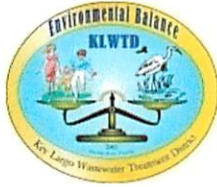


MINUTES

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



June 2, 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 (arrived at 5:55 PM), Charles Brooks, and Chairwoman Susie Hammaker. Also present the General Manager Charles F. Fishburn, District Counsel Thomas Dillon (by phone), District Clerk Carol Walker, and other appropriate District Staff.

Commissioner Higgins led the Pledge of Allegiance.

APPROVAL OF AGENDA

Senior Finance Manager, Synthia Lankford, pulled Pending Payments from the Bulk Items. Chairwoman Hammaker announced that Items 9, 12, 20 and 21 would be time certain at 5:00 PM.

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

Vote on Motion

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

Motion passed 4 to 0

PUBLIC COMMENT

Anyone wishing to make a public comment on anything on or not on the agenda should make it at the current time.

The following persons addressed the Commission: Barbara Browne, Key Largo requested a response from the District Engineer on signing the DEP application for the Harborage. Ron Sievers, Key Largo spoke about service to the Ocean Cay community. Chris Gardner, Tavernier, spoke to the proposed Rule Change, Pauline Klein, Key Largo, spoke to the conditions of the

roads in Stillwright Point, and Curt Barlow, Key Largo thanked the Board for considering other locations for a vacuum station in Basin I.

GENERAL MANAGER’S REPORT

Basin G & H Vacuum Station Purchase

Mr. Fishburn explained that the Board approved the purchase of the location in Pirate’s Cove for the vacuum station for Basins G & H at the last meeting. He informed Mr. Anderson that the Board would be considering a second vote at the June 2, 2009 meeting.

Commissioner Brooks pointed out that the District has extended an opportunity for any objections to the purchase of the site to be presented at the Commission meetings including the current meeting. Since no one is at the current meeting the District assumes that there are no objections and the vote to purchase the property stands.

Basin B-1 Change Order

Mr. Fishburn told the Board that the contractor, Ric-Man, built up the shoulder in certain locations so that traffic could pass safely during construction. They are requesting \$75,510.92 payment for the work. Also, they are asking \$27,000 to mill and overlay North Blackwater Drive. Staff pointed out that the requested amounts are reasonable but it is debatable whether the extras are within the scope of the contract.

Motion: Commissioner Brooks made a motion to approve the requested payments of \$75,510.92 for shoulder work and \$27,000 for milling and paving. Commissioner Higgins seconded the motion.

Vote on Motion

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

Motion passed 4 to 0

Record Retention and New Phone Service

Mr. Fishburn told the Board that the District needs to upgrade the service used for record retention and tie in the office with the current and future plant. The District has the opportunity to replace the current phone system with a new state of the art phone system and reduce the monthly phone charges by \$100 per month.

Pat Mitchell, Operations Manager, reported that he has tried to obtain other proposals for the Record Retention and Phone Service but did not receive any more responses. He pointed out that the new systems would be a long term asset.

Commissioner Brooks explained that he was against spending the money on new systems that the District may be using for only a year especially when the District has to borrow money to cover administrative cost.

Motion: Commissioner Higgins made a motion to approve the contract for a new phone system and a new commercial grade server and network with Paul Christian. Commissioner Majeska seconded the motion.

Vote on Motion

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

Motion passed 3 to 0

Deep Well Report

Mr. Fishburn reported that the deep well has been finished and tested. Because of the geology of the boulder zone higher horsepower pumps will be needed meaning the electric cost will be slightly higher.

5:00 PM Time Certain Items

District Counsel Thomas Dillon called in.

COMMISSIONER'S ITEMS

Adding Special Districts to DCA Legislation Allowing KLWTD to qualify for CDBG Funding

Mr. Dillon explained that the Federal law might have to be changed along with State law.

Mr. Dillon was directed to bring back a report on what would have to be done for the District to be able to apply for CDBG grants.

