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MINUTES OF A CALLED 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
20TH DAY OF SEPTEMBER, 1935, 3:30 P.M.

The call of the roll disclosed the presence of all Directors as follows, v i z:

C. A. Hickman
E. E. Bewley
W. K. Stripling
Joe B. Hogsett
W. S. Cooke

At this meeting C. A. Hickman, President, presided; W. K. Stripling acted in his capacity as Secretary.

At this time and place the following proceedings were had and done, v i z:

1.

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

Minutes of a Called Meeting, of June 8, 1935, 2 P. M.,
Minutes of a Called Meeting, of June 14, 1935, 3:30 P. M.,
Minutes of a Called Meeting, of June 24, 1935, 3:30 P. M.,
Minutes of a Called Meeting, of July 11, 1935, 3:30 P. M.,
Minutes of a Monthly Meeting, of August 8, 1935, 3 P. M.,
Minutes of a Called Meeting, of August 29, 1935, 3:30 P. M.,
Minutes of a Called Meeting, of August 29, 1935, 5 P. M.,
Minutes of a Monthly Meeting, of September 12, 1935, 3:30 P. M.,

2.

There was called to the attention of the Directors the fact that the settlement of the suit of Ben Lyda and others against this District, formerly pending in the District Court of Jack County, wherein a settlement had been authorized by the Directors had not been accomplished. Further, that judgment in favor of the District, on its cross bill against the plaintiffs, had been entered, whereby title to the land involved was divested out of the plaintiffs and quieted in the District. A certified copy of the judgment was presented as evidence of the settlement, and was ordered to be filed in the title record of the Jacob Lyda land.

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3.

In compliance with the prior request of the Directors of the District, the Attorneys for the District presented their opinion, dated September 16, 1935, relating to the practice of the District to charge all expense of assessing and collecting taxes against the Interest and Sinking Fund. The opinion of the Attorneys was to the effect that the practice was lawful; that the Auditor should be so advised; and that economy and convenience would be effected by continuing this method. Said opinion is attached to these Minutes as "Exhibit A," and made part hereof. It was the opinion of the Directors that this custom be followed in the future; and that the Auditor be so advised: It was so ordered.

4.

In compliance with a prior request the Attorneys for the District presented their written opinion dated September 16, 1935. This opinion is attached to these Minutes as "Exhibit B," and is made part hereof. The opinion was to the effect that the District had the legal authority to expend money for the purpose of conserving water which the District might desire to flow from Lake Bridgeport to Lake Eagle Mountain; provided the money so expended did not exceed the reasonable value of the water which would be conserved. Based upon said opinion the Directors deemed it to be their right and duty to furnish superintenance and some equipment to be used in cooperation with the Federal Works Progress Administration, to the end that the waste of water now occurring by reason of the New River basin, in Wise County, may be abated, provided that the money so expended should not exceed the sum of \$^v , whereupon Director Cooke made a motion that the President of the District, without other or further order of this Board, do hereby be authorized to expend from the Maintenance Fund

of the District, any sum not to exceed \$^v , which may be required to meet the demands of the Federal Agency; further that, the Engineers and Attorneys for the District do be requested to render such service as might be required in the premises; further that, the compensation of the Engineers for their service do be confined to compensation to cover the actual cost of the work performed by them, and not to include any percentage compensation, based on the cost of the materials and labor involved. This motion was seconded by Director Stripling. Upon a vote being taken the motion was carried and it was so ordered.

5.

Director Hickman presented to the Directors the request of O. G. Lowry for a rebate of lease money paid by him, due to the fact that the greater part of the tract of land which was covered by the Lowry lease (The District's Tract No. 296, purchased from J. N. McKee-16.72 acres; and Tract No. 298, purchased from O. G. Lowry-8.12 acres) had been covered by water stored in Lake Eagle Mountain, since the early days of May, 1935. It was further explained that the original lease he made with the District was with the understanding that there would be an equitable adjustment of this matter, to be made after the extent and duration of inundation was known. Director Stripling made a motion, seconded by Director Hogsett, that the District authorize Director Hickman, as Chairman of the Land Committee, to adjust this matter with Mr. Lowry as his discretion might dictate. Upon a vote being taken the motion was carried and it was so ordered.

