



**Papio-Missouri River Natural Resources District  
Board of Directors Meeting  
Suggested Resolutions/Recommendations  
February 11, 2010**

**\*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 February 11, 2010, Board of Directors Meeting is excused:

None to date.

Agenda Item 7. A.

BE IT RESOLVED that the January 14, 2010 Papio-Missouri River NRD Board meeting minutes and the January 13, 2010 Dakota County Rural Water Advisory Board meeting minutes are approved as printed.

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

BE IT RESOLVED that the minutes of the February 9, 2010, 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. City of Valley – North Spruce Street Drainage – Recommendation that the City of Valley’s request for cost share assistance under the Urban Drainageway Program be approved in the amount of \$186,480, and that the General Manager be authorized to execute an interlocal agreement with the City to finance the City’s share of the project costs, or \$85,470, subject to minor changes by the General Manager and approved as to form by District Legal Counsel.

2. Report on Trailfest – No action required.
3. City of LaVista Thompson Creek Floodplain Buyout Grant – Recommendation that the District approve the City of La Vista request to cost share on the local contribution in the amount of \$340,155 payable over three years.
4. Request from Olsson Associates for Additional Professional Services Fees for Silver Creek Watershed – Recommendation that the maximum, not to exceed amount for professional services contract with Olsson Associates for the Silver Creek Watershed Project, be increased to \$619,263.24
5. NRCS Request for Approval of Acknowledgement of Section 1619 Compliance – Recommendation Directors that the SECTION 1619 COMPLIANCE agreement between the Natural Resources Conservation Service and the P-MRNRD be approved.

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

BE IT RESOLVED that the minutes of the February 9, 2010, 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. Western Sarpy Clear Creek Flood Reduction Project
  - a. Update on Platte River Ice Conditions – No action required.
  - b. Update on Construction of Flood Fighting Measures – No action required.
  - c. BNSF Railroad Company Easement Agreement – Recommendation that the General Manager be authorized to sign the proposed Western Sarpy Clear Creek Flood Reduction Easement Agreement with BNSF Railway Company, subject to form as approved by District Legal Counsel.
  - d. Beacon View Agreement Amendment and Easement – Recommendation that the General Manager be authorized to execute an easement and amendment to Project Cooperation Agreement for the Beacon View Inc. property subject to approval as to form by District Legal Counsel.
  - e. Project Sponsor Agreement – Recommendation that the General Manager be authorized to sign the proposed Western Sarpy Clear Creek Flood Reduction Project Sponsor Memorandum of Agreement, subject to form as approved by District Legal Counsel.

2. Issuing Flood Control and Water Quality Enhancement Bonds - See Attached Recommended Resolution.
3. Authorize the Purchase of Surplus Property for the Purpose of Expanding Platte River Landing Recreation – Recommendation that the General Manager be authorized to submit a bid to Sanitary Improvement District #196 for the 12.5 acre parcel in the amount of \$50,000.
4. Papio Creek Watershed Structure W-3 Land Rights – Recommendation that the following resolution be adopted:

RESOLUTION

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 hereby finds and determines that:

A. The DISTRICT has identified a certain temporary easement (hereinafter referred to as "the CORRECTED TEMPORARY CONSTRUCTION ACCESS EASEMENT"), hereinafter described, in, on, over and across lands owned by JOHN CAMDEN AND MARY CAMDEN, HUSBAND AND WIFE, AS JOINT TENANTS (“CONDEMNNEES”) in the SE ¼, Section 27, T18N, R11E, Washington County Nebraska, that is necessary for the PROJECT; and,

B. The DISTRICT previously negotiated in good faith with CONDEMNNEES in that:

(1) The DISTRICT retained a licensed real estate appraiser to appraise the damages from the DISTRICT'S acquisition of several permanent and temporary easements that were deemed to be needed for the PROJECT (the “EASEMENTS”), including a TEMPORARY CONSTRUCTION ACCESS EASEMENT, conditioned as hereinafter described. The DISTRICT offered to CONDEMNNEES an amount of money equal to the full fair market value of the appraised damages, appraised by such licensed real estate appraiser, that would 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 was refused by CONDEMNNEES, counterproposals made by CONDEMNNEES were deemed to be unreasonable and unacceptable to the DISTRICT, such negotiations therefore failed, and the parties therefore were at an impasse.

