

June 11<sup>th</sup>

2003

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# **Key Largo Wastewater Treatment District Board of Commissioners Meeting Agenda**

**4:00 PM Wednesday, June 11, 2003**

**Key Largo Civic Club**

**209 Ocean Bay Drive**

**Key Largo, Monroe County, Florida**

- A. Call to Order
- B. Pledge of Allegiance
- C. Additions, Deletions or Corrections to the Agenda
- D. Action Items
  - 1. Approval of the KLP contract with D.N. Higgins
  - 2. Approval of the KLTV contract with The Haskell Corporation
- E. General Manager's Report

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- F. Legal Counsel's Report
- G. Engineer's Report
- H. Commissioner's Items
- I. Minutes -- May 14, 2003
- J. Meeting Adjournment

# Key Largo Wastewater Treatment District

## Guest Sign In Sheet

Wednesday, June 11, 2003

\*\*\*\*Please Print\*\*\*\*

<u>Name &amp; Title</u>	<u>Representing</u>	<u>Phone</u>
1. WALT MESSER	D. M. HIGGINS, INC	305-797-1036
2. ROBERT BEYANCOURT	GARTEK	305-266-8997
3. Dave Andrews	Mull & Associates	852-3488
4. Tom BERGIN	CALVIN GIOREANO	872-0365
5. Pete Krawczyk	HASSELL	904-357-4888
6. Mike Longemecker	KL Resident	305-457-0589
7. Robert E. Burt	KH Resident	305-451-4894
8. C. FISHBURN	GARTEK	305-942-1376
9. NOS Kapat	KANABAZZA	813 677 0041
10. Dave Refling	Boyle Eng'g	407-513-8260
11. BURKE CANNON	KL FTA	305-394-0141
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0 County - Resolution ↗

0 new schedule

**KLWTD**  
**June 11, 2003**

**Item D-1**

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**D.N. HIGGINS**  
**CONTRACT**

**provided under**  
**separate cover**

**KLWTD**  
**June 11, 2003**

**Item D-2**

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**THE HASKELL  
COMPANY  
CONTRACT**

**provided under  
separate cover**

**KLWTD**  
**June 11, 2003**

**Minutes**

**May 14, 2003**

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**DRAFT**

**Key Largo Wastewater Treatment District  
Board of Commissioners Meeting Minutes**

**3:00 PM Wednesday, May 14, 2003**

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**209 Ocean Bay Drive**

**Key Largo, Monroe County, Florida**

**Commissioners Present**

Andrew Tobin, Chairman

Gary Bauman, Member

Cris Beaty, Member

Charles Brooks, Member

Jerry Wilkinson, Member

**Staff Present**

Robert Sheets, General Manager, Government Services Group, Inc. ("GSG")

David Miles, Chief Financial Officer, Government Services Group, Inc. ("GSG")

Tammei Beary, Office Administrator, Government Services Group, Inc. ("GSG")

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**Guests Present**

David Reffing, P.E., DEE, Boyle Engineering Inc.

Robert Betancourt, Gartek Engineering

Mary Lou Wilkinson, Key Largo Resident

Ann Henson, The Reporter

Robert Burt, Key Largo Resident

Burke Cannon, Key Largo Resident

Pete Kinsley, The Haskell Company

Michael Longenecker, Key Largo Resident

Sandra Bergin, Ram Rod Key

Tim Bergin, Ram Rod Key

Fred Mittl, Boyle Engineering

Walt Messer, D.N. Higgins

Murray Nelson, Commissioner District 5

A. Call to Order

Vice-Chairman Wilkinson called the budget workshop to order at 3:00 PM.

B. Pledge of Allegiance

The pledge was recited.

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## **C. BUDGET WORKSHOP**

Vice-Chairman Wilkinson stated that the first order of business was the budget workshop, Item C.

Robert Sheets states that this was the first of what will be several workshops to discuss the 2004 budget. He stated that it was a brief agenda and attempts to accomplish everything on the agenda would be made, but more meetings could be scheduled before any action is taken on the budget. The purpose of this meeting today is to familiarize everyone with the budget process and to remind everyone of what has been accomplished this year so that objectives can be set for next year. A preliminary fiscal budget for 2004 was provided. Mr. Sheets stated that the work done in January to compute a maximum millage rate for this year was done by taking the nine-month budget annualizing it and adding a 20% cushion to it. Adding that everyone at the table had been newly elected and the budget needs were not clear at the time nor was it realized that the budget would be on a line item basis. Mr. Sheets stated that Mr. Miles would go through the line items and he welcomed comments and these numbers would evolve during the process and the budget could be updated to reflect the comments of the Board.

