

**Papio-Missouri River Natural Resources District
Board of Directors Meeting
Suggested Resolutions/Recommendations
May 10, 2007**

***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 following Director(s) have an excused absence from the May 10, 2007, Board of Directors Meeting:

None to date.

Agenda Item 7 A.:

BE IT RESOLVED that the April 12, 2007, Papio-Missouri River NRD Board meeting minutes; the April 11, 2007, Dakota County Rural Water Advisory Board meeting minutes; and, the April 26, 2007 Washington County Rural Water Advisory Board meeting minutes be approved as printed.

***Agenda Item 9.A. – Zorinsky Water Quality Basin #2 Ad Hoc Consultant Selection Subcommittee**

BE IT RESOLVED that the minutes of the May 8, 2007, Zorinsky Water Quality Basin #2 Project 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 Olsson Associates – Recommendation that the General Manager be authorized to execute a contract with Olsson Associates, Inc. for professional engineering services for the Zorinsky Water Quality Basin #2 Project with a

maximum fee of \$73,705, subject to minor changes deemed necessary by the General Manager, and accepted as to form by District Legal Counsel.

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

BE IT RESOLVED that the minutes of the May 8, 2007, Personnel, Legislative and Public Affairs Subcommittee are accepted, incorporated in these minutes, and the following recommendations of the Subcommittee are hereby adopted and approved.

1. P-MRNRD Affirmative Action Plan – Recommendation that that the proposed amendments to the Districts Affirmative Action Plan be adopted.
2. Board of Director Meeting Schedule – No recommendation. (Motion to change the start time for future Board meetings to 7:00 p.m. failed on a vote of 2-yea and 3-nay.)

***Agenda Item 9.C. - Programs, Projects and Operations Subcommittee**

BE IT RESOLVED that the minutes of the May 8, 2007, 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. Papillion Creek Watershed Partnership Stage IV Agreement for Professional Services with HDR Engineering – Recommendation that the General Manager be authorized to execute a professional services contract on behalf of the Papillion Creek Watershed Partnership, with HDR Engineering, Inc., for the Papillion Creek Watershed Stage IV Study for a maximum fee of \$349,900, subject to minor changes deemed necessary by the General Manager, and approved as to form by District Legal Counsel.
2. Forest Run Channel Improvement Agreement – Recommendation that the General Manager be authorized to execute the Forest Run Channel Improvement Agreement with Sarpy County, the City of Gretna, the Forest Run Homeowners Association, and the Lyman Highlands Homeowners Association, subject to changes deemed necessary by the General Manager, and approved as to form by District Legal Counsel; and, that the General Manager be authorized to commit the District to perform those requirements of the Agreement that he determines an original contracting party cannot feasibly perform.
3. FEMA Floodplain Mapping Grant Submittal for Dakota County – 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 District should apply to the Federal Emergency Management Agency (FEMA) under the FEMA Cooperating Technical Partners (CTP) Program, for CTP grants in the maximum obtainable amount (presently estimated to be \$138,000) towards the cost of activities needed to produce digital floodplain maps for Dakota County, and should apply for technical assistance, training, data, and other assistance

available from FEMA under the CTP Program to support such mapping activities; and,

BE IT FURTHER RESOLVED that the General Manager of the District is hereby authorized to carry out the Dakota County Floodplain Mapping Project and to execute, for and on behalf of the District, applications for Federal assistance for such FEMA CTP grants, a CTP Cooperative Agreement with FEMA, CTP Mapping Activity Statements, and such other applications, assurances, certificates, reports, and other documents and amendments thereto, as the General Manager determines necessary to obtain such CTP grants and other mapping activity assistance from FEMA.”

4. Interlocal Agreement with Newport Hill (SID #544) for Trail and Storm Sewer Connections to Prairie View – Recommendation that the Newport Hill Interlocal Agreement be tabled until the June Subcommittee meeting.
5. Equipment Purchases/Replacements for FY 2008 – Recommendation that the FY 2008 Equipment Requirements be approved, subject to the FY 2008 budgeting process.
6. Security System for the Natural Resources Center – No action taken

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

BE IT RESOLVED that the minutes of the May 8, 2007, Finance, Expenditures and Legal Subcommittee are accepted, incorporated in these minutes, and the following recommendations of the Subcommittee are hereby adopted and approved.

