

DRAFT



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

5:00 PM Wednesday, July 7, 2004

Key Largo Civic Club, 209 Ocean Bay Drive  
Key Largo, Monroe County, Florida

## Board Members Present

Gary Bauman, Chair  
Cris Beaty  
Charles Brooks  
Andrew Tobin  
Jerry Wilkinson

## Staff Members Present

Charles Fishburn, General Manager  
David Miles, CFO (via telephone)  
Thomas Dillon, Board Attorney  
Ed Castle, Board Engineer  
Faith Doyle, Board Clerk

## Guests Present

Mayor Murray Nelson, Monroe County BOCC  
Will English, Project Manager, The Haskell Company  
Lissette Lopez, Key Largo resident  
Martin Waits, Key Largo resident  
Steve Gibbs, reporter for the Free Press  
Howard Gelbman, Key Largo resident  
Burke Cannon, Key Largo resident  
Laura Norman, Key Largo resident

### I - Call to Order

Chairman Bauman called the meeting to order at 5:01 p.m.

### II - Pledge of Allegiance

The pledge was recited.

### III - Additions, Deletions or Corrections to the Regular Meeting Agenda

Commissioner Tobin requested the following items to be added as discussion items: the letter from Dr. Straw of FEMA, the letter on the hammock rule, the correspondence received on the main registry for the web site and the letter from Gino Angella of Calusa Camp Resort.

#### IV - Approval of the Draft June 16, 2004 Meeting Minutes

**Commissioner Wilkinson moved to approve the June 16, 2004 Meeting Minutes.**

**Commissioner Beaty seconded the motion.** Mr. Dillon stated that concerning his previous comments on the meeting recordings being the best evidence of the action taken at meetings, it is the official minutes that are the records for the organization. Commissioner Tobin moved that the Board Clerk should sign the minutes after approval. **All were in favor of the motion and it passed unanimously.**

#### V - Public Comment

Mayor Nelson distributed copies of the latest DCA rule and commented that the revisions to the 2820 rule will result in the KLWTD plant site be exempt because it will be 'grand-fathered' under the express terms of the rule.

#### VI - Legal Counsel's Report

##### LC 1 - Haskell Notice of Delay

Mr. Dillon suggested granting the 162-day extension. If the Board agrees the general manager will work with Haskell to resolve the issue by drafting and presenting Change Order No. 2. Categories of damages were discussed.

##### LC 2 – Prompt Pay Act Am. No. 1 to the Haskell Contract

Mr. Dillon stated that this amendment had been proposed because the clause was inadvertently omitted from the original contract. Haskell has not responded to repeated requests to resolve the issue. Mr. English stated that Mr. Kinsley would provide a response by next week.

##### LC 3 – Status of Lease for Bank of America

Mr. Dillon informed the Board that the Bank of America does not have ADA compliant restrooms and would not negotiate on any of the terms. It was the consensus of the Board to not pursue leasing from Bank of America.

##### LC 4 – Letter to the Supervisor of Elections, Monroe County

The letter that was drafted and forwarded by Mr. Dillon at the request of the Office of Election was presented and reviewed. Mr. Sawyer was pleased with the approach and the letter resolves the issue. Under the terms of the Key Largo Wastewater Treatment District Act, Board elections are "at large" elections and legislation would be necessary in order to change that status.

##### LC 5 – Direct Purchase Procedures

The procedure outline was presented. The suggested resolution for board action was reviewed. Mr. Dillon stated that Paragraph 3 was required in order to utilize the provision of the Special District law that allows a district to waive competitive procurement in certain cases. In this case, Haskell is using its own processes for competitive procurement, and the public interest in competition is protected. Mr. Dillon recommended adoption of the resolution.

Additional legal items:

Mr. Dillon reviewed the letter that had been received from FEMA's Dr. Straw. Mr. Dillon stated that most issues were addressed sufficiently. However, it seems the letter states that FEMA wants a great deal more site restoration anywhere from the original 2.6 acres to upwards of 40 plus acres. However, Mr. Fishburn corrected this statement in the General Manager's report.

