

MINUTES OF EIGHTEENTH MEETING

MAY 1, 1951

Pursuant to call of the Chairman, the Ohio Turnpike Commission met in regular open session in Room 1012 A, State Office Building, Columbus, Ohio, at 10:30 o'clock a. m. on May 1, 1951, with the Attorney General of Ohio and members of his staff, Senator Winter of the Ohio General Assembly, representatives of the consulting engineers engaged in the turnpike studies, members of the press and of the staff of the Director of Highways also in attendance.

The meeting was called to order by the Chairman and the roll was called and the attendance was reported to be as follows:

Present: Shocknessy, Teagarden, Seasongood, McKay, Kauer
Absent: None

Whereupon the Chairman announced that a quorum was present.

A motion was made by Mr. Teagarden, seconded by Mr. McKay, that the reading of the minutes of the meeting of April 3, 1951 be dispensed with and that the minutes be adopted as presented to the members of the Commission since the last meeting. A vote by ayes and nays was taken and all members present responded to roll call and voted aye. The vote was as follows:

Ayes, Shocknessy, Teagarden, McKay, Kauer
Nays, None

The Chairman declared the motion adopted.

Thereupon the Secretary-Treasurer reported that since the last meeting of the Commission he had participated in conferences with the Attorney General of Ohio and others with respect to the selection of bond counsel; that he had received and acknowledged a number of applications for employment and for furnishing services to the Commission; and that he had assisted officials of the Indiana State Highway Commission who sought advice in initiating studies for an Indiana Turnpike. In the absence of objection, the report of the Secretary-Treasurer was received and accepted.

At the request of the Chairman the Director of Highways thereupon submitted the following report:

"Activity in connection with the Ohio Turnpike studies has reached a high peak during the past month. With the approval of the Controlling Board I have issued a purchase order without competitive bidding for geophysical explorations by the electrical resistivity method. This work is now in process and is being done by Dr. F. W. Lee of Maryland. Dr. Lee is a former official of the United States Bureau of Mines and is a national authority in this field of sub-surface exploration. The estimated cost of his work is \$5,600.

Also with the approval of the Controlling Board I have issued a purchase order, after receiving bids from a number of selected qualified firms, for preliminary soundings by core boring methods. This work will be done by the H. C. Nutting Company of Cincinnati which was the low bidder for an estimated cost of \$3,687.50, and the borings will begin this week.

The engineers of my staff have reviewed the criteria for the design of structures and for the geometrics and other engineering features of the turnpike and will very soon be in a position to give final approval to the basic design criteria.

The engineers of my staff have also studied exhaustively a proposal of the J. E. Greiner Company for the transposal of traffic flow in the design of the turnpike. They have advised me that the cross sections proposed for the turnpike which provide for a minimum distance of 60 feet between the inside edges of travelled pavement should provide one of the safest highways constructed to date; that the transposed traffic flow proposal should also add materially to the safety of the users of the turnpike; that the elimination of pedestrian fatalities at service stations and restaurants appears to be certain with this suggested method of traffic flow and they have recommended to me that the J. E. Greiner Company be permitted to complete its engineering report based upon the transposed flow design. I have not yet given such permission since I wished to discuss the details of the transposed roadways with the Commission and to obtain the views which any member of the Commission may hold.

You may be interested to learn that the plan for transposed traffic flow on the turnpike was presented to the Ohio Safety Conference at its annual meeting on April 12, 1951,

and that the Ohio Safety Conference has completely endorsed the proposal. The idea has been widely discussed among professional engineers and in the press of Ohio.

The work of both consulting firms is proceeding in a rapid and most satisfactory manner. Each is at least abreast of the revised schedule for completion of the engineering reports."