(2) Accordingly, on or about August 14, 2009, the DISTRICT filed a Petition for Appointment of Appraisers in the County Court of Washington County, Nebraska, seeking to acquire the EASEMENTS, including the aforesaid TEMPORARY CONSTRUCTION ACCESS EASEMENT, from CONDEMNNEES, however, subsequent to the filing of the Report of Appraisers in that case, it was discovered that, due to clerical error, the necessary TEMPORARY CONSTRUCTION ACCESS EASEMENT, sought to be obtained in such proceedings, was incorrectly described as being over land in the SW ¼, Section 27, T18N, R11E, Washington County Nebraska, owned by third parties, instead of being over the land owned by the CONDEMNNEES in the SE ¼, Section 27, T18N, R11E, Washington County Nebraska, owned by CONDEMNNEES, where such TEMPORARY CONSTRUCTION ACCESS EASEMENT is needed for purposes of providing ingress and egress to the site of the PROJECT during the construction thereof.

(3) Subsequently, by letter dated January 29, 2009, the DISTRICT offered to CONDEMNNEES an amount of money equal to the full fair market value of the separate damages, appraised by the aforesaid licensed real estate appraiser, that would be sustained by CONDEMNNEES as a result of the DISTRICT'S acquisition of the CORRECTED TEMPORARY CONSTRUCTION ACCESS EASEMENT; over the land owned by the CONDEMNNEES in the SE ¼, Section 27, T18N, R11E, Washington County Nebraska, and, the DISTRICT'S representatives made reasonable efforts by letter dated February 4, 2010, to induce CONDEMNNEES to accept the DISTRICT'S offer, but such offer was rejected by CONDEMNNEES by letter dated February 8, 2010, wherein CONDEMNNEES demanded that the DISTRICT cease its efforts to gain access to CONDEMNNEES' property, whereupon such negotiations were deemed to have failed, and the parties presently are at an impasse concerning the DISTRICT'S acquisition of the CORRECTED TEMPORARY CONSTRUCTION ACCESS EASEMENT over the land owned by the CONDEMNNEES in the SE ¼, Section 27, T18N, R11E, Washington County Nebraska, needed for the PROJECT.

C. Economic and physical feasibility necessitate that the PROJECT be constructed in the location of the CORRECTED TEMPORARY CONSTRUCTION ACCESS EASEMENT; and,

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, R.R.S., 1997, in order to acquire for the PROJECT the CORRECTED TEMPORARY CONSTRUCTION ACCESS EASEMENT over the parcel of land in the SE ¼, Section 27, T18N, R11E, Washington County

Nebraska, hereinafter referred to, conditioned as follows, to-wit:

CORRECTED TEMPORARY CONSTRUCTION ACCESS EASEMENT. The DISTRICT, and its officers, agents, employees and contractors, shall have the temporary and non-exclusive right to use the dirt road in the tract of land in the SE ¼, Section 27, T18N, R11E, Washington County Nebraska, Washington County, Nebraska referred to and described as the “TEMPORARY CONSTRUCTION ACCESS EASEMENT” in the amended legal description and diagram, attached hereto and incorporated herein by reference as Exhibit “A,” for vehicular, equipment and pedestrian ingress and egress between the location of other easements acquired for the PROJECT and the public roads rights-of-way during the period of time between the commencement and completion of the DISTRICT’S construction of the PROJECT’S rehabilitated dam and reservoir in such other easement areas, provided, however, such period of time shall not exceed one year beginning with commencement of such construction. Upon termination of the DISTRICT’S temporary use of such tract for such rehabilitation, the DISTRICT shall restore such dirt road in such tract to its condition preceding such use.

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 aforesaid CORRECTED TEMPORARY CONSTRUCTION ACCESS EASEMENT to the DISTRICT, 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 CONDEMNES from the DISTRICT’S taking of the aforesaid CORRECTED TEMPORARY CONSTRUCTION ACCESS EASEMENT, pursuant to the procedures governing eminent domain, as provided by Section 76-701, et seq., R.R.S., 1997.

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

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

/pt/Board/February/2010/feb10\_resolutions