

# MINUTES

## Key Largo Wastewater Treatment District (KLWTD) Board of Commissioners Meeting



July 13, 2005  
98880 Overseas Hwy, Key Largo, FL

The KLWTD Board of Commissioners met for a regular meeting on July 13, 2005 at 5:03 PM. Present were Chairman Charles Brooks, Commissioners, Glenn Patton, and Gary Bauman. Commissioner Andrew Tobin arrived at 5:19 pm. Commissioner Claude Bullock called in at 5:04 pm and participated by phone. Also present were General Manager Charles Fishburn, District Counsel Thomas Dillon, Board Clerk Carol Walker, and all other appropriate District staff.

Chairman Brooks led the Pledge of Allegiance.

**Motion:**        **Commissioner Patton made a motion to allow Commissioner Bullock to participate and vote by phone in the Commission meeting of July 13, 2005. Commissioner Bauman seconded the motion.**

Vote on motion:

Board Member	Yes	No	Other
Commissioner Gary Bauman	X		
Commissioner Claude Bullock			Abstained
Commissioner Glenn Patton	X		
Commissioner Andrew Tobin			Absent
Chairman Charles Brooks	X		

Motion passed 3 to 0

### **ADDITIONS/DELETIONS TO THE AGENDA.**

The following changes were made to the agenda: Chairman Brooks requested that an amendment to the office lease be added, a May payment to Haskell be added, a discussion item concerning a definition of customer be added, a report on the Auditor RFP be added, and the CPH Work Authorization be removed.

**Motion:** Commissioner Bullock made a motion to approve the agenda as amended. The motion was seconded by Commissioner Patton.

Vote on motion:

Board Member	Yes	No	Other
Commissioner Gary Bauman	X		
Commissioner Claude Bullock	X		
Commissioner Glenn Patton	X		
Commissioner Andrew Tobin	X		
Chairman Charles Brooks	X		

Motion passed 5 to 0

**PUBLIC COMMENT:** The following persons addressed the Commission: Steve Cacciatore, President of the KLTV association asked if the Commission will be voting on rates at the current meeting. Chairman Brooks explained that the vote will be taken on July 20, 2005.

**COMMISSIONER'S ROUNDTABLE**

Commissioner Bauman stated that he is against any items being discussed that have not been placed on the agenda.

Chairman Brooks asked if the Board had any comments on being involved with the furnishing of the new office building. There were no comments from the Board.

**COMMISSIONER'S ITEMS**

*Parliamentary Procedures*

Commissioner Tobin stated that every once in while the Board gets into issues. There are a few standard things that he feels should be written down as policies. Item One: Each Commissioner shall have a limited opportunity to ask questions and make comments before the Chair entertains a formal motion on an item. This shall not preclude the opportunity to engage in additional questions and/or debate after a motion is offered. Item 2: On matters of special importance, including such items as rate setting, special assessments, long-term contracts, and large financial obligations, two affirmative votes at separate meetings shall be required unless four commissioners are satisfied an emergency or other good cause exists to forego the second vote. Item 3: Commissioners shall have the right to ask Staff (Manager, Clerk, Financial Officer, or Attorney) to conduct limited research and prepare materials on an issue without the knowledge or approval of the Board unless staff determines the request will be unduly disruptive or prohibitively expensive. In that case Staff shall comply with the request on a limited basis until such time as the Board decides whether resources should be devoted to an issue.

District Counsel Thomas Dillon explained that Robert's Rules of Order is a suggestion on the official way to run a meeting. The suggestion in Robert's Rules is that the discussion on an item can be efficient much more focused if there had been a motion made. The Board can change this if they would like.

Commissioner Tobin stated that most of the Board is comfortable with having limited discussion before a motion has been made. The Chair still has control of the floor and how much discussion should go forward.

Commissioner Patton suggested that the Rules change form be used to formalize the policies.

Commissioner Bauman said that he agreed with Commissioner Tobin on the three proposed policies.

Commissioner Bullock has worked within the rules but he has the ability to change and can work with the discussion set up either way.

