

Key Largo Wastewater Treatment District Board of Commissioners Meeting Minutes

4:00 PM Wednesday, June 18, 2003

Key Largo Civic Club

209 Ocean Bay Drive

Key Largo, Monroe County, Florida

COMMISSIONERS PRESENT

Acting Chairman Jerry Wilkinson
Commissioner Gary Bauman
Commissioner Cris Beaty
Commissioner Charles Brooks

STAFF PRESENT

Robert E. Sheets, General Manager, Government Services Group, Inc.
David R. Miles, Chief Financial Officer, Government Services Group, Inc.
Faith Doyle, KLWTD Board Clerk

GUESTS PRESENT

Robert E. Burt, Key Largo Resident
Steve Gibbs, Reporter, Free Press
Mike Longenecker, Key Largo Resident

A. Call to Order

Acting Chairman Wilkinson called the meeting to order at 4:03 p.m.

B. Pledge of Allegiance

The pledge was recited.

C. Budget Workshop

Acting Chairman Wilkinson turned the floor over to Mr. Sheets and Mr. Miles to conduct the second budget workshop. Mr. Sheets stated that it is time to begin planning for FY 2004.

Mr. Sheets reviewed the accomplishments for FY 2003.

Mr. Sheets suggested that a discussion of the tentative goals would be in order and that he had taken the liberty to offer thoughts to spur discussion. These items would have budgetary impacts. With the two major projects beginning shortly the most time consuming goals will be staying on time and on budget. To do this several decisions that would result in budget impacts would be choosing an engineer for oversight of the KLTV and KLP projects which includes signing off on plans and reviewing payment draws. Another decision for

FY2004 is to begin a mandatory collection program. This will need to be started by the second quarter of next year. Mr. Sheets stated that he would present the essential outline of the program. One year prior to the implementation of the mandatory program a notification to the residences would be required informing them of the availability of service. Community meetings will be planned and the residents will need to connect one month after the one-year notice has expired. The plan will be a special project and the cost of implementation will need to be budgeted. Planning for upcoming projects will be required. One of the engineers chosen from the CCNA should have expertise for cost estimating and funding. The Board should start thinking of the next neighborhoods to receive service, those that could benefit from federal, state and local funding. Mr. Sheets noted that in the future the Board would need to decide if they want their own employees or if they want to contract out operation and management services. If the Board wants to out source these services a Request for Proposals (RFP) will need to be implemented. Mr. Sheets stated that a website would also be looked into. Mr. Sheets is sure there are other items that the Board would want to entertain.

Commissioner Bauman asked how to aggressively go after grant money. He asked if staff should gather contact names and agencies and cold call them. Mr. Sheets stated that there are things the KLWTD could do with the current staffing levels to research grants or if the Board wants to contract with a company that does grant management as a business this would be a more aggressive approach. Commissioner Bauman asked how much the service costs. Mr. Sheets stated they can charge by either being paid part of the administrative cost for the funds received or a flat rate. Commissioner Bauman believes if KLWTD wants to build an entire system it won't get done effectively being piece milled. Mr. Sheets agreed that funding is an issue and stated that building a whole house one room at a time costs much more. The economy of scale assists in the funding process. Mr. Sheets stated that the Board needs to decide what the most cost effective means of developing the system and without a strategic plan to demonstrate to the funding agencies that the KLWTD is looking forward the agencies may not be willing to fund the projects. Mr. Sheets stated that although it seems like a major expense at first it would result in greater funding.

Commissioner Bauman asked how to determine how much funding is available. Mr. Sheets stated that the funding agencies don't really give clear answers, if you have a plan ready and available and you are sure of the amount of funding they can match the available funding to the project. Mr. Sheets stated that the funding agencies prefer to see prepared people and a strategic plan gives you something to present to the funding agencies. Commissioner Bauman asked what agencies would be most likely to provide funding to the KLWTD. Mr. Sheets stated that FEMA is the most difficult to get funds from because it is a unique agency. However, the KLWTD is developing a relationship with them because of the current projects and this may help with future funding. Unfortunately the KLWTD Board has not had time to do strategic planning while attempting to get the urgent items done. Once the Board decides what needs to be done after the initial projects are underway, find out how to get there, and a strategic plan would provide a map.