Mr. Dillon stated that the FEMA/DCA agreements were available for execution and should be acted on as soon as possible.

Commissioner Tobin requested further discussion on the letter from FEMA. Discussion ensued on the future deed holder. Commissioner Tobin asked if there would be modifications to the agreement on this point. Mr. Dillon stated that although it was discussed the letter does not modify the agreement concerning the issue.

Mayor Nelson distributed additional information on Monroe County Rule 20, which indicated that the KLWTD would be grandfathered. Mr. Dillon stated that he would review the information and would provide his input to Mayor's office if required. Mayor Nelson explained that Rule 20 is the Monroe County rule that limits development in the County. He stated that the BOCC and State are changing some rules making them more stringent. The District projects can continue as planned. Mayor Nelson suggested the changes that would exempt the District so that the rule would not keep the District from using the land for the plant. Discussion ensued. Mayor Nelson stated that additional revisions were made to cover all future treatment facility expansion up to 4.2 acres.

VII - Action Items

AI 1 -- Approval of Resolution 2004-01 of the KLWTD Approving Direct Equipment Purchases

**Commissioner Tobin moved Resolution 2004-01. Commissioner Beaty seconded the motion for discussion.** Commissioner Wilkinson stated again that he was opposed to the concept of direct purchases. Commissioner Brooks questioned the inclusion of the list of what is to be purchased directly. Mr. Dillon stated that no list had been specified because of the Board's wish to have the most benefit by direct purchases. It was Mr. Dillon's understanding that at the last meeting the general manager was directed to manage the issue. Discussion ensued on the list. Mr. Fishburn stated that he had been provided a list from Haskell. **A roll call vote was requested.**

<b>Commissioner Beaty</b>	<b>Yes</b>
<b>Commissioner Brooks</b>	<b>Yes</b>
<b>Commissioner Tobin</b>	<b>Yes</b>
<b>Commissioner Wilkinson</b>	<b>No</b>
<b>Chairman Bauman</b>	<b>Yes</b>

**The motion carried.**

AI 2 – Approval of Work Authorization WEC 04-01 with Weiler Engineering Corporation for Development of an RFP for the Next KLWTD Project

Mr. Castle presented the Work Authorization and answered the Board's questions concerning the scope and deliverables. **Commissioner Brooks moved to approve Work Authorization WEC 04-01. Commissioner Beaty seconded the motion.** Commissioner Brooks requested a copy of the approved document so that he could hand carry it to the Project Development Team meeting to demonstrate that KLWTD has a project being prepared that would be eligible for federal funds. Discussion ensued the number of residential EDU's that would result from the project, the estimated cost for the project. Mayor Nelson stated that it is prudent to have this project ready to bid, especially because it has the ability to expand and add more customers. Mr. Castle noted that using the FKAA's abandoned lines could reduce the cost of a force main. Discussion ensued on the County paying the cost of work authorization WEC 04-02 and the need for clarification in the body of the work authorization outlining the funding sources. Mayor Nelson stated that the Board would need to be willing to sign a bond document stating that the \$2,700 connection fees would be used for future expansion. Mayor Nelson suggested using the FKAA resolution and process as an example. **A roll call vote was requested:**

<b>Commissioner Beaty</b>	<b>Yes</b>
<b>Commissioner Brooks</b>	<b>Yes</b>
<b>Commissioner Tobin</b>	<b>Yes</b>
<b>Commissioner Wilkinson</b>	<b>Yes</b>
<b>Chairman Bauman</b>	<b>Yes</b>

**The motion was unanimously approved.**

Discussion continued on the issue of bonding. Mr. Miles was directed to discuss the future budget implications of the proposed project with Mr. Castle.

