



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

August 13, 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 August 13, 2009, Board of Directors Meeting is excused:

Larry Bradley
Tim Fowler
Dave Klug
Rich Tesar

Agenda Item 7. A.

BE IT RESOLVED that the July 9, 2009 Papio-Missouri River NRD Board meeting minutes are approved as printed.

***Agenda Item 10.A. – Regional Basin 15A Ad Hoc Consultant Selection Subcommittee**

BE IT RESOLVED that the minutes of the August 11, 2009, Regional Basin 15A Ad Hoc Consultant Selection Subcommittee are accepted, incorporated in these minutes, and the following recommendation of the Subcommittee is hereby adopted and approved.

1. Selection of Consulting Firms to be Interviewed – Recommendation that the firms of HDR and Tetra Tech be interviewed, in alphabetical order, to provide professional services for Regional Basin 15-A.

***Agenda Item 11.B. – Programs, Projects and Operations Subcommittee**

BE IT RESOLVED that the minutes of the August 11, 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. Amendment to Interlocal Agreement with City of Waterloo for JEO Consulting Group Contract for the Waterloo Levee Design – Recommendation that the General Manager be authorized to execute a revision in the June, 2008 interlocal agreement with the Village of Waterloo, such revision to provide for the equal sharing by the District and the Village of the \$41,000 increase in the maximum fees of JEO Consulting Group for the design of Waterloo Levee Improvements, and provide for a revised maximum fee of \$438,000, and a revised NRD cost share of \$219,000, and contain such other provisions deemed necessary by the General Manager and approved as to form by District Legal Counsel.
2. Discussion regarding Public Hearing for Abe’s Trash Service, Inc., Construction and Demolition Waste Landfill Request for Expansion (Requested by Director Bradley) – No action taken.
3. Zorinsky Water Quality Basins 1 and 2 – Professional Services Contract Amendment with Olsson & Associates – Recommendation that the General Manager be authorized to execute the proposed amendment to the District’s contract with Olsson Associates for professional engineering services for the Zorinsky Basin 1 and 2 Project, such amendment to provide that the “not-to-exceed” amount of the fees provided by such contract be increased from \$73,705 to \$302,487, and to contain such other provisions as deemed necessary by the General Manager and approved as to form by District Legal Counsel.
4. Local Public Agency Designation Resolution – Recommendation that the following resolution be approved and incorporated into the District Policy Manual.

**RESOLUTION
COMBINED CONSULTANT SELECTION, NEPA, UNIFORM ACT,
FINANCIAL MANAGEMENT SYSTEMS**

Papio-Missouri River Natural Resources District

Whereas: Certain transportation facilities (roads, streets, trails, and others) in **the Papio-Missouri River Natural Resources District** (hereinafter “the District”) have been designated as being eligible for federal funds by the Federal Highway Administration in compliance with federal laws pertaining thereto;

Whereas: **the District** desires to continue to participate in Federal-Aid transportation construction programs; and,

Whereas: the Nebraska Department of Roads as a recipient of said Federal funds is charged with oversight of the expenditures of said funds, and;

Whereas: **the District** as a sub-recipient of said Federal-Aid funding is charged with the responsibility of expending said funds in accordance with Federal and State law, the rules and regulations of the Federal Highway Administration, the requirements of the Local Public Agency (LPA) Guidelines Manual of the Nebraska Department of Roads, including the Consultant Selection process as stated in the LPA Guidelines Manual, the National Environmental Policy Act (NEPA), the Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act) and the maintaining of adequate Financial Management Systems; and.

Whereas: **the District** understands that the failure to meet all requirements for federal funding could lead to a project(s) being declared ineligible for federal funds, which could result in the District being required to repay some or all of the federal funds expended for project(s).