Following presentation of the report by the Director of Highways there was extended discussion and explanation of the proposed design criteria and of the proposal for a transposed system of traffic flow for the turnpike. Mr. Kauer explained that the Pennsylvania Turnpike, at the time of its construction, had been the finest highway in the world and that there had been incorporated into it provision against every type of accident known at that time. He stated that new types of accidents had been created, however, because of high speeds, long hours of driving, and an effect of monotony on this type of highway. The proposal for the Ohio Turnpike is intended to minimize or eliminate these new types of accident in order that the Ohio Turnpike may be the safest highway anywhere. The Director further stated that his staff had given intensive study to the proposal for transposed flow and have failed to find flaws in the proposal; that it had been discussed widely and with favorable reaction among prominent highway engineers in the country; and that preliminary estimates indicate a probable decreased cost as well as increased safety as a result of the transposed flow.

The Director of Highways stated to the Commission that final conclusion had not been reached with respect to the transposed flow even though he was inclined to favor the proposal. He advised the Commission that the engineering report would include comparisons of cost between conventional and transposed systems of traffic flow and that he would recommend specifically to the Commission in the matter upon completion of the reports.

Thereupon Mr. Lehman of the Bureau of Location and Design of the Department of Highways explained in detail the proposed criteria for the geometric design and for cross sections and design of structures proposed for the turnpike. Mr. McKay observed that considerations of cost should be secondary to those of safety. Mr. Shocknessy pointed out that final responsibility for decisions with respect to the major bases of design lies with the Commission and that there is no permissibility of the Commission being in error in its decision.

There being no objection, the report of the Director of Highways was accepted by the Commission.

Thereupon the Chairman reviewed the conferences which had taken place between the Attorney General of Ohio and his staff and members of the Commission and others with respect to a designation of bond counsel and a proposed form of resolution for adoption by the Commission. He expressed his appreciation for the cooperation which had been given to this work by the Attorney General of Ohio and his personal satisfaction, as a member of the Commission, with the work that had been done. He thereupon requested that the Attorney General present his report to the Commission.

The Attorney General of Ohio thereupon announced his designation of Squire, Sanders and Dempsey, Attorneys at Law, Cleveland, Ohio, as special counsel to act as bond counsel for the Ohio Turnpike Commission as follows:

"Pursuant to the power invested in me by Section 336 of the General Code of Ohio, and pursuant to the Motion adopted by the Ohio Turnpike Commission on the 3rd day of April, 1951, relating to the appointment of Bond Counsel for said Commission, I, C. William O'Neill, Attorney General of the State of Ohio, hereby appoint the firm of Squire, Sanders and Dempsey, Attorneys at Law, Cleveland, Ohio, as Special Counsel to act as Bond Counsel for the Ohio Turnpike Commission in connection with the issuance and sale of bonds of said Commission to finance the construction of a proposed toll turnpike project which, when adopted by the Commission and approved by the Governor, is to be identified as Turnpike Project No. 1 on the records of the Commission, hereinafter referred to as The Project, beginning at the eastern boundary of the State of Ohio and connecting with the western extension of the Pennsylvania Turnpike at the termination thereof at the Ohio boundary, and proceeding generally in a westerly direction across Ohio, the route and western terminus of said Turnpike to be hereafter established as provided in Sections 1201 to 1222, inclusive, of the General Code.

Whenever the term "bond" or "bonds" or "obligations" occurs in this designation of special counsel, said term, if appropriate to the context, may be construed to mean any type of definitive bond, interim receipt, or temporary bond, which said Commission is authorized to issue and sell by virtue of said Sections 1201 to 1222, General Code.

It is stipulated that no compensation shall be paid or be payable to Special Counsel under "Subhead B", hereinafter

set forth, based on the exchange of temporary bonds for permanent bonds.

