



**PAPIO-MISSOURI RIVER  
NATURAL RESOURCES DISTRICT  
BOARD OF DIRECTORS MEETING MINUTES  
March 10, 2011**

**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 10, 2011. The meeting was called to order by Chairperson Rick Kolowski at 7:00 p.m.

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

Larry Bradley	Tim Fowler
Fred Conley	Scott Japp
John Conley	Dave Klug
Gus Erickson	Dorothy Lanphier
	Rick Kolowski

**ADOPTION OF AGENDA:**

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

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

Voting Yea	-	Bradley, Conley (Fred), Conley (John), Erickson, Fowler, Japp, Klug, Lanphier, Kolowski
Voting Nay	-	None
Abstaining	-	None
Excused Absence	-	Tesar, Thompson
Absent	-	Tesar, Thompson

**ADOPTION OF CONSENT AGENDA:**

- **MOTION NO. 2:** It was moved by Director Klug and seconded by Director Fred Conley 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 absences of the following Directors from the March 10, 2011, Board of Directors Meeting are excused:

Rich Tesar  
Jim Thompson

Agenda Item 7. A and B.

BE IT RESOLVED that the February 10, 2011 Papio-Missouri River NRD Board meeting minutes; and the February 9, 2011 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 8-yea and 1-nay.

Voting Yea	-	Bradley, Conley (Fred), Conley (John), Erickson, Fowler, Klug, Lanphier, Kolowski
Voting Nay	-	Japp
Abstaining	-	None
Excused Absence	-	Tesar, Thompson
Absent	-	Tesar, Thompson

**PROOFS OF PUBLICATION OF MEETING NOTICE:** Notice of the meeting was published in the Omaha World Herald on March 3, 2011. The District's January, 2011, expenditures were published in the Burt County Plaindealer on March 2, 2011. 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. He reported that the Conservation Reserve Program general sign-up begins on March 14, 2011 and continues through April 15, 2011. He also noted that the NRCS has compiled information on ways to reduce the use of hazardous household products (information posted to District's website).

B. Nebraska Association of Resources Districts: Director Kolowski reported that he, Director John Conley, John Winkler and Marlin Petermann would be representing the District on the NARD Washington DC Conference, March 14-16, 2011.

C. Legislative Report: Steve Grasz, Husch Blackwell Sanders, reported that today was the deadline for State Senators to name priority bills. He briefed the Board on the following bills being tracked for the District:

- ✓ LB 487 - Provide for resolution and ordinance power relating to flood protection and water quality enhancement projects – Hearing held February 23, 2011. The bill remains in Committee and was not designated as a priority bill.
- ✓ LB 656 - Change provisions relating to flood protection and water quality enhancement bonds. Hearing held on March 3, 2011. The bill remains in Committee and was not designated as a priority bill.
- ✓ LB 154 – Change procedures for filling vacancies on Natural Resources District Boards - The bill passed on a vote of 49-0 and signed by the Governor on February 22, 2011.
- ✓ LB 173 – Prohibit natural resources district board members from running for or holding more than one office. Hearing held on February 2, 2011. The bill failed to advance and remains in Committee. Was not designated as a priority bill.
- ✓ LB 383 - Eliminate state aid for municipalities, counties, and Natural Resources Districts – Hearing held on January 26, 2011. The bill passed and signed by Governor on March 10, 2011.
- ✓ LB 299 - Transfer funds from the NE Environmental Trust Fund to the Water Resources Cash Fund – Placed on General File with amendment. Designated priority bill by Senator Larson.
- ✓ LB 527 Change tax levy authority of natural resources district – Hearing held on February 2, 2011 and remains in Committee.
- ✓ LB 683 Create the Storm Water Management Commission – Hearing held on March 10, 2011. An amendment was offered to appoint someone from the P-MRNRD to the Commission.

D. Lower Platte River Corridor Alliance Report: Chairperson Kolowski noted that Megan Sittler, LPRCA Coordinator, was not at the meeting. Her report is posted to the website.

E. Ames, IA Storm Reconstruction Presentation: Amanda Grint presented information on the reconstruction of the Ames, IA, August 2010 storm event. The objective of the exercise was to look at some of the recent Midwest storms and see the impact one of those storms would have had on the Omaha metro area. The reconstruction involved recreating the rainfall event, utilizing the hydrology and hydraulics specific to the Papillion Creek watershed and estimating damages.