Mr. Sheets acknowledged the following accomplishments:

1. The District did not exist before November of 2002.
2. There have been in excess of 25 meetings since you have been formed to try to advance the delivery of wastewater services.
3. You have established protocols and have hired the District Manager and General Counsel and a Value Engineer for two projects.
4. We have developed and delivered on schedule the Grant Submittal to DEP. This was a major accomplishment.
5. You finalized a major Interlocal agreement between the District, FCAA and the County that articulated what the roles and responsibilities would be as this District moved forward.
6. You have advertised, received and evaluated bids and proposals on Key Largo Park and Key Largo Trailer Village. Another major accomplishment given the maturity of this Board and the fact that we see other local governments with far more maturity and far more staff that have not been as successful as we have been.
7. We are going to have negotiated an agreement with respective contractors for \$1.3 million dollars of additional investments in Key Largo Park.

Robert stated that the District has done a great job in these accomplishments and adds that these accomplishments should be added to the budget summary each year so that we can communicate back to the community as to where the money is being spent.

The next item addressed by Mr. Sheets was tentative goals that have been set. He asks that the Board review these goals and opened it for discussion. He then asked that Mr. Miles review the budget document for the Board.

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Mr. Miles took the floor. Mr. Miles reviewed the planning document and explained its content. He discussed the Operating Budget for the fiscal year 2004 budget and included the five-year plan for the long-range goals adding that the projection of expenditures would be slightly lower than the revenue stream and that based on the preliminary figures for 2004 there should be over \$77,000 in operating surplus based on the .035 millage rate which will produce the bulk of the District's revenue.

Mr. Miles explained the current year budget and the draft budget for 2004 adding that the budget would go through a couple more changes before its finalized.

Mr. Miles stated that the two primary revenue streams would be the MSTU Revenue Stream and Monthly Systems Fees adding that it is not expected that the facilities would be online and generating revenue until the end of fiscal year 2005 and that the MSTU revenue is based on 95% of the assessed property value and is estimated at a little under \$600,000.

Commissioner Wilkinson asked what was used for the assessed value. Mr. Sheets responded with the property appraiser records for Key Largo adding that homestead exemptions were not included only taxable values were used. Mr. Miles stated that the taxable value for 2003 was \$1,750,673,519 and was used for 2004 and thereafter with an estimated 3% escalation factor for growth resulting in the number of \$1,803,193,725 for FY2004.

Commissioner Brooks asked what percentage of increased tax value was used. Mr. Miles responded that 3% of the growth rate and the taxable value adding that it could be slightly higher or lower and that in November the actual number would be available.

Discussion ensued concerning the actual increase in Key Largo property values, the fees charged by the tax collector for the MSTU and the budgeting program used to develop the preliminary budget.

Commissioner Wilkinson suggested changing the words connection fee to capital recovery fee. Mr. Sheets agreed.

Chairman Andy Tobin joined the meeting in progress and apologized for being late and requested an update on what had been covered. Mr. Sheets briefly reviewed the information provided and the meeting continued.

Discussion ensued data used for the projected wastewater system revenue and the possibility of the MSTU not being approved, necessitating the implementation of a special assessment.

Mr. Miles stated that for the operating expenses for 2003 the commissioner's fees were projected at \$36,900 and \$45,000 for 2004 and was predicated on three meetings per month. Mr. Miles reviewed the expenditure section of the preliminary budget.

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Chairman Tobin stated that capital recovery fees should be a special category and question the surplus for 2005-06. Mr. Miles stated that he would add a sub-category called non-operating revenue. Discussion ensued on what budget line items should be considered capital expenses.

Mr. Sheets stated that several more workshops would be schedule prior to the budget being finalized and that the information provided today would assist the Board in articulating goals.

Chairman Tobin asked for public comment.

Chairman Tobin adjourned the workshop at 4:00 PM.

Chairman Tobin called the regular KLWTD Board Meeting to order at 4:05 PM and the Board recognized and welcomed the distinguished Councilman Murray Nelson.

## **D. Additions, Deletions or Corrections to the Agenda**

There were no additions, deletions or corrections requested by the Board.

## **E. Action Items**

There were no action items to be considered.

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## **F. General Manager's Report**

- 1. Status Report/Discussion regarding the final amendment to the Inter-Local Agreement between the County, FCAA and District**

Mr. Sheets stated that Item 1 was a copy of the letter that was forwarded to the county attorney concerning the status of the matching funds grant/loan and that he has not received a response to date. Discussion ensued on the grant versus loan issue and the repercussions to the District and it was suggested that the item not be referred to as a debt service transfer.

