



# **Key Largo Wastewater Treatment District Board of Commissioner's Meeting Minutes**

**4:00 PM Wednesday, September 17, 2003  
Key Largo Civic Club, 209 Ocean Bay Drive  
Key Largo, Monroe County, Florida**

## **BOARD MEMBERS PRESENT**

Chairman Andrew Tobin  
Commissioner Gary Bauman  
Commissioner Cris Beaty  
Commissioner Charles Brooks  
Commissioner Jerry Wilkinson

## **STAFF MEMBERS PRESENT**

Robert Sheets, General Manager  
Charles L. Sweat, Director of Operations  
David Miles, Chief Financial Officer  
Jeff Weiler, Engineer  
Ed Castle, Project Manager  
Faith Doyle, Board Clerk

## **GUESTS PRESENT**

Ms. Science Kilner, FEMA  
Mr. Lawrence Frank, FEMA  
Mr. Tom Evans, Tom Evans Environmental, Inc.  
Mr. James Dotesch, Roediger  
Mr. Charles Fishburn  
Mr. Walter E. Messer, D.N. Higgins  
Mr. Stu Oppenheim, Brown and Caldwell  
Mr. Peter Kinsley, The Haskell Company  
Mr. Joe Paterniti, Brown and Caldwell  
Mr. Mike Longenecker, Key Largo resident  
Mr. Robert E. Burt, KLTV  
Mr. John Hammerstrom  
Mr. Burke Cannon, IKLFHA

A. Call to Order – KLWTD Regular Meeting

Chairman Tobin called the meeting to order at 4:03 P.M.

B. Pledge of Allegiance

All stood and recited the pledge.

C. Open Public Hearing on Resolution 2003-19 KLWTD FY2004 Budget

Chairman Tobin opened the public hearing at 4:05 P.M. and asked if there were any comments from the public on the KLWTD FY2004 Budget Resolution 2003-19. There being none he closed the public hearing and asked the Board for discussion on the Resolution.

#### D. Close Public Hearing

Chairman Tobin closed the public hearing at 4:07 P.M.

**Commissioner Charles Brooks made a motion to approve Resolution 2003-19 KLWTD FY2004 Budget. Commissioner Wilkinson seconded the motion. All were in favor and the motion was unanimously approved.**

#### E. Public Comment

Please see below.

#### F. Additions, Deletions or Corrections to the Agenda

Mr. Robert Sheets requested that representatives of FEMA present information on the Environmental Site Assessment (ESA). Ms. Science Kilner and Mr. Lawrence Frank were introduced. Ms. Kilner stated that the draft ESA was forwarded to Mr. Sheets for comments from the KLWTD. The public hearing will be scheduled for early November with a 30-day comment period prior to the hearing. After the public hearing and comment period a final ESA will be prepared and forwarded for the grant to be initiated and it would be administered by Miles Anderson of the D.C.A. Two major items are needed from the KLWTD for the ESA the draft report must contain the plan for assisting low and very low-income residents and a site mitigation plan along with several minor items. This information needs to be supplied by the KLWTD Board. Discussion ensued on the specifics of site mitigation and the plan for assisting low-income residents. Ms. Kilner suggested that the Fish and Wildlife Commission be contacted for assistance concerning the site mitigation plan.

Commissioner Wilkinson stated concern over the delay in the ESA process. Ms. Kilner stated that the ESA process was complicated and involved many different governmental entities. Commissioner Wilkinson asked where the alternate site is located. Ms. Kilner stated that it is at mile marker 98 and was suggested by the FKA. A.

Chairman Tobin requested the General Manager to draft a summary of what actions are necessary to provide the information for the draft ESA to FEMA. Chairman Tobin suggested that if additional information after that point is needed then a public meeting could be held to advise the entire Board. It was noted that the contractors were present at the informational meeting and are aware of what is required of them. Mr. Sheet stated that the Board needs not be overly concerned about the alternative site; it needs to be available if there are catastrophic problems with the proposed site. The draft ESA was forwarded to WEC and Brown and Caldwell for their comments. Mr. Sheets will be formalizing the process for implementing a low-income assistance program that meets the requirements of the County program. He noted that the County had provided in the Interlocal Agreement to assist with the \$2,700 fee, however the KLWTD needs to address a program for running lines. Mr. Sheets will contact Mark Bell of Monroe County in the effort to prepare an implementation plan. Mr. Sheets stated that other

issues do need to be addressed but after the comments are received the draft will be used for the public hearing and he suggested that a special meeting of the KLWTD be held to coincide with FEMA's public hearing. Mr. Sheets stated that at present the executed grant agreement should be in hand in January of 2004. Mr. Sheets noted that a revised project schedule would be provided to Miles Anderson of the DCA to inform him that the present delays were due to circumstances beyond the Board's control.

