



**PAPIO-MISSOURI RIVER
NATURAL RESOURCES DISTRICT
BOARD OF DIRECTORS MEETING MINUTES
December 9, 2010**

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. 154th St., Omaha, NE on December 9, 2010. 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	Scott Japp
Fred Conley	Dave Klug
John Conley	Dorothy Lanphier
Gus Erickson	Rich Tesar
Tim Fowler	Jim Thompson
	Rick Kolowski

ADOPTION OF AGENDA:

- **MOTION NO. 1:** It was moved by Director Tesar and seconded by Director Klug 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, Tesar, Thompson, Kolowski
Voting Nay	-	None
Abstaining	-	None
Absent	-	None

ADOPTION OF CONSENT AGENDA:

- **MOTION NO. 2:** It was moved by Director Klug and seconded by Director John 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 December 9, 2010, Board of Directors Meeting are excused:

None to date.

Agenda Item 7. A,B,C.

BE IT RESOLVED that the November 10, 2010 Papio-Missouri River NRD Board meeting minutes; the November 10, 2010 Dakota County Rural Water Advisory Board meeting minutes and the November 22, 2010 Thurston 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 and 1 nay.

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

PROOFS OF PUBLICATION OF MEETING NOTICE: Notice of the meeting was published in the Omaha World Herald on December 2, 2010. The District's October, 2010, expenditures were published in the Burt County Plaindealer on December 1, 2010. 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 noted that the application deadline for NRCS conservation programs is December 31, 2010, with a second application deadline of February 18, 2011. He also highlighted the "Backyard Conservation Program" that shows how individuals can adapt conservation practices that help conserve and improve natural resources on ag land for use on rural acreages, yards or city lots.

B. Nebraska Association of Resources Districts: Director Tesar reported that the NARD Legislative Conference is scheduled for January 25-26, 2011 in Lincoln. He urged Directors to attend.

C. Lower Platte River Corridor Alliance Report: No report.

PUBLIC HEARING – Heron Haven Wetland Restoration – Proposed Land Acquisition:

Chairperson Kolowski appointed GM Winkler as the Hearing Officer. GM Winkler called the hearing to order at 7:10 p.m.

Hearing Officer Winkler submitted the following exhibits for the record.

- Exhibit 1 - Agenda
- Exhibit 2 - Proof of Publication --
Omaha World-Herald – November 18, 2010
- Exhibit 3 - Notice of Proposed Acquisition
- Exhibit 4 - Legal Description
- Exhibit 5 - Legal Description – Highlighted Map
- Exhibit 6 - Heron Haven Real Estate Map

Paul Peters, District Legal Counsel, explained the purpose of the hearing was to explain the nature and necessity of the Heron Haven Project; the reasons for selecting the particular location; the rights of each owner of property to be represented by an attorney and to negotiate and to accept or reject the offer of damages which will be sustained by the proposed acquisition; and, the right to require that such damages be determined pursuant to the procedures for acquisition by eminent domain.

Jim Becic, Project Manager, noted that the acquisition property would be used for the restoration, construction, operation, maintenance and use of the Heron Haven Wetland Restoration Project, which will improve and expand the existing project. Besides providing wetlands restoration and expansion, the proposed project will provide for limited public entry for purposes of recreation and environmental education.

Mr. Winkler opened the floor to the public. The following individuals addressed the Board:

- Ione Werthman, Heron Haven manager

Hearing Officer Winkler closed the Public Hearing at 7:16 p.m. and returned the floor to Chairperson Kolowski.

SUBCOMMITTEE REPORTS:

A. Personnel, Legislative and Public Affairs Subcommittee: Director Klug reported that the PLPA Subcommittee met on December 7, 2010 and he gave a brief recap of the meeting.

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

PLPA Recommendation #1: Amendments to P-MRNRD Pay Program Administration Manual for Calendar Year 2011 – Recommendation that the following adjustments to the P-MRNRD Pay Program for CY 2011 be adopted:

- The Compensation Structure (salary ranges) will not be adjusted for 2011, however will be reviewed again next year to determine the need for any possible adjustments.
- The CY 2011 Merit Matrix will remain the same as 2010.
- The CY 2011 will remain at 1.5%, the same as 2010 COLA

There was discussion.

Roll call vote was held on the motion. The motion carried on a vote of 7-yea and 4-nay.

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

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

PLPA Recommendation #2: NRD Flexible Spending Plan – Amendment #1 – Recommendation that the Board approve proposed Amendment #1 to the NARD Flexible Benefits Plan.

Roll call vote was held on the motion. The motion carried on a vote of 10-yea and 1-nay.

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

B. Programs, Projects and Operations Subcommittee: Director John Conley reported that the PPO Subcommittee met on December 7, 2010 and he gave a brief recap of the meeting.