Chairman Brooks has been diametrically opposed to discussion before a motion since he became Chair. The Board had been going off track with a lot of discussion that was not relevant to the item. There are three separate items and they should be tackled as three separate agenda items. There should be a motion for consideration, perhaps three since it is three separate items. Chairman Brooks commented on Commissioner Tobin's remark that he needs feed back from staff at times, and a choice comment from fellow Commissioner's before he is ready. Chairman Brooks said that the time for limited amount of information is before the Commission meeting. Staff prepares an agenda which is delivered to the Board in a timely manner for each Commissioner to review all issues before coming to the Board meeting. It is the responsibility of each Commissioner to review the issues, most particularly those for action, prior to the meeting. Staff is also available for individual Commissioner dialog prior to the meeting to discuss the issues. This goes beyond limited amounts of information and could lead to in-depth details of the issues prior to the meeting. Each Commissioner should arrive at the Board meeting fully knowledgeable on the issues to be discussed. It is unfair to the Commissioners who have done their homework on the issues to sacrifice their valuable time for a Commissioner who has not done his homework to receive his homework in class. The purpose of the parliamentary procedure, which the Board has adopted, is to follow the standard the parliamentary procedure has established in making motions prior to discussion. It is a procedure that has lasted for hundreds of years and is time proven in Roberts Rules of Order. The purpose of the parliamentary procedure is in making a motion it is first establish whether the motion should even be considered by the Board by having a motion with a second. There have been motions die do to the lack of a second which meant that there was not enough interest from the Board to bring the issue to the Board. Motion making narrows the issue to the issue and prevents some members from taking advantage of the informality of the meeting by taking up time of the Board in taking up non-related issues, going off on tangents not related to the issue. That only prolongs and delays and interferes with the smooth operation and the clear direction to staff as to the policy of the Board.

On the issues of premature positioning and back sliding Chairman Brooks stated that there are terms that he has not heard of previously. These are handled by the multitude of parliamentary motion handling such as amending and tabling. On the issue of the Chairman retaining authority, the Board Member requesting the pre-discussion of issues is the one member, in Chairman Brooks' opinion,

who is most likely unlikely not to yield to the Chair to limit discussion. Chairman Brooks stated that he thinks that the Board has been able to keep an orderly meeting.

The Commission decided by consensus to place the three items separately on the August 3 agenda.

Commissioner Tobin then suggested that an item concerning how Commissioners should get an action item on the agenda be on the August third agenda. The item should have at least two votes during discussion to be placed on the agenda for action.

The Board would like to establish a policy concerning the consent agenda.

**ACTION ITEMS**

*Amendment to the Office Lease with Chris Sante*

District Counsel Thomas Dillon explained that the amendment removes the obligation to name Mr. Sante on the liability policy. The District's insurance company will not name him on the policy because he is not a public entity. Mr. Sante has agreed to the amendment.

**Motion: Commissioner Tobin made a motion to approve the amendment to the Office Lease with Chris Sante. The motion was seconded by Commissioner Patton.**

Vote on motion:

Board Member	Yes	No	Other
Commissioner Gary Bauman	X		
Commissioner Claude Bullock	X		
Commissioner Glenn Patton	X		
Commissioner Andrew Tobin	X		
Chairman Charles Brooks	X		

Motion passed 5 to 0

*District Financial Officer Compensation*

General Manager Charles Fishburn explained that the District Financial Officer, Marty Waits, has been employed on a hourly basis with the District for one year on July 1, 2005. Marty replaced an outside consultant paid \$130 per hour at a rate of \$30 per hour. The Board's committee formed to replace the consultants with local hires projected \$40 per hour for this position.

Marty was employed at \$30 per hour partly because the General Manager had no knowledge of his capabilities other than his resume and an interview. Marty has demonstrated over the past year that he is an outstanding employee of the District.

Mr. Fishburn recommends Marty's hourly rate be raised to \$40 per hour effect July 1, 2005.

Mr. Fishburn urged the Board to be proactive in approving this increase. Islamorada lost their financial person to the private sector recently and are now employing this person back at a rate in excess of \$100 per hour. He would also point out this is not a merit or COLA increase. It is compensating Marty for the value of the job he does for the District.

Commissioner Bauman stated that there needs to be a performance review that covers the employee's strengths, weaknesses, and goals. Mr. Waits does a good job and he deserves the increase but there is still a need to be a performance review first. The public deserves to have a performance evaluation done on each of the District employees each year.

**Motion: Commissioner Bauman made a motion to table the item.**

**Motion died due to a lack of a second.**

Commissioner Tobin would like the District to implement a performance review.

Commissioner Bullock concurs with Commissioner Bauman.

Chairman Brooks stated that he wanted to make sure that Mr. Waits increase does not set a precedent in increases. He would like to see in the evaluation availability of an hourly employee.

