



**PAPIO-MISSOURI RIVER  
NATURAL RESOURCES DISTRICT  
BOARD OF DIRECTORS MEETING MINUTES  
March 8, 2012**

**PLEDGE OF ALLEGIANCE**

**NOTIFICATION OF OPEN MEETINGS ACT POSTING AND MEETING PROCEDURE**

**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. 154<sup>th</sup> St., Omaha, NE on March 8, 2012. The meeting was called to order by Vice-Chairperson Dave Klug at 7:00 p.m.

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

Larry Bradley	Scott Japp
Fred Conley	Dave Klug
John Conley	Dorothy Lanphier
Gus Erickson	Rich Tesar
Tim Fowler	Jim Thompson

**ADOPTION OF AGENDA:**

- **MOTION NO. 1:** It was moved by Director Tesar and seconded by Director Erickson that the agenda be adopted.

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

Voting Yea	-	Bradley, F. Conley, J. Conley, Erickson, Fowler, Lanphier, Tesar, Thompson, Klug
Voting Nay	-	Japp
Abstaining	-	None
Excused Absence	-	Kolowski
Absent	-	Kolowski

**ADOPTION OF CONSENT AGENDA:**

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

BE IT RESOLVED that the following resolutions on the consent agenda are hereby adopted.

Agenda Item 3.A.:

BE IT RESOLVED that the absence of the following Director from the March 8, 2012, Board of Directors Meeting is excused:

Rick Kolowski

Agenda Item 7. A., 7.B. and 7.C.

BE IT RESOLVED that the February 9, 2012 Papio-Missouri River NRD Board Meeting Minutes; the February 8, 2012 Dakota County Rural Water Advisory Board Meeting Minutes; and the February 22, 2012 Washington County Rural Water #1 Advisory Board Meeting Minutes are approved as printed.

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

Voting Yea	-	Bradley, F. Conley, J. Conley, Erickson, Fowler, Lanphier, Tesar, Thompson, Klug
Voting Nay	-	Japp
Abstaining	-	None
Excused Absence	-	Kolowski
Absent	-	Kolowski

**PROOFS OF PUBLICATION OF MEETING NOTICE:** Notice of the meeting was published in the Omaha World Herald on March 1, 2012. The District's December 9, 2011-January 12, 2012 and January 13-February 9, 2012, expenditures were published in the Dakota County Star on February 9, 2012. The Chairperson ordered the Proofs of Publication recorded in the minutes of this meeting.

**AGENCY AND ASSOCIATION REPORTS:**

A. Natural Resources Conservation Service Report: Neil Jensen, NRCS District Conservationist, briefed the Board on NRCS activities. His written report is posted to the website.

B. Nebraska Association of Resources Districts: Director Tesar reported on the NARD Board Meeting held in Gothenburg, Nebraska on March 5, 2012. The NARD Elections were held and the new officers are Joe Anderjaska, President; Terry Martin, Vice-President; and Jim Bendfeldt, Secretary-Treasurer. Tesar briefed that there will be a 4% NARD dues increase for FY 12-13 and FY 13-14. In conclusion, Tesar stated that due to several high dollar medical claims, the NARD had to pull from the reinsurance carrier, and we should expect an increase in fees for the Risk Pool.

C. Legislative Report: Tim Gay, Husch Blackwell Sanders, gave the Legislative Report. He stated that there are 71 Legislative Candidates running in the 2012 Elections and suggested that now would be a good time to educate them on the District's mission.

D. Lower Platte River Corridor Alliance Report: Meghan Sittler's written report is posted to the website.

**SUBCOMMITTEE REPORTS:**

A. Programs, Projects and Operations Subcommittee: Director John Conley reported that the PPO Subcommittee met on March 6, 2012 and he gave a brief recap of the meeting.

•• **MOTION NO. 3** It was moved by Director J. Conley and seconded by Director Fowler that the following recommendation be adopted:

*PPO Recommendation #1:* Nebraska Land Trust Agreement – Recommend that the General Manger be authorized to execute the proposed Addendum to the 18 March, 2009 “Agreement Between Papio-Missouri River Natural Resources District and Nebraska Land Trust for Cooperative Assistance” that allows for an additional three year District commitment in the amount of \$30,000/year.

