



**PAPIO-MISSOURI RIVER
NATURAL RESOURCES DISTRICT
BOARD OF DIRECTORS MEETING MINUTES
October 8, 2009**

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 October 8, 2009. The meeting was called to order by Chairperson Jim Thompson at 7:00 p.m.

QUORUM CALL: The following Directors were present for the Quorum Call:

Larry Bradley	Rick Kolowski
Fred Conley	Dorothy Lanphier
Tim Fowler	John Schwope
Scott Japp	Rich Tesar
Dave Klug	Jim Thompson

ADOPTION OF AGENDA:

- **MOTION NO. 1:** It was moved by Director Kolowski and seconded by Director Fowler that the agenda be adopted.

BE IT RESOLVED that the agenda be adopted.

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

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

ADOPTION OF CONSENT AGENDA:

- **MOTION NO. 2:** It was moved by Director Tesar and seconded by Director Klug 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 absence of the following Director from the October 8, 2009, Board of Directors Meeting is excused:

John Conley

Agenda Item 7. A.

BE IT RESOLVED that the September 10, 2009 Papio-Missouri River NRD Board meeting minutes and the September 9, 2009 Dakota County Rural Water Advisory Board meeting minutes are approved as printed.

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

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

PROOFS OF PUBLICATION OF MEETING NOTICE: Notice of the meeting was published in the Omaha World Herald on October 2, 2009. The District's August, 2009, expenditures were published in the Washington County Enterprise on October 2, 2009. The Chairperson ordered the Proofs of Publication recorded in the minutes of this meeting. (They are contained as part of the file copy of these minutes.)

AGENCY AND ASSOCIATION REPORTS:

A. Natural Resources Conservation Service Report: Neil Jensen introduced himself as the new NRCS District Conservationist replacing Verlon Barnes. He briefed the Board on NRCS activities for the past month, specifically the Conservation Stewardship Program and the EQIP Program. He also noted that it would probably take 2-3 months to hire his replacement at the Blair office.

B. Nebraska Association of Resources Districts: Director Tesar reported that the 2009 NARD Annual Conference was held on September 27-29, 2009 in Kearney, NE. He thanked Directors and staff who attend the conference. He noted that all of the proposed resolutions, with the exception of 2009-5 (Review Surface Water Rights Converted to Groundwater Use), were adopted. A late resolution regarding municipal groundwater offsets, submitted by the LPSNRD, with amendments proposed by the P-MRNRD, was also adopted.

C. Lower Platte River Corridor Alliance Report: Megan Sittler, LPRCA Coordinator, submitted a written report. It is posted to the District's website.

SUBCOMMITTEE REPORTS:

A. Missouri River Levee Project Ad Hoc Consultant Selection Subcommittee: Director Schwope reported that the Ad Hoc Subcommittee met on September 30, 2009 to interview consultants for the Missouri River Levee Project.

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

Ad Hoc Recommendation #1: Selection of Consulting Firms for Missouri River Levee Professional Services: – Recommendation that the firms interviewed by the Subcommittee should be ranked in the following order, to-wit: Tetra Tech, JEO, AMEC; and, that the General Manager, on behalf of the District, should be authorized to negotiate a professional services contract with Tetra Tech to provide professional services for the Missouri River Levee Project.

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

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

B. Regional Basin 15A Ad Hoc Consultant Selection Subcommittee: Director Tesar reported that the Ad Hoc Subcommittee met on October 6, 2009.

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

Ad Hoc Recommendation #1: Contract with HDR to Provide Engineering Services for Regional Basin 15A: Recommendation that the General Manager be authorized to execute a professional services contract with HDR to provide engineering services for Dam Site 15A for a maximum fee of \$620,300, subject to changes deemed necessary by the General Manager and approved as to form by District legal counsel.

Lori Laster, Stormwater Engineer, answered several questions regarding the contract.

Roll call vote was held on the motion. The motion carried on a vote of 8-yea and 2-nay.

Voting Yea - Bradley, Conley (Fred), Fowler, Klug, Kolowski, Schwope, Tesar, Thompson
Voting Nay - Japp, Lanphier

Abstaining - None
Excused Absence - Conley (John)
Absent - Conley (John)

C. Programs, Projects and Operations Subcommittee: Director Tesar reported that the PPO Subcommittee met on October 6, 2009 and he gave a brief recap of the meeting.

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

PPO Recommendation #1: UNO's Davis Prairie Data Shack Project: Recommendation that the General Manager be authorized to enter into an agreement with the University of Nebraska at Omaha to provide 50% cost share on the Davis Prairie Data Shack Project, up to a maximum District contribution of \$60,000, and also work with the University on providing river access to the public at this location, if feasible, all subject to approval as to form by District legal counsel.