- 2. Status Report/Discussion regarding the Memorandum Of Understanding (MOU) Between the Key Largo Wastewater Treatment District and the Florida Keys Aqueduct Authority Regarding the FEMA Phase I Grant Program for the Key Largo Trailer Village Project**

Mr. Sheets stated that the copy provided was the information forwarded to Jim Reynolds of Monroe County to notify them that the District would be submitting expenses related to the Phase I Grant for reimbursement. The County has not formally responded to date.

- 3. Status Report/Discussion regarding the KLTV and KLP Contract Negotiations**

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Mr. Sheets stated that the negotiations with Haskell and Higgins were progressing well and the Board had been provided with a briefing memorandum that reflects the efforts of the negotiating team. The draft contracts that the Board had been provided are working drafts but Mr. Sheets added that both firms have indicated that they would execute the contracts in the current form if asked to do so.

Mr. Sheets stated that Higgins as the lowest bidder and had agreed to do the project based on their base bid and they have agreed to hold their prices. The negotiating team recommends that the Board move forward with the Higgins contract based on the base bid.

Ms. Amy Dukes joined the meeting in progress via the telephone.

Mr. Sheets stated that he had talked with Dick Smith of the FDEP and the Board will be required to execute amendment number two to the grant agreement that identifies the new project schedule dates by May 28, 2003. Mr. Sheets stated that he had been notified by DEP that the District would receive an additional \$135,000 in funding and would be defined in amendment number two.

Discussion ensued concerning permitting and discontent over the MSTU. Chairman Tobin stated that his comfort level with the contract was not sufficient for action at this time.

Mr. Sheets stated that concerning the KLTV negotiations with Haskell they have offered pricing deductions, schedule changes and modifications to the scope of work. The remaining issue for Haskell is the cash draws. Discussion ensued on the project budget as presented in the draft documents, the specifics of the Project Status Meetings and the change order process. Mr. Sheets stated that it was the recommendation of the negotiating committee that the Board act on the contracts at the May 21, 2003 meeting.

Discussion ensued on the best use for the savings realized from the negotiation process and the additional funds being appropriated by the DEP. Commissioner Beaty stated that the Sunset subdivision should be considered for use of the additional funds.

Commissioner Brooks complimented Boyle Engineering for the concise and informative memorandum regarding the negotiating teams efforts. Mr. Refling was asked his opinion. Mr. Refling stated that he would encourage the Board to move forward on the two contracts and to not get weighted down by details that have already been reviewed by the negotiating committee that consisted of an experienced General Manager, Legal Counsel and Engineers.

Discussion ensued concerning the tier system in use by the County and what constitutes a build-able lot. County Commissioner Nelson stated that the County, FKAA and the District would continue to work together.

Discussion ensued on the specific completion dates referred to in the contract schedules. Chairman Tobin is concerned with the consequences of not meeting the

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dates. Mr. Sheets stated that he has verified with the DEP, DCA and FEMA that if the schedule is not met due to any fault of the District the contract could be amended.

Discussion ensued concerning the need for a Board meeting to be held on May 21, 2003 and if the Board would be prepared to act on the contracts with Higgins and Haskell and what the ramifications would be if action was postponed. Mr. Sheets stated that the forthcoming amendment from the DEP would provide additional time beyond the original June 30 date for contracts to be finalized with the contractors. Mr. Sheets suggested that at either the May 21<sup>st</sup> or 28<sup>th</sup> meeting the Board motion to approve the contracts as to form, pending approval, pending execution and signature by the contractors, the Chairman should not be asked to sign any agreement that the contractor is not prepared to sign and non-substantive changes to the agreement would not have to come back to the Board for approval, IF there were substantive changes it would have to come back to the Board. Mr. Sheets is of the opinion that by the Board's action of approving the contracts as to form the DEP would be content. The Board agreed that the May 21, 2003 meeting would be held.

#### **4. Status Report/Discussion regarding the Consulting Engineering Services Request for Qualifications - CCNA process**

Mr. Sheets stated that from the RFQ issued for consulting engineers 13 submittals were received and are being reviewed and evaluated. Mr. Sheets described the process for comment and recommendations from the Board. Mr. Sheets stated that a county representative, George Garrett had been contacted to be a member of the review committee. Mr. Sheets recommended that once the firms were ranked that the top five firms come before the Board to present information on their firm. Mr. Sheets stated that it would be the Board's decision as to how many engineers to contract with. Mr. Sheets stated that the Board should consider that engineering support would be required in several areas: to help manager manage the projects, to help with planning for the flow of funds, and to help identify future projects for the District. Mr. Sheets stated that the contract would not be a guarantee of work and that work authorizations describing the scope of work requested by the Board would be issued when necessary.

