



**Finance, Expenditure & Legal
Subcommittee Meeting
December 7, 2010
6:50 p.m.
(Or Immediately Following the PPO Meeting)
Agenda**

Finance, Expenditure & Legal Subcommittee Members:

Rich Tesar, Chairperson
Jim Thompson, Vice-Chairperson
Larry Bradley
John Conley
Dorothy Lanphier

Alternate Members:	Fred Conley	Staff Liaison:	Jim Becic
	Rick Kolowski		Jerry Herbster
			Carey Fry
			Brian Henkel
			Lori Laster *

1. Meeting Called to Order – Chairperson Tesar
2. Notification of Open Meetings Act Posting and Announcement of Meeting Procedure – Chairperson Tesar
3. Quorum Call
4. Adoption of Agenda
5. Proof of Publication of Meeting Notice
6. Review and Recommendation on FY 2010 Audit – Carey Fry and Jeremy Vokt and Justin Frauendorfer, Bland and Associates
7. Review and Recommendation on Heron Haven Construction Fund Transfer – Jim Becic and Jeff Greenwald, Corps of Engineers
8. Papio Creek Watershed Structure W-3 – Martin Cleveland and Chuck Leinen, NRCS
 - a. Review and Recommendation on Construction Change Order and Over 110% of Budget
 - b. Review and Recommendation on John and Mary Camden Property – Temporary Easement Extension
9. Review and Recommendation on Dial Realty Note [*Executive Session*]- John Winkler and Rick Drews, Taylor, Peters and Drews
10. Adjourn

MEMORANDUM

To: Finance, Expenditures and Legal Subcommittee

Subject: FY 2010 Audit

Date: December 1, 2010

From: Carey Fry, District Accountant

- **It is staff's recommendation that the FEL Subcommittee recommend to the Board of Directors that the FY2010 Audit Report and management letter, prepared by Bland and Associates, be accepted and that the General Manager be directed to file an authenticated copy of the audit report with the Nebraska Auditor of Public Accounts and the Nebraska Natural Resources Commission.**

Memorandum

To: Finance, Executive and Legislative Subcommittee

Re: Heron Haven Funding Transfer

Date: December 1, 2010

Updated: December 3, 2010

From: Jim Becic

The Heron Haven site, located immediately north of 114th – 118th and West Maple Road is a naturally occurring oxbow wetland within the Papillion Creek watershed adjacent to the Big Papio Creek. The site was acquired and a Master Plan developed approximately 18 years ago by the Papio-Missouri River Natural Resources District (NRD) and is managed and operated by the non-profit, Friends of Heron Haven as an environmental and education site.

The approximately 10 acre area is bordered by residential and commercial land and has historically experienced drainage, sedimentation and concrete fill over the years prior to the NRD's acquisition. Naturally occurring springs keep the wetlands supplied with a plentiful water supply but the historic concrete fill and sedimentation has degraded the wetlands with cattails and reed canary grass dominating the site. The restoration project planned for Heron Haven is designed to address these and other problems and reestablish a quality and viable wetland for many decades into the future.

The Corps of Engineers (COE) has informed the District that they recently received federal funds for the Design and Implementation of the Heron Haven Section 206 Wetland Restoration project (enclosed 16 November, 2010 correspondence). The NRD is the local sponsor of this federal project and has executed a project agreement with the COE. This federal funding support notification was an unexpected yet welcome surprise. As specified in the COE correspondence, the total project cost is estimated at \$1,594,535 with an NRD contribution (35% Cost Share) of \$558,087. To keep on schedule for a construction start in FY 2011 (federal fiscal year), the NRD needs to send the COE \$155,902.00 as our initial cash contribution by January 1, 2011.

Funding for this project was not included in the NRD's FY- 2010 budget since the likelihood of securing federal funding appeared to be minimal for the Section 206 program nationwide and there was little chance that the NRD's request would receive support. These initial cost share funds of \$155,902 are proposed to be transferred from the NRD's MoPac trail – Construction Costs budget line item and moved to Heron Haven. The remaining \$304,325 construction funds would be budgeted in FY-2012 and sent to the COE by their 25 July, 2011 time-line.

It is Management's recommendation that the Finance, Executive and Legislative Subcommittee recommend to the Board that \$155,902 be transferred from the MoPac Trail - Construction Costs (Hwy 50 to Lied Bridge) to the Heron Haven Project and that a \$155,902 payment be sent by January 1, 2011 to the US Army Corps of Engineers, Omaha District for design and implementation of the Heron Haven 206 Wetland Restoration Project.