**AI 3 – Approval of Amendment No. 1 to the Weiler Engineering Corporation Contract for Consulting/Professional Services**

**Commissioner Beaty moved to approve Am. No. 1 to the Weiler Engineering Corporation Contract. Commissioner Tobin seconded the motion. With no further discussion all voted in favor of the motion.**

**VIII – Chief Financial Officers Report**

**CFO 1 -- Approval of the Pending Payments List for July 7, 2004 including status of the MSTU Funds**

Mr. Miles presented the item. He informed the Board that a \$55,000 check had been received from the County.

Mr. Miles stated a correction to the memo presented. Draw 3 should be \$55,923.03 and the net available to draw down should be \$350,043.58.

Discussion ensued concerning the \$129,000 advance on the KLP project from FKAA that had not been received. Mr. Miles stated that of the approximately \$495,000 in FEMA Phase I funds KLWTD had asked for \$450,000 to be forwarded, FKAA declines further advances at the direction of Miles Anderson to KLWTD at this time. Mr. Miles contacted Mr. Anderson concerning the issue. He was informed that the FEMA Phase II contract needs to be approved and forwarded to FEMA prior to setting up a reimbursement schedule. Discussion ensued on

the FCAA actions and Mr. Anderson's decision to hold reimbursement. Mr. Miles stated that he would be meeting with Mr. Anderson concerning the issue next week in Orlando. Chairman Bauman requested that he be notified on the outcome of the meeting as soon as possible.

**Commissioner Wilkinson moved to approve the payments lists in its entirety. Commissioner Beaty seconded the motion. Commissioner Beaty noted that he was not in attendance at one of the June meetings so his payroll should be reduced. Mr. Miles stated that he would correct the error during the next payroll period. With no further discussion the motion was unanimously approved.**

#### CFO 2 – Status of the Annual Budget Process

Mr. Miles stated that the FY2005 operations budget would be presented in draft form at the July 21 meeting. The FY 2005 capital program would be presented after the details are reviewed with Mr. Castle.

Commissioner Beaty questioned how long the current MSTU in force. Monroe County Ordinance 018-2003 stated that it would apply through 2007. The amount of the revenues received during FY2004 was approximately \$700,000.

Chairman Bauman recessed the meeting at 6:50 p.m.  
Chairman Bauman reconvened the meeting at 7:05 p.m.

#### IX - General Manager's Report

##### GM 1 - Status of the Clerk Position

Mr. Fishburn stated that he had interviewed all applicants. Ms. Jeanette Bates has withdrawn her application. Ms. Lisette Lopez and Ms. Laura Norman were present at the meeting. Ms. Norman would be available immediately. Ms. Carol Simpkins was determined to be the most qualified but negotiations would be needed to come to terms with the salary. Mr. Fishburn stated concern that Ms. Simpkins would not be amicable to accepting the position at the current rate stated in the Board's advertisement.

Discussion ensued. Commissioner Brooks entertained a motion to hire Ms. Simpkins at an all-inclusive salary of \$57,000 annually as an exempt employee. Ms. Simpkins experience with grant applications and disbursement of funds. Discussion ensued on the salary, qualifications, title and if the manager's recommendation should prevail or if the Board should decide on the clerk.

**Commissioner Brooks moved to approve the General Manager having the authority to hire a clerk for an all-inclusive annual salary of \$57,000.00 as an exempt full-time employee. Chairman Tobin seconded the motion and requested the title be amended to be "clerk/ assistant manager". Commissioner Brooks amended his motion. A roll call vote was requested.**

<b>Commissioner Beaty</b>	<b>Yes</b>
<b>Commissioner Brooks</b>	<b>Yes</b>
<b>Commissioner Tobin</b>	<b>Yes</b>
<b>Commissioner Wilkinson</b>	<b>Yes</b>
<b>Chairman Tobin</b>	<b>Yes</b>

**The motion was unanimously approved.**

Mr. Fishburn stated that he would begin negotiations with Ms. Simpkins and present an employment agreement to the Board for approval.

