

**Finance, Expenditure and Legal Subcommittee**  
Meeting Minutes  
March 6, 2006

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 154th Street, Omaha, Nebraska, on March 6, 2006. The meeting was called to order by Chairperson Connealy at 8:25 p.m.

Subcommittee Members Present	Subcommittee Members Absent	Other Directors	Others Present
_____	_____	_____	_____
Richard Connealy Richard Patterson John Conley Dorothy Lanphier Tim Fowler		Jim Thompson Rich Kolowski	P-MRNRD Staff: Marlin Petermann Trent Heiser Jack Lawless Gerry Bowen Jim Becic Paul Peters, Legal Counsel Robert Stratbucker Chris Pawloski

**ADOPTION OF AGENDA:** The Chairperson called for discussion on the tentative agenda.

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

**ROLL CALL WAS TAKEN ON THE MOTION.** The motion carried by a vote of 5-0.

Voting Yea: Connealy, Patterson, J Conley, Lanphier, Fowler  
Voting Nay: None  
Abstain: None  
Absent: None

**PROOF OF PUBLICATION:** Public notice of the meeting was posted at all District offices and in the Omaha World Herald on March 1, 2006.

**MISSOURI RIVER TRAIL – PHASE 2 – RIGHT OF WAY:**

- a. **Stratbucker Tract:** Mr. Becic opened the discussion with a brief recap of the status of the project and then introduced Mr. Stratbucker. Mr. Stratbucker spoke about his concerns including the ‘Greenbelt’ status of his property, wanting 3-Phase power from OPPD, wanting his property fenced at a cost of \$10 per foot, and wanting water service.

- **It was moved by Director John Conley and seconded by Director Patterson that the Subcommittee go into Executive Session for purposes of discussing land rights.**

**ROLL CALL WAS TAKEN ON THE MOTION.** The motion carried by a vote of 5-0.

Voting Yea: Connealy, Patterson, J Conley, Lanphier, Fowler  
Voting Nay: None  
Abstain: None  
Absent: None

The Subcommittee went into Executive Session at 8:48 p.m.

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

**ROLL CALL WAS TAKEN ON THE MOTION.** The motion carried by a vote of 5-0.

Voting Yea: Connealy, Patterson, J Conley, Lanphier, Fowler  
Voting Nay: None  
Abstain: None  
Absent: None

The Subcommittee returned to Regular Session at 9:00 p.m.

- **It was moved by Director Patterson and seconded by Director Fowler that the Subcommittee recommend to the Board of Directors that the following resolution concerning Stratbucker Land Company, Ltd., right of way for the Missouri River Trail Project be adopted:**

## 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 Stratbucker Land Company, Ltd. (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.

**ROLL CALL WAS TAKEN ON THE MOTION.** The motion carried by a vote of 5-0.

Voting Yea: Connealy, Patterson, J Conley, Lanphier, Fowler  
Voting Nay: None  
Abstain: None  
Absent: None

**b. Graves Tract:**

- **It was moved by Director John Conley and seconded by Director Patterson that the Subcommittee recommend to the Board of Directors that the General Manager be authorized to execute the proposed Purchase Agreement with Donald and Janet Graves and Irma Graves in the amount of \$9,843.00 for the Missouri River Trail Project – Phase 2.**

**ROLL CALL WAS TAKEN ON THE MOTION.** The motion carried by a vote of 5-0.

Voting Yea: Connealy, Patterson, J Conley, Lanphier, Fowler  
Voting Nay: None  
Abstain: None  
Absent: None

**MOPAC TRAIL (HWY 50 TO LIED BRIDGE) RIGHT OF WAY ACQUISITION – ASH GROVE PARCEL:** Gerry Bowen opened the discussion by explaining status of the project, and explaining as more parcels are acquired ahead of schedule, the project will go over 110% of budget.

- **It was moved by Director Patterson and seconded by Director Fowler, that the Subcommittee recommend to the Board that the General Manager be authorized to execute a purchase agreement in the amount of \$5,290.00 with Ash Grove Cement Company to acquire right-of-way for the Mopac Trail (Hwy. 50 to Lied Bridge) Project, and that Account #01-06-04-4430 (Trails right-of way) be allowed to exceed 110% of budget.**

**ROLL CALL WAS TAKEN ON THE MOTION.** The motion carried by a vote of 5-0.

Voting Yea: Connealy, Patterson, J Conley, Lanphier, Fowler  
Voting Nay: None  
Abstain: None  
Absent: None

**WESTERN SARPY/CLEAR CREEK PROJECT EMINENT DOMAIN CASE – NRD V. HANSEN:**

- **It was moved by Director Lanphier and seconded by Director Patterson that the Subcommittee enter into Executive Session for purposes of discussing land rights.**

**ROLL CALL WAS TAKEN ON THE MOTION.** The motion carried by a vote of 5-0.

Voting Yea: Connealy, Patterson, J Conley, Lanphier, Fowler  
Voting Nay: None  
Abstain: None  
Absent: None

The Subcommittee went into Executive Session at 9:07 p.m.

- **It was moved by Director Fowler and seconded by Director Lanphier that the Subcommittee end Executive session.**

**ROLL CALL WAS TAKEN ON THE MOTION.** The motion carried by a vote of 5-0.

Voting Yea: Connealy, Patterson, J Conley, Lanphier, Fowler  
Voting Nay: None  
Abstain: None  
Absent: None

The Subcommittee returned to Regular Session at 9:19 p.m.

- **It was moved by Director Patterson and seconded by Director Lanphier that the Subcommittee recommend to the Board that District Legal Counsel be authorized to stipulate a settlement of the District's appeal from the December 21, 2004, award of appraisers by the Sarpy County Court Board of Appraisers to landowner Phillips Hansen, for the NRD's taking of two permanent easements for the Western Sarpy/Clear Creek Project, such settlement calling for a District payment of \$40,000.00.**

**ROLL CALL WAS TAKEN ON THE MOTION.** The motion carried by a vote of 5-0.

Voting Yea: Connealy, Patterson, J Conley, Lanphier, Fowler  
Voting Nay: None  
Abstain: None  
Absent: None

**ADJOURNMENT:** Being no further business, the meeting adjourned at 9:21 p.m.