Local Contractors Preference

Mr. Dillon explained that if a project is using State or Federal funds there cannot be a local contractor preference.

Mr. Fishburn reminded the Board that most of the District's projects are a blend of funding sources. He also pointed out that the District has reduced the size of the areas going out to bid so that the smaller local companies could bond the jobs.

Commissioner Higgins would like the District to try and have a bill passed at the State level to give locals a preference.

LEGAL COUNSEL REPORT

RESOLUTION NO. 21-06-09

RESOLUTION OF THE KEY LARGO WASTEWATER TREATMENT DISTRICT AMENDING RESOLUTION 19-11-05 FOR THE TO PROVIDE FOR INCREASED AUTHORITY OF THE GENERAL MANAGER TO APPROVE CHANGES IN CONTRACT PRICE UNDER THE CONSTRUCTION CONTRACT WITH WHARTON-SMITH, INC., AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Dillon presented the resolution pointing out the requirements that the Board requested.

Motion: Commissioner Brooks made a motion to not pass Resolution No. 21-06-09. Motion died due to a lack of a second.

Commissioner Brooks stated that what the District is doing is changing the contract with Wharton-Smith. The Board is giving the Manager and the Engineer the ability to change the value of the contract. He does not think that is right most particularly on a \$200,000 per change. It may sound good that the Manager, without Board approval, may accept reduction of the contract regardless of the amount it does not go to the issue of scope. If you change the scope after the Board approved the scope it tears the original contract apart.

Motion: Commissioner Majeska made a motion to approve Resolution No. 21-06-09. Commissioner Hammaker seconded the motion.

Vote on Motion

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

Motion passed 3 to 0

Rule Change Contiguous Tax Parcels

Mr. Dillon presented the following change:

Subsections (2)(i) and (ii) are new

Section 9.02 System Development Charge (SDC).

(1) System Development Charges are established according to Assessment Resolutions adopted by the District. All Assessment Resolutions are attached hereto in Appendix B.

(2) Notwithstanding the provisions of any Assessment resolution, it is the policy of the District to waive SDC's or assessments in certain cases as set forth below:

(i) The owners of all interests in a tax parcel that is assessed under an Assessment resolution may request that the District waive Assessment of a contiguous tax parcel owned by them. The owners must certify that the use of the contiguous tax parcel is subsidiary to the use of the assessed parcel, that the parcel for which waiver is sought will not be improved with structures or facilities that might generate wastewater that will enter the District's wastewater facilities, and

that if they later desire wastewater service to the contiguous tax parcel, they agree to pay the full direct and indirect District costs of providing the same. The owners of the assessed tax parcel may apply for waiver under this subsection for more than one tax parcel. For purposes of this subsection, a contiguous tax parcel may be separated by a street or right-of-way from the assessed tax parcel.

(ii) If Monroe County makes a final decision to deny all permits for development of a tax parcel, upon application by the owners of all interests in the tax parcel the District will waive all future assessments of the SDC for that tax parcel.

Mr. Dillon will bring the Rule Change back to the next meeting for action.

Basin I Vacuum Station Proposal

Mr. Fishburn reported that the District is looking at the White Rhino property for the vacuum station for Basin I and that he has a meeting with Key Largo Ocean Resorts Wednesday about putting the vacuum station on their property.

Basins J & K Vacuum Station Site

Mr. Fishburn told the Board that the District has an option on the property south of the Dairy Queen on U.S. 1.

Vacuum Station A Change Order

Mr. Fishburn reported that the vacuum station for Basin A and B located at the St. Justin's site is identical to the vacuum station for Basins C and D at the Pennekamp site. Overholt Construction Company was the low bidder for the Basin C/D vacuum station and staff recommends awarding Overholt Construction Company the Basins A/B vacuum stations as a change order for the same price bid for vacuum station C/D.