Commissioner Brooks and Wilkinson expressed concern with have a member of the County staff participating in the evaluation process. Mr. Sheets stated that Mr. Garrett was considered because as the water resource coordinator for the County, he has ample opportunity to observe many local projects, he brings local knowledge and flavor of some of the firms and the individuals who work with them. Mr. Sheets stated that Mr. Garrett could be removed from the team of reviewers if it was the Board's pleasure. It was suggested that a member of the Board be a reviewer. Commissioner Bauman requested more details as to what was involved. Mr. Sheets stated that it would most likely take several days to read the submittals and individual rank them, the evaluation committee would then meet to determine the overall rankings and a recommendation from the committee would be presented to the Board.

The Board requested that an evaluator that was not affiliated with Government Services Group and preferably an independent engineer be asked to review the submittals. Mr. Sheets stated that if one could be found who would not charge for the service.

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Chairman Tobin asked if after the engineers are selected if they must be retained indefinitely. Mr. Sheets stated that most contracts have a term of three years and that once the Board has determined which engineers to contract with the list could not be changed without repeating the CCNA process and once the term of the agreement expires the process must be repeated.

**Commissioner Brooks made a motion that the ranking committee consists of David Miles, Robert Sheets, Charles Sweat, a licensed engineer who was not a submitter and a member of the KLWTD Board. Commissioner Wilkinson seconded for discussion. Commissioner Beaty was concerned that an engineer could be found to review the submittals at no cost. Mr. Sheets stated that he had various resources and that a resume would be forwarded to the Board members as soon as possible for their consideration. Commissioner Bauman was asked to consider being a reviewer. Commissioner Bauman accepted the appointment. Mr. Sheets asked if the independent engineer would be reimbursed for travel to the Key Largo if it were required. The Board consented to reasonable travel reimbursement for an independent engineer if it were required. With no further discussion Chairman Tobin called for a vote. All were in favor and the motion was unanimously approved.**

## G. Legal Counsel's Report

Ms. Dukes stated that she had no formal report but that she has been involved with the continuing contract negotiations. Commissioner Bauman asked about the status of the Chapter 120 legislation. Ms. Dukes stated that it is progressing and it had passed through one house congress on its way to be signed by the Governor.

## H. Engineer's Report

Mr. Fred Mittl of Boyle Engineering stated that in addition to negotiating the contracts, the Key Largo Park permit application was submitted and a request for information was received back from the FDEP, a response was made to the DEP. Mr. Mittl is waiting to hear from the FDEP and expects that the permit will be received within the deadline.

## I. Commissioner's Items

1. Commissioner Brooks -- Discussion of comments submitted for the EPA's PMP

Commissioner Brooks gave an update on the Governor's Office Work Group meeting that he had attended. He stated that a presentation was made by Cecilia with the South Florida Water Management District and Shelly with the Army Corp of Engineers and that part of the presentation showed that Islamorada, Marathon and Unincorporated Monroe County were going to get 29.3 million dollars. Commissioner Brooks stated that the Chairman presiding over the meeting noticed that KLWTD was not mentioned in the presentation. However, Commissioner Brooks did provide his thoughts and some history on the issue to those assembled.

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Commissioner Brooks stated that he also attended the Intergovernmental Task Force Meeting. Commissioner Brooks stated that years ago, the formula was laid out that Key Largo would get 29.3 million, Islamorada would get the same, Marathon would get the same, and Key West and Key Colony would get less adding that this is what County Commissioner Nelson has fought for diligently. Commissioner Brooks was advised that State Representative Sorenson had requested another 3 million in State funding from the state and that Key West had been to Tallahassee and lobbied to get a greater percentage than had been agreed to. However, fortunately an agreement was reached that the original agreement for 29.3 million dollars for Key Largo would stand and that that the original distribution formula would be used for the additional 3 million. Commissioner Brooks concluded that although the information may need to be reconfirmed a great deal was accomplished by attending the meeting.

Discussion ensued on the specifics of the additional 3 million dollars in State funding being sought by Rep. Sorenson and the final appropriations of the 100 million dollars in Federal funding.

Additional Item – Commissioner Wilkinson concerning the wording of the MSTU.