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

PPO Recommendation #1: Burt-Washington Drainage District Request for Funding for the Burt County Drainage Ditch Cut Off Project – Recommendation that the Burt-Washington Drainage District funding request for the Bruncker Ditch Cutoff Project be denied; and, that Management work with the Drainage District and NRCS to select a recommended Special Watershed Project Area for planning and implementation by the Board.

Director Japp submitted petitions regarding funding for the “Brunker” Project. Copies of the petitions are attached to the file copy of the minutes. There was discussion.

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

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

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

PPO Recommendation #2: Nebraska Game and Parks Request for Cost Share Assistance for Debris Removal at Lied Platte River Bridge – Recommendation that the District cost share equally with the Nebraska Game and Parks Commission and the Lower Platte South NRD on the non-federal share of the cost for debris removal at the Lied Platte River Bridge resulting from the June, 2010 flood, in an amount not to exceed \$23,330.

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

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

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

PPO Recommendation #3: Zorinsky Basin No. 1 Interlocal Agreement with City of Omaha – Recommendation that the General Manager be authorized to execute the proposed Interlocal Cooperation Act Agreement with the City of Omaha for the Zorinsky Water Quality Basin #1 Project.

The following individual addressed the Board:

- Shawn Melotz, 10404 N. 132nd St., Omaha, NE.

There was discussion.

Roll call vote was held on the motion. The motion carried on a vote of 8-yea and 3-nay.

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

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

PPO Recommendation #4: Waterloo Levee Design Interlocal Agreement – Amendment #4 – Recommendation that the General Manager be authorized to execute a revised Interlocal Agreement with the Village of Waterloo that provides for the equal sharing of the levee design costs up to \$356,922, 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 unanimously.

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

C. Finance, Expenditures and Legal Subcommittee: Director Tesar reported that the FEL Subcommittee met on December 7, 2010 and he gave a brief recap of the meeting.

•• **MOTION NO. 9** It was moved by Director Tesar that the following recommendation be adopted:

FEL Recommendation #1: FY 2010 Audit - Recommendation that the FY2010 Audit Report and management letter, prepared by Bland and Associates, be accepted and that the General Manager be directed to file an authenticated copy of the audit report with the Nebraska Auditor of Public Accounts and the Nebraska Natural Resources Commission.

Jason Tonjes, Bland and Associates, indicated that he had just received a copy of the notice of default for the Dial Property and asked the Board to delay action on the audit until he had time to review. There was discussion. It was determined that the default was dated in December, 2010, the timeframe for the FY 2010 audit is July 1, 2009 – June 30, 2010, so the transaction would fall outside the timeframe of the audit.

The following individual addressed the Board:

- Shawn Melotz, 10404 N. 132nd St., Omaha, NE.

SUBSTITUTE MOTION: It was moved by Director Fred Conley and seconded by Director Japp that the approval of the FY 2010 Audit Report be delayed until the January 13, 2011, meeting.

Roll call vote was held on the motion. The motion failed on a vote of 4-yea and 7-nay.

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

There was discussion. Director Lanphier attempted to make a motion regarding tangible property. The Chairperson ruled the motion out of order and requested that she bring her motion to the appropriate Subcommittee.

CALL FOR THE QUESTION It was moved by Director Erickson and seconded by Director Tesar to call for a vote on Motion No. 9.

Director Japp objected to the Call for the Question.

Roll call vote was held on the motion calling for a vote on Motion No. 9. The motion carried on a vote of 9-yea and 2-abstentions.

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

Roll call vote was held on Motion No. 9. The motion carried on a vote of 9-yea and 2-abstentions.

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

•• **MOTION NO. 10** It was moved by Director Tesar that the following recommendation be adopted:

FEL Recommendation #2: Heron Haven Construction Fund Transfer – Recommendation that \$155,902 be transferred from the MoPac Trail - Construction Costs (Hwy 50 to Lied Bridge) to the Heron Haven Project and that a \$155,902 payment be sent by January 1, 2011 to the US Army Corps of Engineers, Omaha District for design and implementation of the Heron Haven 206 Wetland Restoration Project.

The following individual addressed the Board:

- Ione Werthman, Heron Haven Manager

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

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

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

FEL Recommendation #3.a.: Papio Creek Watershed Structure W-3 - Construction Change Order and 110% of Budget Item – Recommendation that the Assistant General Manager (as per agreement with NRCS) be authorized to execute Contract Modification No. 2 in the amount of \$144,073.08 with Pruss Excavation for the Papio Watershed Structure W-3 Rehabilitation Project, that the Assistant General Manager be authorized to execute future contract modifications totaling a maximum of 10% of the original construction contract amount and that Account No. 510-4479-W-3 Rehabilitation Project be allowed to exceed 110% of the budgeted amount.

Roll call vote was held on the motion. The motion carried on a vote of 10-yea and 1-nay.