Acting Chairman Wilkinson commented that the County Master Plan could have been used as first drafted but the plan has changed. He agreed with it at first but it is not being followed. The ranking that was initially stated in the master plan is not being followed. Mr. Sheets doesn't believe the KLWTD will be rewriting the master plan, but it is now 3 years old and the facts have changed. The Board needs to see what still fits and what needs enhanced and updated. Commissioner Bauman asked if the plan should be followed indicating that Sexton Cove would be next. Mr. Sheets stated there are many options but

there has not been time to sit down and discuss them. Commissioner Bauman stated that planning should begin as soon as possible. The Board agreed. Acting Chairman Wilkinson believes that the plan must be written so when funds become available the agencies know the KLWTD is serious and ready to move forward.

Commissioner Brooks stated that the KLWTD is in competition with the County for funding and continued involvement with the Intergovernmental Task Force would be prudent. He also believes that the KLWTD needs to have a strategic plan available before finding out if any money is available because that is the way project funding has been done. The project needs to be ready to go before it is funded. Discussion ensued on the future of funding in light of the current war and other issues facing the State and the County.

Mr. Sheets stated strategic planning would begin in October. The CCNA process will be complete and the engineer would be on board to assist with the process.

Acting Chairman Wilkinson discussed the benefit of doing a bond issue. He believes that the economy of scale achieved from the KLWTD having their own money and not dealing with grant money would be more efficient. Discussion ensued concerning State revolving loan fund projects and their benefits. Mr. Sheets stated that the best points of SRF funds are that they don't get paid back until one year after the certified completion of a project and they are at a 2.9 percent interest rate.

Mr. Steve Gibbs, a Key Largo resident, asked if a bond issue would impede the receipt of grants. Mr. Sheets stated that authorizing bonds to be issued is one thing but if you spend it you cannot use grant money to pay it back. Grant money is not meant to reimburse bond payments and bond costs. Discussion ensued on the benefits of bond issues.

Mr. Sheets stated that as the budgeting process progresses the document to be developed would look somewhat like the County format.

Commissioner Bauman believes that the website should be a low priority. Mr. Sheets stated that it won't be extensive - just informative. Commissioner Bauman asked how much initiating the website would cost. Mr. Sheets stated that the price quoted in the GSG Management Services Agreement was \$6,000.

Commissioner Brooks asked if the KLWTD has anyone conducting lobbying efforts. Mr. Sheets stated that State Representative Sorenson is very helpful, but there is not a paid lobbyist. Commissioner Brooks stated that the Intergovernmental Task Force and the County have lobbyist in Tallahassee but they have relied on the Nature Conservancy and the Ocean Conservancy to lobby for the \$100 million dollars and this fact makes it important for the KLWTD to be part of the Task Force. Commissioner Brooks stated that at some point the KLWTD might want to have Terry Lewis lobby on behalf of the KLWTD. Mr. Sheets stated that lobbyists are expensive and suggested that as a small district they go with other districts to jointly fund a lobbyist. Discussion ensued on the benefits of a lobbyist.

Discussion ensued concerning the design of a website and if the \$6,000 in the contract would be sufficient. Mr. Sheets stated that the expense it is not the design but the upkeep. Mr. Sheets stated that the GSG fee is design, maintenance and content upkeep. Further discussion ensued on the website.

Commissioner Brooks stated that in the near future a physical location for the KLWTD would be needed. Mr. Sheets stated that in time there would be maintenance service people and a billing office that will require a place of business. Mr. Sheets stated that presently there is \$14,000 in the FY2004 budget for rental and lease costs. At some point when the KLWTD indicates the need a contract operator or hiring KLWTD personnel and finding office space will be necessary. Commissioner Brooks believes that prior to the utility coming on line the Board may want to have a physical place set up for Board meetings and records storage. Discussion ensued. Mr. Sheets stated that if the Board desires an office location it could be researched. However, any records would replicate the official record maintained by the clerk but it would be possible. Commissioner Brooks asked the Board at what point do we feel we need it or want it. Commissioner Bauman believes it needs more thought. It was suggested that the KLWTD should inquire about space in the future local government center or placing an office trailer at the future plant site.

Acting Chairman Wilkinson stated that the discussion generated by the workshop was productive. Mr. Sheets stated that the Board could have as many budget workshops as they like up until the budget is finalized. Commissioner Bauman asked when the budget would be finalized. Mr. Miles stated the advertisement for the public hearing would be published on or about August 10, 2003 and the public hearing held on September 10, 2003.

The Board reviewed the preliminary budget. It was asked when the MSTU money would start coming in. Mr. Miles stated that usually the bulk of the money is collected at the end of the discount period in late October. Mr. Sheets stated that Mr. Miles and Commissioner Beaty have talked with TIB Bank official in an effort to secure a line of credit to assist with the cash flow difficulties and to provide working capital when necessary.