1. Papio Creek Structures (Rehab Project) S-27, S-31 and S-32 Right of Way Purchase Agreement – Recommendation that the General Manager be authorized to execute a purchase agreement with Ken Kuhlman for the acquisition of temporary and permanent easements for the payment of \$2,050; Patricia Moore for the acquisition of temporary and permanent easements for the payment of \$58,200; Donald Dittus for the acquisition of temporary and permanent easements for the payment of \$2,925, subject to approval as to by District legal counsel of the form of such easements.
2. Missouri River Trail – Phase 2 –Right of Way – Recommendation for the Board to:
 - a. Approve the Purchase Agreement from Lori Kowal, Trustee of the Barbara J. Warnke Living Trust in the amount of \$24,000;
 - b. Adopt the following resolution relating to easements necessary to be acquired from Surfside North, Inc.:

RESOLUTION

WHEREAS, on its own motion, the Papio-Missouri River Natural Resources District (hereinafter "the District") has proposed to construct,

operate and maintain the Missouri River Trail Project (hereinafter "the Project"); and,

WHEREAS, the District has identified certain permanent and temporary easements (hereinafter referred to collectively as "the Easements") necessary to be acquired by the District for the Project, the Easements being identified in the proposed purchase agreement (hereinafter referred to as "the District's Offer") heretofore submitted by the District to Surfside North, Inc., (hereinafter referred to as "the Owner"), owner of the fee simple title to the land that will be affected by the acquisition of the Easements, and the District has negotiated in good faith with the Owner for the voluntary purchase of the Easements, but that such negotiations have failed and the District has not been able to voluntarily acquire the Easements for the Project and must acquire the same by the exercise of eminent domain.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Papio-Missouri River Natural Resources District hereby makes the following findings and determinations, to-wit:

A. The Project is a plan, facility, work and program relating to development and management of recreational and park facilities, within the contemplation of Section 3-3229, R.R.S., 1997, which authorizes the District to "... develop and execute, through the exercise of powers and authorities granted by law, plans, facilities, works, and programs relating to ... (11) development and management of recreational and park facilities" Therefore, the District is authorized to undertake the Project; and,

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

C. For purposes of construction, operation and maintenance of the Project it is necessary that the District acquire the Easements as the same are identified in the District's Offer heretofore submitted to the Owner; and,

D. The District has negotiated in good faith with the Owner in that the District retained an licensed real estate appraiser to appraise the damages from the acquisition of the Easements; the District offered to the Owner an amount of money equal to the full fair market value of the damages from the acquisition of the Easements, as appraised by such appraiser; and, the District's representatives made reasonable efforts by in-person conference, telephone and correspondence to induce the Owner to accept the District's Offer, but that the District's Offer has been refused, all counter-offers made by the Owner are unreasonable and unacceptable to the District, and such negotiations in good faith therefore have failed and the negotiations are at an impasse; 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 the Easements for the Project; and,

F. Economic and physical feasibility necessitate that the Project be constructed in the location of the Easements; and,

G. Approvals by other agencies are not required.

BE IT FURTHER RESOLVED THAT, in the absence of a voluntary grant of the Easements to the District in accordance with the District's Offer, legal counsel for the District is hereby authorized and directed to initiate the filing of a petition in the County Court of Douglas County, Nebraska, on behalf of the District, for the appointment of appraisers to ascertain and determine the damages from the District's taking of the Easements, pursuant to the procedures governing eminent domain, as provided by Section 76-701, et seq., R.R.S., 1997.

- c. Direct that the \$13,610.00 amount that was awarded to Stratbucker Land Company, Ltd in the eminent domain case be deposited with the Clerk of the Douglas County Court within 60 days of the date of award, in order to perfect and complete the taking.
3. Right of Way Acquisition – MoPac Trail (Hwy 50 to Lied)
- a. Terry Miller Parcel – Recommendation that the General Manager be authorized to execute a purchase agreement with Terry and Patricia Miller in the amount of \$9,850 to acquire right-of-way for the Mopac Trail (Hwy. 50 to Lied Bridge) Project.
 - b. Francis Kennedy Parcel; and d. Patrick Kennedy Parcel Adopt the following resolution

RESOLUTION

WHEREAS, on its own motion, the Papio-Missouri River Natural Resources District (hereinafter "the District") has proposed to construct, operate and maintain the MOPAC Trail Project (hereinafter "the Project"); and,

WHEREAS, the District has identified certain permanent and temporary easements (hereinafter referred to collectively as "the Easements") necessary to be acquired by the District for the Project, the Easements being identified in the proposed purchase agreements (hereinafter referred to as "the District's Offers") heretofore submitted by the District to Francis Kennedy, etal, and Patrick Kennedy, etal (hereinafter referred to as "the Owners"), owners of the fee simple title to the land that will be affected by the acquisition of the Easements, and the District has negotiated in good faith with the Owners for the voluntary purchase of the Easements, but that such negotiations have failed and the District has not been able to voluntarily acquire the Easements for the Project and must acquire the same by the exercise of eminent domain.

