

# MINUTES

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



April 21, 2009  
98880 OVERSEAS HWY, KEY LARGO, FL 33037

The Key Largo Wastewater Treatment District Board of Commissioners met for a regular meeting at 4:00 PM. Present were Commissioners Robbie Majeska, Norman Higgins, Andrew Tobin, Charles Brooks, and Chairwoman Susie Hammaker. Also present the General Manager Charles F. Fishburn, District Counsel Thomas Dillon, District Clerk Carol Walker, and other appropriate District Staff.

Commissioner Higgins led the Pledge of Allegiance.

### APPROVAL OF AGENDA

Commissioner Brooks requested the minutes of April 7, 2009 be removed from the agenda; and items 1, 2, 3, and 5 (Change Orders for Basins, I, J & K, G & H, & C and District Uniforms) be put together to be voted on at one time.

**Motion: Commissioner Brooks made a motion to approve the agenda as amended. Commissioner Tobin seconded the motion.**

### Vote on Motion

Member	Yes	No	Other
Chairwoman Hammaker	X		
Commissioner Higgins	X		
Commissioner Tobin	X		
Commissioner Brooks	X		
Commissioner Majeska	X		

**Motion passed 5 to 0**

### PUBLIC COMMENT on ISLAMORADA

The following persons addressed the Commission: Meredith Cline, 33 S. Exuma Road, Key Largo, reported that her driveway needs to be repaired and the street Abaco also needs to be repaved. See photo's Exhibit "A". She also suggested that the District does not give out a list of plumbers. The General Manager was directed to look into the matters by the Board.

**GENERAL MANAGER’S REPORT**

*Basin I, J, & K Change Order*

*Basin G & H Change Order*

*Basin C Change Order*

*District Uniforms*

Charles Fishburn, General Manager, explained that more detailed survey work is needed for Basins, I, J, K, G, & H and in Basin C; the Engineer needs to do new drawings to do open trenching instead of jack and bore under US 1.

Commissioner Brooks asked if the cost of the uniforms, \$93 is a weekly cost. Mr. Fishburn answered yes.

**Motion: Commissioner Brooks made a motion to approve Items 1, 2, 3, & 5 (Change Orders for Basins, I, J & K, G & H, & C and District Uniforms). Commissioner Higgins seconded the motion.**

**Vote on Motion**

<b>Member</b>	<b>Yes</b>	<b>No</b>	<b>Other</b>
<b>Chairwoman Hammaker</b>	<b>X</b>		
<b>Commissioner Higgins</b>	<b>X</b>		
<b>Commissioner Tobin</b>	<b>X</b>		
<b>Commissioner Brooks</b>	<b>X</b>		
<b>Commissioner Majeska</b>	<b>X</b>		

**Motion passed 5 to 0**

*Vacuum Station Update*

Mr. Fishburn reported that there are now three signs up for the sites for the vacuum station for Basin G & H. The District is looking into the site at Key Largo Ocean Resorts and there is also a lot in Basin J that needs clearing (the landowner is willing to clear) that is being looked at.

Chairwoman Hammaker told the Board that David Ritz, of the FKEC, conveyed his compliment’s for the sign at Pirate’s Cove and the excellent customer service.

Commissioner Tobin requested that before anything is final a public meeting be held and the property owners in the area chosen be notified.

*District Phone & Computer Upgrade*

Pat Mitchell, Operations Manager, reviewed the proposed phone and computer systems for the Wastewater Treatment Plant, Maintenance Facility, Vacuum Stations, and District Office. He explained that the phone service would be going through the internet. Mr. Mitchell will bring back proposals at a future date.

Mr. Mitchell explained that he will be putting the Commissioners on a KLWTD email at their request.

*Islamorada/KLWTD Meeting*

Mr. Fishburn reported that he, Margaret Blank, and Ed Castle met with Islamorada Staff. Mr. Fishburn stated that Islamorada is to reduce the scope of services and come back with a proposal and cost. Islamorada proposed Metcalf and Eddie to be the third party and they were not in favor of using PRMG, they would like a different firm.

Commissioner Brooks asked the Manager what his understanding of the cost split. Mr. Fishburn stated that he and Margaret Blank understood that the District would pay one third of the cost of the study and Islamorada would pay two thirds. Mr. Castle, Weiler Engineering, understood that the District would pay two thirds and Islamorada would pay one third like what was reported in the paper.