A review of the individual line items was conducted. Mr. Miles stated that the MSTU line item was based on a 95% collection rate and a 3% growth factor. Discussion ensued on the turn around of funds collected by the County. It was decided that Mr. Miles would contact the County Tax Collector for verification of the turn around time. If there is a great lag time then the line of credit may need to be utilized.

Commissioner Bauman requested budget to actual figures. Mr. Miles stated that he plans to provide budget to actual reports the last meeting of each month. Discussion ensued on the financial status of the KLWTD through the end of the current physical year.

Mr. Sheets suggested combining line items 23 and 30 and creating a line item for special projects. Mr. Miles was directed to strike line item 23 and add a special projects line item.

Commissioner Wilkinson asked about the expenses for the use of the Civic Club and when they would begin to be paid. Mr. Sheets stated that a stipend to the Civic Club would be in order. Commissioner Brooks stated that usually a nominal fee of \$20 dollars is charged to use the room. Commissioner Brooks will bring the issue to the Civic Club Board and bring back an update. The Civic Club Board holds their meeting the last Tuesday of the month.

Mr. Sheets stated that another line item to reconsider is 29 for a utility rate consultant. He suggested that it be changed to grant specialist. Mr. Sheets stated that line item 28 for legal expenses could be readjusted because the items being charged at present are startup items and there should be approximately \$9,000 a month budgeted for legal expenses. Discussion ensued on ways to get more funding for grant procurement.

Mr. Sheets stated that the \$7,000 capital expenditures line item was set by Mr. Miles in the event that equipment purchases are necessary for Board use.

Mr. Sheets stated that the modifications would be made to the line items and the narratives would be drafted for the Board to review. The Board set the next budget workshop to be held in conjunction with the July 9, 2003 regular meeting.

The capital projects budget was reviewed. Mr. Sheets stated that beyond the two current projects there are no capital projects planned. A capital projects plan will be developed in the future as previously discussed. Commissioner Wilkinson questioned the capital budget line item for \$60,000 for the tie in to KLTV vacuum valves and if that number was to complete the installation of KLTV vacuum valves. Mr. Sheets stated that he has received a letter from Higgins that this would be the cost to cover the additional valves to complete KLTV.

Acting Chairman Wilkinson asked for any further comments from the Board or the public.

Ms. Amy Dukes joined the meeting via telephone at approximately 4:50 p.m.

D. Additions, Deletions or Corrections to the Agenda

Acting Chairman Wilkinson asked for additions, deletions or corrections to the agenda. Commissioner Bauman suggested that item F4 discussion of the Gartek additional services invoice be postponed because Chairman Tobin was not present. Commissioner Brooks wants to discuss the issue and move forward on it. Discussion ensued about the timing of this item and the procedure suggested by Chairman Tobin. Commissioner Bauman moved to postpone item F4 until a future meeting. Commissioner Beaty seconded the motion. Commissioner Brooks stated that he doesn't believe Gartek will appear again because they have stated their best and final offer. Commissioner Beaty withdrew his second to the motion. The motion failed due to a lack of a second.

Commissioner Brooks requested an additional item to discuss issuing a letter in response to the Key West Citizen's article concerning toxic waste. This item will be Item I 2.

Acting Chairman Wilkinson added Resolution 2002-16 approval of the KLTV Agreement with the Haskell and Resolution 2002-17 approval of the KLP agreement with Higgins to be considered together. This item will be Item E 2.

Acting Commissioner Wilkinson approved the agenda as amended.

E. Action Items

1. Approval of the South Florida Water Management District Contract C-15814 for the KLTV Wastewater System Construction

COMMISSIONER BROOKS MOTIONED TO APPROVE SFWMD CONTRACT C-15814 FOR DISCUSSION. COMMISSIONER BAUMAN SECONDED THE MOTION. COMMISSIONER BROOKS QUESTION THE CONFLICT BETWEEN EXHIBIT D'S REFERENCE TO FISCAL YEAR DELIVERY AMOUNTS OF \$50,000 ON JULY 1, 2003 AND SCHEDULE C'S REFERENCE TO THE PRELIMINARY DESGN BEING DONE IN JULY. MR. MILES EXPLAINED THAT ALL THAT IS REQUIRED IS TO SIGN THE CONTRACT AND RETURN IT THE SFWMD. THE GENERAL MANAGER MUST CERTIFY THAT THE ENGINEER HAS SEALED A PRELIMINARY DESIGN.