A. NATURE AND EXTENT OF LEGAL SERVICES TO
BE PERFORMED BY SPECIAL COUNSEL

Said special counsel shall promptly and as expeditiously as is reasonably possible:

1. Assist and advise with the Commission in formulating terms and conditions of the financing of said project so that the Commission can offer bonds or other like obligations payable from the revenues of said project, which will be saleable upon the most favorable terms consistent with the security and the marketability of the bonds;
2. Study and investigate plans and engineering reports which the Commission from time to time may have or receive;
3. Participate with the Commission in discussions regarding financing;
4. Make recommendations concerning such financing and as to the documents required therefor;
5. Prepare and submit to the Commission all legislation necessary, incident or appropriate to make effective issuance and sale of bonds;
6. Prepare all necessary or appropriate documents, including the trust agreement or agreements, the form of temporary or definitive bonds or other obligation, bond purchase agreements, resolutions of the Commission which relate thereto and which relate to the establishment of tolls and other revenues and notices of sale;
7. Advise with the Commission respecting all such matters and things as are herein set forth, and attend such of its meetings as the Commission may require;
8. Pass upon and advise the Commission as to the legality and validity of all the steps, proceedings and legislation of the Commission and all documents relating thereto or to the financing of such project;
9. Prepare and present to the Supreme Court of Ohio any question regarding the legal effect or validity of said bonds

in event special counsel shall find there exists any such question which would or might prevent special counsel from rendering an opinion setting forth its unqualified approval of the validity of said bonds or like securities, provided institution of such action in the Supreme Court of Ohio shall first be requested by the Commission and approved by the Attorney General;

10. Generally, to prepare all legislation of and documents for the Commission necessary, proper or incident to the issuance and sale of said bonds and like securities to the best advantage, and to advise the Commission with reference thereto, the legal effect thereof, and any legal questions in connection therewith;

11. Render an approving opinion as to the validity of said bonds, or any installment thereof, upon their issuance and delivery for the benefit and reliance of the Commission and of the purchasers.

B. AMOUNT OF COMPENSATION TO SPECIAL
COUNSEL: METHOD OF DETERMINING
THE SAME AND TIME OF PAYMENT
THEREOF

Said special counsel, in full payment and compensation for services rendered and to be rendered hereunder, shall be paid and shall receive:

(1) A retainer fee in the amount of \$36,500.00 in behalf of all legal services rendered and to be rendered by special counsel hereunder, payable from the proceeds of the first installment of bonds issued by the Commission.

(2) In addition to said retainer fee of \$36,500.00 above set forth, said special counsel shall be paid at the rate of \$.33-1/3 for each \$1,000 of such bonds issued and sold by the Commission up to the aggregate amount of \$100,000,000, and at the rate of \$.25 for each \$1,000 of such bonds issued and sold by the Commission in excess of \$100,000,000.

(3) In addition to compensation for said legal services, as above provided, said special counsel shall be paid and reimbursed for actual expenses incurred or paid by it for travel and subsistence and telephone and telegraph expenses incurred by said counsel in the performance of its duties hereunder, as well as any other expenses incurred by said

counsel in the performance of its duties hereunder, with the prior approval of the Commission or approval of any member thereof.

It is to be expressly understood, and it is hereby stipulated that special counsel shall look solely to the proceeds of the sale of bonds, as herein referred to, for its compensation for legal services, as herein provided, and for reimbursement of its expenses as herein set forth, and that this designation of special counsel shall not and cannot create or constitute any right or cause of action whatsoever, save and except from the proceeds of bonds as herein defined.

Dated at Columbus, Ohio, this 1st day of May, 1951.

C. WILLIAM O'NEILL
Attorney General of the State of Ohio "

The Attorney General thereupon submitted to the Commission a recommended form of resolution for the employment of bond counsel by the Commission. There was extended discussion which resulted in some minor revisions of wording in the suggested resolution. The matter of compensation was reviewed and comparison was made with other similar employments of bond counsel. Mr. Henry Crawford, the representative of Squire, Sanders and Dempsey, reviewed the initial procedure and actions of bond counsel and assured the Commission that his firm is prepared to undertake the work actively without delay. He stated that bond counsel will investigate at once the several existing types of financing for revenue projects.

