

MINUTES OF THE MEETING  
OF THE BOARD OF DIRECTORS OF  
THE FRANKLIN COUNTY WATER DISTRICT  
HELD JULY 19, 1965

THE STATE OF TEXAS

COUNTY OF FRANKLIN

The Board of Directors of the Franklin County Water District convened in session on the 19<sup>th</sup> day of July 1965, at the regular meeting place thereof in the Courthouse at Mount Vernon, Texas, with the following members present:

W. C. NEWSOME	PRESIDENT
LANDON RAMSAY	VICE PRESIDENT
HORRIS MORRIS	SECRETARY
A. J. LAWS	DIRECTOR
D. O. ALDRIDGE	DIRECTOR

The President of the Board Mr. W. C. Newsome, called the meeting to order, declared and quorum present, and that the meeting was duly convened and ready to transact business.

Thereupon, the minutes of the preceding meeting held on July 25, 1965 were read. Mr. A. J. Laws made motion that the minutes be approved. Mr. D. O. Aldridge seconded the motion, which carried unanimously.

The Board was advised by Mr. Art Postel that the bond issue should be in the amount of One Millin Seven Hundred Thousand Dollars (1,700.000) and that the election should be held on September 7, 1965. Following some discussion on this, the President submitted to the Board for consideration the following resolution:

“A RESOLUTION APPROVING ENGINEERING REPORT, AND CALLING AN ELECTION TO BE HELD ON THE 7<sup>TH</sup> DAY OF SEPTEMBER 1965 WITHIN FRANKLIN COUNTY WATER DISTRICT, FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED VOTERS OF SAID DISTRICT WHO OWN TAXABLE PROPERTY THEREIN AND WHO HAVE DULY RENDERED THE SAME FOR TAXATION THE QUESTION OF WHETHER OR NOT THE BOARD OF DIRECTORS SHALL BE AUTHORIZED TO

ISSUE THE TAX-SUPPORTED BONDS OF SAID DISTRICT IN THE PRINCIPAL SUM OF NOT TO EXCEED ONE MILLION SEVEN HUNDRED THOUSAND DOLLARS (1, 700.000) FOR THE PURPOSE OF CONSTRUCTING A DAM AND RESERVOIR ON BIG CYPRESS CREEK IN FRANKLIN COUNTY, TEXAS; PRESCRIBING THE VOTING PLACES FOR SAID ELECTION; DESIGNATING THE PRESIDING JUDGES THEREOF; PRESCRIBING THE FORM OF BALLOT TO BE EMPLOYED; AND ENACTING OTHER PROVISIONS INCIDENT AND RELATING TO THIS RESOLUTION.”

WHEREAS, the Board of Directors of Franklin County Water District had received from its consulting engineers, WISENBAKER, FIX AND ASSOCIATES of Tyler, Texas, an engineering report covering certain plans for improvements, to wit: a dam and reservoir to be constructed on Big Cypress Creek in Franklin County, Texas, together with maps, plats, profiles and other data, fully showing and explaining same; and

WHEREAS, the aforementioned engineering report contains, among other things, a detailed estimate with respect to two locations on Big Cypress Creek in Franklin County for the improvements aforementioned, including the cost of the property to be purchased and the time required to complete such improvements at the respective locations, a summary of the engineers’ estimate of costs as to each being as follows:

	Estimate of Costs	
	<u>Lake Site No. 1</u> Project	<u>Lake Site No. 2</u> Project
Construction of dam, spillway, outlet works, clearing and riprap	\$1,190,470.60	\$725,180
Engineering and construction management	85,000.00	60,000
Construction contingency	38,529.40	23,820
Foundation and soil investigations, Topographic mapping, water permit	17,000.00	12,000
Land acquisition including legal and surveying	955,350.00	701,800
Relocations and repairs	817,700.00	93,150
Administrative, bond legal, financing, printing	50,000.00	50,000
Project contingencies	<u>85,950.00</u>	<u>34,050</u>
	\$3,240,000.00	\$1,700,000

and

WHEREAS, the Board had determined to proceed with the aforementioned improvements as soon as all preliminary arrangements may be accomplished, and to that end has determined it proper and in the best interests of the District and its inhabitants to call and hold the election herein ordered,

