



**Papio-Missouri River Natural Resources District  
Board of Directors Meeting  
Suggested Resolutions/Recommendations  
November 12, 2009**

**\*Agenda Item 4 - Agenda**

BE IT RESOLVED that the agenda be adopted.

**\*Agenda Item 5 – Consent Agenda**

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(s) from the November 12, 2009, Board of Directors Meeting is excused:

Rick Kolowski  
John Schwope

Agenda Item 7. A.

BE IT RESOLVED that the October 8, 2009 Papio-Missouri River NRD Board meeting minutes are approved as printed.

**\*Agenda Item 9.A. – Missouri River Levee Ad Hoc Consultant Selection Subcommittee**

BE IT RESOLVED that the minutes of the November 10, 2009, Missouri River Levee Ad Hoc Consultant Selection Subcommittee are accepted, incorporated in these minutes, and the following recommendation of the Subcommittee is hereby adopted and approved.

1. Contract with TetraTech to Provide Professional Services Missouri River Levee Project and Recommendation on Firm to be Hired – Recommendation that the General Manager to be authorized to execute a professional services contract with Tetra Tech to provide engineering services for certification of the Missouri River R-613 and R-616 Levees for a maximum fee of \$330,878, subject to changes deemed necessary by the General Manager and approval as to form by District legal counsel and that the subcommittee recommend

to the Board that account 03-12-4400, Project Maintenance - Professional Services, be allowed to exceed 110% of the budgeted amount.

**\*Agenda Item 9.B. – Programs, Projects and Operations Subcommittee**

BE IT RESOLVED that the minutes of the November 10, 2009, Programs, Projects and Operations Subcommittee are accepted, incorporated in these minutes, and the following recommendation(s) of the Subcommittee are hereby adopted and approved.

1. Interlocal Agreement with City of Omaha on Carter Lake Water Quality Project – Recommendation that the General Manager be authorized to execute an Interlocal Agreement with the City of Omaha for the Carter Lake Water Quality Improvement Project, subject to changes deemed necessary by the General Manager and approved as to form by District Legal Counsel.
2. Road Structure Cost-Sharing Application from Douglas County Highway Department – Recommendation that the Douglas County Highway Department application for financial assistance on a road structure project located about 1/2 mile west of 204<sup>th</sup> and F Street be approved for financial assistance, not to exceed \$127,500 and subject to fiscal year 2011 budget.
3. Waterloo Levee Design Contract – Amendment #2 – Recommendation that the General Manager be authorized to execute for and on behalf of the District a revision to the interlocal agreement between the District and the Village of Waterloo for the reconstruction of the Waterloo Levee, such revision providing for the equal sharing of increases in the engineering fee resulting from Contract Amendment #2 to the contract with JEO Consulting Group for the Design of Levee Improvements, said Contract Amendment #2 increasing to \$281,500.00 the maximum engineering fee payable under such contract, such revision to contain provisions deemed necessary by the General Manager and approved as to form by District Legal Counsel.
4. Papio Creek Bank Stabilization Project Bids – Recommendation that the General Manager be authorized to execute on behalf of the District a contract with Midwest Dumpers, Inc., for rock riprap bank stabilization work at four (4) sites on the Papillion Creek System for the total base bid of \$373,419.00.
5. Western Sarpy Clear Creek Levee Project – Segment #3 Construction (Fairview to Lincoln Road)
  - a. Qwest Communications Cable Relocation – Recommendation that the General Manager on behalf of the District be authorized to execute a contract with Qwest Communications for the relocation of Qwest Communications' cable, as required for construction of reach of the Western Sarpy Clear Creek Flood Reduction Project from Fairview Road to Schram Road, such contract to call for an estimated maximum cost to the District of \$77,588.70.

- b. OPPD Above Ground Power Line Relocation – Recommendation that the General Manager on behalf of the District be authorized to compensate Omaha Public Power District for the relocation of OPPD’s overhead powerline in the reach of the Western Sarpy Clear Creek Levee Project from Platteview Road to Schram Road, for an estimated cost to the District of \$65,245.00.

**\*Agenda Item 9.C. – Personnel, Legislative and Public Affairs Subcommittee**

BE IT RESOLVED that the minutes of the November 10, 2009, Personnel, Legislative and Public Affairs Subcommittee are accepted, incorporated in these minutes, and the following recommendation(s) of the Subcommittee are hereby adopted and approved.

