

MINUTES

Key Largo Wastewater Treatment District (KLWTD) Board of Commissioner's Meeting

October 20, 2004 5:00 PM,
Key Largo Civic Club, 209 Ocean Bay Drive

The KLWTD Board of Commissioners met for a regular meeting on Oct. 20, 2004 at 5:00 PM. Present were Chairman Gary Bauman, Commissioners Charles Brooks, Jerry Wilkinson and Andrew Tobin. Commissioner Cris Beaty arrived at 5:10 PM. Also present were General Manager Charles Fishburn, Board Clerk Carol Simpkins, District Counsel Thomas Dillon, Financial Officer Martin Waits, and all appropriate District staff.

Chairman Gary Bauman led the Pledge of Allegiance.

ADDITIONS/DELETIONS TO THE AGENDA.

Commissioner Charles Brooks stated that he will have an update on Federal Funding under Commissioners comments.

Motion: Commissioner Jerry Wilkinson made a motion to approve the agenda. The motion was seconded by Commissioner Charles Brooks

Vote on motion:

Board Member	Yes	No	Other
Commissioner Andrew Tobin	X		
Commissioner Charles Brooks	X		
Commissioner Jerry Wilkinson	X		
Commissioner Cris Beaty			Absent
Chairman Gary Bauman	X		

Motion passed 4 to 0

MINUTES

Motion: Commissioner Charles Brooks made a motion to approve the minutes of September 29 and October 6, 2004. The motion was seconded by Commissioner Jerry Wilkinson.

Vote on motion:

Board Member	Yes	No	Other
Commissioner Andrew Tobin	X		
Commissioner Charles Brooks	X		
Commissioner Jerry Wilkinson	X		
Commissioner Cris Beaty			Absent
Chairman Gary Bauman	X		

Motion passed 4 to 0

PUBLIC COMMENT: The following persons addressed the Commission: Howard Gelbman, 799 Hazel Street, Key Largo, FL. He expressed concern over the District not having a vote at the Mayors meetings in Marathon since the KLWTD Board, which is comprised of elected officials. He stated that the KLWTD Board should request that the issue be revisited and that the KLWTD Board be allowed to vote on the way the 10 million dollar grant is to be divided up.

ACTION ITEMS

District Counsel Thomas Dillon Contract

Motion: Commissioner Andrew Tobin made a motion to approve the District Counsel Thomas Dillon’s contract. The motion was seconded by Commissioner Cris Beaty.

Vote on motion

Member	Yes	No	Other
Commissioner Tobin	X		
Commissioner Brooks	X		
Commissioner Beaty	X		
Commissioner Wilkinson	X		
Chairman Bauman	X		

Motion passed 5 to 0

CHIEF FINANCIAL OFFICERS REPORT

Pending Payments

Financial Officer Martin Waits presented the pending payments schedule for October 20, 2004.

Commissioner Jerry Wilkinson asked about the time delays at the County Clerks office in processing payments. Mr. Waits explained that the turn around time for all entities involved is about four weeks.

Commissioner Cris Beaty asked Mr. Castle if he has reviewed the Haskell Company invoice. Mr. Castle stated that he had reviewed and signed the invoice.

Motion: Commissioner Jerry Wilkinson made a motion to approve the pending payments list subject to the availability of the funds for October 20, 2004. Commissioner Cris Beaty made the second.

Vote on motion:

Board Member	Yes	No	Other
Commissioner Andrew Tobin	X		
Commissioner Charles Brooks	X		
Commissioner Jerry Wilkinson	X		
Commissioner Cris Beaty	X		
Chairman Gary Bauman	X		

Motion passed 5 to 0

Financial Officer Martin Waits explained that the transition from GSG to KLWTD is completed. All of the transactions have been put into the KLWTD system and they reconcile with the bank statement to the penny. All of the transactions have been identified by account numbers and identified as to belonging in a specific project. He is now working on putting the budget into the system. Mr. Waits reminded the Board that the numbers are unaudited as yet.

LEGAL COUNSEL REPORT

Mr. Kinsley has advised the KLWTD Board by letter, that the Haskell Company would like to continue to negotiate the delay claim and if it is not resolved by October 29, 2004 to move to mediation. On that basis District Counsel Thomas Dillon has begun discussions with a company out of Orlando called Trauner Consulting that provides expert witness services, analysis, and testimony both on scheduling and damages. He will provide the Board with information about the firm. He will probably be asking the Board for authority to retain the firm to assist in analyzing the delay claim.

Mr. Kinsley has also suggested a mediator. The contract with the Haskell Company specifies that a mediator be agreed upon before construction starts. This was not done. The Trauner firm has also recommended Mr. Larry Watson, who Mr. Kinsley recommended, but they will also

give the District other recommendations for a mediator. Mr. Dillon recommends that the District take a strong stand, consistent with the law and good faith and fair dealing allows, on this issue so that there will be some discipline in the way that charges are made against the District by Haskell.