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE BOARD OF DIRECTORS OF FRANKLIN COUNTY WATER DISTRICT:

SECTION 1: That the aforementioned engineering report of Wisenbaker, Fix & Associates, consulting engineers for Franklin County Water District be and the same is hereby approved and adopted by this Board; and a copy thereof shall be on file in the office of the District at the Courthouse in Mount Vernon, Texas and shall remain open to inspection by the public at all reasonable times:

SECTION 2: That an election be held on the 7<sup>th</sup> day of September, 1965, for the purpose of submitting to the qualified electors of Franklin County Water District who own taxable property therein and who have duly rendered the same for taxation, the question, as follows:

“SHALL the Board of Directors of FRANKLIN COUNTY WATER DISTRICT be authorized to issue the bonds of said District in the principal sum of not to exceed ONE MILLION SEVEN HUNDRED THOUSAND DOLLARS (\$1,700,000) and to levy and collect annually ad valorem taxes sufficient to pay the principal thereof at maturity and the interest shall be outstanding and unpaid, said bonds to mature serially or otherwise over a period of years not to exceed Forty (40) years from their date, to bear interest at a rate not to exceed FIVE PER CENTUM (5%) PER ANNUM, PAYABLE annually or semi-annually, to be issued in one or more installments within the discretion of the Board of Directors for the purpose of financing the cost of constructing a dam and reservoir with related facilities on Big Cypress Creek in Franklin County, Texas, including incidental expenses involved in the engineers’ preliminary work, acquisition of land, relocations, organization, administrative and financing?”

SECTION 3: The manner of holding said election shall be governed by the general laws of the State of Texas, except as otherwise provided by H. B. NO. 1161, Acts of the 59<sup>th</sup> Legislature, Regular Session 1965, the Act creating the District.

SECTION 4: The polling places, and presiding judge for each, shall be respectively as follows:

<u>Polling Place</u>	<u>Presiding Judge</u>
WINNSBORO BOX 203 Pearl Street	MRS. L. L. FRIDAY
SOUTH FRANKLIN BOX South Franklin School	N. H. HOFFMAN
MOUNT VERNON BOX Franklin County Courthouse	EARL HAMILTON
HAGANSPORT BOX Hagansport School	CLAUDIE NICHOLS

The Presiding Judge of a SPECIAL CANVASSING BOARD for absentee balloting shall be J. R. HILL.

The Presiding Judge serving at each voting place shall appoint one Assistant Judge and at least two (2) Clerks to assist at holding such meeting.

ABSENTEE VOTING shall be conducted by the County Clerk at his office in the Courthouse at Mount Vernon, Texas, in accordance with the provisions of Chapter 424 Acts of the 58th Legislature, Regular Session 1963, and said Clerk shall keep his office open between the hours of 8:00 a.m. and 5:00 p. m. (constituting the Clerk's regular working hours) on each day for absentee voting which is not a Saturday, a Sunday, or an official State holiday.

SECTION 5: The ballots for said election shall be prepared in sufficient number and in conformity with Chapter 6 V. A. T. C. S., Election Code, as amended, and printed upon each ballot shall appear the following:

“FOR THE ISSUANCE OF BONDS AND THE LEVY OF TAXES IN PAYMENT THEREOF”

“AGAINST THE ISSUANCE OF BONDS AND THE LEVY OF TAXES IN PAYMENT THEREOF”

As to the foregoing proposition, each voter shall mark out the statement FOR the proposition or the statement AGAINST the proposition, so that the statement remaining shall indicate the way he wishes to vote.

SECTION 6: The election officials from each polling place shall make due returns of said election in triplicate to the Board of Directors within five (5) days: one to be retained by the Presiding Judge, one to be delivered to the President of the Board of Directors of the District and one to be delivered to the Secretary thereof.

SECTION 7: That at said election, only qualified voters who reside in the District and own taxable property therein and who have duly rendered the same for taxation shall be permitted to vote. Any person who appears to vote, and who is not known to the election officials to be a qualified voter and a property taxpayer, as herein stipulated, or if his vote is challenged, he shall be required to subscribe and swear to the following oath:

“I DO SOLEMNLY SWEAR (or affirm) that I am a qualified voter and a property taxpayer in the Franklin County Water District. I did not acquire property prior to this election for the purpose of voting, but am a bona fide property taxpayer in the District.”