After the proposal had been thoroughly explored, a motion was made by Mr. McKay, seconded by Mr. Seasongood and Mr. Teagarden, that the resolution be adopted as follows:

"WHEREAS, the Attorney General of Ohio, by appointment dated May 1, 1951, pursuant to Section 336 of the General Code of Ohio, and pursuant to the Motion adopted by this Commission on April 3, 1951, has designated the firm of Squire, Sanders and Dempsey, Attorneys at Law, Cleveland, Ohio, as special counsel to act and serve as bond counsel for the Ohio Turnpike Commission, and

WHEREAS, this Commission deems it necessary and advisable to provide for bond counsel with respect to the issuance and sale of bonds to finance the construction of a proposed toll turnpike project which, when adopted by the Commission and approved by the Governor, is to be identified

as Turnpike Project No. 1 on the records of the Commission hereinafter referred to as The Project, beginning at the eastern boundary of the State of Ohio and connecting with the western extension of the Pennsylvania Turnpike at the termination thereof at the Ohio boundary, and proceeding generally in a westerly direction across Ohio, the route and western terminus of said turnpike to be hereafter established as provided in Sections 1201 to 1222, inclusive, of the General Code of Ohio, and that it is necessary and advisable to name and employ bond counsel at this time.

WHEREAS, whenever the term "bond" or "bonds" or "obligations" occurs in this resolution, said term, if appropriate to the context, may be construed to mean any type of definitive bond, interim receipt or temporary bond, which said Commission is authorized to issue and sell by virtue of said Sections 1201 to 1222, General Code.

NOW, THEREFORE, BE IT RESOLVED by the Ohio Turnpike Commission that the firm of Squire, Sanders and Dempsey, Attorneys at Law, Cleveland, Ohio, be and hereby is designated Bond Counsel of this Commission, and is hereby employed as such counsel, upon written acceptance by said counsel hereof, on the following terms and conditions and subject to the following provisions:

A. NATURE AND EXTENT OF LEGAL SERVICES
TO BE PERFORMED BY BOND COUNSEL

Said bond counsel shall promptly and as expeditiously as is reasonably possible:

1. Assist and advise with the Commission in formulating terms and conditions of the financing of said project so that the Commission can offer bonds or other like obligations payable from the revenues of said project, which will be saleable upon the most favorable terms consistent with the security and the marketability of the bonds;
2. Study and investigate plans and engineering reports which the Commission from time to time may have or receive;
3. Participate with the Commission in discussions regarding financing;
4. Make recommendations concerning such financing and as to the documents required therefor;

5. Prepare and submit to the Commission all legislation necessary, incident or appropriate to make effective issuance and sale of bonds;

6. Prepare all necessary or appropriate documents, including the trust agreement or agreements, the form of temporary or definitive bonds or other obligation, bond purchase agreements, resolutions of the Commission which relate thereto and which relate to the establishment of tolls and other revenues and notices of sale;

7. Advise with the Commission respecting all such matters and things as are herein set forth, and attend such of its meetings as the Commission may require;

8. Pass upon and advise the Commission as to the legality of all the steps, proceedings and legislation of the Commission and all documents relating thereto or to the financing of such project;

9. Prepare and present to the Supreme Court of Ohio any question regarding the legal effect or validity of said bonds in event bond counsel shall find there exists any such question which would or might prevent bond counsel from rendering an opinion setting forth its unqualified approval of the validity of said bonds or like securities, provided institution of such action in the Supreme Court of Ohio shall first be requested by the Commission and approved by the Attorney General;

10. Generally, to prepare all legislation of and documents for the Commission necessary, proper or incident to the issuance and sale of said bonds to the best advantage, and to advise the Commission with reference thereto, the legal effect thereof, and any legal questions in connection therewith;

11. Render an approving opinion as to the validity of said bonds, or any installment thereof, upon their issuance and delivery for the benefit and reliance of the Commission and of the purchasers.