### **SUBCOMMITTEE REPORTS:**

A. Programs, Projects and Operations Subcommittee: Director John Conley reported that the PPO Subcommittee met on March 8, 2011 and he gave a brief recap of the meeting.

- **MOTION NO. 3** It was moved by Director John Conley that the following recommendation be adopted:

*PPO Recommendation #1:* Missouri River Trail – Phase 2, Task Order for Construction Engineering Contract with Schemmer – Recommendation that the Board of Directors adopt the Resolution presented to the

Subcommittee authorizing the General Manager to sign the Task Order Agreement between the Papio-Missouri River NRD and The Schemmer Associates for Construction Engineering Services for the Missouri River Trail Phase – 2 project for actual work performed up to a maximum of \$506,060.63.

Director Lanphier had several questions. Jim Becic noted that the District was responsible for 20% of the total cost as the local sponsor and that the Nebraska Department Of Roads had submitted an invoice for \$724,076.90. There was extended discussion.

**CALL FOR THE QUESTION**

It was moved by Director Fowler and seconded by Director Erickson to call for a vote on Motion No. 3.

Roll call vote was held on the motion to call for the question. The motion carried on a vote of 7-yea and 2-nay.

Voting Yea - Bradley, Conley (Fred), Conley (John), Erickson, Fowler, Klug, Kolowski  
Voting Nay - Japp, Lanphier  
Abstaining - None  
Excused Absence - Tesar, Thompson  
Absent - Tesar, Thompson

Roll call vote was held on Motion No 3. The motion carried on a vote of 7-yea, 1-nay and 1-abstention.

Voting Yea - Bradley, Conley (Fred), Conley (John), Erickson, Fowler, Klug, Kolowski  
Voting Nay - Lanphier  
Abstaining - Japp  
Excused Absence - Tesar, Thompson  
Absent - Tesar, Thompson

•• **MOTION NO. 4** It was moved by Director John Conley that the following recommendation be adopted:

*PPO Recommendation #2:* Contract Amendment #1 with HDR for Professional Services for Dam Site 15A – Recommendation that the General Manager be authorized to execute Contract Amendment 1 with HDR Engineering, presented to the Subcommittee, to provide additional engineering services for Damsite 15A for a maximum total contract fee of \$722,879, subject to changes deemed necessary by the General Manager and approved as to form by District legal counsel.

There was extended discussion.

**CALL FOR THE QUESTION**

It was moved by Director Fowler and seconded by Director Erickson to call for a vote on Motion No. 4.

Roll call vote was held on the motion to call for the question. The motion carried on a vote of 7-yea and 2-nay.

Voting Yea - Bradley, Conley (Fred), Conley (John), Erickson, Fowler, Klug, Kolowski  
Voting Nay - Japp, Lanphier  
Abstaining - None  
Excused Absence - Tesar, Thompson  
Absent - Tesar, Thompson

Roll call vote was held on Motion No. 4. The motion carried on a vote of 7-yea and 2-nay.

Voting Yea - Bradley, Conley (Fred), Conley (John), Erickson, Fowler, Klug, Kolowski  
Voting Nay - Japp, Lanphier  
Abstaining - None  
Excused Absence - Tesar, Thompson  
Absent - Tesar, Thompson

•• **MOTION NO. 5** It was moved by Director John Conley that the following recommendation be adopted:

*PPO Recommendation #3a:* Lower Platte River Corridor Alliance - USGS Sandbar Study – Recommendation that the Board of Directors approve the proposed LPRCA-sponsored USGS Pilot Sandbar Study on the Lower Platte River for a maximum P-MRNRD contribution of \$23,176, utilizing funds previously set aside for removal by the LPRCA of Platte river obstructions, such contribution towards such study to be conditional, however, upon an equivalent contribution being made by the Lower Platte South NRD and also upon the USACE making final its present determination that the LPRCA’s proposed river obstruction removal process, utilizing temporary fill to create a temporary causeway, should not be permitted.

Roll call vote was held on the motion. The motion carried on a vote of 7-yea, 1-nay and 1-abstention.

