

67
S.H.

MINUTES OF A REGULAR MEETING OF THE BOARD OF DIRECTORS OF
TARRANT COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NUMBER ONE
HELD IN THE DISTRICT OFFICE ON DECEMBER 28, 1931, AT 3 PM.

The call of the roll disclosed the presence of all directors as follows, viz:

- W. R. Bennett
- E. E. Bewley
- W. K. Stripling
- C. A. Hickman
- Joe B. Hogsett

Director W. R. Bennett presided in his capacity as President; Director W. K. Stripling acted in his capacity as Secretary.

At this time and place the following proceedings were had and done, viz:

1.

Minutes were read, approved and ordered of record as follows, viz:

- Minutes of December 7, 1931;
- Minutes of December 15, 1931;
- Minutes of December 21, 1931.

2.

Mr. Woodward, Mr. McKenzie, Mr. Bentley, Mr. Horton, Mr. Kirven, and Mr. Rose, representing the Contractors, appeared for a discussion of the plans of the District for the sale of bonds and, or, temporary financing to care for payment of estimates of the Progress of the Work. It was explained that the District expected to procure temporary financing adequate to care for Estimates up to the Estimate of May, 1932, and that any effort to procure a sale of the bonds would await developments. President Bennett made a statement of the finances and estimated requirements of the District, as shown by "Exhibit A," hereto attached as part hereof. The Contractors expressed their confidence in the District's handling of the matter and retired. (Correspondence attached).

3.

There was consideration of the proposal of an arbitration as between the District and the Contractors, concerning "Extra Work," involved in constructing

banquettes at the Eagle Mountain Dam, and the removal and replacement of certain materials in the river section. There was consideration of persons proposed as Arbitrators. It was the sense of the Board that Mr. Rollins of Dallas, and Mr. Howell of Houston, who served on a prior Arbitration, would be approved by the District. Further, that the third member should be a lawyer, and that the District would approve any one of five Fort Worth Attorneys, as follows:

J. H. Barwise; George Thompson; Mark McMahan; Leroy Smith; G. B. Stone. The Engineers were requested to seek agreement for this personnel for the Board of Arbitration.

4.

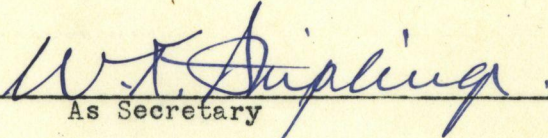
There was consideration of a letter written by the Contractors on December 17, 1931, addressed to Mr. W. R. Bennett, as President of the District, and relating to the question of whether the maintenance obligation of the Contractors on the Bridgeport Works was to expire on November 24, 1931, on which date the Engineers for the District certified that the Bridgeport works were complete, or on December 15, 1931, on which date the Directors of the District actually accepted said work as complete. The Attorneys for the District were directed to write an opinion covering this matter.

5.

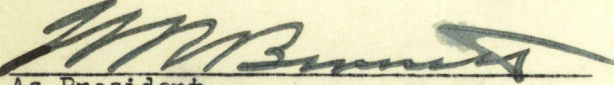
There was presented a check of L. E. Gilley, for the sum \$35.00, which was offered as an accord and satisfaction of his trespass upon lands of the District during the year 1931. It was the sense of the Directors that this sum of money did not represent the fair value for the use of the land but that the same, upon payment, should be received as a full accord and satis-

faction of the District's claim against Mr. Gilley: Further, that the District should not lease to Mr. Gilley the land, being Tract No. 313, purchased from T. M. Dunaway, for the year 1932.

No further business was presented and the meeting was adjourned.


As Secretary

APPROVED:


As President

Originals mailed on January 9, 1931. One copy hereof shall be attached to Minutes of December 28, 1931.

January 6, 1932

Trinityfarm Construction Company, Inc.,
Santa Fe Building, Dallas, Texas,
McKensie Construction Company,
Smith-Young Tower, San Antonio, Texas,
Uvalde Construction Company,
Santa Fe Building, Dallas, Texas.

ATTENTION: Mr. D. K. Woodward, Jr.

Gentlemen:

This answers your letter dated December 17, 1931, signed by D. K. Woodward, Jr., Vice-President of the Trinityfarm Construction Company, addressed to Mr. W. R. Bennett, as President of Tarrant County Water Control and Improvement District Number One. The Minutes of the Meeting of the Board of Directors held on December 15, have been corrected to recite that the Contractor's letter giving Notice of Completion of the Bridgeport Works was dated on November 21, instead of November 24.

The remainder of the letter relates to the question as to when the obligation of the Contractors for maintenance of the Bridgeport Works will terminate. We, upon request of the Directors, have given them oral advice, and this advice we now confirm to you as follows:

(a) Paragraph 25 of the Contract provides for certificate of final acceptance of the work by the Engineer, but it does not purport to provide that final acceptance is within the province of the Engineer. Paragraphs 25 and 26 are silent as to who may finally accept the work.