NOW, THEREFORE, BE IT RESOLVED that the Board of

Directors of the Papio-Missouri River Natural Resources District hereby makes the following findings and determinations, to-wit:

A. The Project is a plan, facility, work and program relating to development and management of recreational and park facilities, within the contemplation of Section 3-3229, R.R.S., 1997, which authorizes the District to "... develop and execute, through the exercise of powers and authorities granted by law, plans, facilities, works, and programs relating to ... (11) development and management of recreational and park facilities" Therefore, the District is authorized to undertake the Project; and,

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

C. For purposes of construction, operation and maintenance of the Project it is necessary that the District acquire the Easements as the same are identified in the District's Offers heretofore submitted to the Owners; and,

H. The District has negotiated in good faith with the Owners in that the District retained an licensed real estate appraiser to appraise the damages from the acquisition of the Easements; the District offered to the Owners amounts of money equal to the full fair market value of the damages from the acquisition of the Easements, as appraised by such appraiser; and, the District's representatives made reasonable efforts by in-person conference, telephone and correspondence to induce the Owners to accept the District's Offers, but that the District's Offers have been refused, all counter-offers made by the Owners are unreasonable and unacceptable to the District, and such negotiations in good faith therefore have failed and the negotiations are at an impasse; and,

I. 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; and,

J. Economic and physical feasibility necessitate that the Project be constructed in the location of the Easements; and,

K. Approvals by other agencies are not required.

BE IT FURTHER RESOLVED THAT, in the absence of a voluntary grants of the Easements to the District in accordance with the District's Offers, legal counsel for the District is hereby authorized and directed to initiate the filing of a petition in the County Court of Douglas County, Nebraska, on behalf of the District, for the appointment of appraisers to ascertain and determine the damages from the District's taking of the Easements, pursuant to the procedures governing eminent domain, as provided by Section 76-701, et seq., R.R.S., 1997.

4. Right of Way Acquisition at Papio Detention Basin Site WP-RB5 –.

***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 April, 2007, 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/Clear Creek Project, the project bills listed on the April, 2007, 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.

**Papio-Missouri River Natural Resources District
Board of Directors Meeting
May 10, 2007**

Additional suggested resolutions

Agenda Item 9.D.2

BE IT RESOLVED that the General Manager be and is hereby authorized to execute an agreement with **Thomas S. Dukes, etal**, providing for the purchase by the District of necessary easements for the Missouri River Trail Project for the sum of \$1,100, such agreement to contain such other terms and conditions as the General Manager determines necessary and Legal Counsel approves as to form.

Agenda Item 9.D.3

BE IT RESOLVED that the General Manager be and is hereby authorized to execute an agreement with **Francis Kennedy, etal**, calling for the purchase by the District of necessary lands and easements for the MOPAC Trail Project for the sum of \$23,500, such agreement to contain such other terms and conditions as the General Manager determines necessary and Legal Counsel approves as to form.

BE IT RESOLVED that the General Manager be and is hereby authorized to execute an agreement with **Patrick Kennedy, etal**, calling for the purchase by the District of necessary lands and easements for the MOPAC Trail Project for the sum of \$11,000, such agreement to contain such other terms and conditions as the General Manager determines necessary and Legal Counsel approves as to form.

BE IT RESOLVED that the General Manager be and is hereby authorized to execute an agreement with **NEBCO, Inc.**, providing that, for the sum of \$395, NEBCO, Inc., will subordinate, to the District's easements acquired for the MOPAC Trail Project, NEBCO'S lease of Board of Educational Lands and Funds lands, such agreement to contain such other terms and conditions as the General Manager determines necessary and Legal Counsel approves as to form.

Agenda Item 9.D.4

BE IT RESOLVED that the General Manager be and is hereby authorized to execute the letter of intent presented to this meeting, a subsequently negotiated purchase agreement, and such additional instruments as the General Manager determines necessary, to effectuate the purchase by the District from **Pink Family Investments LLC**, of approximately 11.86 acres of land in Pink Industrial Park 2, necessary for the emergency spillway for the proposed South Papillion Creek detention structure, for the unit price of \$35,000 per acre, and the purchase of necessary easements for the gross price of \$3,500, such purchase agreement and additional instruments to contain such other terms and conditions as the General Manager determines necessary and Legal Counsel approves as to form.