**Motion: Commissioner Bullock made a motion to approve the increase in the District Financial Officer's hourly rate to \$40 an hour effective July 1, 2005. The motion was seconded by Commissioner Patton.**

Vote on motion:

Board Member	Yes	No	Other
Commissioner Gary Bauman		X	
Commissioner Claude Bullock	X		
Commissioner Glenn Patton	X		
Commissioner Andrew Tobin	X		
Chairman Charles Brooks	X		

Motion passed 4 to 1

*Pending Payments List*

**Motion: Commissioner Bauman made a motion to approve the pending payments list for July 13, 2005 consisting of a May payment to Haskell. The motion was seconded by Commissioner Patton.**

Vote on motion:

Board Member	Yes	No	Other
Commissioner Gary			

Bauman	X		
Commissioner Claude Bullock	X		
Commissioner Glenn Patton	X		
Commissioner Andrew Tobin	X		
Chairman Charles Brooks	X		

Motion passed 5 to 0

**DISCUSSION ITEMS**

*Provision of Wastewater Service in General Rules Change Log #1*

*Section 3.02 Wastewater Connections*

Staff will emphasize that the convenience to the District will rule the decision of the location of the Valve Chambers. Staff was directed to rewrite the rule to say all District property not just valve chambers.

*Provision of Wastewater Service In general Rules Change Log #2.*

Chairman Brooks had the following comments:

On page 8 paragraph 3 he feels that the paragraph is vague and confusing and that it implies tampering on private property but because of its ambiguity it possible shifts responsibility for reporting tampering that takes place anywhere.

On page 8 paragraph 4 he again feels that the paragraph implies unbridled control and intrusion of property facilities placed there by the owner at the owner's expense. It also gives excessive powers to any individual or any employee of the District. It also categorically states the District will do an investigation regardless of whether or not a claim for tampering is valid and grants control to the District on private property facilities.

On page 8 paragraph 5 he thinks that the paragraph does not seem relevant to wastewater service. It may be lagging from the drinking waterside so how can it determine reduce cost of flow or services if the District is charging by the incoming flow. If tampering were to take place on private property with the sewer line from the residence to the street were strictly an outflow or sewerage flow with no metering device after you implement or charge somebody using this paragraph.

On page 9 paragraph 6 Chairman Brooks thinks this paragraph relates to the laterals or private property facilities. The first part of this paragraph says your are guilty without due process. The paragraph states you must demonstrate your innocence. This paragraph goes further to say the District will be responsible for correcting the tampering on private property.

On page 9 paragraph 7 Chairman Brooks would like to know where can any monetary or economic benefit be in the owner's last occupant damaging a lateral line. Don't the rules state that the residence or commercial properties within a geographical area that has central sewer will be charged

each month for their appropriate service rate regardless whether or not they are connected to the central sewer system.

Page 9 paragraph 8 Again this paragraph throws responsibility onto the consumer the possibility of tampering – if their water bill is reduce, what level implies tampering? What about customers who have drastically highs and lows in their water consumption. In some cases gone for months at a time.

Commissioner Bullock looks at tampering as someone messing with the water meter and that would fall under the FKAA.

Commissioner Tobin does not think that the rule is strong or broad enough. The District needs to have the authority to confiscate, impound, remove, disconnect, etc any materials, facilities, or pipes that are connected to the wastewater system. Due process can come under “after the fact notice.”

Commissioner Patton thinks that if the District crews find something then the District should have the authority to remove something that is a deterrent to a public wastewater facility.

Commissioner Bauman likes the way the rule is written and would only agree to the minor modification.

Chairman Brooks told the Board about a system where the rules and regulations are display upon a screen and a person makes the changes to the document as it is discussed. He suggested that the Board may want to consider the system in the future.

### *Fees and Charges Rules Change Log #3*

#### *Section 9.01 Plan Review Fee*

Ed Castle reported that the proposed change specifies a minimum fee plus a cost per 100 lineal foot collection main. Generally, collection mains will be in the ROW and will be designed and reviewed as part of project costs. On private property, typically laterals will be installed, with the exception being commercial properties. These may have main, laterals, force main, vacuum pits and pump stations. For simplicity, EDU-based fees are preferable. We can base the fees on EDU's, with the assumption that on average, the fee will pay for the required services. There will, however, be some instances where properties with high EDU counts will have a relatively simple set of plans. Conversely, properties with multiple buildings may have more complex systems.

Fees can be based on infrastructure, but a more comprehensive schedule would need to be generated. I have also seen fees based on a percentage of construction costs. This percentage method, however, may penalize properties with higher restoration costs unless restoration costs are dropped from the calculation. It is also subject to misrepresentation of actual construction costs.

This fee should include costs incurred for plan review, administrative expenses, and construction inspection. I would anticipate that the costs incurred b the District will be approximately 50% engineering review and 50% administrative and inspection.

The title of Section 9.01 might be changed to Connection Review and Inspection Fee or something similar.