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

- **MOTION NO. 12** It was moved by Director Tesar that the following recommendation be adopted:

FEL Recommendation #3.b.: Papio Creek Watershed Structure W-3 - John and Mary Camden – Temporary Easement Extension – Recommendation that the General Manager be authorized to commence the right-of-way process to acquire an additional 6 month temporary easement from John and Mary Camden for the continued construction of Papio Creek Watershed Structure W-3 Rehabilitation Project.

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

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

•• **MOTION NO. 13** It was moved by Director Tesar that the following recommendation be adopted:

FEL Recommendation #4.: Dial Realty Note – Recommendation that the following resolution be adopted:

WHEREAS, on or about March 10, 2006, Dial Realty Development Corp. (“Dial”) delivered to the District a Deed of Trust, now recorded with the Douglas County Register of Deeds as Instrument No. 2006-037608, having as the trust property Lots 114 and 115 in Elk Ridge, and Lots 8 through 14 in Elk Ridge Replat 2, subdivisions in Douglas County, Nebraska, securing the future payment of \$580,000 of Dial’s contributions towards the cost of the Dam Site 13 Project in Douglas County; and,

WHEREAS, on or about October 26, 2010, the District served upon Dial, and recorded with the Douglas County Register of Deeds as Instrument No. 2010 099560, a Notice of Default alleging a breach by Dial of the terms of such Deed of Trust; and,

WHEREAS, Dial subsequently informed the District that it is unable to pay the debt secured by such Deed of Trust and offered to give to the District a deed to such secured property in lieu of foreclosure of such Deed of Trust and other collection efforts; and this Board of Directors has determined that it is in the best interests of the District that the District accept such offer and obtain title to the trust property without the need for further legal proceedings,

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Papio-Missouri River Natural Resources District that the General Manager of the District should be, and is hereby, authorized and directed to now accept Dial’s offer of a deed in lieu of foreclosure by the District of the Deed of Trust; and that the General Manager should be, and is hereby, authorized to cease further collection efforts on said debt, execute a release of liability by Dial Realty Development Corp. on the Deed of Trust, and execute such other and further documents, approved as to form by District Legal Counsel, as the General Manager deems

necessary to effectuate the transfer to the District of title to such trust property.

The following individual addressed the Board:

- Shawn Melotz, 10404 N. 132nd St., Omaha, NE.

Richard Drews and Paul Peters, Taylor, Peters and Drews, answered several questions. It was noted that the District has equity in the trust property and that, to protect that interest, it would be in the best interest of the NRD to accept the deed in lieu of foreclosure. There was extended discussion.

CALL FOR THE QUESTION

It was moved by Director Erickson and seconded by Director Fred Conley to call for a vote on Motion No. 13.

Roll call vote was held on the motion calling for a vote on Motion No. 13. The motion carried on a vote of 9-yea and 2-nay.

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

Roll call vote was held on Motion No. 13. The motion carried on a vote of 9-yea, 1-nay and 1-abstention.

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

TREASURER'S REPORT:

- **MOTION NO. 14:** 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 November, 2010, 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 November, 2010, 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 Lanphier attempted to introduce a motion regarding Board approval of disbursements. The Chairperson ruled the motion out of order and requested that she bring her motions to the appropriate Subcommittee.

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

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

CHAIRPERSON'S REPORT:

A. P-MRNRD Employee Years of Service Awards: The following P-MRNRD employees were recognized for their years of service with the District:

- **Dave Kruger, Night Security** 10 Years
- **Ralph Puls, Land & Water Programs Coordinator** 40 Years

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 noted that a caucus to elect NNRC Commissioners in the Missouri Tribes would be held on January 13th in conjunction with the District's Board meeting.

INFORMATIONAL ITEMS:

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

December 24, 2010 Christmas Holiday – P-MRNRD Offices Closed

December 31, 2010	New Year's Holiday – P-MRNRD Offices Closed
January 11, 2011	P-MRNRD Subcommittee Meetings
January 13, 2011	P-MRNRD Board Meeting
January 17, 2011	Martin Luther King Day – P-MRNRD Offices Closed
January 18, 2010	Lower Platte River Corridor Alliance Quarterly Meeting, 9:30 a.m., LPNNRD Offices, Lincoln, NE
January 25-26, 2011	NARD Legislative Conference, Lincoln, NE
January 27, 2011	Papillion Creek Watershed Partnership Meeting, 10:00 a.m., NRC
Jan 30 – Feb 2, 2011	National Association of Conservation Districts 2011 Annual Meeting, Nashville, TN
February 8, 2011	P-MRNRD Subcommittee Meetings
February 10, 2011	P-MRNRD Board Meeting
February 21, 2011	Presidents' Day - P-MRNRD Offices Closed

B. Next Meeting: The next regularly scheduled meeting of the P-MRNRD Board of Directors will be held on January 13, 2011 at 7:00 p.m. at the NRC.

ADJOURNMENT: Being no further business, the Chairperson declared that the meeting was adjourned at 8:43 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 December 9, 2010, 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