

**Finance, Expenditure & Legal Subcommittee Meeting
Meeting Minutes
May 8, 2007**

A meeting of the Papio-Missouri River Natural Resources District's Finance, Expenditure & Legal Subcommittee Meeting was held at the Natural Resources Center, 8901 South 154th Street, Omaha, Nebraska, on May 8, 2007. The meeting was called to order by Chairperson Dick Connealy at 9:00 p.m.

QUORUM CALL: Quorum call was taken. The following subcommittee members were in attendance.

| Subcommittee Members Present | Subcommittee Members Absent | Other Directors Present | Others in Attendance |
|-------------------------------------|------------------------------------|--------------------------------|-----------------------------|
| Dick Connealy | Tim Fowler * | Dave Klug | John Winkler |
| Rich Tesar ** | | Rick Kolowski | Marlin Petermann |
| John Conley | | Jim Thompson | Jim Becic |
| Dorothy Lanphier | | | Paul Woodward |
| Richard Patterson | | | Trent Heiser |
| | | | Gerry Bowen |
| | | | Martin Cleveland |
| | | | Paul Peters |
| | | | Chris Pawloski, Midwest ROW |

- * Excused Absence
- ** Alternate Voting Member

ADOPTION OF AGENDA

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

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

Voting Yea: Connealy, Tesar, J. Conley, Lanphier, Patterson
 Voting Nay: None
 Abstaining: None
 Absent: Fowler
 Excused Absence: Fowler

PROOF OF PUBLICATION: Public notice of the meeting was posted at all District offices and published in the Omaha World-Herald on May 3, 2007. The proof of publication affidavit is included with the file copy of these minutes.

PAPIO CREEK STRUCTURES (REHAB PROJECT) S27, S31 AND S32 RIGHT OF WAY PURCHASE AGREEMENT: Martin Cleveland and Chris Pawloski, Midwest ROW Services, reviewed the status of land rights acquisition at the three PL 566 watershed rehab sites. Martin explained that three landowners at Site 32 had signed purchase agreements for the appraised amounts. Directors Connealy and John Conley asked about the negotiations procedures.

- **It was moved by Director John Conley and seconded by Director Lanphier that the Subcommittee recommend to the Board that the General Manager be authorized to execute a purchase agreement with Ken Kuhlman for the acquisition of temporary and permanent easements for the payment of \$2,050; Patricia Moore for the acquisition of temporary and permanent easements for the payment of \$58,200; Donald Dittus for the acquisition of temporary and permanent easements for the payment of \$2,925, subject to approval 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: Connealy, Tesar, Conley (John), Lanphier, Patterson

Voting Nay: None

Abstaining: None

Absent: Fowler

Excused Absence: Fowler

MISSOURI RIVER TRAIL – PHASE 2 – RIGHT OF WAY: Jim Becic, Paul Peters and Chris Pawloski, Midwest ROW Services, explained current status of land rights acquisition for the following parcels:

- a. Warnke Living Trust Parcel
- b. Surfside North, Inc. Parcel
- c. Stratbucker Parcel

Jim noted that there needs to be a slight adjustment made in the legal description for the Warnke parcel (also affecting the Graves parcel) and that negotiations are ongoing on the Dukes parcel which is a small strip of land (driveway) between the Warnke and Stratbucker parcels.

- **It was moved by Director Patterson, and seconded by Director Lanphier, that the Subcommittee recommends to the Board to:**
 - a. **approve the Purchase Agreement from Lori Kowal, Trustee of the Barbara J. Warnke Living Trust in the amount of \$24,000;**
 - b. **file eminent domain on Surfside North, Inc. and the following resolution 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 Surfside North, Inc., (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.

- c. direct that the \$13,610.00 amount that was awarded to Stratbucker Land Company, Ltd in the eminent domain case be deposited with the Clerk of the Douglas County Court within 60 days of the date of award, in order to perfect and complete the taking.**

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

Voting Yea: Connealy, Tesar, J. Conley, Lanphier, Patterson
Voting Nay: None
Abstaining: None
Absent: Fowler
Excused Absence: Fowler

RIGHT OF WAY ACQUISITION – MOPAC TRAIL (HWY 50 TO LIED):

a. Gerry Bowen explained his memorandum summarizing the land rights acquisition negotiations and recommendation for the Terry Miller parcel.

- **It was moved by Director John Conley, and seconded by Director Patterson , that the Subcommittee recommends to the Board that the General Manager be authorized to execute a purchase agreement with Terry and Patricia Miller in the amount of \$9,850 to acquire right-of-way for the Mopac Trail (Hwy. 50 to Lied Bridge) Project.**

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

Voting Yea: Connealy, Tesar, J. Conley, Lanphier, Patterson
Voting Nay: None
Abstaining: None
Absent: Fowler
Excused Absence: Fowler

Paul Peters briefed the Subcommittee on negotiations for land rights the following parcels:

- b. NEBCO Parcel
- c. Francis Kennedy Parcel
- d. Patrick Kennedy Parcel

- **It was moved by Director Connealy, and seconded by Director John Conley, that the Subcommittee table the discussions concerning the NEBCO, Francis Kennedy, and Patrick Kennedy Parcels until the May 10, 2007 Board Meeting to allow for continued negotiations.**

Roll call was taken on the motion. The motion carried on a vote 4 to 0 with 1 abstaining.

Voting Yea: Connealy, Tesar, J. Conley, Patterson

Voting Nay: None

Abstaining: Lanphier

Absent: Fowler

Excused Absence: Fowler

RIGHT OF WAY ACQUISITION AT PAPIO DETENTION BASIN SITE WPRB5: Paul Woodward explained to the Subcommittee that no recommendation was available at this time on the Papio Detention Basin Site WP-RB5 Project. No action was taken.

ADJOURNMENT: Being no further business, the meeting adjourned by acclamation at 9:38 p.m.

/pt/com/fel/may07_fel_minutes