THE GENERAL MANAGER WILL NEED TO PROVIDE A SIGNED AND NOTARIZED STATEMENT TO THAT EFFECT AND IT WILL BE ATTACHED TO AN INVOICE TO DRAW FUNDS BUT THIS DOES NOT NEED TO BE DONE ON OR BEFORE JULY 1. MR. SHEETS STATED THAT NO FUNDS COULD BE DRAWN UNTIL THE TASK IS COMPLETED. THE JULY 1 DATE IS JUST THE EARLIEST POSSIBLE DATE. THE QUESTION CALLED ANY ACTING CHAIRMAN WILKINSON ASKED FOR ANY FURTHER DISCUSSION. ACTING CHAIRMAN WILKINSON CALLED FOR A VOTE.

COMMISSIONER BAUMAN	YES
COMMISSIONER BEATY	YES
COMMISSIONER BROOKS	YES
ACTING CHAIRMAN WILKINSON	YES

THE MOTION WAS UNANIMOUSLY APPROVED.

2. RESOLUTION 2003-16 APPROVING THE AGREEMENT WITH HASKELL FOR THE KLTV PROJECT AND RESOLUTION 2003-17 APPROVING THE AGREEMENT WITH HIGGINS FOR THE KLP PROJECT.

COMMISSIONER BEATY MADE A MOTION TO APPROVE RESOLUTIONS 2003-16 AND 2003-17. COMMISSIONER BAUMAN SECONDED THE MOTION. WITH NO FURTHER DISCUSSION, ALL WERE IN FAVOR AND THE MOTION WAS UNANIMOUSLY APPROVED.

F. General Manager's Report

1. Status Report/Discussion of the Monroe County/Key Largo Wastewater Treatment District Loan Agreement

Mr. Sheets stated that at a prior meeting the general manager and legal counsel were requested to redraft certain portions of the loan agreement and to present a recommendation to the Board. This task was accomplished today and the final draft will be forwarded via e-mail to the Board and placed on a future agenda as an action item. The Board tabled the item and requested it be made an action item on the July 9, 2003 agenda.

2. Status Report/Discussion of the Engineering CCNA

Mr. Sheets stated that scoring has just been completed and the briefing memo will be presented on the 25th along with an overall recommendation of the top 8 firms and the ranking of all 13 submittals. Discussion ensued on the information to be presented. Mr. Sheets stated that the Board could take the recommendation, modify the recommend or come up with their own. Commissioner Brooks asked if it is prudent for the Board to interview a certain number of the submitters. Mr. Sheets stated that decision was ultimately the Board's.

Commissioner Bauman stated that some of the firms have strong skills and some are lacking the skills that the KLWTD would require. Commissioner Bauman believes that it is important to know whom the project managers would be and that the proper time to interview firms is when we are assigning a task. Interviewing a firm won't answer these questions at the out set. Mr. Sheets stated that the KLWTD should only be interested in firms with current water/wastewater divisions that are active in designing water/wastewater disciplines. Commissioner Bauman agrees that active wastewater practices within the firm with a principle in South Florida and that project managers who report directly to a principle

is imperative. Commissioner Bauman found that when reviewing the firms it appeared that several of the submittals were pulled off the shelf and given to us, others targeted the KLWTD specific needs, and finally there were firms that had in house wastewater skills and others that subcontracted wastewater skills. Commissioner Bauman believes that firms that use subcontractors could become a problem. Discussion ensued on the process after the initial recommendation of the committee is presented and on how the engineers would be given work after they are selected.

The Board requested that the information be forwarded by email and that the item be placed on the June 25 agenda.

3. Status Report/Discussion of the External Auditor CCNA

Mr. Sheets stated that the evaluation committee has worked diligently on this and that a recommendation to negotiate a contract with a firm would be presented to the Board at the June 25, 2003 meeting.

4. Status Report/Discussion of the Gartek Additional Services Invoice

Mr. Sheets stated that the procedure suggested by Chairman Tobin was a quasi-judicial procedure and if adopted as a procedure by the Board it would involve official notices and technically if one side doesn't show up then they forfeit their claim. Without the procedure being recognized by the Board the Gartek Invoice cannot be acted on today. Mr. Sheets stated that he couldn't give a recommendation on the procedure because it is a legal issue. Mr. Sheets informed the Board that the negotiations were cut off by Gartek and that \$19,000 was their final offer and the Board needs to decide if it is fair and reasonable and if the Board can legally pay it.