#### GM 2 - Status of the CFO Position

Mr. Fishburn stated that he recommends Mr. Martin D. Waits be hired to fill the CFO Position. Commissioner Beaty stated that after reviewing Mr. Waits qualifications and resume he agrees that he posses the skills to perform the duties and functions of the position.

Mr. Waits stated the first issue he would address is the software for the accounting system and the transition plan for the CFO Functions from GSG to the District. Mr. Waits stated that he would provide a transition plan for the Board's consideration at the next meeting.

Mr. Fishburn requested that he start immediately on an hourly basis and that an employment agreement be negotiated immediately and presented to the Board at the next meeting for approval.

#### GM 3 - Report on the Calusa Camp Resort Meeting

Mr. Fishburn stated that he had met with the camp resort manager to discuss options. The cost is a major issue. The letter from Gino Angella letter was presented and discussed.

Mr. Castle reviewed his summary of the options that had been provided with the agenda. Commissioner Tobin requested discussion on the options outlined in the memo. Discussion ensued on the five options presented. Commissioner Wilkinson requested that Mr. Dillon review the condominium law to verify access by third parties. Mr. Dillon stated that in the future many condo associations would be involved and policy decisions should be made soon so that policy would be applied consistently to all establishments.

#### GM 4 - Status of the Site Mitigation

It was suggested this agenda item be combined with GM 6. Mr. Fishburn stated that since the last meeting a teleconference that included FEMA (Dr. Straw), the Governor's office and Mayor Nelson was conducted. Discussions included the need for more land (4.2 acres) for future expansion and site mitigation. Mr. Fishburn explained that the mitigation outlined in Dr. Straw's letter actually required restoration of about 3.5 acres, not the 40-plus acres obtained by adding up the gross numbers in the letter.

Chairman Bauman stated that he was ready to sign the DCA agreement. Commissioner Brooks believes the letter received does not agree with what he heard in the meeting. He is concerned with the mitigation issue of replacement of two for one. He is also concerned with saying we may do Lake Surprise but not have the plant capacity to support it.

**Commissioner Wilkinson moved to approve the DCA FEMA Phase II Agreement. Commissioner Tobin seconded the motion. All were in favor and the motion was unanimously approved.**

#### GM 5 - Status of the System Development Charge / Rate Study

Mr. Fishburn reviewed the information provided. Mr. Fishburn recommended that PRMG conduct the rate study for the \$15,000 that was provided in the FY2004 budget. Commissioners Tobin and Brooks were opposed to having a rate study done. Commissioner Tobin requested copies of all the rate studies Mr. Fishburn has referred to and a workshop for feed back prior to conducting a rate study.

Discussion on rate consulting firms ensued.

Chairman Bauman suggested having PRMG at the July 21, 2004 meeting to make a presentation to the Board.

#### GM 6 - Status of the FEMA Project 1249-25 Funding Agreement

Please see above.

#### X - Engineer's Report

##### PE 1 - Report on the Design Review

Mr. Castle reviewed the information presented.

##### PE 2 - Engineering Status Report

Mr. Castle reviewed the report.

##### PE 3 – Status of Change Order to add a second floor to the treatment plant for use as office space

Mr. Castle stated that Brown and Caldwell quoted \$62,000 for the design of a second floor. It was the consensus of the Board to not pursue the option any further.

##### PE 4 – Discussion Items from the Haskell Company (presented by Will English)

Mr. English reported that the County Planning Commission signed off on the minor conditional use. Geotechnical work could start after they can have access to the property. The permit for the collection system should be in hand by the end of the month. The County right-of-way and FDOT permits are in hand. The WWTP permit is being commented on and the County is reviewing the building permit.

#### XI - Public Comment

Mr. Gelbman comments that the 18 acres that is to go back to the County should be considered for a passive municipal park.

#### XII - Commissioner's Items

##### CI 1 - Status of the CFO's Position -- Chairman Bauman

The issue was discussed and resolved earlier in the meeting.

No action was taken on the item.