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

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

Director Tesar noted that the Subcommittee had been briefed by Michael Alley, Nathan Gieselman and Bruce Yoder, all of Alley Poyner Architects, on the progress of the Washington County Service Center. No action required at this time.

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

PPO Recommendation #3: Whitted Creek Professional Services Contract Addendum with CH2MHill: Recommendation that the General Manager be authorized to execute the proposed Amendment No. 1 to the professional services contract with CH2MHill for the Whitted Creek Stream Restoration Project, increasing the maximum not to exceed amount of the contract to \$318,897.07.

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

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

- **MOTION NO. 7** It was moved by Director Tesar that the following recommendation be adopted:

PPO Recommendation #4: Western Sarpy Clear Creek Levee Project – Segment #3 Construction (Fairview Road to Lincoln Road) Irrigation Pivot Relocation: Recommendation that the General Manager be authorized to execute a contract with Mid-Continent Irrigation for the modification/relocation of five irrigation systems on Glasshoff and Horn properties for the Western Sarpy Clear Creek Flood Relocation Project.

Travis Freund, Mid-Continent Irrigation, answered several questions regarding the proposed requirements to modify/relocate the irrigation systems in question.

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

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

- **MOTION NO. 8** It was moved by Director Tesar that the following recommendation be adopted:

PPO Recommendation #5: Papio Watershed Structure W-3 Construction Bids: Recommendation that the General Manager be authorized to execute a contract with Pruss Excavating Company, for a total bid of \$604,927.90, for construction of the Papio Creek Watershed Structure W-3 Rehabilitation Project, contingent on obtaining necessary right-of-way (easements) for the project.

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

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

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

PPO Recommendation #6: FY 2010 Long Range Implementation Plan: Recommendation that the proposed Fiscal Year 2010 Long Range Implementation Plan be approved.

The following individual addressed the Subcommittee:

- Shawn Melotz, 10404 N. 132nd Street, Omaha, Nebraska.

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

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

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

PPO Recommendation #7: Bids for District Vehicles: Recommendation that the following bids be accepted:

Bid Item A – 2010, 7-Passenger Van, Extended Length:

The staff recommends that the low and best bid of \$19,770 from Woodhouse Auto Family be accepted with trade-in of the District's 1999, Ford Windstar, serial number 2FMZA5144XBA73833.

Bid Item B – 2010, Mid-Size, AWD, Sport Utility Vehicle, Hybrid:

The staff recommends that the low and best bid of \$ \$23,241 from Woodhouse Auto Family be accepted with trade-in of the District's 2003, Ford Explorer, serial number 1FMZU72KX3ZA23445.

Bid Item C – 2010, Compact, Extended Cab, 4WD, Pickup Truck:

The staff recommends that the low and best bid of \$17,700 from Woodhouse Auto Family be accepted with trade-in of the District's 1997, Chevrolet S-10, serial number 1GCDT14XXV8147618.

Bid Item D – 2010, ¾ Ton, 4WD, Extended Cab, Pickup Truck w/Tow Package:

The staff recommends that the low and best bid of \$14,570.71 from Performance Ford be accepted with trade-in of the District's 2000, Ford F-250, 4WD, Extended Cab, Pickup Truck, serial number 1FTNX21F2YEB79768.

Bid Item E – 2010, 1 Ton, Extended Chassis-Cab, Diesel, Truck: The staff recommends that the low and best bid of \$25,514 from Eck Ford be accepted with trade-in of the District’s 2001, Ford F-350, Chassis-Cab Truck with Service Box, serial number 1FDWF37S01EB26067.

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

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

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

PPO Recommendation #8: Bids for Silver Creek Site 9: Recommendation that Jensen Construction D.T. Inc.’s bid of \$53,635.64 for construction of Silver Creek Site 9 be accepted and that the General Manager is authorized to execute the necessary contract documents.

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

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

Director Tesar reported that the Subcommittee also discussed several program and policy changes suggested by Director Japp. No action was taken by the Subcommittee.

D. Finance, Expenditures and Legal Subcommittee: Director Tesar reported that the FEL Subcommittee met on October 6, 2009 and he gave a brief recap of the meeting. The Subcommittee had discussed the Papio Creek Watershed Structure W-3 Right of Way Acquisition of the John and Mary Camden Parcel. No action was taken at the Subcommittee meeting.