SECTION 8: The Board has determined that, since the Lake Site No. 1 Project offers advantages proportionately greater than the amount of difference between the costs estimated therefor and the amount of the bonds herein presented for approval and is of the opinion that such difference may be provided from other sources, State or Federal, the Board hereby announces its intent and purpose shall be to construct the Lake Site No. 1 Project, if successful in providing the additional funds, but that in the alternative, and in the event such additional sums are not made available from other sources, it shall then be the intent and purpose of the Board of Directors to construct the Lake Site No. 2 Project, as set forth in the engineers' report, a summary of the cost of which is hereinabove reflected as being the amount of the bonds herein presented for approval.

SECTION 9: The Secretary of the Board of Directors is hereby authorized and directed to give notice of the aforesaid election by publishing a substantial copy of this resolution in a newspaper of general circulation in the District once a week for four (4) consecutive weeks, the first publication to appear not less than twenty eight (28) days prior to September 7, 1965, the date assigned for the election.

PASSED, APPROVED AND ADOPTED, This the 19<sup>th</sup> day of July 1965.

Seal

S/ W. C. Newsome

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President, Board of Directors  
FRANKLIN COUNTY WATER DISTRICT

ATTEST:

S/ Horris Morris

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Secretary, Board of Directors  
FRANKLIN COUNTY WATER DISTRICT

Thereupon, Mr. Horris Morris moved the passage of said resolution, which motion was duly seconded by Mr. Landon Ramsay. The said resolution was then read in full by the Secretary and after full discussion and mature deliberation, the question was called for, whereupon said resolution was put to a vote of the Board of Directors and was passed, adopted and enacted by the following vote:

AYES: Messrs, Newsome, Ramsay, Morris, Laws and Aldridge

NOES: None

The President declared the resolution finally passed, adopted and enacted.

Mr. Art Postel read material that he had prepared for a brochure to be printed concerning the lake project. The Board expressed its approval of the content and Mr. Horris Morris made a motion that Mr. Postel has printed the number of brochures needed for distribution among the citizens of Franklin County, Texas. Mr. A. J. Laws seconded the motion, which carried unanimously.

Mr. Wisenbaker, of the firm of Wisenbaker, Fix & Associates brought with him an Application for presentation to be signed and sent in to the Water Commission concerning our lake project. The resolution concerning the application is as follows:

CERTIFIED COPY OF RESOLUTION  
A RESOLUTION AUTHORIZING THE FILING OF A PRESENTATION  
TO THE TEXAS WATER COMMISSION

WHEREAS, the Franklin County Water District desires to construct a lake on Big Cypress Creek in Franklin County to be used for municipal, industrial, recreational, and flood control purposes; the lake to be located in the southern corner of Franklin County with the centerline of the dam to be located approximately 10.2 miles southeast of Franklin County Courthouse in the City of Mount Vernon; the lake to have an estimated volume of about 73,000 acre-feet; and

WHEREAS it is desired to study the proposed lake for an additional period,

NOW THEREFORE BE IT RESOLVED that the Franklin County Water District file an application for a presentation to the Texas Water Commission for this lake site for a period of six months to permit the Franklin County Water District to complete its studies and prepare an application for a water permit, and

IT IS HEREBY FURTHER RESOLVED that the President of the Franklin County Water District is hereby authorized and directed to sign the application in the name of the Franklin County Water District and to furnish such information to the Texas Water Commission as the Commission may request.

The above resolution being read to the Board of Directors by the President, it was moved by Director Landon Ramsay that the same be passed. Director A. J. Laws seconded the motion and upon the question being called the following directors voted AYE: W. C. Newsome, A. J. Laws, Landon Ramsay, Horris Morris, D. O. Aldridge, and the following Nay: None.

S/ W. C. Newsome

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President, Board of Director  
Franklin County Water District

ATTEST:

S/ Horris Morris

\_\_\_\_\_  
Secretary  
Franklin County Water District

The following is the application as submitted by Mr. W. C. Newsome, President:

THE STATE OF TEXAS  
COUNTY OF FRANKLIN

KNOW ALL MEN BY THESE PRESENT:

That Franklin County Water District represents to the Texas Water Commission, that it desires to investigate a project hereinafter more definitely defined.