(b) In "Exhibit A," to the Contract, "NOTICE TO CONTRACTORS," we find the following language:

"The obligation of said bond shall extend to a period to be one year next after acceptance of the work; provided, however, that the obligation of the Contractor and of the bond, after final acceptance of the work, shall be limited to the duty to make alterations, repairs or replacements (any or all) which may be necessary to remedy any defect in the materials furnished by, and, or, work done by, the Contractor."

(c) The contract and bond must be construed in the light of controlling provisions of Chapter 25 of the Acts of the 39th Legislature, Regular Session. In Sections 119 and 120, we find language here material as follows:

"All construction contracts made by the District shall be in conformity with, and subject to, the provisions of this Act, and the provisions of this Act shall be a part of all such contracts x x x and the provisions of this Act shall govern whenever the contract is in conflict therewith. x x x As the work progresses the District Engineer shall make full written report to the Directors, showing in detail whether the contract is being complied with or not, and when the work is completed the Engineers shall make detailed report of same to the Directors x x x. The Directors shall at all times during the progress of the work inspect the same and cause the same to be inspected by the District Engineer and his assistants, and upon the completion of any contract in accordance with its terms, they shall draw a warrant on the depository of the District to pay any balance due thereon."

CONCLUSIONS

As a matter of law, acceptance of the work could be only by the District acting through its Board of Directors; The Engineer could not have power to accept the work, as this would constitute an abdication of the functions of the Directors. This conclusion, considered in connection with the language quoted from the "Notice To The Contractors," seems to make it clear that actual acceptance of the work, occurred on December 15, 1931, and that the period for maintenance will expire "one year next after the acceptance of the work." We therefore have given advice that your obligation for maintenance will expire at mid-night of December 14, 1932.

Respectfully,

TARRANT COUNTY WATER CONTROL AND
IMPROVEMENT DISTRICT NUMBER ONE,

BY: Freeland Hampton

S. L. Mumby
Attorneys for District.

Fort Worth, Texas
December 23, 1931.

DEC 24 1931

Mr. D.K. Woodward, Jr., Vice President
Trinity Farm Construction Company
Norwood Building, Austin, Texas

Dear Mr. Woodward:

Acknowledging your letters of the 17th and 18th:

Referring to that part of your letter of the 17th where you mention the minutes of the meeting of the Board of Directors held December 15th, I have turned this letter over to our attorneys and engineers who will give it immediate attention and will advise you.

With reference to your other letter of the 17th regarding the meetings held by the Board just prior to making payment to the contractors for the Bridgeport work, would much prefer to discuss this with you in person the next time you are in Fort Worth. In fact, I would like very much, if it is practical, to discuss this letter with you, Mr. Bentley and Mr. McKenzie at a joint meeting, provided of course you gentlemen can all be here on the same date. However, I want to say this: it has always been the desire of the Board to be courteous and conduct themselves in a proper manner when they contact with anyone. It is our desire to treat everyone fairly and just as we would expect to be treated under like circumstances. My idea is that in a meeting such as mentioned above we can come to a common understanding much better than if we attempt to handle the matter through correspondence.

Regarding your letter of the 18th, wish to say that we are making a careful check up to find out just where we stand and hope to work out a plan at an early date that will obviate embarrassment to any of us. We are sure, of course, that you are fully aware of the present condition of the bond market. It probably will be advisable for the Board and contractors to have a conference pertaining to this matter, and in the event you, Mr. Bentley and Mr. McKenzie are all in Fort Worth at that time, prior to such a conference we can have a frank and open discussion of the matters mentioned in your letters.

Wishing you a very Merry Christmas and a Happy and Prosperous New Year,
I am

WRB:hm

Yours very truly,


W R Bennett

cc-Mr. Bentley-Uvalde Const. Co
cc-Mr. McKenzie-McKenzie Const. Co
✓ cc-Tarrant County Control and
Improvement Dist. #1

TRINITYFARM CONSTRUCTION COMPANY

LEVEE - DRAINAGE - IRRIGATION - DAMS

CAPITAL \$2,000,000.00

E. P. HARWELL, PRESIDENT
J. D. KIRVEN, VICE PRESIDENT
D. K. WOODWARD, JR., VICE PRESIDENT
C. C. MIDDLETON, SEC'Y-TREAS.



M. A. ROSE } ENGINEERS
J. C. BISSET }
H. T. ROGERS }
W. F. JOHNSON } SUPERINTENDENTS
JESS WILSON }
R. L. CREECH }
J. E. WOOD }

DALLAS, TEXAS

December 17, 1931.