Further discussion ensued concerning the site mitigation plans and who is responsible for the costs. Further discussion ensued concerning the implementation of a low-income program.

Commissioner Brook asked what mechanism is used by FEMA to inform the Board that the necessary information has been provided. Ms. Kilner stated that the holding of the public hearing is an indication that all information was provided.

Ms. Kilner stated that if all information is received by October 15, the public hearing could be held on November 5, 2003 in Key Largo. Mr. Lawrence Frank stated that a draft of the forth-coming grant contract would be provided to the Board for review as soon as possible to assist in expediting the process.

Discussion ensued on the possibility of third party challenges that could delay the project.

Chairman Tobin requested that public comment be moved to after the engineers report.

#### G. Action Items

1. Approval of Resolution 2003-19 KLWTD FY2004 Budget

Please see above.

2. Approval of the Pending Payments List dated September 10, 2003

**Commissioner Brooks motioned to approve the Pending Payments List contingent on being provided copies of the invoices after the fact. The motion died due to the lack of a second and the Chairman requesting the item be moved to later in the meeting.**

#### H. General Manager's Report

1. Update on the request for information from potential Board Attorney Candidates

The Clerk informed the Board that the five lawyers requested by the Board to be contacted and the letter to be forwarded to the President of the Lower Keys Bar Association had been completed. Mr. Harvey Zeigler, Mr. Nicholas Mulik, Mr. John Jabro, Mr. Dirk Smits and Mr. James Lupino have responded. Mr. Mulik is not interested in submitting a statement of qualifications. Mr. Zeigler, Mr. Jabro, Mr. Smits and Mr. Lupino stated they would meet with the Board and forward statements of qualifications. Mr. Lupino is not available to meet on October 1, 2003. Presently for the October 1, 2003 meeting Mr. Ziegler is scheduled for 3:00 p.m., Mr. Smits for 4:00 p.m. and Mr.

Jabro for 5:00 p.m. The Clerk will be forwarding the final schedule and the information provided to all Board members.

Commissioner Wilkinson stated concern over not having legal counsel present at the KLWTD meetings. Chairman Tobin stated that legal counsel is available by phone. Commissioner Brooks suggested that all the meetings with potential legal counsel be held on one day. Mr. Sheets requested that the Clerk reschedule the meetings for the 15<sup>th</sup> of October beginning at 4:00 p.m. Chairman Tobin stated that if not all are available for the 15<sup>th</sup> the 1<sup>st</sup> of October should be offered.

Mr. Sheets stated that although legal counsel was not present this evening that legal counsel would be consulted on several agenda items for October 1, 2003 and would need to be present at the meeting.

I. Legal Counsel's Report

No report was presented.

J. Engineer's Report

1. Presentation by the Project Team on the results of the Kick-off meeting and discussion of the implementation of the Draft Concept Review Submittal

Mr. Sheets stated that the team has provided the Draft Concept Review Submittal (DCRS) to staff and it would be forwarded to the Board members as soon as possible.

Mr. Sheets stated that the team would make a recommendation on Airvac/Roovac but requires additional information before providing a recommendation USBF/SBR but would have one prepared for the October 1, 2003 meeting. Information would be provided during the presentation giving alternatives on the completion of KLP as requested by the Board. Mr. Sheets stated that several different alternatives are being offered by Haskell and staff would like direction from the Board on what alternative should be pursued. Mr. Sheets stated that Tim Banks of DCA is considering combining the two projects into one unified project. Mr. Banks has requested documentation on the projects prior to his decision. Mr. Sheets would have more information for the Board at the October 1, 2003 meeting.

Chairman Tobin introduced Mr. Peter Kinsley of the Haskell Company. Mr. Kinsley introduced Mr. Stu Oppenheim, Vice-President of Operations for Brown and Caldwell, and will oversee the entire design of the project from the Miami office. Mr. Ted Hortenstein was introduced as the principal of the secondary treatment design, the plant and works from the Orlando office. Mr. Joe Paterniti was introduced as the principal to oversee the vacuum collection system for Brown and Caldwell and works from the Miami office. Mr. Walter Messer, Vice President of Operations for D.N. Higgins was introduced.

The Haskell Company and Brown and Caldwell made a presentation on the DCRS, which included information on Airvac/Roovac.