The Project contemplated is dam and impounding reservoir to be constructed on Big Cypress Creek at some point between East County Line of Franklin County and Texas Highway No. 37 for the appropriation of approximately 73,000 acre feet of water by impounding for the following purposes:

Approximately 18,000 acre-feet for municipal purposes

Approximately 18,000 feet for industrial purpose or enough water to meet the municipal and industrial water needs of Franklin County, Texas.

The contemplated project will impound at least 20,000 acre-feet.

The engineers who will proceed with the investigation are Wisenbaker, Fix & Associates of Tyler, Texas.

I hereby submit this presentation to the Texas Water Commission for filing and accompany same with a deposit of \$250.00 and a filing fee of \$25.00 in conformity with the requirement of Article 7496 and Article 7532 (Vernon's Civil Statutes of Texas).

S/ W. C. Neswome

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W. C. Newsome, President  
Franklin County Water District

Subscribed and sworn to before me this the 22 day of July, 1965.

Seal

s/ Judy Birdsong

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Notary Public, Franklin  
County, Texas

Mr. Wisenbaker submitted to the Board his contract for approval, which contract is herewith included in full:

THE STATE OF TEXAS

COUNTY OF FRANKLIN

This contract entered into this the 19 day of July, 1965, by and between the Franklin County Water District, in Franklin County, Texas, hereinafter called Owner, acting herein by and through its duly authorized President, W. C. Newsome, and Wisenbaker, Fix & Associates, a partnership of Tyler, Smith County, Texas, acting herein by and through its duly authorized partners, witnesseth:

SECTION 1. EMPLOYMENT OF THE ENGINEER: The Owner hereby employs Wisenbaker, Fix & Associates, hereinafter called the Engineer, and the Engineer agrees to perform professional services in connection with the construction of a lake including dam and spillway.

SECTION 2: CHARACTER AND EXTENT OF ENGINEERING SERVICES: The Engineer shall perform all the professional services necessary and required for the construction of the above named improvements, to the satisfaction of the Owner, including, but without limitation of, the following:

- (a) Made the necessary field surveys and investigation and prepare a report for the Owner to present to the Franklin County Commissioners court which will show the feasibility of the formation of the proposed district.
- (b) Prepare detailed estimates of cost, complete plans and specifications, and submit same to the interested state agencies for review and approval.
- (c) Appear before the State Water Commission and present the necessary data required for a water permit.
- (d) The Engineer shall assist the Owner in receiving and opening bids and awarding a contract for construction.
- (e) During the construction, the Engineer, shall provide and be responsible for the general supervision and administration of the projects. The Engineer shall furnish all line and grade surveys that are necessary for the construction (but excluding

land surveys for property lines and easements), check all shop and working drawing submitted in connection with the construction work, supervised and review the work of such inspection bureaus and testing laboratories as may be employed by the Owner, provide general supervision of the work and interpretation of the plans and specification by periodic visits to the site by the Engineer or his representative, furnish consultation and advice during the construction, prepare monthly and final estimates for payment to contractors, furnish assistance in checking and testing of installed equipment, and make final inspection of the construction on its completion. The Engineer does not guarantee the performance of any contractor on any construction work.

**SECTION 3. PAYMENT FOR ENGINEERING SERVICES:** The Owner hereby agrees to pay the Engineer for the performance of all services, as set out in Section 2 preceding, according to the schedule of fees for general engineering services as published by the Texas Society of Professional Engineers which are summarized as follows:

<u>Construction Cost of work</u>	<u>Fee (Percentage)</u>
Less than \$100,00	9.50%
More than \$100,00, less than \$250,000	8.50% but not less than \$9,500
More than \$250,000, less than \$500,00	7.00% but not less than \$21,250
More than \$500,000, less than \$750,000	6.5% but not less than \$35,000
More than \$750,000, less than \$1,000,000	6.00% but not less than \$48,750

The total amount of engineering fee to be paid shall be based on the total final payment to the contractors in accordance with the preceding schedule.

Said payment shall be made as follows:

(a) Fifteen percent (15%) of the fee is to be paid to the Engineer for completion of the preliminary investigation studies, preliminary general plans, and a preliminary engineering report including an approximate estimate of cost, said payment to be based on the engineering fee on the estimated cost of construction included in the bond issue to be called to finance the construction, and is to be due as soon as the proceeds of the bond issue are received. Should the District fail to be formed by an adverse vote, the Owner will not be obligated to the Engineer for any payment.