**B. AMOUNT OF COMPENSATION TO BOND COUNSEL:
METHOD OF DETERMINING THE SAME AND
TIME OF PAYMENT THEREOF**

Said bond counsel, in full payment and compensation for services rendered and to be rendered hereunder, shall be paid and shall receive:

(1) A retainer fee in the amount of \$36,500.00 in behalf of all legal services rendered and to be rendered by bond counsel hereunder, payable from the proceeds of the first installment of bonds issued by the Commission.

(2) In addition to said retainer fee of \$36,500.00 above set forth, said bond counsel shall be paid at the rate of \$.33-1/3 for each \$1,000 of such bonds issued and sold by the Commission up to the aggregate amount of \$100,000,000 and at the rate of \$.25 for each \$1,000 of such bonds issued and sold by the Commission in excess of \$100,000,000.

(3) In addition to compensation for said legal services, as above provided, said bond counsel shall be paid and reimbursed for actual expenses necessarily incurred or paid by it for travel and subsistence and long distance telephone, telegraph and printing expenses incurred by said counsel in the performance of its duties hereunder, as well as any other actual expenses necessarily to be incurred by said counsel in the performance of its duties hereunder, with the prior approval of the Commission.

It is stipulated that no compensation shall be paid or payable to bond counsel herein, based on the exchange of temporary bonds for permanent bonds.

It is to be expressly understood, and it is hereby stipulated that bond counsel shall look solely to the proceeds of the sale of bonds, as herein referred to, for its compensation for legal services, as herein provided, and for reimbursement of its expenses as herein set forth, and that this employment of bond counsel shall not and cannot create or constitute any right or cause of action whatsoever, save and except from the proceeds of bonds as herein defined.

Dated at Columbus, Ohio, this 1st day of May, 1951."

A vote by ayes and nays was taken and all members present responded to roll call and voted aye. The vote was as follows:

Ayes, Shocknessy, Teagarden, McKay, Kauer, Seasongood
Nays, None

The Chairman declared the motion adopted.

Mr. McKay thereupon reported progress in his preliminary study for the organization of a staff for the Commission and advised the Commis-

sion that he would submit general suggestions for the organization of the Commission at the next meeting. In the absence of objection, this interim report of Mr. McKay was accepted.

The Chairman thereupon requested that the Secretary-Treasurer prepare for consideration at the next meeting of the Commission the requests by bankers, engineers and others to present their facilities and services to the Commission.

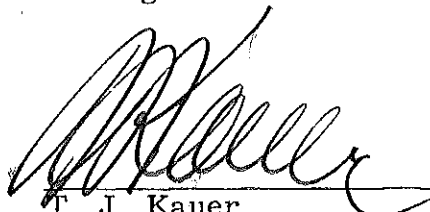
Mr. Joseph Gill, First Assistant Attorney General of Ohio, thereupon reported as to progress of his office in the preparation of By-Laws for the Commission. He stated that the Attorney General is not yet prepared to make a detailed recommendation in the matter until it has been further studied. Mr. Gill thereupon reported in the matter of the use of tax exemption certificates for travel by members of the Commission. He advised that the members of the Commission should execute tax exemption certificates and should claim exemption from transportation taxes. He stated that the office of the Attorney General will present a written statement on this subject to the Commission.

There being no further business to come before the meeting, a motion was made by Mr. Teagarden, seconded by Mr. Seasongood, that the meeting adjourn. A vote by ayes and nays was taken and all members present responded to roll call and voted aye. The vote was as follows:

Ayes, Shocknessy, Teagarden, McKay, Kauer, Seasongood
Nays, None

The Chairman declared the meeting adjourned. The time of adjournment was 3:30 o'clock p. m.

Approved as a correct transcript of the proceedings of the Ohio Turnpike Commission.


T. J. Kauer
Secretary-Treasurer

June 5, 1951