Commissioner Patton said that the Change Order Forms can be used to address an issue. The issue now is plan review fees. He would like to see Mr. Castle get together with Mr. Fishburn and come back to a meeting with the language under the proposed rules change first.

Commissioner Tobin would like the Staff to come back with four categories and the true cost of the plan review.

Commissioner Bullock stated that it is not clear to him who the fees are applied to and it needs to be clarified.

Chairman Brooks agrees with the Board on the need for clarity. He does not want the people in the Key Largo Trailer Village to have to pay an additional plan review fee.

*Fees and Charges Rules Change Log #6*

*Section 9.12 Laundromat SDC Fees Non Existent*

Commissioner Patton stated that in his opinion, applying the normal SDC charges by calculating the numbers of EDU's based on 167 gallons per day usage would have the financial impact of leading Laundromats into bankruptcy.

Laundromats serve a vital public purpose. Also, low-income local residents that do not have laundry facilities at the current residence have already paid a SDC for the residence. Visitors have also paid a SDC via the commercial hotels having paid their SDC.

Laundromats would still pay the commercial usage rate of \$5.27 per thousand gallons of wastewater with no cap. As a result Laundromats will still basically pay of their usage of the KLWTD system.

Change log 7 also deals with Laundromats and the Board had no comments on either six or seven for change.

*Classes of Wastewater Service Rules Change Log #7*

*Section 5.05 Laundromat Service*

*Definitions and Construction Terms Rules Change Log #8*

*Section 42 Definition of Equivalent Dwelling Unit*

Commissioner Tobin does not want to change the definition of an EDU. There can be a separate section for a EDU.

District Counsel Thomas Dillon stated that he misunderstood the intention of Commissioner Patton's intent on Laundromats and at this time the change is not appropriate.

*Classes of Wastewater Service Rules Change Log #9*

*Section 5.03*

The Board and Staff will consider the intent of the change in Log 9.



*Fees and Charges Rules Change Log #10*

*Section 9.01 System Development Fee (SDC) (16)*

Commissioner Tobin said that the District should have a policy for vacant property owners to sign off on the options to hook up to the sewer at the current time.

Ed Castle stated that Brown and Caldwell had been directed to design a plan to serve all the occupied lots and to design a system but put it as a dashed line going past the vacant properties and going down roads that have no homes. Laterals would not be run to vacant lots, just a stub out.

Commissioner Patton pointed out that for every vacant lot that is not charged the cost of an EDU goes up for everyone.

Commissioner Bauman would like to know where the money is going to come from if everyone signs a waiver. He would like to see the District do a break-even analysis.

Commissioner Bullock feels that each piece of property has the potential to be built on and the line should be run to it and the owner charged.

Commissioner Tobin said that if the District is going to go forward with billing vacant lots then a waiver clause allows the District to waive all or part of the fees upon a demonstrated showing that a vacant lot is in Tier One, owned for conservation, unity of title, or a ROGO lot.

*Definition of a "Customer"*

Commissioner Tobin would like to add "be the owner of the property or the owner's designee, which could also include any person who accepts or receives services, the intent being the owner is the responsible person" to the definition of a "Customer." This would make the owner of the property the responsible party.

District Counsel Thomas Dillon said that it is his intent to ask the State Representative to sponsor an amendment to the District's enabling legislation to give the District the ability to lean property. Mr. Dillon thinks that Commissioner Tobin's item is a good one.

Commissioners Bullock, Patton, and Bauman agree with Commissioner Tobin.

**STATUS REPORTS**

*Monthly Report on KLTV & KLP from Ed Castle*

Mr. Castle reported that he has received some shop drawings from ADB and had a preconstruction meeting with them on Tuesday.

The Treatment Plant is on schedule.

The comments have been submitted to CPH on the Lake Surprise/Sexton Cove project and have been received back on July 12, 2005.

Commissioner Bullock expressed concern over not being copied on issues relating to permit issues. Mr. Castle would like to have a letter sent from the Board requesting to be informed.

*Project Funding Status Report*

Financial Officer Martin Waits invited anyone to give him a call if they have any questions on the report.

*Preliminary Report on the Auditor RFP*

Mr. Waits reported that the District received two response and they will be ranked and presented at the August 20 meeting.

**ADJOURNMENT**

After a motion to adjourn by Commissioner Bullock and not seconded Chairman Brooks adjourned the meeting at 8:40 PM.

The KLWTD meeting minutes of July 13, 2005 were approved on August 17, 2005.



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Chairman Charles Brooks



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Carol Simpkins, CMC  
Board Clerk