The Board wanted to make sure that Islamorada knows that the District is going full speed ahead on the southern pipe line and plant.

Public Comment: Kay Thacker, Key Largo, asked if \$86,000 would cover the cost of the study. Commissioner Brooks stated he did not know. She asked Commissioner Majeska about the figures he came up with at the last meetings on the savings to each Key Largo resident. Commissioner Majeska stated he figured the savings on Islamorada paying for part of the treatment plant.

**COMMISSIONER'S ITEMS**

*General Manager's Performance Evaluation*

Public Comment: The following addressed to Commission: Kay Thacker, Key Largo, stated that she had sent in a letter concerning how she was spoken to on the phone and at the last meeting by the General Manager, Charles Fishburn, i.e. screaming at her. She asked if anything was going to be put into his employee file concerning the issue.

Chairwoman Hammaker explained the process for the General Manager's yearly review.

Commissioner Brooks reviewed his thought process and reasoning behind his scores on Mr. Fishburn's review. See Exhibit "B". He recommended that the Board accept Mr. Fishburn's \$5,000 raise but postpone the bonus until the next meeting when the Board may adjust the amount of the bonus to correct some of the negatives in the Manager's performance.

Commissioner Majeska would have liked to have seen a bonus program with more specific goals and dates. He stated that Mr. Fishburn has met the criteria set out in his employment contract for the raise and bonus.

Commissioner Tobin told the Board that he has already given Mr. Fishburn his review. He stated that Mr. Fishburn is passionate and knowledgeable about his work to a fault and goes the extra mile. Commissioner Tobin explained that the \$20,000 is not really a bonus but it was an incentive for him to stay and get the compensation at the end of the year.

Commissioner Higgins felt that Mr. Fishburn gave a great overall performance in the last year and has saved the District money.

Commissioner Brooks explained that most of his scoring of Mr. Fishburn is "Needs Improvement". He feels that the District should control Mr. Fishburn's negative relationships' with the public by reducing the amount of his bonus.

Chairwoman Hammaker stated that last year she voted against his raise because it was not tied to specific goals. The \$5,000 raise is within the District's guide lines. She still believes that a bonus should be tied to performance.

Chairwoman Hammaker gave him high marks in Organizational and Fiscal Management, Program Development and Follow Through and Intermediate and Long-Range Planning. His Relationship with Others is his weak area but he has improved in this area.

Goal setting was not on the review form but Chairwoman Hammaker and Mr. Fishburn set goals last year for this year. She and Mr. Fishburn have set the following goals for this next year:

1. Expanded plant will be operational to AWT +/- 20%
2. 100% resolution of unique services
3. Assessment Management and Quality Control systems in place and active
4. Utility Operation Organization in place or specifically identified

Chairwoman Hammaker recommended that the Board set similar goals to be used next year in the Manager's evaluation.

Commissioner Brooks made a motion to discuss the reduction of Mr. Fishburn's bonus to bring about an adjustment of Mr. Fishburn's attitude. The motion died for the lack of a second.

Commissioner Tobin complimented Commissioner Brooks for taking a brave approach to items even if it is unpopular.

Commissioner Majeska would like the Board Members and the Manager to bring back goals for the next year to the next meeting.

#### *Back Up Items*

Chairwoman Hammaker requested that the Summary/Explanation/Background section of the Agenda Request Form have at least a sentence of explanation on it.

#### **BULK ITEMS**

*Minutes of March 17, and March 20, 2009*

*Pending Payments of April 21, 2009*

**Motion: Commissioner Brooks made a motion to approve the Bulk Items of April 21, 2009 with Pending Payments contingent upon the availability of funds. Commissioner Higgins seconded the motion.**

**Vote on Motion**

<b>Member</b>	<b>Yes</b>	<b>No</b>	<b>Other</b>
<b>Chairwoman Hammaker</b>	<b>X</b>		
<b>Commissioner Higgins</b>	<b>X</b>		
<b>Commissioner Tobin</b>	<b>X</b>		
<b>Commissioner Brooks</b>	<b>X</b>		
<b>Commissioner Majeska</b>	<b>X</b>		

**Motion passed 5 to 0**

**ENGINEER’S REPORT**

*Monthly Status Report*

Mr. Saus of Weiler Engineering reported that Basin A, Phases, 1,2,3,4, and 5 are complete.