Commissioner Wilkinson stated concern over the BOCC Ordinance's wording that states the KLWTD has a four-year budget and he was not aware of a four-year KLWTD Budget being approved. Commissioner Wilkinson's main concern was the section that indicated that at time of hookup KLWTD would give all the houses that paid a MSTU a credit against their hookup fee. Commissioner Wilkinson believes that this would be a law of diminishing returns, as this action would result in the KLWTD returning all money collected. Commissioner Wilkinson believes that the public is being deceived if their understanding of the ordinance is that are to receive a credit. Commissioner Wilkinson stated that in his opinion the ordinance should not contain a sunset clause and that the KLWTD should control the length of the MSTU. Commissioner Wilkinson believes this ordinance has been drafted from a previous County ordinance, which has resulted in inaccuracies. Commissioner Wilkinson suggested that the KLWTD Board request that the County set the MSTU rate annually and include the new rate with TRIM notices. Commissioner Wilkinson stated that the KLWTD had requested a NOT TO EXCEED millage rate for the MSTU of .35 mills and it is in the County ordinance as a flat rate.

Discussion ensued concerning how the MSTU would be updated annually and the drafting of the County ordinance for the KLWTD MSTU. Mr. Sheets stated that the KLWTD has control over the length of the MSTU. However, if the KLWTD should request four years, which mirrors the other districts, the Board has the option at the end of four years to request another MSTU based on what the projected funding requirements are. Presently the KLWTD has four years of funding, but if projects finish up early we have the option to not impose further MSTU collections. In conclusion Mr. Sheets stated that he believes the Board needs to look at what we're trying to attain and also have the flexibility to impose the MSTU for one, two, or three years, and to extend it if necessary. It was stated that the verbiage is awkward and that the attorney for the District look at that wording.

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It was suggested that due to these concerns the KLWTD Board should consider making this issue part of the KLWTD's long-range planning, deciding if the MSTU or the special assessment is the best way to fund projects, adding that in time the Board would have more experience in how to impose taxes in the fairest way possible.

Mr. Sheets stated that after a brief review of the County ordinance that the refunding issue would impact the KLWTD adversely. He stated that in the following scenario, as the briefing document is written, KLWTD would reimburse connectors for all assessments as a credit against the capital recovery fee. So if a connector had paid \$70 a year for two years, and on year 3 KLWTD collects the 2,700 dollar capacity fee the KLWTD would net out the \$140 and never assess a millage assessment on the connector again, and if this how the ordinance is enforced, then the financial projections would need to be revised.

Mr. Sheets suggested that he meet with Commissioner Nelson what the objectives of the County and the KLWTD were and to better address the uniformity issue. Mr. Sheets will discuss these issues further with whomever Commissioner Nelson suggests. Mr. Sheets noted that the County's ordinance does not mirror the summary page and needs to be addressed adding that he would review a copy with Tim McGary.

Chairman Tobin suggested that Legal Counsel review the BOCC ordinance as soon as possible and to focus on Section 9 concerning the effectiveness of the ordinance.

Commissioner Brooks noted that there appears to be a provision in Section 3-C of the Ordinance that permits the County to assist KLWTD out of surplus County funds.

Chairman Tobin stated that a defective ordinance would be of no use to the KLWTD and gave direction to the Manager is to work with Commissioner Nelson and Tim McGary to amend the agenda item summary and review the ordinance, also direction was given to our Legal Counsel to review the proposed ordinance and alert the Board of any potential problems.

Mr. Sheets stated that prior to the BOCC meeting the Board and Staff need to understand these issues as part of the whole community and that this is not the KLWTD's MSTU it is the County's MSTU. Mr. Sheets believes it is imperative to be effective in communicating to the BOCC that the MSTU benefits both entities and the MSTU is a partnership. The BOCC needs to understand that if they are attempting to make one size fit all the KLWTD Board needs to know what that size is and if adjustments can be made to it. If not, the KLWTD Board needs to articulate concisely why that size doesn't fit very well.

Commissioner Nelson was asked his opinion on the KLWTD making a presentation to the BOCC. Commissioner Nelson stated that having someone present to express the views of the KLWTD keeping in mind that the Commission has already adopted MSTU's for other areas.

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## **J. Minutes – April 9, 2003 and April 23, 2003**

Approval of the minutes was tabled until a future meeting.

## **K. Meeting Adjournment**

Chairman Tobin adjourned the meeting.

# **Key Largo Wastewater Treatment District Board of Commissioners Meeting Agenda**

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Chairman Tobin asked for public comment.

Chairman Tobin adjourned the workshop at 4:00 PM.

Chairman Tobin called the regular KLWTD Board Meeting to order at 4:05 PM and the Board recognized and welcomed the distinguished Councilman Murray Nelson.

## **D. Additions, Deletions or Corrections to the Agenda**

There were no additions, deletions or corrections requested by the Board.

