

**Finance, Expenditure and Legal  
Subcommittee Meeting Minutes  
February 9, 2010**

A meeting of the Pappio-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 February 9, 2010. The meeting was called to order by Chairperson Tesar at 7:40 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>
Rich Tesar		John Schwope	John Winkler
Rick Kolowski		Fred Conley	Marlin Petermann
Larry Bradley		Jim Thompson	Amanda Grint
Dorothy Lanphier		Tim Fowler	Lori Laster
John Conley		Scott Japp	Trent Heiser
		David Klug	Paul Peters
			Carey Fry
			Dick Sklenar
			Ralph Puls
			Shawn Melotz
			Dan Smith, DA Davidson
			Mike Rogers, Baird Holm
			David Black, Mayor of Papillion
			John Kattman, City of La Vista
			Joe Johnson, South Sioux City
			Paul Woodward, Olsson Assoc.
			Bob Schnidt, Beacon View Inc.

**Adoption Of Agenda**

✱ **It was moved by Director John Conley and seconded by Director Kolowski that the agenda be adopted.**

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

Voting Yea: Tesar, Bradley, J. Conley, Kolowski, Lanphier

Voting Nay: None

Abstaining: None

Absent: None

**Proof Of Publication:** Public notice of the meeting was posted at all District offices and published in the Omaha World-Herald on February 4, 2010. The Chairperson ordered the Proof of Publication recorded in the minutes of this meeting.

**Western Sarpy Clear Creek Flood Reduction Project:**

a. Update on Platte River Ice Conditions: Marlin Petermann reported to the Subcommittee on potential flooding of the lower Platte River due to ice jams. Ice dusting of nine sites on the river after February 14 may eliminate the need for explosives.

b. Update on Construction of Flood Fighting Measures: Marlin Petermann briefed the Subcommittee on the emergency flood fighting work necessary to finish the Western Sarpy Levee system prior to any potential damage from ice flooding. The work is being completed now and will be done by February 15, 2010. The emergency work will take place in four locations and the work will be permanent except in one location near Salt Creek on the Lancaster County side. This temporary fill will have to be removed when the threat of flooding is over.

c. BNSF Railroad Company Easement Agreement: Two of the four locations where the flood fighting measures for the levee are being constructed are on Burlington Northern Railroad. The declaration of an emergency by the Governor has spurred the BN into providing an easement and agreement to allow for the tie in of the levees. One of the locations is on the Sarpy County side and within our District. The Lower Platte South NRD will be executing the agreement and easement for their side of the levee. This easement is a permanent easement to construct, operate and maintain the levee on the BN property. The fee for the easement is \$5,000. Petermann noted that due the emergency nature of the work the documents had already been signed.

- **It was moved by Director John Conley and seconded by Director Kolowski that the Subcommittee recommend to the Board that the General Manger be authorized to sign the proposed Western Sarpy Clear Creek Flood Reduction Easement Agreement with BNSF Railway Company, subject to changes deemed necessary by the General manager and approved as to form by District Legal Counsel.**

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

Voting Yea: Tesar, Bradley, J. Conley, Kolowski, Lanphier  
Voting Nay: None  
Abstaining: None  
Absent: None

d. Beacon View Agreement Amendment and Easement: Marlin Petermann updated the Subcommittee on the status of a previous agreement with the Homeowner's Association of Beacon View. The original agreement called for the project to be complete by January 2010 with compensation of \$100 per day for each day that the project was not complete on their property. Due to delays in getting an easement from Burlington Northern RR, the project was not completed in January and will likely not be complete until September. Although the emergency levee work will be done in February, a culvert needs to be installed which will not happen in that timeframe and which will require an additional 1/3 acre of easement from Beacon View. This pushes the final completion to September. The parties discussed the additional easement and the liquidated damages for not finishing in January 2010 and decided that a settlement of \$10,000 would be just compensation.

- **It was moved by Director John Conley and seconded by Director Kolowski that the Subcommittee recommend to the Board that the General Manager be authorized to execute an easement and amendment to Project Cooperation Agreement for the Beacon View Inc. property subject to approval as to form by District Legal Counsel**

The following individuals addressed the Subcommittee:

- Bob Schnidt, Chairman, Beacon View, Inc.

