



**Papio-Missouri River Natural Resources District
Board of Directors Meeting
Suggested Resolutions/Recommendations
March 10, 2011**

***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 from the March 10, 2011, Board of Directors Meeting is excused:

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.

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

BE IT RESOLVED that the minutes of the March 8, 2011, meeting of the 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. 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.
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.

3. Lower Platte River Corridor Alliance:
 - a. 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.
 - b. 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.
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.
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.

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

BE IT RESOLVED that the minutes of the March 8, 2011, meeting of the 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. Accounts Over 110% - Recommendation Board 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
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 CONDEMNEDS 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.

***Agenda Item 9.C. – Executive Subcommittee**

BE IT RESOLVED that the minutes of the March 8, 2011, meeting of the Executive Subcommittee are accepted, incorporated in these minutes, and the following recommendation(s) of the Subcommittee are hereby adopted and approved.

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.

***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 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.

mar11resolutions