CI 3 - Update on past agenda items:

- A. FEMA FONSI Status
- B. Water Quality Testing
- C. Resolution of \$100K Loan repayment issue
- D. Site mitigation
- E. KLP vacant lot resolution
- F. Project request for FEMA deadline extension
- G. CDBG Grants and/or funds for private connections
- H. Procedures
- I. Web Site Development

No action was taken on the item.

### XIII - Meeting Adjournment

Chairman Bauman adjourned the meeting at 9:24 p.m.



A request was prepared to draw down an additional \$450,000 advance from FCAA in FEMA Phase I funds in order to meet significantly larger draws from the Haskell Company. FCAA has informed the District that Miles Anderson of DCA has directed that no additional Phase I draws will be paid by FCAA to KLWTD, since the Phase II agreement is in the hands of the KLWTD. I have confirmed that with Miles Anderson. He is on vacation this week, but called to set up a meeting with the financial staff during the week of July 12 to discuss closeout of FEMA Phase I and drawdown of FEMA Phase II funds.

I have obtained the following information, current as of June 29, 2004 from the Monroe County Clerk of Courts Office pertaining to the status of the Key Largo WWTD MSTU funds:

Balance Collected to Date by Clerk:	\$ 763,863.63	
Less Five Percent (5%) statutory deduction	- 38,193.18	
Less Three Percent (3%) tax collector fee	- <u>22,915.91</u>	
Net Available to KLWTD	\$ 702,754.54	
Less Payments Received to Date	- <u>297,287.50</u>	
Balance Forward Available	\$ 405,467.04	
Less Draw #3 Pending Payment by Clerk	- <u>41,390.28</u>	SS, 423.46
Balance Available for June 1 and Later Expenses	<u>\$ 364,076.76</u>	
		350,000.00



KEY LARGO WASTEWATER TREATMENT DISTRICT  
POST OFFICE BOX 491; KEY LARGO, FLORIDA 33037  
(305) 451-5105

**TO:** Key Largo Wastewater Treatment District Board Members

**CC:** Charles Fishburn, General Manager  
Robert Sheets, CEO GSG, Inc.  
Faith Doyle, Clerk to the Board  
Charles Sweat, Director of Operations  
Thomas Dillon, Board Attorney

**FROM:** David R. Miles, Director of Finance

**DATE:** June 29, 2004

**RE:** Pending Payments Key Largo Wastewater Treatment District

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Dear Commissioners:

This agenda item is designed to provide an update on the financial status of the Key Largo Wastewater Treatment District. As of June 29, 2004 the District had \$48,862.51 in its bank account. We have \$35,621.69 in invoices and payroll payments in-hand for payment by July 21, 2004. Exhibit A is the list of currently outstanding invoices pending payment. As requested by the Board at the January 14, 2004 meeting, separate accounting of cash balances are shown as follows as of June 8, 2004:

Administration & Operations:	\$175,047.23
Key Largo Park:	(47,014.58)
Key Largo Trailer Village:	<u>(79,170.14)</u>
Total	\$ 48,862.51

A request for \$129,607.00 for Monroe County matching funds for use in the Key Largo Park project, submitted March 23, 2004 is still pending. A follow-up letter was sent May 27, 2004. We have also followed up numerous times with George Garratt telephonically. This funding is essential to get the KL Park cash flow in the black.

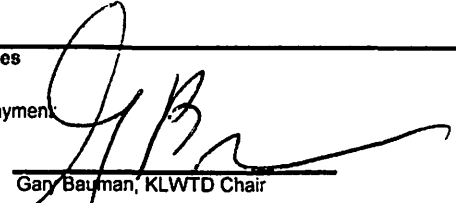
Draw Request number 3 in the amount of <sup>\$55923.03</sup>~~\$41,390.28~~ for the FY 2004 MSTU funds was submitted to Monroe County on May 28, 2004 covering March, April and May disbursements by the District. Payment by the Monroe County Clerk of Court is expected to be made on June 30, 2004.