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

Voting Yea - Bradley, F. Conley, J. Conley, Erickson, Fowler, Lanphier, Tesar, Thompson, Klug  
Voting Nay - Japp  
Abstaining - None  
Excused Absence - Kolowski  
Absent - Kolowski

•• **MOTION NO. 4** It was moved by Director J. Conley and seconded by Director Bradley that the following recommendation be adopted:

*PPO Recommendation #2:* NRCS Farm and Ranch Protection Program for Allwine Prairie/Glacier Creek Expansion Project – Recommend that the General Manager be authorized to apply for NRCS Farm and Ranch Protection Program funding for the 76.16 acres north of Allwine Prairie as part of the Allwine Prairie/Glacier Creek Expansion Project.

Roll call vote was held on the motion. The motion carried unanimously.

Voting Yea - Bradley, F. Conley, J. Conley, Erickson, Fowler, Japp, Lanphier, Tesar, Thompson, Klug  
Voting Nay - None  
Abstaining - None  
Excused Absence - Kolowski

Absent - Kolowski

- **MOTION NO. 5** It was moved by Director J. Conley and seconded by Director Erickson that the following recommendation be adopted:

*PPO Recommendation #3:* Contract Amendment with Tetra Tech for the Accreditation of the R-613 and R-616 Levees – Recommend that the General Manager be authorized to execute this proposed contract amendment to the professional services agreement with Tetra Tech, Inc. for the Missouri River Levee System Units R-613 and R-616 Certification Project bringing the total not to exceed amount of the contract to \$1,234,821, subject to changes deemed necessary by the General Manager and approved 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 - Bradley, F. Conley, J. Conley, Erickson, Fowler, Lanphier, Tesar, Thompson, Klug  
Voting Nay - Japp  
Abstaining - None  
Excused Absence - Kolowski  
Absent - Kolowski

- **MOTION NO. 6** It was moved by Director J. Conley and seconded by Director Erickson that the following recommendation be adopted:

*PPO Recommendation #4:* Missouri River Levee System R-613 and R-616 Sediment Removal Project Bid – Recommend that the General Manager be authorized to execute a contract for Missouri River Levee R-613 and R-616 Sediment Removal Project with Navarro Enterprise Construction, for their total base bid of \$226,570 with disposal of sediment at a Construction and Demolition Debris Landfill.

Roll call vote was held on the motion. The motion carried unanimously.

Voting Yea - Bradley, F. Conley, J. Conley, Erickson, Fowler, Japp, Lanphier, Tesar, Thompson, Klug  
Voting Nay - None  
Abstaining - None  
Excused Absence - Kolowski  
Absent - Kolowski

- **MOTION NO. 7** It was moved by Director J. Conley and seconded by Director Fowler that the following recommendation be adopted:

*PPO Recommendation #5:* Urban Drainageway Program – City of Omaha Interlocal Agreement – Saddle Creek – Recommend that the Interlocal Agreement with the City of Omaha for the Saddle Creek Channel

Improvement Project be approved in an amount not to exceed \$811,380.00, subject to minor changes deemed necessary by the General Manager, and accepted as to form by District Legal Counsel.

Roll call vote was held on the motion. The motion carried unanimously.

Voting Yea - Bradley, F. Conley, J. Conley, Erickson, Fowler, Japp, Lanphier, Tesar, Thompson, Klug  
Voting Nay - None  
Abstaining - None  
Excused Absence - Kolowski  
Absent - Kolowski

•• **MOTION NO. 8** It was moved by Director J. Conley and seconded by Director F. Conley that the following recommendation be adopted:

*PPO Recommendation #6:* Urban Drainageway Program – City of Omaha Interlocal Agreement – Rockbrook Creek – Recommend that the Interlocal Agreement with the City of Omaha for the Rockbrook Creek Tributary Project be approved in an amount not to exceed \$713,280.00, subject to minor changes deemed necessary by the General Manager, and accepted as to form by District Legal Counsel.

Roll call vote was held on the motion. The motion carried unanimously.

