

MINUTES OF FORTIETH MEETING
APRIL 9, 1952

Pursuant to call of the Chairman the Ohio Turnpike Commission met in special open session in Hearing Room No. 2, State Office Building, Columbus, Ohio, at 1:45 p.m. on April 9, 1952 with its General Counsel, Bond Counsel, Special Counsel, representatives of the Consulting Engineers, of the Financial Advisor, and of the press 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: Allen, Teagarden, Shocknessy, McKay, Kauer
Absent: None

The Chairman announced that a quorum was present.

A motion was made by Mr. Teagarden, seconded by Mr. Allen, that the minutes for the meeting of April 1, 1952 be approved as previously submitted to the members and corrected. 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, Allen, Teagarden, McKay, Kauer, Shocknessy
Nays, None

The Chairman declared the minutes adopted.

The Chairman reported upon his activities since the previous meeting and upon a suggested plan of action which he had summarized and prepared for press release as follows:

"Just before the Turnpike Commission convened in special session in the State Office Building in Columbus today the Chairman of the Commission, James W. Shocknessy, announced that at the Commission meeting he will advise the Commission that at the conference in New York last Thursday and Friday, April 3 and 4, at which he, Mr. Henry J. Crawford of Squire, Sanders and Dempsey of Cleveland, and Mr. Dennis Murphy of the Financial Advisor group conferred with the investment bankers who expect to undertake the financing of the turnpike and their counsel, it developed that both Mitchell and Pershing, counsel for the investment bankers, and Squire, Sanders and Dempsey, bond counsel for the Turnpike Commission, would file formal opinions with their respective clients advising that the so-called Maumee litigation is baseless and without merit and that both firms would advise the bankers to proceed to market the bonds of the Ohio Turnpike Commission. Shocknessy said that upon receipt of this

information the investment bankers indicated great satisfaction and said that they would proceed to consult with the large investors to determine whether or not the mere existence of litigation characterized by counsel as "without merit" would impair the marketability of the bonds. The investment bankers speaking through Couffer of Van Ingen and Schmidt and Boyd of Blyth & Company, said that they would use every persuasion at their command to impress upon the large investors, insurance companies, investment trusts and others, who are likely to be the biggest buyers of turnpike bonds, of the desirability of the bonds and the utter improbability of any untoward result from the so-called Maumee litigation. The bankers said, however, that even though the litigation is without merit and that they believe the investment bankers should take the Ohio Turnpike bonds without question that the mere existence of the litigation might constitute a deterrent to the best market conditions.

Shocknessy says that when confronted with the probability that even though the bonds are offered and would be accepted in their entirety by the investment public the mere existence of a deterrent to the best conditions of marketability should be eliminated. He said that, therefore, despite the fact that the bonds can be marketed despite the litigation that he is prepared to propose to the Turnpike Commission that since the plaintiff, counsel and others in the Maumee litigation have stated widely that they are not hostile to the turnpike but are merely seeking to protect their homes, prevent the expenditure of a greater amount of money than they consider necessary and require the turnpike to follow a course in the vicinity of Maumee which they contend is more economical and sound, he is taking them at their word and would ask the Commission today to authorize its counsel in the Maumee litigation to confer with the counsel for the litigants and offer to terminate the initial construction at Stony Ridge east of Maumee rather than at route 20 west of Maumee provided that the plaintiff in the Maumee case will amend his petition to provide accordingly for determination of the issues which are sought to be raised with respect to the route of the turnpike in the vicinity of Maumee. Shocknessy said that in offering this solution to the plaintiff and counsel in the Maumee litigation the Turnpike Commission will be assuring the Maumee litigants that a proper adjudication in the regular processes of the courts will be theirs and that meanwhile the construction of the turnpike across the state can be undertaken and the people of Ohio and the economy of the United States not deprived of the highway so necessary to the nation while the contentions of the Maumee objectors are litigated. He said he is recom-

mending this expedient to the Commission with the hope that the Commission will accept it and instruct counsel to proceed accordingly envisioning relief as contemplated as soon as possible for the congestion at the western terminus of the Pennsylvania Turnpike. Shocknessy said he advised the New York bankers of this proposal which he was expecting to make to the Turnpike Commission today and that he had been told by them by long distance yesterday that the expedient would be satisfactory and that if accepted by the Maumee litigants the bonds for the initial construction to Stony Ridge can be offered in May as contemplated because neither the bankers and counsel nor the financial advisors have reduced the speed of their preparations since the filing of the Maumee litigation because it was always their expectation that some appropriate solution would be attained in proper time. Shocknessy said also that he had consulted with the traffic and revenue engineers and with the consulting engineers and that all are agreed that terminating the initial construction at Stony Ridge rather than at route 20 west of Maumee is entirely feasible from both a revenue and a construction standpoint and that upon the termination of the litigation at Maumee the turnpike then might proceed to the Indiana line along whatever route might be concluded through the litigation. He said that the bankers, traffic engineers, and the consulting engineers are prepared to advise the Commission at the meeting today of the facts as stated by him.