Mr. Kinsley presented the information on combining the KLP and KLTV project and including the Sunset Waterways subdivision. Mr. Kinsley stated that the Board had requested alternatives on having all vacant lots provided service and two additional scenarios were provided to accomplish the task.

Discussion ensued on the alternatives, the cost to the resident to install the system and the probability that all the vacant lots could be developed. Mr. Kinsley stated that more information would be necessary to make an informed decision.

Mr. Kinsley stated that he looks forward to working with the KLWTD in accomplishing all the goals of the Board.

Commissioner Bauman asked Mr. Kinsley his thoughts on the February 1, 2004 date. Mr. Kinsley is concerned with it and the likelihood that ground breaking on the plant would not happen in 2003, however occasionally the DEP allows other phases of a project to begin prior to ground breaking. Mr. Sheets stated that depending upon the combining of the projects the project schedule would be revised and that would adjust all of the funding deadlines into the future.

Chairman Tobin recessed the meeting at 6:25 p.m.  
Chairman Tobin reconvened the meeting at 6:40 p.m.

Mr. Sheets requested direction from the Board on the team's recommendation on the Airvac/Roevac issue if not tonight then on October 1, 2003, also for October 1<sup>st</sup> the recommendation for USBF/SBR would be provided to the Board. These two decisions would impact when the 30% design submittals would be completed.

Mr. Sheets stated that he requires direction from the Board this evening concerning the proposal from Haskell on combining the projects and if it cannot be given tonight it would need to be discussed at the October 1<sup>st</sup> meeting.

Chairman Tobin stated that he would require additional time to review the information provided prior to voting on Airvac/Roevac, USBF/SPR or the Haskell proposal to combine the projects and would like it to be on the agenda for the next meeting. Chairman Tobin stated that concerning the Haskell proposal funding must be identified prior to a decision. He requested that memorandums outlining what had been discussed by the project team at their meetings be provided to the Board to better prepare the Board.

Commissioner Bauman stated that there is no other choice than to have one engineer for the entire project and it should move forward as quickly as possible.

Commissioner Beaty would like to review the information provided and consult with Charles Fishburn on his opinions concerning the processes being suggested.

Commissioner Brooks stated concern on not receiving information in sufficient time to review prior to making decisions along with the need for updates from staff on meetings outside of Board meetings. Commissioner Brooks believes that one engineer is the best course but he has questions on the transferring of costs from WEC to Haskell. Mr. Weiler states that for the Engineer of Record services he would reduce his costs by \$19,000. Mr. Weiler stated that Haskell's proposed fees are fair and reasonable

considering the amount of redesigning work that is required. Commissioner Brooks asked how much more Haskell would be costing the KLWTD as Engineer of Record. Mr. Kinsley stated that the amount enumerated in the proposal is \$80,000 however, in his opinion, Mr. Weiler may not have been provided with the details on the redesign work to have properly cost the project. Mr. Sheets interjected that it may not be appropriate to request the engineers to debate cost comparisons that are not apples to apples. Mr. Sheets recommends that a complete comparison be provided so that the Board could see the specific benefits of their decision. Commissioner Brooks stated that he would appreciate more time to review the information although he feels that the proposal is very good and has received an initial recommendation from the KLWTD Engineer.

Mr. Sheets stated that if it is the consensus of the Board, staff would prepare a memorandum outlining the scope of work that would be provided by Haskell under a unified project. Chairman Tobin stated that it was always the wishes of the Board to have one project and from a policy standpoint the Board is united on this point.

Commissioner Wilkinson gave a report on his attendance at the project team meetings. He is ready to fully support the use of Roevac but agrees with the Board that a vote on the issue can be held until the next meeting. Commissioner Wilkinson stated that one engineer is the best alternative, however the funding must be identified prior to a decision being made. Commissioner Wilkinson stated that he has an opinion on the USBF/SBR choice but would like to see documentation prior to voting on the issue.

Chairman Tobin asked if the information provided to Commissioner Wilkinson would be shared with the other members of the Board. Mr. Kinsley stated that he is also awaiting information prior to recommending USBF/SBR and that he would provide information to the Board concerning the issue.

Commissioner Brooks stated that he would like the facts used for the recommendation in the event Haskell recommends something other than what the Board would recommend.

Chairman Tobin believes a more in depth analysis of the treatment plant would be required before making a decision. Mr. Sheets stated that all information would be incorporated into the agenda package for the Board's review.