## **E. Action Items**

There were no action items to be considered.

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## **F. General Manager's Report**

- 1. Status Report/Discussion regarding the final amendment to the Inter-Local Agreement between the County, FCAA and District**

Mr. Sheets stated that Item 1 was a copy of the letter that was forwarded to the county attorney concerning the status of the matching funds grant/loan and that he has not received a response to date. Discussion ensued on the grant versus loan issue and the repercussions to the District and it was suggested that the item not be referred to as a debt service transfer.

- 2. Status Report/Discussion regarding the Memorandum Of Understanding (MOU) Between the Key Largo Wastewater Treatment District and the Florida Keys Aqueduct Authority Regarding the FEMA Phase I Grant Program for the Key Largo Trailer Village Project**

Mr. Sheets stated that the copy provided was the information forwarded to Jim Reynolds of Monroe County to notify them that the District would be submitting expenses related to the Phase I Grant for reimbursement. The County has not formally responded to date.

- 3. Status Report/Discussion regarding the KLTV and KLP Contract Negotiations**

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Mr. Sheets stated that the negotiations with Haskell and Higgins were progressing well and the Board had been provided with a briefing memorandum that reflects the efforts of the negotiating team. The draft contracts that the Board had been provided are working drafts but Mr. Sheets added that both firms have indicated that they would execute the contracts in the current form if asked to do so.

Mr. Sheets stated that Higgins as the lowest bidder and had agreed to do the project based on their base bid and they have agreed to hold their prices. The negotiating team recommends that the Board move forward with the Higgins contract based on the base bid.

Ms. Amy Dukes joined the meeting in progress via the telephone.

Mr. Sheets stated that he had talked with Dick Smith of the FDEP and the Board will be required to execute amendment number two to the grant agreement that identifies the new project schedule dates by May 28, 2003. Mr. Sheets stated that he had been notified by DEP that the District would receive an additional \$135,000 in funding and would be defined in amendment number two.

Discussion ensued concerning permitting and discontent over the MSTU. Chairman Tobin stated that his comfort level with the contract was not sufficient for action at this time.

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Mr. Sheets stated that concerning the KLV negotiations with Haskell they have offered pricing deductions, schedule changes and modifications to the scope of work. The remaining issue for Haskell is the cash draws. Discussion ensued on the project budget as presented in the draft documents, the specifics of the Project Status Meetings and the change order process. Mr. Sheets stated that it was the recommendation of the negotiating committee that the Board act on the contracts at the May 21, 2003 meeting.

Discussion ensued on the best use for the savings realized from the negotiation process and the additional funds being appropriated by the DEP. Commissioner Beaty stated that the Sunset subdivision should be considered for use of the additional funds.

Commissioner Brooks complimented Boyle Engineering for the concise and informative memorandum regarding the negotiating teams efforts. Mr. Refling was asked his opinion. Mr. Refling stated that he would encourage the Board to move forward on the two contracts and to not get weighted down by details that have already been reviewed by the negotiating committee that consisted of an experienced General Manager, Legal Counsel and Engineers.

Discussion ensued concerning the tier system in use by the County and what constitutes a build-able lot. County Commissioner Nelson stated that the County, FCAA and the District would continue to work together.

Discussion ensued on the specific completion dates referred to in the contract schedules. Chairman Tobin is concerned with the consequences of not meeting the

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dates. Mr. Sheets stated that he has verified with the DEP, DCA and FEMA that if the schedule is not met due to any fault of the District the contract could be amended.

Discussion ensued concerning the need for a Board meeting to be held on May 21, 2003 and if the Board would be prepared to act on the contracts with Higgins and Haskell and what the ramifications would be if action was postponed. Mr. Sheets stated that the forthcoming amendment from the DEP would provide additional time beyond the original June 30 date for contracts to be finalized with the contractors. Mr. Sheets suggested that at either the May 21<sup>st</sup> or 28<sup>th</sup> meeting the Board motion to approve the contracts as to form, pending approval, pending execution and signature by the contractors, the Chairman should not be asked to sign any agreement that the contractor is not prepared to sign and non-substantive changes to the agreement would not have to come back to the Board for approval, IF there were substantive changes it would have to come back to the Board. Mr. Sheets is of the opinion that by the Board's action of approving the contracts as to form the DEP would be content. The Board agreed that the May 21, 2003 meeting would be held.