Voting Yea - Bradley, Conley (Fred), Conley (John), Erickson, Fowler, Klug, Kolowski  
Voting Nay - Japp  
Abstaining - Lanphier  
Excused Absence - Tesar, Thompson  
Absent - Tesar, Thompson

•• **MOTION NO. 6** It was moved by Director John Conley that the following recommendation be adopted:

*PPO Recommendation #3b:* Lower Platte River Corridor Alliance - USACE Bank Stabilization and Levee Inventory – Recommendation that action be deferred on the proposal for the USACE Bank Stabilization and Levee

Inventory until the status of the Federal share of the cost of such inventory is known.

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

Voting Yea - Bradley, Conley (Fred), Conley (John), Erickson, Fowler, Klug, Lanphier, Kolowski  
Voting Nay - Japp  
Abstaining - None  
Excused Absence - Tesar, Thompson  
Absent - Tesar, Thompson

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

*PPO Recommendation #4:* Bids Received for Dam Site 13 Tree Mitigation Project – Recommendation that the General Manager be authorized to execute a contract for the Dam Site 13 404 Permit Tree Mitigation with Patera Landscaping, LLC, for their total base bid of \$36,475.00.

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

Voting Yea - Bradley, Conley (Fred), Conley (John), Erickson, Fowler, Japp, Klug, Lanphier, Kolowski  
Voting Nay - None  
Abstaining - None  
Excused Absence - Tesar, Thompson  
Absent - Tesar, Thompson

•• **MOTION NO. 8** It was moved by Director John Conley that the following recommendation be adopted:

*PPO Recommendation #5:* Bids Received for Chalco Hills Trail and Road Improvements – Recommendation that bid of U.S. Asphalt Co. for \$95,017.20 for the Chalco Hills Trail and Road Improvement Project be accepted.

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

Voting Yea - Bradley, Conley (Fred), Conley (John), Erickson, Fowler, Japp, Klug, Lanphier, Kolowski  
Voting Nay - None  
Abstaining - None  
Excused Absence - Tesar, Thompson  
Absent - Tesar, Thompson

B. Finance, Expenditures and Legal Subcommittee: Director John Conley reported that the FEL Subcommittee met on March 8, 2011 and he gave a brief recap of the meeting.

- **MOTION NO. 9** It was moved by Director John Conley that the following recommendation be adopted:

*FEL Recommendation #1:* Accounts Over 110% - Recommendation that the following accounts be allowed to exceed 110% of the budgeted amount:

- Acct.# - 01 06-006-4052 – Vehicle/Equipment Repair Maintenance
- Acct# - 01 06-267-4479 – Contract Work
- Acct.# - 01 06-264-4400 – Professional Services

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

Voting Yea - Bradley, Conley (Fred), Conley (John), Erickson, Fowler, Japp, Klug, Lanphier, Kolowski  
Voting Nay - None  
Abstaining - None  
Excused Absence - Tesar, Thompson  
Absent - Tesar, Thompson

- **MOTION NO. 10** It was moved by Director John Conley that the following recommendation be adopted:

*FEL Recommendation #2:* Papio Creek Structure W-3 – Rehabilitation Project Temporary Construction Easement Extension – John and Mary Camden Property – Recommendation that the following resolution be adopted:

#### RESOLUTION

WHEREAS, on its own motion, the Papio-Missouri River Natural Resources District ("the DISTRICT") has undertaken a project ("the PROJECT") to rehabilitate the works and improvements comprising the DISTRICT'S Public Law-566 Dam Site W-3; and,

WHEREAS, the PROJECT is a plan, facility, work and program within the contemplation of Section 3-3229, R.R.S., 1997; and,

WHEREAS, the DISTRICT previously obtained from GRANTORS by eminent domain the following easements ("the EASEMENTS"):

1. A permanent easement ("the "PERMANENT EASEMENT") granting to the DISTRICT, its officers, agents, employees and contractors, the permanent and exclusive rights to construct, reconstruct, operate, maintain, repair, manage and regulate the PL 566 Project Site W-3 grade stabilization structure (hereinafter

referred to as the “DAM”) and the reservoir thereby impounded (hereinafter referred to as the “RESERVOIR”) in, on, under, over and across the tracts of land in Washington County, Nebraska, referred to collectively as the “PERMANENT EASEMENT” tracts in the page(s) of legal descriptions and diagrams attached hereto and reflected in the DISTRICT’S files as Exhibits “A”, “B” and “C” and incorporated herein by reference;