6.

At the request of the President, Ireland Hampton made a report of his negotiations with the State Highway Commission, in Austin, on September 16 and 17, 1935, relating to the effort to procure the Highway Commission promptly to pro-

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ceed to so alter the bridge over the Clear Fork on West 7th Street, as to provide an adequate flow-way for flood waters from the Clear Fork; thus to make it possible for the District to proceed with altering the levee system as provided for in the District's plan for improvements, with assurance that there would be full realization of the benefits anticipated to be accomplished. It was the sense of the Directors that Mr. Nichols of the Engineers and Mr. Hampton should continue pressing the matter with the Engineer for the State Highway Commission, with the city of Fort Worth, and Tarrant County, to the end that the work may proceed with the least possible delay: It was so ordered.

7.

There was presented to the Directors a reciprocal deed between the District and the Trustees of the Chicago, Rock Island and Gulf Railway Company. This deed had been duly executed by the Trustees of the Railroad under an appropriate order by the United States District Court for the Northern District of Illinois. The attorneys gave advice that the deed had been validly executed in behalf of the railroad company, and its Trustees, and that the deed now should be executed by this District. Director Hogsett made a motion, seconded by Director Stripling, that the deed do be executed in the name of the District, as the act and deed of the District, in a manner to comply with the appropriate law. Further that, the one duplicate of the deed do be delivered to Mr. Robert W. Harrison, as Attorney for the Trustees, and that the other duplicate of the said deed do be retained by this District for recording in the Deed Records of Tarrant County. Upon a vote being taken the motion was carried and it was so ordered.

8.

There was presented to the Directors the report of the District Auditors covering the month of August, 1935, Each of the Directors had received a copy

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of the report at a prior time and was familiar with its contents. It was the sense of the Directors that the report required no action at this time and that the same should be received and filed; It was so ordered.

9.

Director Bewley, in his capacity as Chairman of the Finance Committee, and as Custodian of the District's pledges of security, by its Depository, presented to the Directors the fact that he on September 13, 1935, had granted the request of the Depository Bank to withdraw from pledge various securities having total par value of \$191,000.00. He stated that in his opinion the deposits of the District in the Bank remained to be adequately secured, after this withdrawal. He also presented the usual reciprocal receipt, marked "Exhibit No. 8," dated September 13, 1935, which receipt had been executed by the proper officers of the bank and by Mr. Bewley for the District. He thereupon requested confirmation of his action, whereupon Director Stripling, seconded by Director Hogsett, made a motion that said withdrawal of securities do be approved as the act and deed of the District, as of September 13, 1935; further that, one copy of the reciprocal receipt do be attached to these minutes as "Exhibit C," and that one other copy of said reciprocal receipt do be attached to the Depository bond of the Bank, as Exhibit No. 8 thereto, as is provided for in said bond. Upon a vote being taken the motion was carried and it was so ordered.

10.

No further business was presented and the meeting was adjourned.

APPROVED:

C. P. Sherman
As President.

W. A. Stripling
As Secretary

"EXHIBIT A"
9/20/35
TARRANT COUNTY WATER CONTROL AND
IMPROVEMENT DISTRICT NUMBER ONE

BOARD OF DIRECTORS

W. R. BENNETT, PRES.
E. E. BEWLEY, VICE-PRES.
W. K. STRIPLING, SEC'Y
JOE B. HOGSETT
C. A. HICKMAN

OFFICE CAPPS BUILDING

PHONE 3-2848

ED. B. CHEATHAM, OFFICE

FORT WORTH, TEXAS.