#### **4. Status Report/Discussion regarding the Consulting Engineering Services Request for Qualifications - CCNA process**

Mr. Sheets stated that from the RFQ issued for consulting engineers 13 submittals were received and are being reviewed and evaluated. Mr. Sheets described the process for comment and recommendations from the Board. Mr. Sheets stated that a county representative, George Garrett had been contacted to be a member of the review committee. Mr. Sheets recommended that once the firms were ranked that the top five firms come before the Board to present information on their firm. Mr. Sheets stated that it would be the Board's decision as to how many engineers to contract with. Mr. Sheets stated that the Board should consider that engineering support would be required in several areas: to help manager manage the projects, to help with planning for the flow of funds, and to help identify future projects for the District. Mr. Sheets stated that the contract would not be a guarantee of work and that work authorizations describing the scope of work requested by the Board would be issued when necessary.

Commissioner Brooks and Wilkinson expressed concern with have a member of the County staff participating in the evaluation process. Mr. Sheets stated that Mr. Garrett was considered because as the water resource coordinator for the County, he has ample opportunity to observe many local projects, he brings local knowledge and flavor of some of the firms and the individuals who work with them. Mr. Sheets stated that Mr. Garrett could be removed from the team of reviewers if it was the Board's pleasure. It was suggested that a member of the Board be a reviewer. Commissioner Bauman requested more details as to what was involved. Mr. Sheets stated that it would most likely take several days to read the submittals and individual rank them, the evaluation committee would then meet to determine the overall rankings and a recommendation from the committee would be presented to the Board.

The Board requested that an evaluator that was not affiliated with Government Services Group and preferably an independent engineer be asked to review the submittals. Mr. Sheets stated that if one could be found who would not charge for the service.

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Chairman Tobin asked if after the engineers are selected if they must be retained indefinitely. Mr. Sheets stated that most contracts have a term of three years and that once the Board has determined which engineers to contract with the list could not be changed without repeating the CCNA process and once the term of the agreement expires the process must be repeated.

**Commissioner Brooks made a motion that the ranking committee consists of David Miles, Robert Sheets, Charles Sweat, a licensed engineer who was not a submitter and a member of the KLWTD Board. Commissioner Wilkinson seconded for discussion. Commissioner Beaty was concerned that an engineer could be found to review the submittals at no cost. Mr. Sheets stated that he had various resources and that a resume would be forwarded to the Board members as soon as possible for their consideration. Commissioner Bauman was asked to consider being a reviewer. Commissioner Bauman accepted the appointment. Mr. Sheets asked if the independent engineer would be reimbursed for travel to the Key Largo if it were required. The Board consented to reasonable travel reimbursement for an independent engineer if it were required. With no further discussion Chairman Tobin called for a vote. All were in favor and the motion was unanimously approved.**

## G. Legal Counsel's Report

Ms. Dukes stated that she had no formal report but that she has been involved with the continuing contract negotiations. Commissioner Bauman asked about the status of the Chapter 120 legislation. Ms. Dukes stated that it is progressing and it had passed through one house congress on its way to be signed by the Governor.

## H. Engineer's Report

Mr. Fred Mittl of Boyle Engineering stated that in addition to negotiating the contracts, the Key Largo Park permit application was submitted and a request for information was received back from the FDEP, a response was made to the DEP. Mr. Mittl is waiting to hear from the FDEP and expects that the permit will be received within the deadline.

## I. Commissioner's Items

1. Commissioner Brooks -- Discussion of comments submitted for the EPA's PMP

Commissioner Brooks gave an update on the Governor's Office Work Group meeting that he had attended. He stated that a presentation was made by Cecilia with the South Florida Water Management District and Shelly with the Army Corp of Engineers and that part of the presentation showed that Islamorada, Marathon and Unincorporated Monroe County were going to get 29.3 million dollars. Commissioner Brooks stated that the Chairman presiding over the meeting noticed that KLWTD was not mentioned in the presentation. However, Commissioner Brooks did provide his thoughts and some history on the issue to those assembled.

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Commissioner Brooks stated that he also attended the Intergovernmental Task Force Meeting. Commissioner Brooks stated that years ago, the formula was laid out that Key Largo would get 29.3 million, Islamorada would get the same, Marathon would get the same, and Key West and Key Colony would get less adding that this is what County Commissioner Nelson has fought for diligently. Commissioner Brooks was advised that State Representative Sorenson had requested another 3 million in State funding from the state and that Key West had been to Tallahassee and lobbied to get a greater percentage than had been agreed to. However, fortunately an agreement was reached that the original agreement for 29.3 million dollars for Key Largo would stand and that that the original distribution formula would be used for the additional 3 million. Commissioner Brooks concluded that although the information may need to be reconfirmed a great deal was accomplished by attending the meeting.