(b) Sixty percent (60%) of the fee is to be paid to the Engineer upon completion of and approval by the Owner of the detailed construction plans, specifications, and bidding documents.

(c) The remaining twenty-five percent (25%) of the engineer fee is to be paid monthly during the construction period in proportion to the amount of construction completed, until the aggregate of all payments shall equal the amount due under this agreement. The Contractors' estimates for periodical payments shall be the basis of determining the amount of construction completed.

**SECTION 4. INSPECTION OF CONSTRUCTION:** It is mutually agreed by the parties hereto that the supervision of construction to be performed by the Engineer shall be of a general nature, as previously specified. The Engineer shall keep an inspector satisfactory to the Owner on the job at all times requiring continuous inspection, with the inspector to have the authority to require the contractor performing the construction work to follow the plans and specifications. The Owner shall reimburse the Engineer the actual cost of the salary and expenses of this inspector. This actual cost is to be actual salaries paid plus fifteen percent (15%) for payroll costs plus actual cost of all non-labor items.



SECTION 5. SUCCESSORS AND ASSIGNMENTS: The Owner and the Engineer, each binds itself and themselves, their partners, successors, executors, administrators, and assigns to the other party of this agreement, and to be the partners, successors, executors, administrators, and assigns of such other party, in respect to all the covenants of this contract. Neither the Owner nor the Engineer shall assign, sublet, or transfer their respective interest in this agreement without written consent of the other.

SECTION 6. COOPERATION WITH STATE AND FEDERAL AGENCIES: The Engineer agrees to cooperate with any federal or state agencies that may be concerned with this project. Included in this section, the Engineer shall perform the following work:

- (a) Prepare monthly or semi-monthly progress reports, whichever may be requested, and submit to proper governmental agencies.
- (b) Prepare any contract change orders that may be needed.
- (c) Review and approve the contractor's schedule of amounts for contract payment.
- (d) Certify partial payments to contractors.
- (e) Give notice to proper governmental agencies as to date construction started.
- (f) Prepare engineering report for the Texas State Department of Health.
- (g) Prepare application for a waste disposal permit from the Texas Board of Water Pollution Control, if required.

The Payment to the Engineer for performing these services shall be a part of the Standard engineering fee set out in Section 3. The Owner shall pay the actual traveling expenses incurred in making personal appearance at the public hearing for a waste disposal permit in Austin if such a hearing is required by the Texas Board of Water Pollution Control.

IN TESTIMONY WHEREOF, the parties have affixed their hands and seals at Mount Vernon, Texas, this 19 day of July, A. D., 1965.

Seal

ATTEST:

Franklin County Water District  
OWNER  
BY:

S/ Horris Morris  
Horris Morris, Secretary

s/ W. C. Newsome  
W. C. Newsome, President

WISENBAKER, FIX & ASSOCIATES  
By

S/ Royce E. Wisenbaker  
Partner

RESOLUTION AUTHORIZING ENGINEERING CONTRACT WITH  
WISENBAKER, FIX & ASSOCIATES

WHEREAS, the Board of Directors of the Franklin Co. Water District is in need of certain engineering services necessary for having constructed a lake including dam and spillway; and

WHEREAS, it is the opinion of the above officials that the Engineering firm, Wisenbaker, Fix, & Associates, is a firm consisting of several Engineers who are competent and capable in this specific field of work and having as principal members of the firm, engineers registered as Professional Engineers in the State of Texas:

NOW, THEREFORE BE IT RESOLVED by the Board of Directors, that the President, W. C. Newsome, be and is hereby authorized and instructed to enter into an agreement with the said firm for the engineering services above mentioned in the first paragraph of this Resolution.

MINUTES APPROVED, this the 16 day of August 1965.

W. C. Newsome  
President, Board of Directors  
Franklin County Water District

Landon Ramsay  
Vice-President, Board of Directors

A. J. Laws  
Director

D. O. Aldridge  
Director

ATTEST:

Horris Morris  
Director

Horris Morris  
Secretary, Board of Director  
Franklin County Water District