

MINUTES OF A SPECIAL MEETING OF THE BOARD OF DIRECTORS OF
TARRANT COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NUMBER ONE
HELD ON THE 7TH DAY OF FEBRUARY, 1972 AT 10:00 A. M.

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

<u>PRESENT</u>	<u>ABSENT</u>
Wayne E. Newton	Edward R. Hudson
Clyde A. Penry	Paul W. Mason
J. Oliver Shannon	

Also present were Messrs. Joe B. Hogsett, Honorary Chairman of the
Board and Ben Hickey, General Manager of the District.

Director Newton acted in his capacity as President and
Director Penry acted in his capacity as Secretary, whereupon pro-
ceedings were had and done as follows:

1.

On motion duly made and seconded, the minutes of the
meeting held January 20, 1972 were read and approved by the
Directors and it was accordingly ordered that such minutes be
placed in the permanent files of the District.

2.

On motion of Director Penry, seconded by Director Shannon,
voucher-checks #3001 thru #3004 inclusive, Construction Fund; voucher-
checks #10917 thru #10985 inclusive, Maintenance Fund; voucher-checks
#380 thru #386 inclusive, Interest and Sinking Fund; voucher-checks
#2847 thru #2867 inclusive, Revenue Fund and voucher-checks #3525
thru #3543 inclusive, Cedar Creek Construction Fund were approved and

ordered paid. All Directors voted aye thereon.

3.

Mr. Ben Hickey, General Manager, stated that work on the Cedar Creek Pipeline, and appurtenances, was progressing as planned, with Sections I, II and IV of the Pipeline and the purchase of pumps and valves all now under Contract; and that bid proposals for Section V, and the Balancing Reservoir, would be accepted during February; explaining in detail the coordination of construction required between work on the City of Fort Worth's Rolling Hills Treatment Plant with Section V of the District's pipeline, and that of the Balancing Reservoir. Maps showing the location of the Balancing Reservoir were shown the Directors, along with appraisals from competent independent appraisers on the following two (2) tracts required, and recommended to be purchased by District, to wit:

Tract No. T-27 - owned by Lewis E. Clearly, et al, 115 acres more or less @ \$1,600.00 per acre in fee and \$51,000.00 for all improvements located thereon;

Tract No. T-28 - owned by O. P. Hilscher, et al, 10 acres more or less @ \$2,000.00 per acre in Fee.

Following a thorough discussion of the matter and upon recommendation of Management of the District, Director Penry made a motion, seconded by Director Shannon, that the above described Tracts, ie Tract No. 27 and Tract No. 28 be purchased by the District at the above listed prices; whereon all Directors voted aye.

4.

Mr. Ben Hickey, General Manager of the District, requested authority for the District to acquire, by eminent domain procedure,

the following tracts as required for Program D Bridgeport:

- (a) Tract No. 507 - Pauline Clawson - 40 acres more or less in Wise County.
- (b) Tract No. 507 - J. W. Durham, et ux - 520 acres more or less in Jack County.
- (c) Tract No. 541 - Dan B. Whitehead - 53 acres more or less in Wise County.

Following a detailed discussion of the matter, Director Shannon, seconded by Director Penry, moved that the District be authorized to do all things necessary in the acquisition of the above described tracts as required by eminent domain procedures. Upon a vote taken all Directors voted aye thereon.

5.

Mr. Ben Hickey, General Manager of the District, stated that upon recommendation of Engineers for the District, a temporary working Right-of-Way easement of Fifty (50) feet would be needed in the construction of Section IV of the Cedar Creek Pipeline, explaining that all sections of the Pipeline Right-of-Way, except Section IV, had a width of 135 feet. Following a discussion of the matter, and upon recommendation of management of the District, Director Penry made a motion seconded by Director Shannon and unanimously approved, that the following listed owners and consideration be now approved for a temporary working easement and prepaid damage claims, to wit: Tract No. N-6, John R. Guynes @ \$200.00; Tract No. N-17, Baldwin Nortfort Tract @ \$250.00; Tract No. H-17, Baldwin Motfort Tract @ \$250.00; Tract No. H-7, C. L. Tarkington @ \$200.00; Tract No. H-11, M. J. McClintlock @ \$200.00; Tract No. N-14A, Mrs. Tom Weaver @ \$50.00; Tract No. H-5, Estate of Joseph Stumph @ \$300.00; Tract No.