Discussion ensued on the specifics of the additional 3 million dollars in State funding being sought by Rep. Sorenson and the final appropriations of the 100 million dollars in Federal funding.

Additional Item – Commissioner Wilkinson concerning the wording of the MSTU.

Commissioner Wilkinson stated concern over the BOCC Ordinance's wording that states the KLWTD has a four-year budget and he was not aware of a four-year KLWTD Budget being approved. Commissioner Wilkinson's main concern was the section that indicated that at time of hookup KLWTD would give all the houses that paid a MSTU a credit against their hookup fee. Commissioner Wilkinson believes that this would be a law of diminishing returns, as this action would result in the KLWTD returning all money collected. Commissioner Wilkinson believes that the public is being deceived if their understanding of the ordinance is that are to receive a credit. Commissioner Wilkinson stated that in his opinion the ordinance should not contain a sunset clause and that the KLWTD should control the length of the MSTU. Commissioner Wilkinson believes this ordinance has been drafted from a previous County ordinance, which has resulted in inaccuracies. Commissioner Wilkinson suggested that the KLWTD Board request that the County set the MSTU rate annually and include the new rate with TRIM notices. Commissioner Wilkinson stated that the KLWTD had requested a NOT TO EXCEED millage rate for the MSTU of .35 mills and it is in the County ordinance as a flat rate.

Discussion ensued concerning how the MSTU would be updated annually and the drafting of the County ordinance for the KLWTD MSTU. Mr. Sheets stated that the KLWTD has control over the length of the MSTU. However, if the KLWTD should request four years, which mirrors the other districts, the Board has the option at the end of four years to request another MSTU based on what the projected funding requirements are. Presently the KLWTD has four years of funding, but if projects finish up early we have the option to not impose further MSTU collections. In conclusion Mr. Sheets stated that he believes the Board needs to look at what we're trying to attain and also have the flexibility to impose the MSTU for one, two, or three years, and to extend it if necessary. It was stated that the verbiage is awkward and that the attorney for the District look at that wording.

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It was suggested that due to these concerns the KLWTD Board should consider making this issue part of the KLWTD's long-range planning, deciding if the MSTU or the special assessment is the best way to fund projects, adding that in time the Board would have more experience in how to impose taxes in the fairest way possible.

Mr. Sheets stated that after a brief review of the County ordinance that the refunding issue would impact the KLWTD adversely. He stated that in the following scenario, as the briefing document is written, KLWTD would reimburse connectors for all assessments as a credit against the capital recovery fee. So if a connector had paid \$70 a year for two years, and on year 3 KLWTD collects the 2,700 dollar capacity fee the KLWTD would net out the \$140 and never assess a millage assessment on the connector again, and if this how the ordinance is enforced, then the financial projections would need to be revised.

Mr. Sheets suggested that he meet with Commissioner Nelson what the objectives of the County and the KLWTD were and to better address the uniformity issue. Mr. Sheets will discuss these issues further with whomever Commissioner Nelson suggests. Mr. Sheets noted that the County's ordinance does not mirror the summary page and needs to be addressed adding that he would review a copy with Tim McGary.

Chairman Tobin suggested that Legal Counsel review the BOCC ordinance as soon as possible and to focus on Section 9 concerning the effectiveness of the ordinance.

Commissioner Brooks noted that there appears to be a provision in Section 3-C of the Ordinance that permits the County to assist KLWTD out of surplus County funds.

Chairman Tobin stated that a defective ordinance would be of no use to the KLWTD and gave direction to the Manager is to work with Commissioner Nelson and Tim McGary to amend the agenda item summary and review the ordinance, also direction was given to our Legal Counsel to review the proposed ordinance and alert the Board of any potential problems.

Mr. Sheets stated that prior to the BOCC meeting the Board and Staff need to understand these issues as part of the whole community and that this is not the KLWTD's MSTU it is the County's MSTU. Mr. Sheets believes it is imperative to be effective in communicating to the BOCC that the MSTU benefits both entities and the MSTU is a partnership. The BOCC needs to understand that if they are attempting to make one size fit all the KLWTD Board needs to know what that size is and if adjustments can be made to it. If not, the KLWTD Board needs to articulate concisely why that size doesn't fit very well.

Commissioner Nelson was asked his opinion on the KLWTD making a presentation to the BOCC. Commissioner Nelson stated that having someone present to express the views of the KLWTD keeping in mind that the Commission has already adopted MSTU's for other areas.

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## **J. Minutes – April 9, 2003 and April 23, 2003**

Approval of the minutes was tabled until a future meeting.

## **K. Meeting Adjournment**

Chairman Tobin adjourned the meeting.