SIDNEY L. SAMUELS | ATTORNEYS
IRELAND HAMPTON |

HAWLEY AND FREESE
ENGINEERS

September 16, 1935

To the Board of Directors of
Tarrant County Water Control and
Improvement District Number One,
Fort Worth, Texas.

Gentlemen:

In your Auditors' Report of August 15, 1935, there appears the following:

"It appears to us that the maintenance fund should reimburse the interest and sinking fund for their prorata part of the expense of assessing and collecting taxes, in order to comply strictly with the law. While the amount involved is small we believe you should obtain your attorney's opinion regarding it."

At your meeting held on September 12, 1935, you gave direction to your Attorneys to render to you an opinion as to whether it was mandatory upon you to cease charging the total cost of assessing and collecting your taxes to your interest and sinking fund—We give advice that it is not mandatory, and our reasons therefor are as follows:

- (1) In fixing the rate to be levied for the use of your sinking fund, you have caused that rate annually to be high enough to cover the cost of assessing and collecting all taxes levied by you for the particular year.
- (2) So long as your levies are adequate to keep your interest and sinking fund in position to meet the accruals against it, as the same may mature, there is no person, whomssoever, who will be able to show legal justification for complaint.
- (3) Your present method affords accounting simplicity, which would not be possible did you undertake to allocate for each year the ratio of cost for the tax collection for each fund, as measured by the respective amounts of those funds. In fact, it seems not practical to literally carry out the statute, which your Auditors, no doubt, had in mind at the time they wrote the above quoted memorandum.

Your interest and sinking fund provision is found as Section 94 of Chapter 25 of the Acts of the 39th Legislature, Regular Session. That part of Section 94 which is material reads as follows:

"There is hereby created what shall be termed the "Interest and Sinking Fund" for such district, and all taxes collected under the provisions of this Act, for such fund, shall be credited to such fund, and shall never be paid out except for the purposes of satisfying and discharging the interest on said bonds, and the payment of such bonds, and to defray the expenses of assessing and collecting such tax."

The difficulty in doing this is that a considerable proportion of your taxes collected during each year consist of delinquent taxes and the interest and the penalties thereon. As the ratio of your "Maintenance Fund" tax, when compared to your total tax for a given year, has changed from year to year, it will be seen that, using the ratio of the year of your last levy would not truly distribute the costs incident to the delinquent taxes collected during that year.

Under the tax system there is no manner in which you, at reasonable cost, would be able to segregate these items for any given prior year, and without this segregation it would not be possible to literally comply with the statute.

In our opinion your existing method has the merit of conforming to the dominant intent and substance of the statute, while avoiding technical difficulties.

Respectfully,

Arland H. Hopton,
Mayor

"EXHIBIT B"

7/20/35
TARRANT COUNTY WATER CONTROL AND
IMPROVEMENT DISTRICT NUMBER ONE

BOARD OF DIRECTORS

W. R. BENNETT, PRES.
E. E. BEWLEY, VICE-PRES.
W. K. STRIPLING, SEC'Y
JOE B. HOGSETT
C. A. HICKMAN

OFFICE CAPPS BUILDING

PHONE 3-2848

ED. B. CHEATHAM, OFFICE

FORT WORTH, TEXAS.

SIDNEY L. SAMUELS } ATTORNEYS
IRELAND HAMPTON }

HAWLEY AND FREESE
ENGINEERS

September 16, 1935.

To the Board of Directors,
Tarrant County Water Control and
Improvement District Number One,
Fort Worth, Texas.

Re—Your right to expend money for the purpose of avoid-
ing waste in water which you may desire to flow from
Lake Bridgeport to Lake Eagle Mountain—this waste
occurring by entry of water into the New River basin
in Wise County, Texas

Gentlemen:

This letter will confirm the oral opinion given to you by us about two years ago. Our opinion was, and is, that you have the right to expend a reasonable sum of money in order to abate the loss of water which occurs through the fact that the New River basin will receive a very material quantity of water before you can cause water to proceed down the older channel of the river to Lake Eagle Mountain. We are advised by the Engineers that 3,000 or more acres in the New River basin must be covered by water from one to two feet in depth, before it is possible to cause water to flow by the New River diversion in any substantial quantity. It is obvious that, during a drouth period this would constitute very serious loss of water, due to the fact that the water which enters the New River basin remains there to be evaporated or absorbed, without performing any useful service.