•• **MOTION NO. 12** It was moved by Director Tesar and seconded by Director Fred Conley that the following resolution adopted:

Papio Creek Watershed Structure W-3 Right of Way Acquisition – John and Mary Camden Parcel –

a. Authorize deposit of \$128,919 with the Clerk of the Washington County Court as awarded by the Board of

Appraisers in the eminent domain action filed by the District, Washington County Court Case No. CI-09-585

- b. Consider deadline for filing appeal: October 14, 2009
- c. Determine amount Condemnees may withdraw from deposit pending completion of appeal proceedings, if appeal filed by either party.
- d. Consent to allow Financial account 03-12-4430 (Project Maintenance – Land Rights) to exceed 110% of budget
- e. Adopt of the following resolution:

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 INGRESS AND EGRESS EASEMENT"), hereinafter described, in, on, over and across lands owned by JOHN CAMDEN AND MARY CAMDEN, HUSBAND AND WIFE, AS JOINT TENANTS (“CONDEMNES”), that is necessary for the PROJECT; and,

B. The DISTRICT previously negotiated in good faith with CONDEMNES in that the DISTRICT retained a licensed real estate appraiser to appraise the damages from the DISTRICT'S acquisition of the TEMPORARY INGRESS AND EGRESS EASEMENT; the DISTRICT offered to CONDEMNES an amount of money equal to the full fair market value of the appraised damages that would be sustained by CONDEMNES as a result of the DISTRICT'S acquisition of the TEMPORARY INGRESS AND EGRESS EASEMENT;

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, counterproposals by CONDEMNNEES were unreasonable and unacceptable to the DISTRICT, such negotiations therefore failed, and the parties are at an impasse; and,

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

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

E. It has been discovered that, due to clerical error in the legal description provided by the DISTRICT, the necessary TEMPORARY INGRESS AND EGRESS EASEMENT sought to be acquired by the District in the eminent domain action in Washington County Court Case No. CI-09-585 was not successfully acquired by the DISTRICT; and,

F. 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 following CORRECTED TEMPORARY INGRESS AND EGRESS EASEMENT, to-wit:

CORRECTED 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 dirt road in the tract of land in Washington County, Nebraska referred to and described as the "TEMPORARY CONSTRUCTION ACCESS EASEMENT" in the amended legal description and diagram attached hereto as Exhibit "A" and incorporated herein by reference, 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 CORRECTED TEMPORARY INGRESS AND EGRESS 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 CONDEMNNEES from the DISTRICT'S taking of the afore-described CORRECTED TEMPORARY INGRESS AND EGRESS EASEMENT, pursuant to the procedures governing eminent domain, as provided by Section 76-701, et seq., R.R.S., 1997.

Paul Peters, District Legal Counsel, announced that the resolution (e) was for the purpose of authorizing the filing of an eminent domain case to acquire the right of way necessary for ingress/egress to the project site.

- **MOTION NO. 13** It was moved by Director Tesar and seconded by Director Lanphier that the Board go into Executive Session to discuss items a, b, d and e listed on the resolution.

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

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

The Board went into Executive Session at 7:42 p.m.

- **MOTION NO. 14** It was moved by Director Schwopo and seconded by Director Fred Conley that the Board return to Regular Session:

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

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

The Board returned to Regular Session at 8:25 p.m.

- Amendment No. 1** It was moved by Director Schwopo and seconded by Director
To Motion No. 12 Fowler that the following amendments be made to Motion No. 12:

Papio Creek Watershed Structure W-3 Right of Way Acquisition – John and Mary Camden Parcel –

- a. Authorize deposit of \$128,919 with the Clerk of the Washington County Court as awarded by the Board of Appraisers in the eminent domain action filed by the District, Washington County Court Case No. CI-09-585
- b. ~~Consider deadline for filing appeal: October 14, 2009~~
That the District appeal the court award.
- c. ~~Determine amount~~ Condemnees may withdraw \$67,350 from deposit pending completion of appeal proceedings, if appeal filed by either party.
- d. Consent to allow Financial account 03-12-4430 (Project Maintenance – Land Rights) to exceed 110% of budget
- e. Adopt of the following resolution:

RESOLUTION

WHEREAS, on its own motion, the Papiio-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 INGRESS AND EGRESS EASEMENT"), hereinafter described, in, on, over and across lands owned by JOHN CAMDEN AND MARY CAMDEN, HUSBAND AND WIFE, AS JOINT TENANTS (“CONDEMNES”), that is necessary for the PROJECT; and,