Commissioner Brooks asked legal counsel if it believes what Mr. Sheets said was accurate. Ms. Dukes stated that she had not seen the procedure suggested by Chairman Tobin but even without reviewing it she doesn't believe any type of quasi-judicial procedure could be conducted at the present meeting. Ms. Dukes stated that she would not suggest the Board adopting the procedure prior to legal review, but if the Board accepts it she noted that Gartek must receive proper notice and fail to appear prior to forfeiture. Commissioner Brooks sees problems with the procedure in that in his opinion it pits the manager and Gartek against each other and places those who are members of the evaluation panel as being judges where they could be witnesses within the proceedings. Ms. Dukes stated that Commissioner Brooks beliefs are correct and that this is an adversarial process. Mr. Sheets stated that doesn't disturb him, but the Board needs to make a decision and act on the procedure prior to further action.

Commissioner Brooks asked if they vote to move forward with the Gartek amount and we turn it down does that mean we can't offer another amount. Commissioner Brooks stated that the Board had set up a retroactive emergency to cover the situation. Commissioner Brooks stated that he was inclined to make a motion to approve the \$19,000.00 final offer to but the matter to rest. Commissioner Bauman brought up a point of order that a motion couldn't be made on an item that is not on the agenda. Ms. Dukes stated that she realizes the Board needs to conclude this debate as soon as possible but legal review of the particulars of the situation need to be done prior to this becoming an action item. Acting Chairman Wilkinson ruled the item to be a discussion item. The Board reached a consensus that a final counter offer of 50% of the original additional services invoice of \$33,130.00 be prepared for the Board to approve.

COMMISSIONER BROOKS MOTIONED TO NOT ELECT TO ADOPT A QUASI-JUDICIAL PROCEDURE FOR THE GARTEK ISSUE AT THIS TIME AND THAT WE MOVE THIS TO THE MEETING OF THE 25TH TO ACT ON A COUNTER OFFER.

Acting Chairman Wilkinson did not believe this action requires a motion because it is not an action item. Mr. Sheets stated that it only needs a consensus of the Board. The consensus was to bring back an action item to offer 50% of the original amount to Gartek at the June 25 meeting. The general manager and legal counsel were directed to prepare it.

5. Status Report/Discussion of the Haskell Company's KLTV Preliminary Project Schedule

The clerk noted that this item was included at the request of Chairman Tobin. Mr. Sheets stated that the item would be updated after the agreement is signed to reflect changes necessary due to delays in the negotiation process.

6. Presentation of the updated KLWTD Calendar

Mr. Sheets stated that the calendar was prepared at the request of the Board and includes the dates for the upcoming meetings the budget process and Haskell's Preliminary Project Schedule.

Mr. Sheets stated that the official date for execution of the Haskell and Higgins agreements would be June 25, 2003. The Board suggested that the County Commissioners and other assisting agency officials be invited to attend.

G. Legal Counsel's Report

Ms. Dukes stated that most items of concern under her report were previously covered. She stated that the Monroe County Agreement and KLP and KLTV agreement updates have been completed and would be included on upcoming agendas. The resolutions presented and approved by the Board at this meeting were prepared at the Board's directions from last meeting.

H. Engineer's Report

There was no engineer's report presented.

I. Commissioner's Items

1. Commissioner Brooks – Status Report on the Florida Special Districts Conference

Commissioner Brooks stated that the conference provided excellent information and he presented the other members of the Board with copies of information that he had acquired. He recorded former State Representative Brown's presentation, which he provided to the members.

2. Letter of Response to the Key West Citizen's Article on Toxic Waste

Commissioner Brooks provided copies of the article to the Board. He asked if the Board would like to draft a response to the information in the article that stated that toxic waste would be dumped into the Gulf Stream. Commissioner Bauman would like to see a press release condemning it. Commissioner Beaty and Acting Chairman Wilkinson agreed. The Board believes that this action would pollute the Keys. The letter will be copied to the FDEP and Representative Sorensen. The general manager was directed to have draft of the letter prepared for the Board to review at the June 25 2003 meeting.

J. Minutes – Revised May 14, 2003 and Draft May 21, 2003

Commissioner Beaty motioned to approve the minutes for May 14, 2003 and the May 21, 2003 meeting minutes. Commissioner Bauman seconded the motion. All were in favor and the motion was unanimously approved.

K. Meeting Adjournment

Commissioner Brooks motioned to adjourn the meeting. Commissioner Beaty seconded the motion.

Acting Chairman Wilkinson adjourned the meeting at 6:40 p.m.