

MINUTES OF A MEETING OF THE BOARD OF DIRECTORS OF
TARRANT COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NUMBER ONE
HELD IN THE DISTRICT OFFICE IN FORT WORTH, TEXAS, ON
THE 28TH DAY OF APRIL, 1952, AT 2:00 P.M.

The call of the roll disclosed the presence or absence of
Directors, as follows:

PRESENT.

Joe B. Hogsett
Houston Hill
Dan H. Priest
A.T. Seymour, Jr.

ABSENT.

W. L. Pier

Also present were Mr. Marvin C. Nichols of the Engineering Firm of
Freese and Nichols, Consulting Engineers of the District, Mr. Sidney
L. Samuels, General Counsel of the District, Mr. C. L. McNair, Gen-
eral Manager of the District, and Mr. Beeman Fisher, Vice President,
of Texas Electric Service Company.

Director Hogsett acted in his capacity as President, and Di-
rector Priest acted in his capacity as Secretary, whereupon proceed-
ings were had and done as follows:

1.

Mr. Hogsett, the President of the Board, in calling the meeting
to order, recalled that at the adjournment of the prior meeting the
further consideration of the proposed contract between the Texas
Electric Service Company and the District was postponed to be again
discussed, and the subject to be resumed at the meeting of this date,
and that in his opinion, because of the importance of the subject the
Board should once again discuss the various features in the proposed
contract and emphasized the fact that the Texas Electric Service Com-
pany had agreed to several modifications of the contract as origi-

nally proposed by it, which had been tendered to the District for approval. Mr. Hogsett then pointed out to the Board very many provisions of the contract as now tendered, which would safeguard the District and, moreover, would make it manifest that the contract did not grant to the Texas Electric Service Company an exclusive right or a monopoly in the use of water from Eagle Mountain Lake in any sense, and in support of this opinion, in which the General Counsel of the District, Sidney L. Samuels, concurred, he then pointed out the following provisions now contained in the tendered contract:

- (a) It is therein recited that the first obligation of the District is to provide water for domestic and municipal uses within the District, and, hence, the right granted to the Company to withdraw and use water from Eagle Mountain Lake is subject to the first obligation of the District and otherwise to the provisions of Art. 7471 of the Revised Civ. Statutes of Texas.
- (b) That the right granted to the Company to use water from Eagle Mountain Lake is not an unlimited nor exclusive right, but only to the extent permitted by law be superior to the right of any future purchaser of water from the District for use other than domestic or municipal uses as defined in said Art. 7471.
- (c) Further, that the District does not guarantee the quality or condition of the raw water to be used by the Company or to keep the level of Eagle Mountain Lake at any particular elevation, and that except as to the preferential uses above mentioned, does not guarantee the quantity of the water to be supplied to the Company.

After these provisions had been indicated, discussion ensued and it was the consensus that these three provisions above mentioned furnished ample safeguard against any claim to exclusive uses, and that except as to the right to use such water sufficient for its needs the Company had no guarantee from the District of the quantity of the water to be supplied to it. Discussion ensued with respect to these

observations, inasmuch as the Company had not insisted upon a guarantee of quantity and so it was agreed that the Company might have preferential uses in the consumption of the water but no guarantee respecting the quantity thereof.

Following these discussions, Mr. Samuels, the Counsel for the District, was invited to express his opinion concerning other features of the contract not touched upon by Mr. Hogsett. Mr. Samuels then stated that a careful and particular reading of the contract as it now stood before the Board for approval would convince the most skeptical that the interest of the people had been safeguarded. He pointed out that in paragraph 3 that the works of the Company suitable and necessary for the withdrawal and return of water from Eagle Mountain Lake and the protective works of the Company either on the land of the Company or on land which belonged to the District, should be subject to the approval of District's Engineers, and that the works contemplated by the Company were defined expressly for the purpose of preventing unauthorized persons from entering the water and land areas by boats or otherwise near the points of withdrawal or return of water and that such precautions were for the best interests and for the safety of the general public.