B. The DISTRICT previously negotiated in good faith with CONDEMNES in that the DISTRICT retained a licensed real estate appraiser to appraise the damages from the DISTRICT'S acquisition of the TEMPORARY INGRESS AND EGRESS EASEMENT; the DISTRICT offered to CONDEMNES an amount of money equal to the full fair

market value of the appraised damages that would be sustained by CONDEMNNEES as a result of the DISTRICT'S acquisition of the TEMPORARY INGRESS AND EGRESS EASEMENT; 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, counterproposals by CONDEMNNEES were unreasonable and unacceptable to the DISTRICT, such negotiations therefore failed, and the parties are at an impasse; and,

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

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

E. It has been discovered that, due to clerical error in the legal description provided by the DISTRICT, the necessary TEMPORARY INGRESS AND EGRESS EASEMENT sought to be acquired by the District in the eminent domain action in Washington County Court Case No. CI-09-585 was not successfully acquired by the DISTRICT; and,

F. 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 following CORRECTED TEMPORARY INGRESS AND EGRESS EASEMENT, to-wit:

CORRECTED 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 dirt road in the tract of land in Washington County, Nebraska referred to and described as the "TEMPORARY CONSTRUCTION ACCESS EASEMENT" in the amended legal description and diagram attached hereto as Exhibit "A" and incorporated herein by reference, 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 CORRECTED TEMPORARY INGRESS

AND EGRESS 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 CONDEMNNEES from the DISTRICT'S taking of the afore-described CORRECTED TEMPORARY INGRESS AND EGRESS EASEMENT, pursuant to the procedures governing eminent domain, as provided by Section 76-701, et seq., R.R.S., 1997.

Roll call vote was held on the amendment to Motion No. 12. The amendment failed on a vote of 5-yea and 5-nay.

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

Director Fred Conley called for the question on the original Motion No. 12 to include in Item b that the District not appeal the court award and in Item c that the Condemnees may withdraw \$67,350 from the deposit pending completion of appeal proceedings, if appeal filed by either party. The motion would read:

Papio Creek Watershed Structure W-3 Right of Way Acquisition – John and Mary Camden Parcel –

- a. Authorize deposit of \$128,919 with the Clerk of the Washington County Court as awarded by the Board of Appraisers in the eminent domain action filed by the District, Washington County Court Case No. CI-09-585
- b. ~~Consider deadline for filing appeal: October 14, 2009~~ The District not appeal the court award.
- c. ~~Determine amount~~ Condemnees may withdraw \$67,350 from deposit pending completion of appeal proceedings, if appeal filed by either party.
- d. Consent to allow Financial account 03-12-4430 (Project Maintenance – Land Rights) to exceed 110% of budget
- e. Adopt of the following resolution:

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 INGRESS AND EGRESS EASEMENT"), hereinafter described, in, on, over and across lands owned by JOHN CAMDEN AND MARY CAMDEN, HUSBAND AND WIFE, AS JOINT TENANTS (“CONDEMNees”), that is necessary for the PROJECT; and,

B. The DISTRICT previously negotiated in good faith with CONDEMNees in that the DISTRICT retained a licensed real estate appraiser to appraise the damages from the DISTRICT’S acquisition of the TEMPORARY INGRESS AND EGRESS EASEMENT; the DISTRICT offered to CONDEMNees an amount of money equal to the full fair market value of the appraised damages that would be sustained by CONDEMNees as a result of the DISTRICT’S acquisition of the TEMPORARY INGRESS AND EGRESS EASEMENT; and, the DISTRICT’S representatives made reasonable efforts by conference, telephone and correspondence to induce CONDEMNees to accept the DISTRICT’S offer, but such offer was refused, counterproposals by CONDEMNees were unreasonable and unacceptable to the DISTRICT, such negotiations therefore failed, and the parties are at an impasse; and,

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

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

E. It has been discovered that, due to clerical error in the legal description provided by the DISTRICT, the necessary TEMPORARY INGRESS AND EGRESS EASEMENT sought to be acquired by the District in the eminent domain action in Washington County Court Case No. CI-09-585 was not

successfully acquired by the DISTRICT; and,

F. 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 following CORRECTED TEMPORARY INGRESS AND EGRESS EASEMENT, to-wit:

CORRECTED 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 dirt road in the tract of land in Washington County, Nebraska referred to and described as the “TEMPORARY CONSTRUCTION ACCESS EASEMENT” in the amended legal description and diagram attached hereto as Exhibit “A” and incorporated herein by reference, 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 CORRECTED TEMPORARY INGRESS AND EGRESS 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 CONDEMNEDS from the DISTRICT’S taking of the afore-described CORRECTED TEMPORARY INGRESS AND EGRESS EASEMENT, pursuant to the procedures governing eminent domain, as provided by Section 76-701, et seq., R.R.S., 1997.