1. Amendments to P-MRNRD Pay Program Administration Manual for Calendar Year 2010 – Recommendation that the following adjustments to the P-MRNRD Pay Program for CY 2010 be adopted:
  - The Compensation Structure (salary ranges) will not be adjusted for 2010, however will be reviewed again next year to determine the need for any possible adjustments.
  - Merit Matrix will be adjusted to an overall 2.5% for 2010
  - An increase of 1.5% will be given for 2010 COLA (Cost of Living)
2. Employee Grievances – Recommendation that the grievances be denied.

**\*Agenda Item 9.D. – Finance, Expenditures and Legal Subcommittee**

BE IT RESOLVED that the minutes of the November 10, 2009, Finance, Expenditures and Legal Subcommittee are accepted, incorporated in these minutes, and the following recommendation(s) of the Subcommittee are hereby adopted and approved.

1. Discussion of FY 2009 Audit – No action taken at this time.
2. Papio WP-5:
  - a. Papio Valley Parcel – Conflict of Interest – Recommendation that the following resolution be adopted:

BE IT RESOLVED by the Board of Directors of the Papio-Missouri River Natural Resources District that, because of District legal counsel’s conflict of interest, attorney Steven G. Seglin, of the firm of Crosby Guenzel, LLP, should be retained to represent the District in connection with the acquisition of WP-5

Project Tract No. 5 (Papio Valley Land Co.); and, that the General Manager of the District should be and is hereby authorized to execute for and on behalf of the District an agreement with such attorney for such representation, containing such terms and provisions as the General Manager determines necessary.

- b. Negotiations for WP-5 Tracts 1, 11 and 6 – Recommendation that the following resolutions be adopted:

**RESOLUTION**  
**WP-5 Project Tract Nos. 1 and 11**

WHEREAS, on its own motion, the Papio-Missouri River Natural Resources District ("the DISTRICT") has proposed to construct, operate and maintain the West Papillion Regional Basin No. 5 Project ("the PROJECT"), consisting of a multi-purpose flood control dam, reservoir and public recreational project, as generally described and depicted in the DISTRICT'S plans for the PROJECT, including the diagram presented to this meeting and incorporated herein by reference as Exhibit "A"; and,

WHEREAS, The PROJECT is a plan, facility, work and program within the contemplation of Section 2-3229, Neb.Rev.Stat., 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 Section 2-3252, Neb.Rev.Stat.; and, the PROJECT should be carried out with any available funds of the DISTRICT; and,

B. The DISTRICT has identified certain parcels of land in Sarpy County, Nebraska (“the ACQUISITION PARCELS”) that, because of the public

uses that will be made of PROJECT lands, waters and facilities, are necessary to be acquired in fee simple for purposes of construction, operation and maintenance of the PROJECT, to-wit:

Tract 1 (Rohwer), described and depicted in the legal description and diagram presented to this meeting and incorporated in this resolution by this specific reference as Exhibit “B”; and,

Tract 11 (DDF), described and depicted in the legal description and diagram presented to this meeting as Exhibit “C” and incorporated in this resolution by this specific reference as Exhibit “C”; and,

C. The District has negotiated in good faith with the respective owners of the ACQUISITION PARCELS (“the LANDOWNERS”) in that the District has retained a professional real estate appraiser who has appraised and determined the total fair market values of the ACQUISITION PARCELS and the damages that will be sustained by the respective LANDOWNERS as a result of the DISTRICT’S acquisition of fee simple title to the ACQUISITION PARCELS (“the APPRAISED COMPENSATION”); the District offered to the LANDOWNERS amounts of money equal to the APPRAISED COMPENSATION; and, the District’s representatives made reasonable efforts by personal contacts, telephone conferences, correspondence and other methods to negotiate in good faith with the LANDOWNERS and to induce them to accept the APPRAISED COMPENSATION, but that the DISTRICT’S offers have been refused, counter-proposals by the respective LANDOWNERS are unreasonable and unacceptable to the District, and such negotiations have failed and are at an impasse; and,

D. Economic and physical feasibility necessitate that the PROJECT be constructed in Sarpy County, as designed by the DISTRICT, alongside the current channel of the West Papillion Creek, at the locations of the ACQUISITION PARCELS; and,

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

F. Fee simple title to the land in the ACQUISITION PARCELS is necessary to be acquired by the DISTRICT for the PROJECT, among other things, in order to provide for permanent pool storage and periodic flood pool inundations; in order to provide for construction, operation and maintenance of public bicycle and pedestrian trails and other public recreational improvements; in order to provide for any necessary future utility relocations and stabilization measures; and, in order to satisfy the public access requirements of Section 2-3290.01(4), Neb.Rev.Stat.; and,

G. 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 fee simple title to the ACQUISITION PARCELS for purposes of the PROJECT.