Voting Yea - Bradley, F. Conley, J. Conley, Erickson, Fowler, Japp, Lanphier, Tesar, Thompson, Klug  
Voting Nay - None  
Abstaining - None  
Excused Absence - Kolowski  
Absent - Kolowski

•• **MOTION NO. 9** It was moved by Director J. Conley and seconded by Director F. Conley that the following recommendation be adopted:

*PPO Recommendation #7:* West Papillion Regional Basin Number 5 (WP5) Interlocal Agreement with the City of Papillion and Sarpy County – Recommend that the General Manager be authorized to execute the proposed West Papillion Creek Flood Control Interlocal Agreement with the City of Papillion, SID 290 and Sarpy County subject to changes deemed necessary by the General Manager and approved as to form by District Legal Counsel.

Director Japp started the discussion on the Interlocal Agreement. He said he was concerned that the members of SID 290 Board were also the developers for the area near the WP5 Project. He asked staff for what was included in the \$3.5 million dollars of expected expenditures. Amanda

Grint stated the \$3.5 million dollars covers the paving of 3-lanes, stormwater sewers, grading and the bridge and the District should expect \$850,000 from the County, SID 290, and the City of Papillion.

Director Lanphier stated her concerns of entering into an Interlocal agreement with the SID because of the financial instability of SID's within Sarpy County. She asked to have paragraph 17 of the Interlocal agreement updated to reflect that the East Sanitary Sewer has been completed, and requests a list of items from SID 290 identifying their needs. Director Lanphier also wanted to ensure that the necessary steps were taken to ensure financing and wanted to know if these things could be accomplished in one month's time. She asked the General Manager if we would be using Build American for bond financing. The General Manager's response was that it would be up to our Bond Counsel to determine the type of bonds issues.

- **SUBSTITUTE MOTION TO NO. 9** It was moved by Director Lanphier and seconded by Director Japp that this item be held over until next month.

There was further discussion by Directors, Staff and District's Legal Counsel. Paul Peters said that the Interlocal Agreement was a conglomeration of many ideas and stated that the risks of entering into the referenced agreement were minimal.

- **CALL THE QUESTION** It was moved by Director Erickson and seconded by Director Lanphier to call the question.

Roll call vote was taken to call the question. The motion carried unanimously.

Voting Yea	-	Bradley, F. Conley, J. Conley, Erickson, Fowler, Japp, Lanphier, Tesar, Thompson, Klug
Voting Nay	-	None
Abstaining	-	None
Excused Absence	-	Kolowski
Absent	-	Kolowski

Roll call was taken on the Substitute Motion to layover this item until next month. The motion failed on a vote of 5-yea and 5-nay.

Voting Yea	-	Bradley, F. Conley, Japp, Lanphier, Klug
Voting Nay	-	J. Conley, Erickson, Fowler, Tesar, Thompson
Abstaining	-	None
Excused Absence	-	Kolowski
Absent	-	Kolowski

Roll call was taken on the Original Motion. The motion carried on a vote of 7-yea and 3-nay.

Voting Yea	-	Bradley, F. Conley, J. Conley, Erickson, Fowler, Tesar, Thompson
Voting Nay	-	Japp, Lanphier, Klug
Abstaining	-	None
Excused Absence	-	Kolowski
Absent	-	Kolowski

- **MOTION NO. 10** It was moved by Director J. Conley and seconded by Director Erickson that the following recommendation be adopted:

*PPO Recommendation #8:* Purchase of a 2012 Compact/Mid-Size Truck with Remaining FY 2012 Budgeted Funds – Recommend that the low and best bid of \$13,533 submitted by Gregg Young Chevrolet for a 2012 Chevrolet Colorado be accepted with trade-in of the District’s 2005 Chevrolet Colorado, 4WD, Extended Cab, Pickup Truck, serial number 1GCDT196158188705.

Directors discussed the list of items that were identified as needing replacement on the 2005 Colorado. Further discussion included when the Board would be reviewing the existing policy on vehicle replacement. The General Manager stated the policy would be reviewed during the budget process or in the next 2-3 months.

Roll call vote was held on the motion. The motion carried on a vote of 6-yea and 4-nay.

Voting Yea - Bradley, F. Conley, J. Conley, Erickson, Fowler, Tesar,  
Voting Nay - Japp, Lanphier, Thompson, Klug  
Abstaining - None  
Excused Absence - Kolowski  
Absent - Kolowski

Director John Conley concluded his report with the update on the Missouri River Floodway Purchase Program for Iske Place and Elbow Bend. No action was required for this time.