Turning to paragraph 4, Mr. Samuels stressed the fact that the Company was required to protect the water from pollution and from detrimental chemical additions, and that the Company agreed that it should square its uses of the water with all applicable State Laws and valid regulations of the District.

Mr. Samuels further stressed the fact that the Company in paragraph 9, agreed to indemnify and hold the District harmless from all

claims or causes of action arising out of the Company's uses of that part of District's lands under control of the Company or because of any structures which the Company might place in the lake in connection with the withdrawal and return of water.

Mr. Samuels then adverted to the easements which were to be granted to the Company in the exercise of the rights for which it contracted with the District. Regarding such matters, Mr. Samuels stated that under the terms of the contract as recited in paragraph 11, the location of such easements should be made subject to:

- (a) Approval by the District of the location, area and extent of such facilities, and
- (b) Payment by Company to District of fair compensation therefor.

Mr. Samuels then proceeded to say that, concerning the construction of overhead transmission lines the concluding subparagraph of the contract denied to the company the right to establish overhead transmission lines above the body of the lake--this because of the hazardous nature of such lines and the inherent menace to life and property, and as a result of mutual consent Company agreed that the initial transmission lines in the vicinity of Eagle Mountain Lake should be constructed on the East Side of the lake and below Eagle Mountain Lake Dam and spillway and/or across Eagle Mountain Lake at or North of the Tarrant-Wise County lines to serve the proposed steam-electric generating station and that each of these transmission lines should be 132,000 volts capacity, and said provision of the contract contained this further language which is now quoted:

"It is expressly agreed that the District does not hereby grant the Company any right to build any transmission or distribution line across the main

body of Eagle Mountain Lake other than hereinabove set out."

Mr. Samuels made offer of this further opinion in response to questions concerning the right of the Company in the future to exercise the right of eminent domain in stretching their overhead wires across the body of the lake.

Mr. Samuels answered these questions by saying that: where property had been condemned or appropriated to the uses of the State of Texas or to its subdivisions, even though generally speaking, the right of eminent domain had been conferred by Statute on a corporation like Texas Electric Service Company, nevertheless, such right could not be employed to superimpose a use upon property so appropriated by the State or its subdivision, and Mr. Samuels further gave it as his opinion that if it were to be assumed that such a right existed on the part of the Company, nevertheless, under the decisions it would be required to erect its transmission lines at a point where they could not or would not endanger the safety of the public, and that this principle would preclude the Company from extending its overhead transmission lines above the main body of the lake. Mr. Samuels further stated that he would prepare a brief of the important phases of the contract and file same among the archives of the District for the purposes of establishing the legality of the contract and the protection to the District and the inhabitants thereof.

Following the discussion of the subject by Mr. Samuels, as the Counsel of the District, and the contract in its entirety having been placed before the Board, and the contents read consecutively, thereupon it was agreed that the formal approval of the contract be postponed to a meeting to be called and held on May 1, 1952, for the

passage of a resolution authorizing the execution of the contract and the signing and acknowledging of the same by the President and Secretary of the Board on behalf of the District.


2.

Mr. McNair, General Manager of the District, presented to the Board for its consideration a letter dated January 25, 1950, from the City Secretary, of the town of River Oaks, Texas, adjacent and contiguous to the City of Fort Worth, and within the boundaries of the District, for the supply of water to the inhabitants of said town for domestic purposes. On motion of Director Seymour, seconded by Director Priest, the General Manager of the District was authorized to send a communication to the officials of the town of River Oaks advising such officials that water was now available for such uses and that some authorized official of said community should appear before the Board and discuss the terms and conditions under which such contract could be made with the District, and that at such time, the subject would be given further consideration.

This order was approved and the motion unanimously carried.

3.

There being no further business before the Board, the meeting thereupon adjourned.



President.



Secretary.