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

fee title to the respective ACQUISITION PARCELS to the DISTRICT for the APPRAISED COMPENSATION, 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 Section 76-701, Neb.Rev.Stat., 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 fee title to the ACQUISITION PARCELS.

**RESOLUTION**  
**WP-5 Project Tract No. 6**

WHEREAS, for purposes of construction, operation and maintenance of its West Papillion Regional Basin No. 5 Project ("the PROJECT"), the Papio-Missouri River Natural Resources District ("the DISTRICT") has attempted to negotiate for the acquisition of fee title to the parcel of land in Sarpy County, Nebraska, referred to as Tract No. 6 in the DISTRICT'S plans for the PROJECT ("Tract No. 6"), and has offered to the owner(s) of Tract No. 6 the fair market value appraised by the DISTRICT'S appraiser, to-wit, the sum of \$3,862,970, for such acquisition; and,

WHEREAS, Tract No. 6, that includes a subtract of approximately 5.0 acres ("the FARMSTEAD"), consists of the easterly 101.657 acres of a larger parcel of land ("the VANDEVENTER FARM") comprising 156.4 acres, more or less, described and depicted in the legal description and diagram attached hereto collectively as Exhibit "A," and incorporated in this resolution by this specific reference; and,

WHEREAS, the owners of the VANDEVENTER FARM have proposed to sell to the DISTRICT the entire VANDEVENTER FARM for the sum of \$5,943,200, which is equal to the amount heretofore determined by the DISTRICT'S appraiser as the fair market value thereof, if the DISTRICT additionally commissions a survey delineating the boundaries of the FARMSTEAD, the cost of which survey is estimated to be \$1,500; and,

WHEREAS, the purchase by the DISTRICT of the entire VANDEVENTER FARM for purposes of the PROJECT would be a reasonable and feasible enhancement to the PROJECT.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the DISTRICT that the General Manager of the DISTRICT should be and is hereby authorized to execute for and on behalf of the DISTRICT an agreement between the DISTRICT and the owners of the VANDEVENTER FARM, providing for the purchase of the VANDEVENTER FARM by the DISTRICT for the sum of \$5,943,200 plus the cost of the aforesaid survey of the FARMSTEAD, and containing such other terms and conditions, including relocation costs estimated at \$30,000, as the General Manager determines reasonable and necessary and Legal Counsel approves as to form.

3. Papio Creek Watershed Structure W-3 Right of Way – Temporary Easement – Camden Property – No action taken at Subcommittee Meeting.

Pursuant to receipt of the Report of Appraisers on November 12, 2009, Legal Counsel recommends the following resolution be adopted:

Be it resolved that the General Manager be authorized to deposit with the Clerk of the Washington County Court the amounts of the awards made by the board of appraisers in the District's corrective condemnation action at Case No. CI-09-705, to-wit: \$300.00 to John Camden (co-owner), \$300.00 to Mary Camden (co-owner), and \$5.00 to William Ruhe (tenant), and that no appeal be taken from any such awards.

4. King Lake Floodway Property Acquisition – Recommendation that the General Manager be authorized to execute for and on behalf of the District the Purchase Agreement in the form as presented to this meeting providing for the purchase by the District from Jay Gould, etal, of 0.32 acres of floodway land for the purchase price of \$64,000, subject to changes deemed necessary by the General Manager and approved as to form by District Legal Counsel.

#### \*Agenda Item 10. A.-I. - Financials

BE IT RESOLVED that the Treasurer is authorized to expend general funds to pay: (l) claims listed in the October, 2009, 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 October, 2009, 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.

**\*Agenda Item 11. A. – P-MRNRD Board of Directors Meeting Scheduled for 2010**

BE IT RESOLVED that the following be adopted as the schedule for Papio-Missouri River NRD Board of Directors meetings for calendar year 2010:

January 14, 2010	July 8, 2010
February 11, 2010	August 12, 2010
March 11, 2010	September 9, 2010
April 8, 2010	October 14, 2010
May 13, 2010	November 18, 2010 ***
June 10, 2010	December 9, 2010

\*\*\* Meeting falls on November 11<sup>th</sup> (Veterans' Day) – suggested alternative November 18<sup>th</sup>.

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