MEMORANDUM

TO: Finance, Expenditures and Legal Subcommittee

SUBJECT: Papio Creek Watershed Structure W-3 Rehabilitation Project
Construction Change Order and Account over 110% Approval

DATE: November 29, 2010 Updated: December 3, 2010

FROM: Martin P. Cleveland

The referenced project (W-3) is located near Hwy 30 and County Road 28, southwest of Blair, as shown on the enclosed location map. Construction activity started on this project May 17, 2010 by the District's contractor, Pruss Excavating. The project is 53% complete as of October 21, 2010 and 62% of the work period has been used. The principal spillway (30 inch diameter) pipe has been installed and 54,000 cubic yards of earth fill has been placed. The project was designed by the Natural Resources Conservation Service (NRCS) and construction observation is being handled without any District cost share. The NRCS is cost sharing 65% and the District 35% of the project construction and land rights cost. As of November 10, 2010 the District has paid Pruss Excavating \$308,831.71 of the original contract amount of \$604,927.90. Contract modification no. 1 in the amount of \$36,000 was approved by Management and issued July 19, 2010 to remove 8,000 cubic yards of unsuitable material (soil mixed with broken concrete, wood and fence wire) from the foundation of the new structure. Enclosed is a location map that shows where the unsuitable material is stockpiled and where is it proposed to be relocated to. The landowners had apparently filled in a gully with this material over 20 years ago. This material was not anticipated by the contractor nor was it identified in the project plans, so the removal and relocation of this material is work that was not included in project contract.

Since the contract modification no. 1 was issued it was discovered that additional unsuitable material was located in the foundation of the dam and it needed to be removed in order to provide a stable foundation for the dam. The contractor removed about 27,000 cubic yards of unsuitable material this summer and stock piled it in non-dam area for a decision on its reuse and placement location. Enclosed is a proposed contract modification no. 2 to account for the additional 19,000 cubic yards of unsuitable material removed with a total cost of \$144,073.08. The change order also includes some drain fill and drain pipe changes due to shifting the principal spillway pipe location to allow for easier constructability.

Contract modification no. 2 exceeds Managements authority to issue contract modifications (change orders) on construction projects, the total of which is limited to 10% of the contract amount (\$60,492 for this contract). Management recommends Board approval of contract modification no. 2. It is also recommended that Management be given the authority to issue additional future contract modifications up to 10% (\$60,492.79) of the original project bid of \$604,927.90 to allow for unforeseen minor construction adjustments that may be needed without further Board action.

In addition, the contract modification no. 2 will also eventually cause the Budget No. 510-4479 – W-3 Rehabilitation contract work to exceed 110% of Budget (\$690,000). Board action is required

to exceed 110% of Budget as per Board Policy 7.5 – Finance, Expenditure and Legal Subcommittee – Budgetary Oversight.

It is recommended by Management that the Subcommittee recommend to the Board that the Assistant General Manager (as per agreement with NRCS) be authorized to execute Contract Modification No. 2 in the amount of \$144,073.08 with Pruss Excavation for the Papio W-3 Rehabilitation Project, that the Assistant General Manager be authorized to execute future contract modifications totaling a maximum of 10% of the original construction contract amount and that Account No. 510-4479-W-3 Rehabilitation Project be allowed to exceed 110% of the budgeted amount.

MEMORANDUM

TO: Finance, Expenditures and Legal Subcommittee

SUBJECT: Papio Creek Watershed Structure W-3 Rehabilitation Project
John and Mary Camden Property - Temporary Easement Extension

DATE: December 1, 2010 Updated: December 3, 2010

FROM: Martin P. Cleveland

The referenced project (Structure W-3) is located near Hwy 30 and County Road 28, southwest of Blair, as shown on the enclosed location map. Construction activity started on this project May 17, 2010. The project is 53% complete as of October 21, 2010 and 62% of the work period has been used. The principal spillway (30 inch diameter) pipe has been installed and 54,000 cubic yards of earth fill has been placed.

The Natural Resources Conservation Service (NRCS), Pruss Excavation (Structure W-3 construction contractor) and District staff have discussed the project progress and potential for completion by the termination of the one year period temporary easement, acquired from John and Mary Camden via eminent domain. This easement will expire on May 17, 2011. The temporary easement surrounds the structure and provides area for equipment parking, material storage and access to the structure site. In addition the ingress/egress road to the site from the county road is a temporary easement. Enclosed are maps of easement area.

Based on earthwork production rates of 2010, it is anticipated that work will not be done on the site until mid-summer 2011, which is at least 2 months past the termination of the temporary easement. The site has had numerous challenges during construction, such as extremely wet soil (e.g. former pond is the borrow site), springs flowing out of slopes that had to be intercepted with gravel drains and one of the wettest summers on record (20.4 inches of rain in the June to August period) that didn't allow much work for most of the summer, which is the normal construction period in Nebraska.

In order to plan for the expected construction completion past the temporary easement deadline, Management recommends that the District start the right-of-way acquisition process in January 2011 with a public hearing, as it is anticipated that the landowner will not accept the District's offer of payment for a temporary easement. It is recommended that the District acquire a 6 month period easement, which would extend the easement period to November 17, 2011. The right-of-way acquisition process will include new appraisal, negotiation and possible eminent domain, if negotiation fails.

It is recommended by Management that the Subcommittee recommend to the Board that the General Manager be authorized to commence the right-of-way process to acquire an additional 6 month long temporary easement from John and Mary Camden for the continued construction of Papio Creek Watershed Structure W-3 Rehabilitation Project.

Agenda item 9

Memo(s) for the following agenda items are posted under “Confidential”

9. Review and Recommendation on Dial Realty Note [*Executive Session*] – John Winkler and Rick Drews, Taylor, Peters and Drews