2. A temporary construction easement (“the TEMPORARY CONSTRUCTION EASEMENT”) granting to the DISTRICT, its officers, agents, employees and contractors, the temporary and exclusive right to use the tract of land in Washington County, Nebraska, referred to in the legal description and diagram attached hereto and reflected in the DISTRICT’S files as Exhibit “D” and incorporated herein by reference, for vehicular maneuvering, parking and servicing, equipment storage and other lawful purposes during the period of time between the commencement and the completion of the DISTRICT’S construction of the rehabilitated DAM and RESERVOIR in the PERMANENT EASEMENT tracts; provided, however, such period of time shall not exceed one year beginning with commencement of such construction; and,

3. A temporary ingress and egress easement (“the TEMPORARY INGRESS AND EGRESS EASEMENT”) granting to the DISTRICT, its officers, agents, employees and contractors, the temporary and non-exclusive right to use the tract of land in Washington County, Nebraska, described in the legal description and diagram attached hereto and reflected in the DISTRICT’S files as Exhibit “E” and incorporated herein by reference, for vehicular, equipment and pedestrian ingress and egress between the PERMANENT EASEMENT tracts and the public roads rights-of-way during the period of time between the commencement and completion of the DISTRICT’S construction of the rehabilitated DAM and RESERVOIR in the PERMANENT EASEMENT tracts, provided, however, such period of time shall not exceed one year beginning with commencement of such construction; and,

WHEREAS, the said EASEMENTS are subject to additional conditions, not all of which are recited herein, including, without limitation the following, to-wit:

a) The EASEMENTS are intended as supplementary and additional to the easement grants to the DISTRICT for the original PL 566 Project Site W-3 dam and reservoir that were made by James L. Christensen & Mildred J. Christensen in the instrument dated April 26,



1982, recorded on December 13, 1982 in Book 138 at Page 395 of the records of the Register of Deeds of Washington County, Nebraska, (partially released by the DISTRICT in the instrument dated February 10, 1984 and recorded on March 2, 1984 in Book 145 at Page 04-06 of the records of the Register of Deeds of Washington County, Nebraska); and,

b) CONDEMNNEES shall not be responsible for, nor authorized or entitled to participate in, construction, re-construction, operation, maintenance, repair, management or regulation of the DAM and RESERVOIR; and,

WHEREAS, the DISTRICT requires that the terms of the above-described temporary easements be extended until completion of construction of the rehabilitated DAM and RESERVOIR in the PERMANENT EASEMENT AREA, or until November 17, 2011, whichever shall first occur (the "TEMPORARY EASEMENT EXTENSIONS"), in order to permit the DISTRICT to complete and finish construction of the DAM;

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

A. In eminent domain petitions for appointment of appraisers, heretofore filed in the Washington County Court, the DISTRICT previously acquired the EASEMENTS from JOHN CAMDEN AND MARY CAMDEN, HUSBAND AND WIFE, AS JOINT TENANTS ("CONDEMNNEES"); and,

B. The DISTRICT has negotiated in good faith with CONDEMNNEES for the TEMPORARY EASEMENT EXTENSIONS in that the DISTRICT retained a licensed real estate appraiser to appraise the damages from the DISTRICT'S acquisition of the TEMPORARY EASEMENT EXTENSIONS; the DISTRICT offered to CONDEMNNEES an amount of money equal to the full fair market value of the damages thus appraised that will be sustained by CONDEMNNEES as a result of the DISTRICT'S acquisition of the TEMPORARY EASEMENT EXTENSIONS; and, the DISTRICT'S representatives made reasonable efforts to induce CONDEMNNEES to accept the DISTRICT'S offer, but all such offers and efforts have been ignored and refused, such negotiations therefore have failed, and the parties therefore are at an impasse;

C. Economic and physical feasibility necessitate that the PROJECT be constructed utilizing the TEMPORARY EASEMENT EXTENSIONS;

D. Approvals by other agencies are not required; and,

E. It is necessary that the DISTRICT exercise the right of eminent domain, granted to it by Section 2-3234, Neb. Rev. Stat., in order to acquire the TEMPORARY EASEMENT EXTENSIONS necessary for completion of the PROJECT.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the DISTRICT that the foregoing findings and determinations are hereby adopted; and that, in the absence of a voluntary grant of the TEMPORARY EASEMENT EXTENSIONS to the DISTRICT in accordance with the DISTRICT'S aforesaid offers, 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 Washington County, Nebraska, on behalf of the DISTRICT, for the appointment of appraisers, to ascertain, determine and report the damages sustained by CONDEMNNEES from the DISTRICT'S taking of the afore-described TEMPORARY EASEMENT EXTENSIONS, pursuant to the procedures governing eminent domain, as provided by Section 76-701, et seq., Neb. Rev. Stat.