Basin B, Phase 1, complete except for asphalt repair on N. Blackwater Drive. Phase 2, 98% complete, Phase 3 was just awarded to Metro, Phase 5, just awarded to LaRocco, and Phase 6 has Fountain working on US 1.

Basin C, Phase 1, 3, and 4 are at 100% completed design. Phase 2 has Metro working on the Oceanside installing pits and Bayside pre trenching.

Basin D, The Vacuum Station basement has been poured. Phase 1 nearly completed and cleanup going on. Phase 2 and 3 completed.

Basin E Phases 1 & 2 at 100% design. Basin F Phases 1 through 4 at 100% design. Basin G at 30% design.

**WWTP**

Precon, Tanks, and Youngquist, Wells are scheduled to be completed by May 5, 2009. Wharton-Smith, Plant is currently forming the floor and wall at the Disinfection Basin. The control building is preparing for slab pour, and rough-in for electric and plumbing. The Headworks are continuing with forms and steel.

**FINANCIAL REPORT**

*Financial Report, FY 09 Period Ending March 31, 2009*

Mr. Waits reviewed his written report. The District is on budget predictions.

Mr. Waits and Mr. Dillon have been reviewing a line of credit to cover the administrative expenses since the District will be running out of MSTU funds. They are looking at other options.

*Financial Analysis of Wastewater Service Operations*

The District is at brake even between revenues and expenses.

*Preliminary Tax Roll*

**RESOLUTION NO. 17-04-09**

**A PRELIMINARY RESOLUTION OF THE KEY LARGO WASTEWATER TREATMENT DISTRICT RELATING TO THE CONSTRUCTION AND FUNDING OF WASTEWATER COLLECTION, TRANSMISSION, AND TREATMENT FACILITIES WITHIN THE DISTRICT; ESTABLISHING A PUBLIC HEARING TO CONSIDER IMPOSITION OF THE PROPOSED SPECIAL ASSESSMENTS AND THE METHOD OF THEIR COLLECTION; ESTABLISHING PROCEDURES FOR NOTICE AND ADOPTION OF ASSESSMENT ROLLS AND FOR CORRECTION OF ERRORS AND OMISSIONS; DIRECTING THE PROVISION OF NOTICE IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE.**

Mr. Waits reported this is the last major assessment; there are only 200 properties not assessed.

**Motion: Commissioner Brooks made a motion to approve Resolution No. 17-04-09. Commissioner Higgins seconded the motion.**

**Vote on Motion**

<b>Member</b>	<b>Yes</b>	<b>No</b>	<b>Other</b>
<b>Chairwoman Hammaker</b>	<b>X</b>		
<b>Commissioner Higgins</b>	<b>X</b>		
<b>Commissioner Tobin</b>	<b>X</b>		
<b>Commissioner Brooks</b>	<b>X</b>		
<b>Commissioner Majeska</b>	<b>X</b>		

**Motion passed 5 to 0**

**LEGAL COUNSEL REPORT**

*Discussion of the Nabors Giblin & Nickerson*

District Counsel, Thomas Dillon, reported that the District is within the law to assess property owners the cost of the system but not more than the District cost.

*Discussion of the letter to Mr. Rios*

Public Comment: Sylvia Zolot, Key Largo, FL (owner of Paradise Point) stated that she is concerned over DEP enforcement actions.

The Board agreed with Staff that the District should not have to sign a consent order because the District is meeting the DEP requirements and directed the Manager to send a letter to Mr. Rios explaining the District's position.

*Discussion of the County practice of making deductions from the MSTU funds without prior authorization or documentation of cost.*

The Board directed Mr. Dillon to contact the County and request documentation on what the deducted funds were used for.

*Key Largo School Appeal*

Mr. Dillon informed the Board that The Key Largo School has asked for a review of their assessment. Since they did not ask for the review in a timely manner as set out in the District policy he has brought it to the Board.

By consensus the Board directed Mr. Dillon to inform Key Largo School to submit data for review and the District will review it.

*Discussion on Assessment Funds and Administrative Cost*

Mr. Dillon was instructed to obtain a legal option on Assessment Fund usage.

*Neighborhood Improvement District*

Mr. Dillon reported that Buccaneer Point will be voting on establishing a neighborhood improvement district from June 1 thru July 1, 2009 with results being announced July 5, 2009.

**COMMISSIONER'S ROUNDTABLE**

Commissioner Brooks stated that he takes exception to Commissioner Higgins stating that this is ridiculous and getting up and waking around when he is talking about something that Commissioner Higgins disagrees with.

