacement of a flood control levee, and appurtenances along the Papillion Creek, Missouri River, and Platte River to reduce flooding, including, without limitation: clearing and snagging trees, brush, and other debris; construction, replacement, and repair of flood walls, flood barrier and storm water drainage structures (including, but not limited to relief wells); borrow and fill of earthen materials; flowage of waters and sediment; and, for pedestrian, vehicular and machine ingress and egress, including, without limitation, the right to have the air space above the Easement Area free from obstruction to such height as will permit passage and operation of machinery, all subject to the following:

1. There is reserved to the landowner, and its successors and assigns, the right and privilege to use the Easement Area at any time, in any manner and for any purpose not inconsistent with the full use by the District, its successors and assigns, of the rights herein granted; provided, however, no structures shall be erected, nor shall any other excavation, filling, or boring, nor any dumping or storage of personal property, be performed or permitted, nor any agricultural products or crops grown in the Easement Area without the prior written consent of the District, or its successors or assigns. In the event the landowner has property on either side of the Easement Area, the District will construct ramps sufficient to allow Landowner access and there shall be no severance of the landowner’s property.

2. The landowner shall not be responsible for operation or maintenance of any of the improvements contemplated by this easement.
3. This Easement shall not be construed to pass to the District any fee simple interest or title to the Easement Area.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the DISTRICT that the foregoing findings and determinations should be and are hereby made and adopted; and that, in the absence of voluntary conveyances of the PERMANENT EASEMENTS, the DISTRICT'S Legal Counsel should be, and is hereby, authorized and directed to initiate the filing of a petition in the County Court of Sarpy County, Nebraska, on behalf of the DISTRICT, pursuant to the procedures governing eminent domain provided by Neb. Rev. Stat. § 76-701, et seq., for the appointment of appraisers to ascertain and determine the damages that will be sustained by the respective landowners from the DISTRICT'S acquisition of the PERMANENT EASEMENTS.

Roll call vote was held on the motion. The motion carried on a vote of 9-yea and 1-nay.

Voting Yea	-	Begley, Bradley, Conley, Fowler, Japp, McCormick, Sopinski, Wiese, Thompson
Voting Nay	-	Gruenewald
Abstaining	-	None
Excused Absence	-	Tesar
Absent	-	Tesar

CHAIRPERSON'S REPORT:

A. Appointment of P-MRNRD Standing Subcommittees: Chairperson Thompson reported the appointments of the standing subcommittees. He noted the appointments require Board approval.

- **MOTION NO. 13:** It was moved by Chairperson Thompson and seconded by Director Fowler that the following resolution be adopted:

BE IT RESOLVED that Standing Subcommittee appointments, as presented by the Chairperson, are hereby approved.

Roll call vote was held on the motion. The motion carried on a vote of 10-yea.

Voting Yea	-	Begley, Bradley, Conley, Fowler, Gruenewald, Japp, McCormick, Sopinski, Wiese, Thompson
Voting Nay	-	None
Abstaining	-	None
Excused Absence:		Tesar
Absent	-	Tesar

The Chairperson concluded his report by thanking District staff and other agencies that play a role in support of the flood control efforts.

GENERAL MANAGER'S REPORT: GM Winkler provided an update on the current flood event issues and reviewed his report with the Board. His written report has been posted to the District's website.

INFORMATIONAL ITEMS:

A. Future Meetings: The Chairperson reviewed the following upcoming meetings with the Directors:

March 28, 2019	Papillion Creek Watershed Partnership Meeting, 10:00 a.m., NRC
March 30-April 3, 2019	NRDs' Annual Washington D.C. Meeting
April 9, 2019	P-MRNRD Subcommittee Meetings
April 11, 2019	P-MRNRD Board Meeting
April 13, 2019	Earth Day Omaha, 11:00 a.m.-6:00 p.m., Elmwood Park, Omaha
April 25, 2019	Papillion Creek Watershed Partnership Meeting, 10:00 a.m., NRC
April 28, 2019	Sarpy County Earth Day, noon-4:00 p.m., Lied Activity Center, 2700 Arboretum Drive, Bellevue

B. Next Meeting – April 11, 2019, at the NRC

ADJOURNMENT: Being no further business, the Chairperson declared that the meeting was adjourned at 7:59 p.m.

NOTE: These minutes reflect the actions and votes taken at the March 14, 2019 Board of Directors Meeting of the Papio-Missouri River Natural Resources District and are not an official transcript of the meeting. The audio cast of this meeting can be found on our website at www.papionrd.org.

I, the undersigned, Secretary of the Papio-Missouri River Natural Resources District, hereby certify that the foregoing are true and correct minutes of a meeting of the Board of Directors of the District held on March 14, 2019 that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and readily available for public inspection at the office of the District; that such subjects were contained in said agenda at least twenty-four hours prior to said meeting; that at least one copy of all reproducible material discussed at the meeting was available at the meeting for examination and copying by members of the public; that the minutes were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; and, that all news media requesting notification of the meeting of said body were provided advance notification of the time and place of said meeting.

Richard Tesar
District Secretary