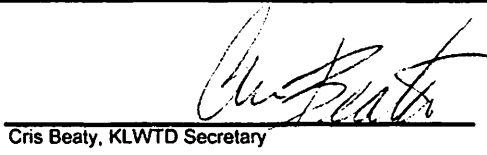
Board of Commissioners: Chairman Gary Bauman, Andrew Tobin, Cris Beaty, Charles Brooks, Jerry Wilkinson

**Key Largo Wastewater Treatment District**  
**Payments Pending, July 7, 2004**  
**Prepared June 29, 2004**

Date of Invoice	Vendor	Invoice #	Description	Payment Category	Invoice Amount	Date Due	Date Paid
<b>Cash Balance Forward for Administration &amp; Operations</b>					\$	<b>175,047.23</b>	
<b>Total Available</b>					\$	<b>175,047.23</b>	
06/04/04	Bell South	305453-17100010449	Telephone Bill June 4-July 3	1	\$ 44.38	7/4/04	
06/10/04	Bell South	305451-51058040446	Telephone Bill June 10-July 9	1	38.08	7/1/04	
06/04/04	Governmental Services Group, Inc.	03021-7758	KLWWTD Management Fee for May 2004	1	10,800.00	Upon Receipt	
06/23/04	June Rent	None	June rent to be paid to George Scott	1	700.00	Upon Receipt	
06/23/04	July Rent	None	July rent to be paid to George Scott	1	700.00	Upon Receipt	
06/23/04	Labor Office Furniture Move	None	Paid by Chuck Fishburn	1	60.00	Upon Receipt	
06/23/04	Supplies and Equipment, Misc.	None	Paid by Chuck Fishburn, computer, laser copier, etc.	1	2,109.15	Upon Receipt	
06/30/04	Andrew Tobin	Payroll	June 2004	1	600.00	07/06/04	
06/30/04	Gary Bauman, Chairman	Payroll	June 2004	1	600.00	07/06/04	
06/30/04	Cris Beaty	Payroll	June 2004	1	600.00	07/06/04	
06/30/04	Charles Brooks	Payroll	June 2004	1	600.00	07/06/04	
06/30/04	Jerry Wilkinson	Payroll	June 2004	1	600.00	07/06/04	
06/30/04	Chuck Fishburn, General Manager	Payroll	June 2004	1	7,667.00	07/06/04	
06/30/04	Internal Revenue Service	FICA & Medicare	Employer Share, Payroll Taxes	1	861.93	07/06/04	
<b>Total Invoices for Administration &amp; Operations</b>						<b>25,980.54</b>	
<b>Balance Forward if All Admin &amp; Operations Invoices Paid</b>					\$	<b>149,066.69</b>	
<b>Cash Balance Forward for Key Largo Park</b>					\$	<b>(47,014.58)</b>	
06/29/04	Weiler Engineering Corp.	35323	May 26-June 22, 2004 Invoice KL Park	2	\$ 3,987.50	Upon Receipt	
<b>Total Invoices for Key Largo Trailer Park</b>					\$	<b>3,987.50</b>	
<b>Balance Forward if All Key Largo Park Invoices Paid</b>					\$	<b>(51,002.08)</b>	
<b>Cash Balance Forward for Key Largo Trailer Village</b>					\$	<b>(79,170.14)</b>	
06/29/04	Weiler Engineering Corp.	35324	May 26-June 22, 2004 Invoice KL Trailer Village	3	\$ 5,653.65		
<b>Total Invoices for Key Largo Trailer Village</b>						<b>5,653.65</b>	
<b>Balance Forward if All Key Largo Trailer Village Invoices Paid</b>						<b>(84,823.79)</b>	
<b>Total All Invoices</b>					\$	<b>35,621.69</b>	

Approved for Payment

  
 Gary Bauman, KLWTD Chair

  
 Cris Beaty, KLWTD Secretary

7-7-04  
 Date

Payment Category Key:  
 1- District Administration  
 2- Key Largo Park Construction  
 3- Key Largo Trailer Village Construction