B. Finance, Expenditure and Legal Subcommittee: Director Tesar reported that the FEL Subcommittee met on March 6, 2012 and he gave a brief recap of the meeting.

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

*FEL Recommendation #1:* Pigeon/Jones Site 15 Project Right of Way Purchase Agreements – Recommend that the following resolution is approved and adopted.

#### RESOLUTION

WHEREAS, on its own motion, the Papio-Missouri River Natural Resources District ("the DISTRICT") has proposed a project within the DISTRICT, in Dakota County, Nebraska, entitled the “Pigeon/Jones Creek Site 15 Project” (“the PROJECT”), consisting of the construction, operation and maintenance of a flood control dam and reservoir, public recreation facilities, channel improvements, flood storage facilities and wildlife habitat improvements.

The Board of Directors of the DISTRICT hereby finds and determines as follows, to-wit:

- (a) The PROJECT has as its principal purposes flood prevention and control, sediment control and prevention of damages from flood water and sediment, development and management of fish and wildlife habitat, and development and

management of recreational and park facilities.

(b) The PROJECT is a plan, facility, work and program within the contemplation of Section 3-3229, Neb.Rev.Stat., which authorizes the District 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. \* \* \* \*”

(c) The PROJECT is and will be of predominantly general benefit to the DISTRICT, with only incidental special benefit, within the contemplation of Section 2-3252, Neb.Rev.Stat., et seq; and, that the PROJECT should be carried out with any available funds of the DISTRICT.

(d) Certain parcels of land in Dakota County, Nebraska, hereinafter described (the “NECESSARY TRACTS”), owned by the parties hereinafter described (“the CONDEMNEDS”) are necessary to be acquired by the DISTRICT in fee simple for construction, operation and maintenance of the PROJECT, to-wit:

1. Tract Nos. 6, 24 and 25, owned by Duane Rohde, etal, the legal descriptions for such tracts being marked as Exhibit A hereto, incorporated herein by reference, and shall be attached and incorporated in the DISTRICT’S official minutes of this meeting and resolution.

2. Tract Nos. 9 and 10, owned by Dennis D. Rohde, etal, the legal descriptions for such tracts being marked as Exhibit B hereto, incorporated herein by reference, and shall be attached and incorporated in the DISTRICT’S official minutes of this meeting and resolution.

(e) The DISTRICT has negotiated in good faith with the CONDEMNEDS in that the DISTRICT retained licensed real estate appraisers to appraise the damages from the DISTRICT’S acquisition of the NECESSARY TRACTS; the DISTRICT offered to the CONDEMNEDS amounts of money equal to the appraised fair market value of the damages that will be sustained by such CONDEMNEDS as a result of the DISTRICT’S acquisition of the NECESSARY TRACTS; and, the District’s representatives made reasonable efforts by conference, telephone and correspondence to induce the CONDEMNEDS to accept the DISTRICT’S offers, but such offers have been refused, and that counterproposals by such CONDEMNEDS are unreasonable and unacceptable to the DISTRICT. A memorandum more particularly describing such negotiations is marked as Exhibit C hereto, incorporated herein by reference, and shall be attached and incorporated in the DISTRICT’S official minutes of this meeting and resolution.

(f) The physical and hydrologic characteristics of various features of the PROJECT require that they be constructed in the locations of the NECESSARY TRACTS.



(g) Approvals by other agencies are not required.

(h) It is necessary that the DISTRICT exercise the power of eminent domain, granted to it by Section 2-3234, Neb.Rev.Stat., in order for the DISTRICT to acquire the NECESSARY TRACTS for the PROJECT.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the DISTRICT that the foregoing findings and determinations are hereby approved and adopted; and that,

1. In the absence of the acceptance within 10 days by Duane Rhode, etal, of the DISTRICT'S revised offer in the amount of \$769,000 for the aforesaid Tracts 6, 24, and 25 of the Pigeon/Jones Site 15 Project, Legal Counsel is hereby authorized and directed to institute an action in the County Court of Dakota County, Nebraska on behalf of the DISTRICT to acquire fee simple title to such tracts by eminent domain, pursuant to the procedures provided by Section 76-701, Neb.Rev.Stat., et seq.; and,

2. In the absence of the acceptance within 10 days by Dennis D. Rhode, etal, of the DISTRICT'S revised offer in the amount of \$880,000 for the aforesaid Tracts 9 and 10 of the Pigeon/Jones Creek Site 15 Project, Legal Counsel is hereby authorized and directed to institute an action in the County Court of Dakota County, Nebraska on behalf of the DISTRICT to acquire fee simple title to such tracts by eminent domain, pursuant to the procedures provided by Section 76-701, Neb.Rev.Stat., et seq.