Mr. W.R. Bennett, President.
Tarrant County Water Control and Improvement
District Number One.
N.P. Anderson Building.
Fort Worth, Texas.

Dear Mr. Bennett:

I have received, through Mr. Rose, copy of the minutes of the meeting of Board of Directors of the District, held December 15th, and same appear to be in order excepting in two particulars, one of which is quite immaterial and the other of which is controlled by proper construction of the contract and bond, rather than by any recital or resolution by the Board of Directors.

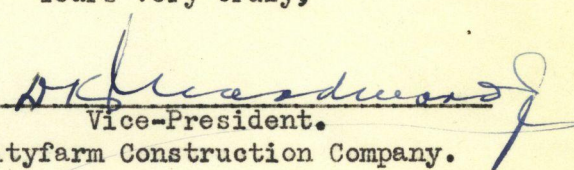
The first discrepancy referred to is in the matter of the date of letter of notification by the contractors which is recited in Paragraph 2 (a) as being November 24, 1931. A duplicate original of a letter signed by Major John B. Hawley, for Hawley & Freese, on November 24th sets out the letter from the contractors as bearing date of November 21, 1931.

In the center of Paragraph 4 - 2 (c), appearing on page 5 of the minutes, there appears a recital that the maintenance obligation shall continue "for the period of twelve (12) months next after this day". An examination of the bond discloses that the obligation thereon shall extend to a period one year after the acceptance of the work, and Paragraph 25 of Standard Form of Agreement, which is a part of the Contract, provides for final acceptance and the issuance of a formal certificate thereof by the Engineer. My construction of the contract and bond is that final acceptance in fact occurred on November 24th, as evidenced by duplicate original of letter of that date from Messrs. Hawley & Freese, above referred to. If I am correct in this, period of maintenance begins November 24, 1931, and not December 15, 1931.

Yours very truly,

DKW.Jr/M

cc Mr. Sidney L. Samuels
Mr. W.P. Bentley
Mr. A.J. McKenzie


Vice-President.
Trinityfarm Construction Company.

"E X H I B I T A"
12/28/31.

"E S T I M A T E"
OF DISTRICT'S NEEDS FOR FUNDS OTHER THAN SINKING FUND
FOR PERIOD TO APRIL 1, 1932

CONTRACT ACCRUALS

1.	December	1931	\$50,000.00		
	January	1932	60,000.00		
	February	1932	60,000.00		
	March	1932	<u>60,000.00</u>	\$	230,000.00

OTHER ACCRUALS

1.	Overhead		12,910.00
2.	Land Purchases:		
	(a) G. W. Duke	\$ 2,000.00	
	(b) Rose Wells	<u>7,800.00</u>	9,800.00
3.	Contingent		23,077.00
			<hr/>
G R O S S			\$ 275,787.00
° LESS CASH in Construction Fund as of December 21, 1931			<u>75,787.00</u>
ANTICIPATED TEMPORARY FINANCING			\$ 200,000.00

° This District has on Deposit with W. V. Cunningham, County Clerk of Wise County, Texas, the sum of \$35,000.00, as a Deposit in Condemnation of J. T. Counts land, said deposit being twice the amount of award of \$17,500.00, as made by the Commissioners of Appraisal. Should the Condemnation be settled for the amount of award as made by the Commissioners of Appraisal, the District would have funds available amounting to \$17,500.00, less any Court Costs and expense incident to the dismissal of the Condemnation proceedings, as and when such settlement is made.

Note: Cash in Interest & Sinking Fund
as of December 21, 1931 \$131,093.43.

TARRANT COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NUMBER ONE
ESTIMATE OF RECEIPTS AND DISBURSEMENTS
OF AUTHORIZED \$6,500,000.00
BOND ISSUE (INCLUDING MISCELLANEOUS RECEIPTS) TO COMPLETION OF WORK

BONDS AUTHORIZED, Par Value	\$6,500,000.00		
Less Discount on Bonds Sold: Series "A"			
Series "A"	\$ 70,000.00		
Series "B"	10,050.00		
Series "C"	5,550.00	85,600.00	\$ 6,414,400.00
Interest D/B - Land Rentals and Miscellaneous			83,746.64
Interest D/B - Land Rentals and Miscellaneous Estimated			5,000.00
Land Owned in Fee, subject to Sale (12,830.67 acres cost)			<u>424,567.46</u>
			\$ 6,927,714.10