Be It Resolved: The **Papio-Missouri River Natural Resources District Board of Directors** does hereby adopt and bind itself to comply with all applicable federal law, including the rules and regulations of the Federal Highway Administration, all applicable state law and rules and regulations (Nebraska Administrative Code) and the requirements of the LPA Guidelines Manual of the Nebraska Department of Roads, including the consultant selection process as stated in the LPA Guidelines Manual, the National Environmental Policy Act (NEPA), the Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act) and the maintaining of adequate Financial Management Systems.

Be It Further Resolved: The **Papio-Missouri River Natural Resources District Board of Directors** does hereby designate the following as responsible for the management of the following processes:

Consultant Selection process: **the District's General Manager**

The National Environmental Policy Act (NEPA): **the District's General Manager**

The Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act): **the District's General Manager**

The following individual is hereby authorized to sign the Financial Management Systems Certification attached to this Resolution: **John Winkler**

Adopted this _____ day of _____, 2009, at Omaha, Nebraska.

Papio-Missouri River Natural Resources District

Chairperson

5. Amendments to Recreation Area Rules and Regulations – Recommendation that the revised Rules and Regulations for All District Recreation Areas, containing revisions recommended by the Programs, Projects and Operations Subcommittee, reflected in its minutes of August 11, 2009, be adopted.
6. Update on Test of Emergency Transfer of Water from Washington County Rural Water #1 to City of Blair – No action required
7. Discussion of Changes to District Programs and Policies (Requested by Director Japp) – Postponed until next month.
8. Interlocal Cooperation Act Agreement for the Lower Platte River Phragmites Management Program – Recommendation that the Interlocal Cooperation Act Agreement Lower Platte River Phragmites Management Program be adopted and that the General Manager be authorized to execute the agreement as to form agreeable to legal counsel.

***Agenda Item 10.C. – Finance, Expenditures and Legal Subcommittee**

BE IT RESOLVED that the minutes of the August 11, 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. Adoption of FY 2010 Budget – Recommendation that the following resolution be adopted:

BE IT RESOLVED by the Board of Directors of the Papio-Missouri River Natural Resources District that the attached budget document incorporated herein by reference, showing Total Requirements of ~~\$83,369,262.80~~ \$83,717,914.80 as follows,

Operating Budget – General	\$66,534,262.80 <u>\$66,882,914.80</u>
Special Reserve Fund	\$16,785,000.00
Uninsured Liability Sinking Fund	\$50,000.00

and Property Tax Requirement of ~~\$16,610,013.63~~ \$16,667,693.63, be and is hereby adopted as the Fiscal Year 2010 budget of the Papio-Missouri River Natural Resources District.

BE IT FURTHER RESOLVED that the Board of Directors of the Papio-Missouri River Natural Resources District shall hold a Public Hearing to set the Final Property Tax Request and Tax Levy for Fiscal Year 2010 at the September 10, 2009 Board of Directors meeting, after final valuations have been received from Douglas, Sarpy, Dodge, Washington, Burt, Thurston and Dakota Counties.

2. Whitted Creek Stream Restoration Project – Temporary Construction Easement with MCV1 LLC – Recommendation that the General Manager be authorized to execute a temporary construction easement agreement with MCV1, LLC, providing for a District payment of \$14,521.50 and such other terms as the General Manager determines necessary and District Legal Counsel approves as to form.
3. Papio Creek Watershed Structure W-3 Rehabilitation
 - a. O. Jeff Eich Right of Way Purchase Agreement – Recommendation that the General Manager be authorized to execute a purchase agreement with O. Jeff Eich for the acquisition of permanent easement for the payment of \$2,500, subject to approval as to form by District legal counsel.
 - b. John and Mary Camden Right of Way – Recommendation that the following resolution be adopted:

WHEREAS, on its own motion, the Papio-Missouri River Natural Resources District ("the DISTRICT") has proposed 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, which authorizes the DISTRICT as follows, to-wit:

“... 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, ... (6) development, management, utilization, and conservation of ground water and surface water, (7) pollution control, ... (9) drainage improvement and channel rectification”

and,

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

A. The PROJECT is of predominantly general benefit to the DISTRICT with only incidental special benefit, within the contemplation of Section 2-3252, R.R.S., 1997; and therefore the PROJECT should be carried out with any available funds of the DISTRICT; and,

B. The DISTRICT has identified certain permanent and temporary easements and restrictions ("the EASEMENTS"), hereinafter described, in, on, over and across lands owned by JOHN CAMDEN AND MARY CAMDEN, HUSBAND AND WIFE, AS JOINT TENANTS ("CONDEMNNEES"), that are necessary for the PROJECT; and,

D. The DISTRICT has negotiated in good faith with CONDEMNNEES in that the DISTRICT retained a licensed real estate appraiser to appraise the damages from the DISTRICT'S acquisition of the EASEMENTS; the DISTRICT offered to CONDEMNNEES an amount of money equal to the full fair market value of the appraised damages that will be sustained by CONDEMNNEES as a result of the DISTRICT'S acquisition of the EASEMENTS; and, the DISTRICT'S representatives made reasonable efforts by conference, telephone and correspondence to induce CONDEMNNEES to accept the DISTRICT'S offer, but such offer has been refused, counterproposals by CONDEMNNEES are unreasonable and unacceptable to the DISTRICT, such negotiations therefore have failed, and the parties therefore are at an impasse.

E. Economic and physical feasibility necessitate that the PROJECT be constructed in the location of the EASEMENTS; and,

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

G. It is necessary that the DISTRICT exercise the right of eminent domain, granted to it by Section 2-3234, R.R.S., 1997, in order to acquire the EASEMENTS for the PROJECT, as follows, to-wit:

EASEMENTS

1. PERMANENT EASEMENT(S). The DISTRICT, including its officers, agents, employees and contractors, shall have 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/filed in the DISTRICT'S files] as Exhibits "A", "B" and "C" and incorporated herein by reference, and the following additional permanent rights, to-wit:

a) The permanent right to have vehicular, equipment and pedestrian ingress and egress to and from the DAM and RESERVOIR over and across all portions of the PERMANENT EASEMENT tracts; and,

b) The permanent and exclusive right to use the PERMANENT EASEMENT tracts for excavation, borrow and spoil of earthen materials; and,

c) The permanent right to use the PERMANENT EASEMENT tracts to flow and conduct into the creek immediately downstream of the DAM any waters or water-borne silts and sediments that originate, flow, emanate, discharge, seep or spill from the DAM, its principal or auxiliary emergency spillways, or from the RESERVOIR, including, without limitation, those that appear as surface or subsurface flow, seepage, percolation or springs.

2. TEMPORARY CONSTRUCTION EASEMENT. The DISTRICT, including its officers, agents, employees and contractors, shall have the temporary and exclusive right to use the tract of land in Washington County, Nebraska, referred to as the "CONSTRUCTION/PARKING EASEMENT" tract in the legal description and diagram [attached hereto/filed 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.

3. TEMPORARY INGRESS AND EGRESS EASEMENT. The DISTRICT, and its officers, agents, employees and contractors, shall have the temporary and non-exclusive right to use the tract of land in Washington County, Nebraska, referred to as the "TEMPORARY CONSTRUCTION ACCESS EASEMENT" tract in the legal description and diagram [attached hereto/filed 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.