N-11, W. A. Littleton @ \$50.00 and Tract No. N-15-A, George Nelson et al @ \$100.00.

6.

There was presented to the Directors the following letter,
to wit:

*Mr. Ben Hickey, General Manager
Tarrant County Water Control and
Improvement District No. 1
P. O. Box 4508
Fort Worth, Texas 76106*

*RE: Raising of Bridgeport Dam
H. B. Zachry Company*

Dear Mr. Hickey:

The Contractor is nearing completion of the work required for the raising of Bridgeport Dam and the construction of a new spillway structure. The remaining work primarily consists of the installation of hoist and gate equipment furnished by the District and the closing of the existing spillway structure.

The Contractor is proceeding with the completion of the spillway structure, including installation of equipment furnished by the District, but he will be unable to close the existing spillway for several months due to the necessity of leaving the State Highway in place until the bridge structure is completed by another contractor.

We believe it will be desirable for the District to consider releasing a large portion of the retainage being withheld from the Contractor's earnings. Zachry has diligently performed his contract, and we are not concerned about his ability to complete the work in a satisfactory and expeditious manner.

It is our recommendation that the District release \$350,000 of the retainage to the Contractor as soon as the necessary approvals can be obtained.

Yours very truly,

FREESE, NICHOLS AND ENDRESS

/s/ James R. Nichols, P.E.

Following a review of construction of the Bridgeport project and with recommendation of management of the District, it

was the unanimous opinion of the Directors and their order, that \$350,000.00 from the retainage now held by the District be released to the H. B. Zachry Company.

7.

Mr. Hickey presented maps and made a detailed review before presenting the following letter, to wit:

*Mr. Ben Hickey, General Manager
Tarrant County Water Control &
Improvement District No. 1
P. O. Box 4508
Fort Worth, Texas 76106*

In Re: Claim of Beall Heirs arising from Cement Creek Reservoir

Dear Mr. Hickey:

As background for this claim, attention is directed to contractual documents between TCWCID and Administrators of the Estate of Fanny C. Beall in May, 1955, pertinent to the taking of certain lands for Cement Creek Reservoir out of the Beall Farm.

After the taking, the Beall Estate had remaining fee simple title to a tract of land abutting on the West side of U. S. Hwys. 81 & 287 and, further, exclusive surface rights on 43.52 acres adjoining said fee simple land to it's west and with a common boundary from north to south. Title to the 43.52 acre tract was in TCWCID subject to use of the surface by the Beall Heirs, it's heirs and assigns in perpetuity.

In the negotiations, both parties desired a straight boundary line, rather than a boundary following the high-water mark of the reservoir. However, the 696' high-water mark of the reservoir extended into the fee simple acreage of the Beall Estate at 2 points, one at the southern end of the tract and the other near it's middle. TCWCID agreed, as part of the consideration for it's taking of lands, to fill both such low places on the fee simple acreage of the Beall Estate. That was never done.

In 1958 a partitionment of the Beall Heirs property was had. Jarvis Beall, one of the heirs, now deceased and survived by Sara Beall, sought and received the southern extremities of the remaining Beall fee and surface tracts. One of the two low spots within the fee simple acreage was partitioned to Jarvis Beall at that time and is not a subject of this claim.

The other low spot within the fee simple acreage is one of the subjects of this claim. It extends some 900 lineal feet along the west boundary of the fee simple acreage and the east boundary of the surface acreage, extends eastward as a triangle into the fee simple acreage for a distance of 500 lineal feet to a point, has as its lowest point 686' above sea level and slopes upward to spillway level at 696'.