Commissioner Brooks informed Chairwoman Hammaker that he feels that she should have contacted the Board before she issued an invitation to the Islamorada Mayor to come to a meeting to discuss the District processing Islamorada's wastewater.

Commissioner Higgins apologized to Commissioner Brooks stating that he did not mean to offend him.

Chairwoman Hammaker explained that she had given a verbal invitation to the Mayor of Islamorada and he had responded by letter stating what he wanted the District Board to vote on.

**ADJOURNMENT**

The KLWTD Board adjourned the Board Meeting at 7:40 PM.

The KLWTD meeting minutes of April 21, 2009 were approved on May 5, 2009.



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Chairwoman Hammaker



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Carol Walker, CMC  
District Clerk



**Ms. Meredith A. Cline**  
33 South Exuma  
Key Largo, FL 33037



4-20-09

**Ms. Meredith A. Cline**  
33 South Exuma  
Key Largo, FL 33037



4.20.09

Ms. Meredith A. Cline  
33 South Exuma  
Key Largo, FL 33037



4.20.09

**Ms. Meredith A. Cline**  
33 South Exuma  
Key Largo, FL 33037



11.20.09

**Ms. Meredith A. Cline**  
33 South Exuma  
Key Largo, FL 33037

7.10.07



**Ms. Meredith A. Cline**  
33 South Exuma  
Key Largo, FL 33037

7-10-07



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33 South Exuma  
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7-10-07



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33 South Exuma  
Key Largo, FL 33037

# EXHIBIT "B"

## **Thought process and reasoning behind my scores**

C /Brooks 4/21/2009

Holistic view of the evaluation form and how best to interpret the bullets under six categories I find in each bullet inter relational issues. For instance the first bullet "plans and organizes the work determined by the KLWTD Board of commissioners". This is and other bullets is a two-pronged issue. The manager may have organizational skills that meets expectations but are those skills applied to board policies or policies of his own.

The previous district boards have ignored the evaluation process of our manager for longtime. By doing so the board has ignored " needs improvement" "unsatisfactory" and praised "meets expectations & above" the ignored elements have become critical. It is the Board's responsibility through policy management and or compensation ± that the manager meets or exceeds all standards set forth for the position of a public official.

Therefore I have weighed on that side of the two-pronged bullets on the areas that need improvement or are unsatisfactory. I have discounted those areas that meet expectations or above to all be meets expectation. Now is the time for the board to take actions will correct those areas need improvement or are unsatisfactory.

The manager success so far has not been solely on his expertise but is largely because the district board has allowed hiring abundant 1 number of employees at very competitive salaries. A large part of the credit goes to the Key Largo citizens who are paying for the success.

The manager has consistently weighed our level of success with those of other entities within Monroe County. We should be weighing our success on our capabilities or what they should have been. If the other entities are doing so poorly should we be judging our progress on their lack of progress. If we are capable of doing a 4 minute mile should we be doing only a 5 minute mile because the rest of Monroe County is doing a 6 minute mile.

## **evaluation process points -- commission responsibilities**

1. Make sure each commissioner has a copy of the manager's contract and evaluation form cover page
2. Point out the contract -- there is a \$5000 salary increase section a
3. Section B. there is an additional stipulated bonus of \$20,000 payable 4/30/2009
  - a. there is a conflict here with evaluation cover item 3
  - b. next Board meeting Board may establish an amount.
4. Total increase compensation here is \$25,000
5. There is no definition of = "level of excellence required"
  - a. in my opinion excellence means no negatives in his evaluation's
6. Board responsibilities -- all board members must participate in good faith in the evaluation process for it to be relative and to have the correct value.
7. For a Board member to carte blanche bonuses without any valid justification documented is not meeting his responsibility to the voters and to the manager reference his goals for improvement.

### **8. My suggestion to the board**

9. **Is that we follow the direction of items 3 in the title page general manager performance review. A increase amount may be established at the next board of commissioners meeting.**
10. **we accept the \$5000 increase in salary**
- 11.
12. **That we delay the bonus amount until such time as the board has time to digest the five evaluation's and come back to the next meeting with perhaps some adjustment value of the bonus**
13. **to correct some of the negative ory issues.**
14. **The board should have some responsibility in correcting some of the negative aspects of the manager's performance. Compensation is excellent way to make that point clear.**