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

Voting Yea	-	Bradley, Conley (Fred), Conley (John), Erickson, Fowler, Klug, Lanphier, Kolowski
Voting Nay	-	Japp
Abstaining	-	None
Excused Absence	-	Tesar, Thompson
Absent	-	Tesar, Thompson

C. Executive Subcommittee: Chairperson Kolowski reported that the Executive Subcommittee met on March 8, 2011 and he gave a brief recap of the meeting.

•• **MOTION NO. 11** It was moved by Director Klug and seconded by Director Fred Conley that the following recommendation be adopted:

*Exec Recommendation #1:* Draft Policy – 2.5 Directors – Code of Conduct for NRD Board of Directors and 2.6 – Directors – Handling Inappropriate Behavior – Recommendation that final discussion and action on proposed Policies 2.5 and 2.6, be laid over to the April 14, 2011 Board Meeting.

Roll call vote was held on the motion. The motion carried on a vote of 7-yea, and 2-abstension.

Voting Yea	-	Bradley, Conley (Fred), Conley (John), Erickson, Fowler, Klug, Kolowski
Voting Nay	-	None

Abstaining - Japp, Lanphier  
Excused Absence - Tesar, Thompson  
Absent - Tesar, Thompson

**TREASURER'S REPORT:**

- **MOTION NO. 12:** It was moved by Director John Conley and seconded by Director Erickson 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, 2011, 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, and the Western Sarpy Drainage District, the project bills listed on the February, 2011, 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 had questions regarding payments.

Roll call vote was held on the motion. The motion carried on a vote of 7-yea, and 2-nay.

Voting Yea - Bradley, Conley (Fred), Conley (John), Erickson, Fowler, Klug, Kolowski  
Voting Nay - Japp, Lanphier  
Abstaining - None  
Excused Absence - Tesar, Thompson  
Absent - Tesar, Thompson

**CHAIRPERSON'S REPORT:** The Chairperson asked Directors to review the draft policies regarding Directors Code of Conduct for discussion next month.

## **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 informed the Board that the District had received notification from the National Council on Compensation Insurance that the District's Workers Comp experience mod for FY 2012 has been set at .87. A factor of .87 means that the District has earned a 13% credit on our base premium. District employees are to be commended for practicing established safety rules and guidelines in our O&M facilities, job sites and offices.

Assistant General Manager Marlin Petermann then reported on the recent flooding on the Platte River and showed several slides.

## **INFORMATIONAL ITEMS:**

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

March 12-16, 2011	NARD Washington D.C. Conference
March 24, 2011	Papillion Creek Watershed Partnership Meeting, 10:00 a.m., NRC
April 12, 2011	P-MRNRD Subcommittee Meetings
April 14, 2011	P-MRNRD Board Meeting
April 20, 2011	Lower Platte River Corridor Alliance Quarterly Meeting, 9:30 a.m., Nebraska Game and Parks Commission, Lincoln
April 28, 2011	Papillion Creek Watershed Partnership Meeting, 10:00 a.m., NRC
May 10, 2011	P-MRNRD Subcommittee Meetings
May 12, 2011	P-MRNRD Board Meeting
May 26, 2011	Papillion Creek Watershed Partnership Meeting, 10:00 a.m., NRC
May 30, 2011	Memorial Day, P-MRNRD Offices Closed
June 7, 2011	P-MRNRD Subcommittee Meetings
June 9, 2011	P- MRNRD Board Meeting
June 23, 2011	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 14, 2011 at 7:00 p.m. at the NRC.

**ADJOURNMENT**: Being no further business, the Chairperson declared that the meeting was adjourned at 8:50 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 10, 2011, 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