

# MINUTES

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

November 3, 2004 5:00 PM,  
Key Largo Civic Club, 209 Ocean Bay Drive

The KLWTD Board of Commissioners met for a regular meeting on November 3, 2004 at 5:00 PM. Present were Chairman Gary Bauman, Commissioners Charles Brooks, and Andrew Tobin. Commissioner Cris Beaty arrived at 5:09 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.

General Manager Charles Fishburn requested that the lease with Chris Sante for the new office building be put on the agenda under Legal.

Chairman Gary Bauman requested that an update on the swearing in ceremony be given under the Managers business.

**Motion: Commissioner Charles Brooks made a motion to approve the agenda as amended. The motion was seconded by Chairman Gary Bauman.**

Vote on motion:

Board Member	Yes	No	Other
Commissioner Andrew Tobin	X		
Commissioner Charles Brooks	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 October 20, 2004. The motion was seconded by Chairman Gary Bauman.**

Vote on motion:

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

Motion passed 4 to 0

**PUBLIC COMMENT:** The following persons addressed the Commission: Steve Gibbs of Key Largo stated that he thoroughly enjoyed covering the elections and congratulated the winners.

**CHIEF FINANCIAL OFFICERS REPORT**

*Pending Payments*

Financial Officer Martin Waits presented the pending payments schedule for November 3, 2004.

Commissioner Charles Brooks asked if the District has a multiple use license for WinEXPro. General Manager Charles Fishburn stated that we do not have multiple use licenses.

Commissioner Charles Brooks pointed out that the District is not a revenue producing entity in relationship to plaques.

**Motion:** Commissioner Charles Brooks made a motion to approve the pending payments list subject to the availability of the funds for November 3, 2004. Commissioner Cris Beaty made the second.

Vote on motion:

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

Motion passed 4 to 0

### *Project Status Reports*

Financial Officer Martin Waits explained the Project status reports.

Mr. Waits stated that the District has not yet accessed the County match for the FEMA Funds yet. He is working on it currently.

District Counsel Thomas Dillon stated that there has been no agreement that limits the escalation claim to \$300,000 for the KLTV contract.

Commissioner Cris Beaty asked about the \$450,000 from the FEMA 1 grant. The DCA has stated that they will not address the payment of the funds to the District until a large part of the project is done, Mr. Waits explained. Commissioner Charles Brooks said that he is very uncomfortable with that situation since all of the conditions have been met. General Manager Charles Fishburn said that Miles Anderson is the person that said that the District will not get any further advancement. Mr. Anderson said that the money is the District's but the District does not need it today.

### LEGAL COUNSEL REPORT

District Counsel Thomas Dillon reminded the Board that the current Board Members, except for Mr. Wilkinson and Mr. Beaty, can not speak to the new Commissioners-elect about anything that might come before the Board. And the two new Commissioners Elect can not speak to each other about matters that may come before them at the Board because they are now subject to the Sunshine Law.

Mr. Dillon advised the Board that he will make himself available to the new Board members after the election to discuss any legal matter relating to Board Business. There will be no charge for the initial meetings with new Board members for Mr. Dillon's time.

### *Mediator*

Mr. Dillon suggested that Mr. Hunston be chosen as the District's mediator at the next meeting. Commissioner Tobin asked that Mr. Hunston be questioned about his experience.

Commissioner Andrew Tobin stated that he does not think that the District needs any experts for the mediation.

District Counsel Thomas Dillon stated that he believes that the way to be successful in mediation is to demonstrate they you have analyzed the claim that you understand the factual issues and their implications and that you are willing to go to the mat if mediation does not work. One of the ways to do this is to have some expert assistance, to have evaluated the claim especially in scheduling. Mr. Dillon would recommend that before the District goes to mediation that they retain expert assistance. Another reason to retain expert assistance is to fulfill the District's obligation of "Reasonableness". We do not have a scheduling expert on staff.

*Sante Lease*

District Counsel Thomas Dillon explained the contract for the office building lease for the District offices. Discussion ensued.

Commissioner Andrew Tobin would like to see a provision in the lease that talks about the Landlord’s obligation to repair and maintain the structural portions of the property, in paragraph six he would like to see something that the Landlord can not terminate without giving the District notice at least 15 days, he would like to see paragraph 8 prevailing party attorney fees rather than one-sided, in paragraph 19 be an affirmative obligation that we do have a right to signage rather than if we decide to get signage we have to submit it to the lessor. Mr. Tobin also has a problem with the insurance. Since the District is a public entity and concerned about insurance cost he is not ready to sign off on a million dollars of insurance until he finds out how much it is going to cost and seeing if there is a way out of agreeing to insurance.

District Counsel Thomas Dillon explained that he has already spoken the District’s insurance company and there will be no additional cost for the coverage Mr. Sante is requiring since the District already has a 5 million dollar policy that covers the Districts owned and occupied property. Mr. Dillon did try to negotiate the points Mr. Tobin brought up but was unsuccessful. Mr. Dillon explained that paragraph 10 covers the landlord’s obligation to maintain the structure and grounds.