Commissioner Cris Beaty asked if mediation meant that there will be some sort of financial settlement on the District's behalf. Mr. Dillon explained that the District is required under the Contract to use mediation as a means to resolve disputes. If either party does not agree with the mediator's recommendation then the party that does not agree has to give notice to the other contracting party within a specific amount of time. Then the parties will go on into litigation.

Commissioner Cris Beaty asked if Mr. Dillon feels that the District would be better off financially after going to mediation even after the legal fees are paid. Mr. Dillon thinks the District will be better off after mediation.

General Manager Charles Fishburn said that there will be at least one more attempt to settle the matter with Haskell before the next Board meeting.

Mr. Dillon will do due diligence on mediators and then recommend one or more to the Board.

Commissioner Andrew Tobin stated that just going through the mediation could cost \$25,000 and it is non-binding. He hopes that ultimately Mr. Kinsley will get the message that the KLWTD Board will not cave in and that everyone can reach a nominal payment that is fair.

Mr. Dillon informed the Board that the District has received its first "Notice to Owner Notice to Contractor". This is what protects subcontractors and material suppliers so that they can make a claim against the bond in case they do not get paid. We have generated a form letter to respond to them in compliance with the public records law.

ENGINEERS REPORT

KLTV Construction Update

Ed Castle, Engineer told the Board that 10" pipe had been laid along US 1, that trenching has started, they are past Scotty's and have started trenching along Kay Drive. Hand clearing has been started on the Treatment Plant site to get in to do the GEO test.

Brown and Caldwell has requested a ninety day extension for the permitting of the Treatment Plant and Higgins Inc. has received their permit for their construction trailer

GENERAL MANAGER'S REPORT

Key Largo Trailer Village Escalation

General Manager Charles Fishburn said that he expects to have at least one more meeting with Peter Kinsley from the Haskell Company to try and resolve the escalation claim before mediation.

Key Largo Park

The vacuum pits for businesses along US 1 are going to be moved to Rock Harbor. Brown and Caldwell will be doing the engineering for the Key Largo Park Project.

Roovac Purchase Order

General Manager Charles Fishburn explained that he has appealed to Roovac to hold their price completely. Roovac in Germany had pulled the franchise agreement with Roovac in Pittsburg. The purchase order has not been issued to Roovac yet.

Sexton Cove / Lake Surprise

There will be a meeting in Key West on November 2 concerning the 20 million dollar bond that Mr. Waits and Mr. Fishburn will be attending. Commissioner Charles Brooks requested that he attend also.

Commissioner Charles Brooks asked Mr. Castle where he is in the process of writing the RFQ for Sexton Cove/Surprise Lake. Mr. Castle explained that he is working on the scope that will be put into the RFQ and it should be ready to be released in mid December.

Proposed Ground Breaking

The Board set the Ground Breaking for Wednesday October 27, 2004 at 2:30.

COMMISSIONER COMMENTS

Commissioner Charles Brooks requested a spreadsheet on funding for the projects. General Manager Charles Fishburn stated that on the first meeting of each month a Project Fund Status Report will be presented to the Board.

Commissioner Charles Brooks told the Board that the Army Corp of Engineers is developing an Environmental Assessment for KLWTD. They will be dealing directly with the District concerning the funding of any of the KLWTD projects. The Army Corp has requested a meeting on Thursday October 28, 2004.

Commissioner Andrew Tobin reminded the staff that the Board needs to be updated on the ongoing items such as the Rate Study, Calusa Camp Ground, Rate Books, Rule Books, etc.

Chairman Gary Bauman presented the Board Members plaques commemorating the inaugural KLWTD Board. Tonight's meeting is the last meeting for Commissioner Jerry Wilkinson.

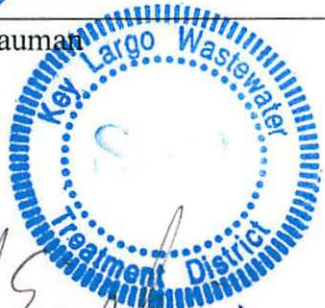
ADJOURNMENT


After a motion by Commissioner Cris Beaty and second by Commissioner Andrew Tobin to adjourn the meeting adjourned at 7:10 PM.

The KLWTD minutes of October 20, 2004 were approved on 11.3.04.



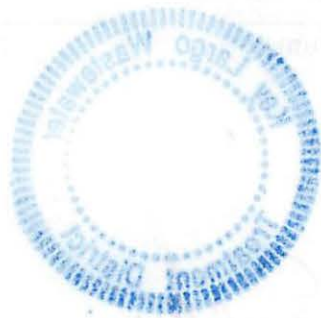
Chairman Gary Bauman





Carol Simpkins, CMC
Board Clerk

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