COMMISSIONER'S ITEMS

Goals for General Manager for Next Year

Chairwoman Hammaker stated that another goal for Mr. Fishburn is that all of the Vacuum Stations will be finished by May of 2010.

To formalize or not to formalize the Transition Meetings

Chairwoman Hammaker would like to see more informative notes from the meetings. Commissioner Majeska would like public comment at the meetings. Commissioner Higgins would like only one or two items on the agenda. Commissioner Brooks would like the meetings to be held at the District office, latter in the day, and to be recorded with the District Clerk doing the minutes.

The Board decided to continue this discussion under the Round Table Heading so that Commissioner Tobin can participate. Commissioner Tobin arrived at 5:55 PM

BULK ITEMS

Minutes of May 19, 2009

Assessment Appeal TIB Bank

Assessment Appeal DC Rentals

Assessment Appeal Bernardo Loeb
Assessment Appeal James Waterman

Motion: Commissioner Brooks made a motion to approve the Bulk Items. Commissioner Higgins 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

Pending Payments of June 2, 2009

Synthia Lankford, introduced the amended pending payments list.

Motion: Commissioner Brooks made a motion to approve the Pending Payments of June 2, 2009 contingent upon the availability of funds. Commissioner Higgins 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

ENGINEER'S REPORT

Monthly Status Report

Ed Castle of Weiler Engineering presented his written monthly report.

FINANCIAL REPORT

N/A

COMMISSIONER'S ROUNDTABLE

Transmission Meetings

Chairwoman Hammaker gave a recap for Commissioner Tobin of the discussion that the Board had concerning the Transition meetings.

Commissioner Tobin stated that he feels that the meetings are helpful and that everyone should stop worrying about minor procedural details. It is a public noticed meeting.

Commissioner Brooks explained that he suggested that the meetings be taped and minutes done by the District Clerk. The meetings should be held later in the afternoon in a public setting. If the Board decides to suspend the rules to make a decision at the meeting that would be appropriate: and to hold the meeting at the District office. Commissioner Brooks stated that all meetings that the District holds in public are formal.

Commissioner Tobin would like to leave the meeting the way it is.

Commissioner Majeska would like to have public comment at the Transition meetings.

Commissioner Tobin stated that the public comment should be held at the end of the meeting.

Commissioner Higgins would like to have it on another day instead of a Friday starting at 4 PM.

Commissioner Tobin left the meeting at 7:02 PM.

Motion: Commissioner Brooks made a motion to hold the Transition meetings on the second Tuesday of each month starting in July at 4 PM at the District office. Commissioner Higgins seconded the motion.

Vote on Motion

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

Motion passed 4 to 0

Islamorada Proposal

The Board discussed the proposal to Islamorada.

ADJOURNMENT

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

The KLWTD meeting minutes of June 2, 2009 were approved on June 16, 2009.



Chairwoman Hammaker



Carol Walker, CMC
District Clerk

Carol Walker

From: Thomas M Dillon [lawtmd@gmail.com]
Sent: Thursday, June 04, 2009 10:12 AM
To: Andrew M. Tobin; Carol Walker; Charlie Brooks; Chuck Fishburn; Norman Higgins; Robby Majeska; Susan Ford Hammaker
Subject: RicMan

I have read the minutes regarding the RicMan request for additional compensation. I did not comment at the meeting because the issue was not up for action. I do not believe that the additional compensation is warranted by the law or the facts, and I am suggesting that the Board reconsider this action. The additional fill was required on account of subsurface conditions that were known to the District and disclosed to the bidders in the geotechnical report. The repaving was due to poor workmanship by the contractor and/or its subcontractor. There is no entitlement to additional compensation in this case, and it sets a further bad precedent in the District's administration of the this contract.

Tom

Thomas M Dillon PA
Board Certified in Construction Law
PO Box 370736
Key Largo, Florida 33037-0736
305-240-1767
Fax 305-853-2693

CAROL
FILE,