ESTIMATED DISBURSEMENTS

CONSTRUCTION:			
Eagle Mountain Dam		\$2,646,703.02	
Bridgeport Dam		1,568,938.06	
Levees		<u>250,000.00</u>	4,465,641.08
ENGINEERING:			237,500.00
LANDS:			
	<u>ACRES</u>		
Lands to be submerged owned in fee	20851.83	855,196.13	
Easement Lands owned in fee	5026.59	190,297.97	
Marginal Land Not Affected owned in fee	7804.08	<u>234,269.49</u>	1,279,763.59
Perpetual Easement rights owned on Construction Easement, during construction	2257.58	6,021.93	
		381.50	6,403.43
Lands to be acquired (under contract)		<u>9,800.00</u>	
Land under Condemnation (for which funds to cover have been deposited with Co. Clerk)		<u>17,500.00</u>	27,300.00
CLAIMS AND DAMAGES:			
Settlement made with Wise County		45,000.00	
Settlement made with Texas Pipe Line Co.		25,000.00	
Settlement made with Southwest Telephone Co.		210.00	
Settlement made with Texas Power & Light Co.		3,500.00	
Settlement made with R. R. Harris, Owner of Newark Telephone Exchange		<u>500.00</u>	74,210.00
SETTLEMENTS TO BE MADE WITH: (Estimated)			
Tarrant County (Road Settlement)		50,000.00	
Rock Island Railroad		243,217.00	
Western Union Telegraph Company		4,000.00	
Jack County (Road Settlement)		<u>5,000.00</u>	302,217.00
OVERHEAD EXPENSE:			
Directors' Fees, Legal Services, Office & Sundries			120,000.00
PREDICTED EXCESS ESTIMATED RECEIPTS OVER ESTIMATED DISBURSEMENTS (Assuming lands not affected (°) to be sold at not less than cost)			<u>414,679.00</u> \$ 6,927,714.10

Note: (a) No consideration has been given to the probable discount on the remaining \$1,500,000.00 5% Series "D" Bonds, authorized but not sold.

(b) The predicted excess of receipts over disbursements assumes that lands not to be submerged (approximately 12,830.67 acres) are to be sold for not less than original cost. Until such sale is effected, the estimated money needs will exceed money available by \$9,888.46, which is the difference by which the cost of such land exceeds the "predicted estimated receipts over estimated disbursements" to complete the project.

December 30, 1931.

TARRANT COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NUMBER ONE
STATEMENT OF ULTIMATE ESTIMATED COST OF PROJECT
SUMS PAID AND ESTIMATES REMAINING TO BE
PAID

	ESTIMATE TO COMPLETION	AMOUNT P A I D	BALANCE TO BE P A I D
CONSTRUCTION:			
Eagle Mountain Dam	\$ 2,646,703.02	\$ 1,710,081.75	\$ 936,621.27
Bridgeport Dam	1,568,938.06	1,532,333.07	36,604.99
Levees	250,000.00		250,000.00
ENGINEERING:			
	237,500.00	207,500.00	30,000.00
LANDS:			
To Be Submerged, Owned in Fee	882,496.13	855,196.13	27,300.00
° Easement Lands, Owned in Fee	190,297.97	190,297.97	
° Marginal Lands (Not Affected), Owned in Fee	234,269.49	234,269.49	
Perpetual Easement Rights Owned	6,021.93	6,021.93	
Construction Easement, During Construction	381.50	381.50	
CLAIMS AND DAMAGES:			
Settlements Made With:			
Wise County	45,000.00	45,000.00	
Texas Pipe Line Co.	25,000.00	25,000.00	
Southwest Telephone Co.	210.00	210.00	
Texas Power & Light Co.	3,500.00	3,500.00	
R. R. Harris, Owner Newark Telephone Exchange	500.00	500.00	
SETTLEMENTS TO BE MADE WITH:			
Tarrant County (Road Settlement)	(50,000.00		(50,000.00
Rock Island Railroad) 243,217.00) 243,217.00
Western Union Telegraph Co.	(4,000.00		(4,000.00
Jack County (Road Settlement)) 5,000.00) 5,000.00
	302,217.00		\$ 302,217.00
OVERHEAD:			
Directors)		
Legal Services	(120,000.00	73,311.56	46,688.44
Office, etc.)		
T O T A L S	\$6,513,035.10	\$4,883,603.40	\$1,629,431.70

S U M M A R Y :

Estimated Receipts, to Completion		6,927,714.10
Estimated Disbursements to Completion	6,513,035.10	
Predicted Excess Estimated Receipts over Estimated Disbursements (assuming lands not affected (°) to be sold at not less than cost)	<u>414,679.00</u>	6,927,714.10

Note: The predicted excess of receipts over disbursements assumes that lands not to be submerged (approximately 12,830.67 acres) are to be sold for not less than original cost. Until such sale is effected the estimated money needs will exceed money available by \$9,888.46, which is the difference by which the cost of such land exceeds the "predicted estimated receipts over estimated disbursements" to complete the project.

December 30, 1931.