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

Voting Yea: Tesar, Bradley, J. Conley, Kolowski, Lanphier  
 Voting Nay: None  
 Abstaining: None  
 Absent: None

e. Project Sponsor Agreement: Marlin Petermann described the Memorandum of Agreement proposed for parties involved in the Western Sarpy Clear Creek Levee project. This agreement basically puts on paper what the parties have already agreed to which is to maintain the levee at the 50 year level according to the USACE requirements and that no party should proceed to raise the levee or to attempt to accredit the levee with FEMA as providing 100 year flood protection.

- **It was moved by Director Kolowski and seconded by Director John Conley that the Subcommittee recommend to the Board that the General Manager be authorized to sign the proposed Western Sarpy Clear Creek Flood Reduction Project Sponsor Memorandum of Agreement, subject to form as approved by District Legal Counsel.**

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

Voting Yea: Tesar, Bradley, J. Conley, Kolowski, Lanphier  
 Voting Nay: None  
 Abstaining: None  
 Absent: None

**Issuing Flood Control and Water Quality Enhancement Bonds**: John Winkler updated the Subcommittee on the clarifications that were made to the resolution from the previous month. The projects funded by the bond monies and the jurisdictions of those projects are listed with the resolution. The District proposes to issue \$13.3 million dollars in bond funds.

- **It was moved by Director Kolowski and seconded by Director John Conley that the Subcommittee recommend to the Board that the Board approve the issuing of \$13.3 million in Flood Control and Water Quality Enhancement bonds subject to approval by District Legal Counsel and the General Manager.**

The following individuals addressed the Subcommittee:

- Shawn Melotz, 10404 N. 132<sup>nd</sup> St, Omaha, Nebraska
- David Black, City of Papillion

- o Joe Johnson, City of South Sioux City

There was discussion.

Roll call was taken on the motion. The motion carried on a vote of 4 to 1.

Voting Yea: Tesar, Bradley, J. Conley, Kolowski  
Voting Nay: Lanphier  
Abstaining: None  
Absent: None

**Authorize the Purchase of Surplus Property for the Purpose of Expanding Platte River Landing Recreation:**

- **It was moved by Director Bradley and seconded by Director John Conley that the Subcommittee go into Executive Session to discuss the purchase of surplus property for the purpose of expanding the Platte River Landing Recreation Area.**

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

Voting Yea: Tesar, Bradley, J. Conley, Kolowski, Lanphier  
Voting Nay: None  
Abstaining: None  
Absent: None

The Subcommittee went into Executive Session at 8:55 pm.

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

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

Voting Yea: Tesar, Bradley, J. Conley, Kolowski, Lanphier  
Voting Nay: None  
Abstaining: None  
Absent: None

The Subcommittee returned to Regular Session at 9:05 pm.

- **It was moved by Director John Conley and seconded by Director Kolowski that the Subcommittee recommend to the Board of Directors that the General Manager be authorized to submit a bid to Sanitary Improvement District #196 for the 12.5 acre parcel in the amount of \$50,000.**

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

Voting Yea: Tesar, Bradley, J. Conley, Kolowski, Lanphier  
Voting Nay: None  
Abstaining: None  
Absent: None

**Status Report on Papio Creek Watershed Structure W-3 Land Rights:**

- **It was moved by Director Bradley and seconded by Director Lanphier that the Subcommittee go into Executive Session to discuss Papio Creek Watershed Structure W-3 Land Rights.**

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

Voting Yea: Tesar, Bradley, J. Conley, Kolowski, Lanphier  
Voting Nay: None  
Abstaining: None  
Absent: None

The Subcommittee went into Executive Session at 9:07 pm.

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

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

Voting Yea: Tesar, Bradley, J. Conley, Kolowski, Lanphier  
Voting Nay: None  
Abstaining: None  
Absent: None

The Subcommittee returned to Regular Session at 9:17 pm.

- **It was moved by Director John Conley and seconded by Director Kolowski that the Subcommittee recommend to the Board of Directors that legal counsel be authorized to file a second corrected condemnation of the Papio Creek Watershed Structure W-3 temporary ingress and egress easement on the John and Mary Camden property.**

Roll call was taken on the motion. The motion carried on a vote of 4 yea and 1-abstention.

Voting Yea: Tesar, Bradley, J. Conley, Kolowski  
Voting Nay: None  
Abstaining: Lanphier  
Absent: None

**Adjournment:** Being no further business, the meeting adjourned by acclamation at 9:20 p.m.