Commissioner Wilkinson believes that the major decision will be Airvac/Roevac because most of the cost is involved with it and it will be buried in the ground and difficult to update if necessary. The plant decision is only 20% of the overall cost of the project and will be more accessible if alterations are necessary.

Mr. Sheets stated that to avoid any unnecessary confusion, how the recommendations are presented should be decided by the Board. Commissioner Bauman stated that he does not want to participate in lengthy presentation by vendors and that he will support the recommendations of staff. Commissioner Wilkinson believes that if the Board goes against the recommendation of the Engineer it would result in no warranty for the project.

Chairman Tobin stated that to improve the comfort level of the Board members that the recommendation should be presented along with supporting details.

Mr. Sheets stated that the recommendation would be made in a pros/cons format along with supporting information from Haskell.

Chairman Tobin brought the Pending Payments List back to the floor for consideration.

**Commissioner Brooks motioned to approve the Pending Payments List except for the Lewis Longman and Walker invoice because there was insufficient time to review it. Commissioner Wilkinson seconded the motion. All were in favor and the item was unanimously approved.**

Chairman Tobin asked the Clerk to provide electronic copies of the Lewis Longman and Walter invoices to the Board members on an ongoing basis. Mr. David Miles stated that he would scan them and forward them to the Board.

#### K. Commissioner's Items

1. Discussion of the intent of the Interlocal agreement in reference to the sharing of existing and future grants – Chairman Tobin

Chairman Tobin requested that the item be removed from the agenda. It was the consensus of the Board to support the continued participation with the Intergovernmental Task Force and the securing of the original share of funding apportioned to the KLWTD. Commissioner Brooks distributed historical information from the Intergovernmental Taskforce to the other Board members along with a newspaper article concerning the issue of future funds that are becoming available. Chairman Tobin stated that if a resolution is necessary in the future it would be in the best interest of the KLWTD to affirm it formally and requested Commissioner Brooks to advise the Board in the future if it is required.

2. Discussion on KLWTD physical public records location – Commissioner Brooks

Commissioner Brooks would like as soon as possible to have public records available to the public in a common area. The library was suggested for retaining the documents for public review. The copies being retained by Commissioner Beaty as the official secretary of the Board would continue. The Clerk has verified with the library that they would maintain the records if provided to them. Commissioner Brooks would like to see the agendas, minutes and contracts provided, however the agenda being provided prior to meetings could be a difficulty. Discussion ensued on the specifics of duplicating the records and providing them to the library. It was suggested that the agenda be provided electronically prior to the meeting without back up information being provided at a later time. It was the consensus of the Board that contracts need not be included and the library should not be a complete replication of the KLWTD records.

**Commissioner Brooks made a motion to approve the Clerk to initiate a minute book, agenda book and resolutions book at the library as soon as possible. Commissioner Wilkinson seconded the motion. All were in favor and the motion carried. Staff was directed to bring back a formal resolution for action at the next meeting.**

3. Discussion on advertising each regular meeting in the Free Press or Reporter as a display ad – Commissioner Wilkinson

Commissioner Wilkinson stated that he had requested information concerning the advertising requirements for the KLWTD from the attorney general's office. Chairman Tobin stated that he had a telephone conversation with a member of the attorney general's staff that a request for an opinion would need to be done formally by letter. Chairman Tobin believes that with the present statutes on the special districts advertising requirements that it may not be necessary. Commissioner Wilkinson states that his main concern is that advertisements are not reaching the Key Largo citizens by advertising in the Key West Citizen and he would like to see the response of the attorney general on the issue. Chairman Tobin stated that there is an ambiguity in the statute but it has been lobbied previously without success. Commissioner Bauman believes that with the negotiated reduced rate with the Free Press it would not be difficult to maintain advertisements in both publications. Commissioner Brooks comments that this issue is minor in relation to the other issues facing the KLWTD and suggests that sewerage Key Largo be paramount to the KLWTD Board and advertising the meetings be secondary. Chairman Tobin stated that in the future as time permits the Board pursue having the law amended.

Discussion ensued on drafting a letter to the attorney general requesting an opinion. Commissioner Wilkinson suggested drafting the letter and bringing it back for Board consideration. Chairman Tobin requested that Mr. Sheets review the statute and provide the Board with a recommendation on the issue. Chairman Tobin requested this discussion item be moved to an action item at the General Managers discretion.

4. Discussion of future ground breaking ceremonies – Chairman Tobin

Chairman Tobin requested that the item be removed from the agenda.

L. Meeting Adjournment

Chairman Tobin adjourned the meeting at 7:50 p.m.