If it be assumed that this low area which TCWCID agreed to fill, has an average depth below 696' elevation of 5 feet, there would be required 41,666 cubic yards of fill.

Appraisals of the fee simple land of the Beall Heirs, in the taking now in progress by the State Highway Department, have suffered as to amount because this low area had not been filled.

Determination of a claim based upon appraisal penalties would be difficult. A more precise calculation is available from the contract executed by the City of Fort Worth for fill needed for its runway extension, which fill came from the bowl of Cement Creek Reservoir and was trucked about an equal distance. I have been informed that the City's contract for that work was something a bit more than 50¢ a cubic yard.

With that as a basis, claim is hereby asserted for an amount rounded to \$20,000.00.

The second part of this claim relates to two of the Beall's surface acres at the south extremity of the surface acreage tract. For further identification, these two surface acres lie south of the right-of-way of Loop 820.

The agreements between TCWCID and the Beall Estate included, among other things, that the Beall's surface acreage would not be excavated or disturbed.

Through error in description in an instrument between TCWCID and the City of Fort Worth, executed in 1970, TCWCID granted to the City of Fort Worth the right to excavate for runway fill from a considerable area of land in Cement Creek Reservoir, including the two acres of Beall surface rights. The City of Fort Worth did excavate for its runway fill within the area designated, including the two acres of the Beall Heirs.

The excavation in the two surface acres of the Bealls is approximately 20 feet deep and, if in the interest of conservatism some allowance is made for slope, is estimated to have been a cut averaging 18 feet deep over the entire two acres. This served not only the needs of the City of Fort Worth for runway fill but also served to increase the capacity of Cement Creek Reservoir. This trespass first came to the attention of the Bealls in September, 1970.

Two acres of ground excavated to a depth of 18 feet would produce 58,000 cubic yards of fill. Located conveniently to the point of delivery, as was the case here, fill sells for 35¢ per cubic yard. On that basis, the value of the fill removed from the Beall surface acreage would be \$20,300.00.

This second claim is asserted for an amount rounded to \$20,000.00.

The total of the two claims here asserted is \$40,000.00.

In addition to the partitionment with Jarvis Beall in 1958, the undivided interest held in this property by the Fort Worth National Bank, Trustee for the Estate of Dorothy McCaleb, was acquired through purchase by the remaining Beall heirs. At this time title to this property is vested in the following Beall heirs:

Varner Beall Stevens, a feme sole, Frances Beall Ryan, a feme sole, Edith Beall Russell, wife of Steven A. Russell, Jr., Varner Beall Bell, wife of Frank F. Bell, III, Lucile Beall McLean, wife of Hunter McLean, Betty Beall Hughes, wife of Robert Q. Hughes, and Camilla Beall Thompson wife of William B. Thompson.

Those owners have empowered Edith Beall Russell, Camilla Beall Thompson and Lucille Beall McLean to act for them in matters affecting the land here involved. These three attorneys-in-fact, familiar with the details set out in this claim and in behalf of the owners, have authorized Hunter McLean to prepare and to execute this claim upon Tarrant County Water Control and Improvement District No. 1.

Yours very truly,

/s/ Wm. Hunter McLean

Wm. Hunter McLean

Following the presentation of the above letter, and a thorough discussion, Mr. Hickey recommended to the Directors that authority be now given to management, and counsel for the District to make an exchange with the District receiving \$2,000.00 in cash, as a compromise of the above listed claim; whereon Director Penry made a motion, seconded by Director Shannon and unanimously passed that such authority be now granted to management and counsel of the District.

8.

There was presented to the Directors for their approval

plans and estimate costs for the construction by District forces of an office building to be constructed as the Central Warehouse area to contain, among other requirements, the necessary controls, equipment and other appurtenances relating to the operation and surveillance of the Cedar Creek Pipeline and Pump Stations, all to be operated and controlled from the new facility now proposed. Following a general discussion it was the unanimous opinion of the Directors, following Director Penry's motion and second by Director Shannon, that authority be now granted for the construction as presented.

9.

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


Secretary


President