Roll call vote was held on the motion. The motion carried on a vote of 5-yea, 4-nay and 1-absention.

Voting Yea	-	Bradley, Conley (Fred), Fowler, Kolowski, Tesar
Voting Nay	-	Japp, Klug, Schwope, Thompson
Abstaining	-	Lanphier
Excused Absence	-	Conley (John)
Absent	-	Conley (John)

Mr. Peters suggested that the Board take separate action on the resolution authorizing eminent domain to acquire the right of way necessary for ingress/egress to the project site (Item e). The Chair determined that Item e (eminent domain resolution) was included in the original motion

Director Tesar noted that no action was taken by the Subcommittee on Papio WP-5 Right of Way Acquisition.

TREASURER'S REPORT:

- **MOTION NO. 15:** It was moved by Director Fred 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 September, 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 September, 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.

The following individual addressed the Subcommittee:

- Shawn Melotz, 10404 N. 132nd Street, Omaha, Nebraska.

- **MOTION NO. 16:** It was moved by Director Lanphier that the following resolution be adopted:

Currently the Papio-Missouri River Natural Resources District is serving as the Administering Agent for the Papillion Creek Watershed Partnership pursuant to the Interlocal Agreement. As the Agent, the District is accountable to 10 other partnership

members for the administration and control of all funds collected and all expenditures paid by the District for the PCWP.

THEREFORE, I make a motion to request management to obtain an estimate of fees from Bland and Associates, our auditing firm, for the cost to conduct a detailed audit of the transactions in the Papio Creek Watershed Partnership account for the fiscal year ended June 30, 2009. This fee estimate should also include an audit of internal controls associated with the PCWP and a final report to the Board of Directors.

The Chair ruled that Motion No. 16 was out of order and this item would be placed on next month's FEL Subcommittee meeting.

Roll call vote was held on Motion No. 15. The motion carried on a vote of 8-yea and 2-nay.

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

CHAIRPERSON'S REPORT: Chairperson Thompson noted that Directors need to be aware that while attending public hearing, meetings, etc., you are attending as an individual and not a representative of the District. The Board delegates the General Manager to speak on behalf of the District at hearings, meetings, etc. He also asked Directors to address any information requests of staff to the General Manager and he will take appropriate action to delegate requests to staff.

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 announced that Jean Tait is retiring from the Air Force after 28 year and thanked her for her service. GM Winkler reported that he had testified on LR181 in Kearney, NE on October 7th. There was very little opposition to the NRDs. Most of the people that testified were very supportive of the NRD and their role in the management of the State's natural resources. Steve Chick, NRCS State Conservationist, reiterated how the NRCS uses the relationship between the NRD and NRCS as a model to promote how natural resources should be managed. The Corps of Engineers Headquarters Office in Washington DC also sent a letter stating that they appreciate the NRDs service and partnership. This was the last hearing on FY181 and we'll have to wait and see if anything is generated regarding legislation.

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

October 14, 2009	2009 MAPA Annual Dinner, Social Hour – 6:00 p.m. Dinner – 7:00 p.m. at the Blair Marina
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October 20, 2009	All District Multi-Hazard Mitigation Plan Update Public Meeting, 6:30 p.m. at the Dakota County Service Center
October 22, 2009	Papillion Creek Watershed Partnership Meeting, 10:00 a.m., NRC
October 27, 2009	Lower Platte River Corridor Alliance, NRC
October 27, 2009	All District Multi-Hazard Mitigation Plan Update Public Meeting, 6:30 p.m., NRC
November 4, 2009	All District Multi-Hazard Mitigation Plan Update Public Meeting, 6:30 p.m., at the Blair City Hall
November 10, 2009	P-MRNRD Subcommittee Meetings
November 11, 2009	Veteran's Day – P-MRNRD Offices Closed
November 12, 2009	P-MRNRD Board Meeting
November 19, 2009	Papillion Creek Watershed Partnership Meeting, 10:00 a.m., NRC
November 26-27, 2009	Thanksgiving Holiday – P-MRNRD Offices Closed
December 8, 2009	P-MRNRD Subcommittee Meetings
December 10, 2009	P-MRNRD Board Meeting

B. Next Meeting: The next regularly scheduled meeting of the P-MRNRD Board of Directors will be held on November 12, 2009 **at 7:00 p.m.** at the NRC.

ADJOURNMENT: Being no further business, the Chairperson declared that the meeting was adjourned at 8:45 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 September 10, 2009, 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