Shocknessy said that he had consulted also with Governor Lausche about the proposal to remove the objectionable features of the litigation at Maumee and that the Governor is in hearty accord with the proposal, making certain as he gave his approval, to advise the Commission through the chairman that his approval was only in the form of advice solicited and not in any respect to be construed as any attempt on his part to dictate to the free exercise of the judgment by the Turnpike Commission. "

The Chairman then requested the several members of the Commission and counsel and the Consulting Engineers to discuss the proposal to the end that counsel might be authorized to consult with the litigants at Maumee and to offer the proposal to them.

Mr. Jenkins of J. E. Greiner Company stated that the Consulting Engineers have recognized since the earliest studies that there were certain logical places at which the turnpike could be terminated and that the interchange with relocated State Route 120 in the vicinity of Stony Ridge is one of those logical terminal points. He said that there

was no difficulty whatsoever in connection with terminating the turnpike temporarily at that point.

Mr. Murphy stated that it is the view of the Financial Advisor from an examination of the traffic and revenue statistics which have been presented to them that the stopping of the turnpike at the Stony Ridge location would not hinder the financing in any way and that the proposal is economically feasible.

Mr. Teagarden stated for the record that he favored the proposal to terminate the turnpike temporarily at Stony Ridge and that the proposal has his approval. Mr. McKay stated that he thoroughly approved of the proposal as a temporary expedient. Mr. Kauer stated his opinion that the temporary terminus at Stony Ridge is a proper expedient and expressed his concurrence in the plan. Mr. Allen observed that the Commission must at all times have public relations very force fully in mind and stated his belief that the public will approve an attempt by the Commission to continue with the project while at the same time submitting to due process of law in the Maumee litigation. He was in agreement with the plan.

Mr. Crawford of Squire, Sanders and Dempsey stated his opinion that Bond Counsel can carry forward with the recommendation which had been made by the Chairman. He reported that work on the terms of financing and the trust indenture will be pursued diligently so that the Commission will be enabled to go forward as rapidly as the plans of the Financial Advisor will permit. Mr. Lansdale of Squire, Sanders and Dempsey, special counsel for the Maumee litigation, reported that he and a representative of the Attorney General of Ohio would be in Toledo on April 10, 1952 for the purpose of taking the deposition of the plaintiff in the litigation.

Mr. Dunbar, General Counsel to the Commission, stated his agreement with the plan.

The Chairman, based upon the expressions from the members of the Commission, instructed Mr. Lansdale to advise counsel for the Maumee litigant of the willingness of the Commission to terminate the initial construction at Stony Ridge and to submit to adjudication by the court his contention with respect to the location of the line in the vicinity of Maumee.

The Director of Highways reported the receipt from the District Engineer of the Bureau of Public Roads of a statement to the effect that barring any unforeseen contingencies the steel for the turnpike project will be available.

The Secretary-Treasurer reported the receipt of a letter from Fuller, Harrington and Seney of Toledo expressing the willingness of that firm to serve the Commission in the Maumee litigation. He also reported receipt of a request from Mr. Frederick W. Green of Green, Lausche and Wilmot, representing the Cleveland Metropolitan Park District, for documents supporting the decision of the Commission with respect to the location of the turnpike in Cuyahoga County. The requested documents have been sent to Mr. Green.

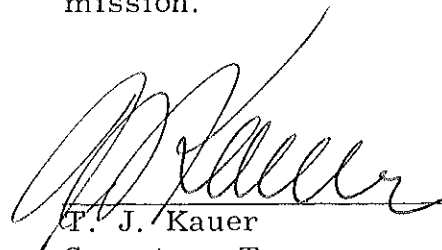
The Chairman displayed copies of a leaflet describing the Ohio Turnpike Project which have been published in a considerable quantity as a public service by Mr. Ernest Green of the Ohio Highway and Turnpike Association. The Chairman also read to the Commission an exchange of correspondence with the Francis I. Du Pont & Company.

There being no further business to come before the meeting a motion was made by Mr. Teagarden, seconded by Mr. McKay, that the meeting adjourn subject to call of the Chairman. 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, Allen, Teagarden, McKay, Kauer, Shocknessy
Nays, None

The Chairman declared the meeting adjourned. The time of adjournment was 2:30 o'clock p.m.

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


F. J. Kauer
Secretary-Treasurer

May 8, 1952