**Motion: Commissioner Charles Brooks made a motion to approve the Sante Lease. Commissioner Cris Beaty made the second.**

**Vote on motion:**

<b>Board Member</b>	<b>Yes</b>	<b>No</b>	<b>Other</b>
Commissioner Andrew Tobin	X		
Commissioner Charles Brooks	X		
Commissioner Cris Beaty	X		
Chairman Gary Bauman	X		

**Motion passed 4 to 0**

**ENGINEERS REPORT**

*KLTV Construction Update*

As of October 29, 2004 2,597 feet of pipe have been laid in the Key Largo Trailer Village. The construction is going well. The pipes were checked with a camera and a small amount of rock was found in one pipe. The pipes are now being tilted to clear them out before they are laid in the ground.

The Treatment Plant site is ¾ cleared. The permit for the Vacuum Pump Station has been issued but there is a 90 day delay on the Treatment Plant site permit.

Commissioner Charles Brooks asked if any residential street has been trenched yet. Mr. Castle stated that trenching will begin on Buttonwood the next day. General Manager Charles Fishburn said that the trenching is ahead of schedule as of now.

#### GENERAL MANAGER'S REPORT

##### *Key Largo Trailer Village Escalation*

General Manager Charles Fishburn met with Pete Kinsley, Jeff Weiler, Joe Patenniti, and Walt Messer last Wednesday. The result of the meeting is that Haskell is going to come back with a proposal which will be more specific as to dollar amounts.

Commissioner Charles Brooks expressed concern over documentation of the steps that the District is taking concerning mediation. District Counsel Thomas Dillon stated that everything that needs to be documented is being documented.

##### *Key Largo Park*

A meeting was held with Walt Messer on October 14, 2004 to discuss the matter. A month has passed since the Notice to Proceed was issued with no response. Brown and Caldwell have agreed to be the Engineer of Record for the Key Largo Park Project. Mr. Fishburn has requested a response from Higgins by November 12, 2004.

##### *Roovac Purchase Order*

General Manager Charles Fishburn

A letter was sent to Haskell informing them of the problems that Roovac Germany and Roovac Pittsburgh were having.

District Counsel Thomas Dillon stated that by the District giving Haskell notice of the problem they are now obligated to give the District some reasonable assurances that either Roovac can perform or that Haskell is going to procure substitute goods or they are going to do a design and get something that will work.

##### *Rate Study*

*Contract with Public Resources Management Group, Inc.*

*Letter of First Assignment to evaluate fixed monthly fees & system development charges.*

Commissioner Charles Brooks suggested that the Contract be tabled.

**Motion: Commissioner Andrew Tobin made a motion to approve the PRMG Contract. Motion seconded by Commissioner Cris Beaty.**

**Vote on motion:**

<b>Board Member</b>	<b>Yes</b>	<b>No</b>	<b>Other</b>
Commissioner Andrew Tobin	X		
Commissioner Charles Brooks		X	
Commissioner Cris Beaty	X		
Chairman Gary Bauman	X		

**Motion passed 3 to 1**

The KLWTD Board by consensus directed that the letter to PRMG on rates be brought back to the next meeting.

*Future Projects Meeting*

General Manager Charles Fishburn, Commissioner Charles Brooks, and Financial Officer Martin Waits attended a meeting in Key West on November 2, 2004 concerning the 40 million dollar bond money for wastewater projects in unincorporated Monroe County. The purpose of the meeting was to determine the ability to use Bond money. Mr. Fishburn had sent Mr. Roberts the 5 year plan for KLWTD and he passed it out to the attendees at the meeting. Mr. Fishburn and Mr. Waits will be meeting with the County to work out the details of the plan.

*CDBG Grants*

Mark Bell from Monroe County will be sending out letters to the property owners informing them of the requirements to obtain assistance with the cost of hook up to the sewer system. The enrollment period for assistance is supposed to end on January 14, 2005. Mr. Fishburn feels that he will be able to have that extended by two months.

General Manager Charles Fishburn told the Board that he has written a letter to the Health Department stating that the District will be handling the decommissioning of the septic tanks.

**COMMISSIONER COMMENTS**

Commissioner Cris Beaty stated that he has enjoyed the last 2 years and he wished the two new Board Members well in the future.

**ADJOURNMENT**

After a motion by Commissioner Cris Beaty and seconded by Commissioner Charles Brooks to adjourn the meeting adjourned at 7:45 PM.

The KLWTD minutes of November 3, 2004 were approved on November 17, 2004.



Chairman

A handwritten signature in blue ink that reads "Carol Simpkins".

Carol Simpkins, CMC  
Board Clerk

The following information was received from the [unclear] on [unclear] 19[unclear]

*[Handwritten signature]*  
[unclear]  
[unclear]  
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