While it is true that the water which passes into the New River basin causes frequent and serious injury to the owners of land in that basin, we advise that you would have no lawful right to expend money to abate that injury, due to the fact that your district has no liability for those injuries. Our prior opinion in this matter has now been confirmed by the opinion of the Court of Civil Appeals, at Fort Worth, which was rendered on September 6, 1935, in the Taylor & Jamison case. Our judgment is that, this decision will probably be affirmed by the Supreme Court.

The fact that the work which may be done to conserve the water which you may desire to flow from Lake Bridgeport to Lake Eagle Mountain will also, as a necessary mechanical incident, tend to relieve the flood condition in the New River basin, will not in any way minimize or impair your right to expend money for conserving water.

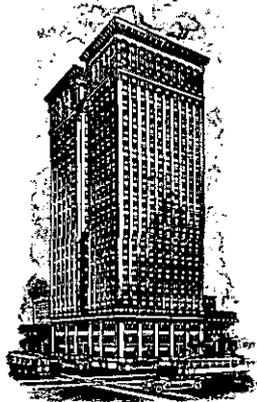
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If it is desired to know what would be the probable limit of the amount of money which you could expend for the conservation of water, the answer will be that it would be such sum as might reasonably be deemed to be the value of the water which would be conserved through the doing of the proposed work: As to this, your Engineers would be the best advisers.

It was suggested that the District might need to have a permit from the State Board of Water Engineers, as a condition upon which the work might be done. As to this we advise that the permit now held by you confers the right to use the bed, banks and channel of the river for the flowing of water from the upper reservoir to the lower reservoir. Your work would not involve a permit for the use of water. The statutes defining the power of the State Board of Water Engineers confer jurisdiction only in the event it is desired to store, divert and, or, use water. Your undertaking would not do any of these things, and we are of the opinion that an application to the State Board and an order based thereon, would be without effect, due to the absence of jurisdiction on the part of the Board. In addition to this, an application would involve the payment of a minimum fee of \$250.00. The Board would have to publish notice of your application, and in addition thereto, give notice to any holder of a water right on the Trinity River, by registered mail. A hearing would also be required, and the cost of these procedures would be taxed against the District.

Respectfully,

Freeland Hampton
Wm. H. Smith
Attorneys



"EXHIBIT C"
9/20/35.

CONTINENTAL NATIONAL BANK

OF FORT WORTH

H. WILKINSON, PRESIDENT
ED. H. WINTON, VICE-PRESIDENT
J. E. WILLIS, VICE-PRESIDENT AND TRUST OFFICER
H. C. BURKE, JR., ASST. VICE-PRESIDENT AND ASST. TRUST OFFICER
H. C. WALLENBERG, ASST. VICE-PRESIDENT
ZETA GOSSETT, ASST. VICE-PRESIDENT
JOHN H. ERIKSEN, CASHIER
OSCAR VOGEL, ASST. CASHIER

FORT WORTH, TEXAS

September 13, 1935.

Board of Directors,
Tarrant County Water Control and
Improvement District Number One,
Fort Worth, Texas.

Gentlemen:

Your balances at the present time, as reflected by
our books, are as follows:

Construction Fund.....	\$ 82,094.22
Interest & Sinking Fund.....	96,547.74
Maintenance Fund	26,217.95

to secure which balances totalling \$204,859.91, we have pledged with you
at this time securities totalling \$427,000.00, an excess of approximately
\$223,000.00.

Accordingly, we submit herewith our application for
withdrawal of securities of a par value of \$191,000.00.

Respectfully submitted,


Jno. H. Eriksen
C a s h i e r

SEP 13 1935



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