Roll call vote was held on the motion. The motion carried on a vote of 7-yea and 3-nay.

Voting Yea	-	Bradley, F. Conley, J. Conley, Erickson, Fowler, Tesar, Thompson
Voting Nay	-	Japp, Lanphier, Klug
Abstaining	-	None
Excused Absence	-	Kolowski
Absent	-	Kolowski

### **TREASURER'S REPORT:**

- **MOTION NO. 12:** It was moved by Director John Conley 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, 2012, 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 Dakota County, Thurston County and Washington County

#1 and Washington County #2 rural water supply projects, the Elkhorn River Bank Stabilization Project, the Elkhorn Breakout Project, the Elk/Pigeon Creek Drainage Project, the Western Sarpy Drainage District and Papillion Creek Watershed Partnership, the project bills listed on the February 2012, 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.

Director Japp asked about why an employee that he thought had retired was still showing up on the Employee Payroll. Jean Tait stated that at the time the individual went into Long Term Disability Status, the District's Policy stated an employee could utilize all of their annual leave and sick leave. In December of 2011 the District's Policy was changed to reflect that when an employee is approved for Long Term Disability the individual will be paid 100% of any remaining annual leave and 25% of any remaining sick leave.

Roll call vote was held on the motion. The motion carried on a vote of 8-yea, 1-nay and 1-abstention.

Voting Yea	-	Bradley, F. Conley, J. Conley, Erickson, Fowler, Tesar, Thompson, Klug
Voting Nay	-	Japp
Abstaining	-	Lanphier
Excused Absence	-	Kolowski
Absent	-	Kolowski

**CHAIRPERSON'S REPORT:**

Vice-Chairperson Klug reported that Directors Fowler and Thompson would be attending the NARD Washington D. C. Conference on March 10-14, 2012 and looks forward to their report.

**GENERAL MANAGER'S REPORT:** GM Winkler reviewed the GM Report with the Board and noted that the report had been posted to the website. He also updated the Board on the U.S. Agriculture Secretary, Tom Vilsack's visit to Nebraska. The focus and challenges ahead include jobs and budgeting. The GM also informed the Board that he was elected as President of the Natural Resources District's Managers Association. He will be hosting the August Manager's Meeting in Omaha.

**INFORMATIONAL ITEMS:**

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

March 10-14, 2012	NARD Washington D.C. Conference
March 22, 2012	Papillion Creek Watershed Partnership Meeting, 10:00 a.m., NRC

April 10, 2012	P-MRNRD Subcommittee Meetings
April 12, 2012	P-MRNRD Board Meeting
April 26, 2012	Papillion Creek Watershed Partnership Meeting, 10:00 a.m., NRC
May 1-2, 2012	Water Works Festival, Schramm Park, 9:00 a.m.
May 8, 2012	P-MRNRD Subcommittee Meetings
May 10, 2012	P-MRNRD Board Meeting
May 24, 2012	Papillion Creek Watershed Partnership Meeting, 10:00 a.m., NRC
May 28, 2012	Memorial Day – P-MRNRD Offices Closed
June 12, 2012	P-MRNRD Subcommittee Meetings
June 14, 2012	P-MRNRD Board Meeting
June 28, 2012	Papillion Creek Watershed Partnership Meeting, 10:00 a.m., NRC

B. Next Meeting: The next regularly scheduled meeting of the P-MRNRD Board of Directors will be held on April 12, 2012 at 7:00 p.m. at the NRC.

**ADJOURNMENT**: Being no further business, the Chairperson declared that the meeting was adjourned at 8:16 p.m.

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 8, 2012, 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.

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Richard Tesar  
District Secretary