

**Finance, Expenditure and Legal  
Subcommittee Meeting Minutes  
March 8, 2011**

A meeting of the Papio-Missouri River Natural Resources District’s Finance, Expenditure and Legal Subcommittee was held at the Natural Resources Center, 8901 South 154<sup>th</sup> Street, Omaha, NE, on March 8, 2011. The meeting was called to order by Acting Chairperson John Conley at 8:15 p.m.

**Quorum Call:** Quorum call was taken. The following subcommittee members were in attendance.

| <b>Subcommittee Members Present</b> | <b>Subcommittee Members Absent</b> | <b>Other Directors Present</b> | <b>Others in Attendance</b> |
|-------------------------------------|------------------------------------|--------------------------------|-----------------------------|
| Fred Conley **                      | Rich Tesar *                       | Tim Fowler                     | John Winkler                |
| Rick Kolowski **                    | Jim Thompson *                     | Gus Erickson                   | Marlin J. Petermann         |
| Dorothy Lanphier                    |                                    | Scott Japp                     | Jerry Herbster              |
| John Conley                         |                                    |                                | Ralph Puls                  |
| Larry Bradley                       |                                    |                                | Lori Laster                 |
|                                     |                                    |                                | Amanda Grint                |
|                                     |                                    |                                | Jim Becic                   |
|                                     |                                    |                                | Carey Fry                   |
|                                     |                                    |                                | Gerry Bowen                 |
|                                     |                                    |                                | Jean Tait                   |
|                                     |                                    |                                | Tom Pleiss                  |
|                                     |                                    |                                | Barb Sudrla                 |

\* Absence

\*\* Alternate Voting Member

**Adoption Of Agenda**

- **It was moved by Director Fred Conley and seconded by Director Kolowski that agenda be adopted.**

Roll call was taken on the motion. The motion carried on a vote of 5 to 0.

Voting Yea: Fred Conley, Lanphier, John Conley, Kolowski, Bradley

Voting Nay: None

Abstaining: None

Excused Absence: Tesar, Thompson

Absent: Tesar, Thompson

**Proof Of Publication:** Public notice of the meeting was posted at all District offices and published in the Omaha World-Herald on March 3, 2011. The proof of publication affidavit is included with the file copy of these minutes.

**Accounts Over 110%:** Jerry Herbster, Park Superintendent, explained the following accounts that had exceeded 110% of budget:

- a. Park equipment maintenance (01 06 006 4052) – 119.89%
  - b. Chalco Hills Professional Services (01 06 264 4400) – 176.66%
  - c. Platte River Landing Contract Work (01 06 267 4479) – 120.56%
- **It was moved by Director Fred Conley and seconded by Director Kolowski that the Subcommittee recommend to the Board that the following accounts be allowed to exceed 110% of the budgeted amount:**
    - **Acct# - 01 06-267-4479 – Contract Work**
    - **Acct.# - 01 06-264-4400 – Professional Services**
    - **Acct.# - 01 06-006-4052 – Vehicle/Equipment Repair Maintenance**

Roll call was taken on the motion. The motion carried on a vote of 5 to 0.

Voting Yea: Fred Conley, Lanphier, John Conley, Kolowski, Bradley  
Voting Nay: None  
Abstaining: None  
Excused Absence: Tesar, Thompson  
Absent: Tesar, Thompson

**Papio Creek Structure W-3 – Rehabilitation Project Temporary Construction Easement Extension – John and Mary Camden Property:**

- **It was moved by Director Fred Conley and seconded by Director Kolowski that the Subcommittee go into Executive Session to discuss the temporary construction easement extension on the John and Mary Camden property.**

Roll call was taken on the motion. The motion carried on a vote of 5 to 0.

Voting Yea: Fred Conley, Lanphier, John Conley, Kolowski, Bradley  
Voting Nay: None  
Abstaining: None  
Excused Absence: Tesar, Thompson  
Absent: Tesar, Thompson

The Subcommittee went into Executive Session at 8:24 p.m.

- **It was moved by Director Kolowski and seconded by Director Bradley that the Subcommittee return to Regular Session.**

The Subcommittee returned to Regular Session at 8:35 p.m.

Roll call was taken on the motion. The motion carried on a vote of 5 to 0.

Voting Yea: Fred Conley, Lanphier, John Conley, Kolowski, Bradley  
Voting Nay: None  
Abstaining: None

Excused Absence: Tesar, Thompson

Absent: Tesar, Thompson

- **It was moved by Director Fred Conley and seconded by Director Kolowski that the Subcommittee recommend to the Board of Directors 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 above-described temporary easements be extended by the DISTRICT'S acquisition of extensions of the terms (durations) thereof 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,

C. 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;

D. Economic and physical feasibility necessitate that the PROJECT be constructed utilizing the TEMPORARY EASEMENT EXTENSIONS;

E. Approvals by other agencies are not required; 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 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 offer and efforts, 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., R.R.S., 1997.

BE IT FURTHER RESOLVED THAT the respective legal descriptions for the TEMPORARY CONSTRUCTION EASEMENT and TEMPORARY INGRESS AND EGRESS EASEMENT, the terms of which are hereby 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, as referred to in this resolution as Exhibits "D" and "E," are attached hereto respectively as Exhibits "D" and "E" and incorporated herein by reference.

Roll call was taken on the motion. The motion carried on a vote of 5 to 0.

Voting Yea: Fred Conley, Lanphier, John Conley, Kolowski, Bradley

Voting Nay: None

Abstaining: None

Excused Absence: Tesar, Thompson

Absent: Tesar, Thompson

**Adjournment:** Being no further business, the meeting adjourned by acclamation at 8:35 p.m.