4. ADDITIONAL CONDITIONS. The EASEMENTS shall be subject to the following additional conditions, 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).

b) CONDEMNEES 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.

c) CONDEMNEES may make such non-commercial, recreational uses of the PERMANENT EASEMENT tracts as shall not interfere with the DISTRICT'S construction, re-construction, operation, maintenance, repair, management or regulation of the DAM and RESERVOIR; provided, however, CONDEMNEES shall not:

i) Construct, re-construct, operate or maintain in the PERMANENT EASEMENT tracts any structures or fixtures, or other non-portable improvements that could be damaged by the DISTRICT'S authorized activities in the PERMANENT EASEMENT tracts;

ii) Introduce or permit the introduction of grazing livestock, trees, woody vegetation, herbicide or other chemicals or materials on the DAM, or introduce or permit in the PERMANENT EASEMENT tracts any practices or instrumentalities that could promote, or result in, loss of vegetative cover, structural weakness, deterioration or erosion of the DAM;

iii) Deposit or excavate earthen or other material in, on or from the DAM, the RESERVOIR or other portion of the PERMANENT EASEMENT tracts; provided, however, CONDEMNEES shall be entitled to the accumulated silts and sediments dredged or otherwise excavated by the DISTRICT from the floor of the RESERVOIR from time to time, provided that, within thirty (30) days after written notice by the DISTRICT to CONDEMNEES of the DISTRICT'S intent to perform such excavation(s) and of the excavation method to be employed, CONDEMNEES shall designate and make available to the DISTRICT, for the duration of such excavation, a tract of land abutting the PERMANENT EASEMENT tracts sufficient for the DISTRICT'S temporary use as a spoil area or stilling basin (depending on GRANTOR'S method of excavation) to facilitate the DISTRICT'S delivery and GRANTORS' reception of such silts and sediments.

d) The DISTRICT shall not be required to prevent or retard evaporation, release or escape of waters, silts and sediments detained by the DAM, nor maintain any minimum water level in the RESERVOIR; provided, however, that:

i) The principal spillway of the DAM will be set to operate at water surface elevation 1,231.0 feet (± 0.5 feet) above mean sea level

(NGVD 1929), thereby establishing the elevation of the normal pool of the RESERVOIR; and,

ii) The emergency (auxiliary) spillway of the DAM will be set to operate at water surface elevation 1,243.5 feet (± 0.5 feet) above mean sea level (NGVD 1929), thereby establishing the elevation of the flood pool of the RESERVOIR.

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 EASEMENTS to the DISTRICT in accordance with the DISTRICT'S offer, 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 CONDEMNEDS from the DISTRICT'S taking of the afore-described EASEMENTS, pursuant to the procedures governing eminent domain, as provided by Section 76-701, et seq., R.R.S., 1997.

4. Sandy Point and Little Sioux Bend Sale Agreements – Recommendation that the General Manager be authorized to execute the proposed OFFER TO SELL REAL PROPERTY, offering to sell to the United States of America, for the amount of \$185,835.00, 190.61 acres at Little Sioux Bend, Iowa; and execute the proposed OFFER TO SELL REAL PROPERTY, offering to sell to the United States of America, for the amount of \$263,861.00, ~~321.39~~ 251.60 acres at Sandy Point Bend, Iowa, subject to amendments deemed necessary by the General Manager and approved as to form by District Legal Counsel.
5. Papio WP-5 Right of Way Acquisition – Tract #2 - Recommendation that the General Manager be authorized to execute the proposed purchase agreement for West Papillion Regional Basin No. 5 Project Tract 2 (Hansen Tract), providing for a District payment of \$1,817,600 and such other terms and conditions as the General Manager determines necessary and District Legal Counsel approves as to form.

***Agenda Item 10.D. – Personnel, Legislative and Public Affairs Subcommittee**

BE IT RESOLVED that the minutes of the August 11, 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. GM Evaluation – No recommendation.
2. GM Goals – No recommendation.

3. GM Contract -

- ❖ Recommendation that the General Manager's contract be modified to call for a salary of \$121,000 per year for the first year of the extended contract and that the term of the contract be extended through November 30, 2014.

- ❖ Recommendation that the General Manager receive a \$4,000 performance award.

***Agenda Item 11. A.-I. - Financials**

BE IT RESOLVED that the Treasurer is authorized to expend general funds to pay: (1) claims listed in the July, 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 July, 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.

/pt/board/2009/august/draft resolutions