

## MEMORANDUM

TO: KLWTD Board of Commissioners

FROM: Nicholas W. Mulick, General Counsel

DATE: November 16, 2020

SUBJECT: Department of Health Final Notice Requiring  
Installation of Compliant On-site Wastewater Systems

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As the Board is aware, the District decided several years ago that it would not extend collection services to the properties located on C905. The owners of those properties received notice from the Monroe County Department of Health Notice demanding that they apply for a permit to construct an OSDS compliant with applicable treatment standards or face the imposition of fines at the rate of up to \$500.00 per day. The Board has asked staff to provide information regarding assistance to recipients of the DOH notice.

At the Board's August 21, 2008 meeting, the District's General Manager, Charles Fishburn, submitted a document analyzing the cost of District-installed and operated onsite wastewater treatment systems for cold spots along C905, including the subject properties. According to the meeting minutes, Mr. Fishburn reported that staff, along with Weiler Engineering, met with DOH to discuss proposals for bringing noncompliant parcels not being served by the District into compliance with DOH treatment standards. No action was taken at that meeting.

At the Board's October 7, 2008 meeting, Ed Castle submitted a written report proposing options for installation of onsite wastewater treatment systems on noncompliant parcels, including the subject properties. The Board took no action.

At the Board's November 18, 2008 meeting, Ed Castle submitted an updated report describing wastewater treatment compliance options for properties on C905. The options included: 1) subsidized owner-installed systems 2) District-installed systems. The Board took no action.

At its January 20, 2009 meeting, the Board voted to convene a special meeting on February 11, 2009 to discuss options for bringing the C905 properties into compliance. According to the minutes of that meeting, Charles Fishburn introduced three options to address the C905 compliance issue:

1. Waive wastewater assessment for owner-installed compliant systems
2. Compliant onsite systems installed and maintained by the District
3. Extend the District's collection system to include the C905 properties

The consensus of the Board was to defer consideration of the proposed options until more detailed costs estimates were provided by staff. No other action was taken.

At its March 3, 2009 meeting, Weiler Engineering presented a written report addressing the cost and feasibility of extending its collection system to the C905 properties. The Board approved a motion directing staff to discuss with DOH an extension of the December 31, 2010 compliance deadline.

On July 28, 2014, the District notified C905 property owners that it was considering an onsite wastewater treatment program whereby the District would install and maintain onsite treatment systems at its expense for which each property owner would be assessed \$9,170.00.

At the Board's August 5, 2014 meeting, District General Manager, Margaret Blank, explained that if the program was implemented, the \$9,170.00 assessment for installation of onsite systems could be waived by a property owner who decided to opt out of the District's onsite system installation program. It is important to note that the District had not developed or approved a program to install onsite systems for the properties located on C905.

On August 8, 2014, the District notified C905 owners by letter that the proposed \$9,170.00 assessment would be suspended, presumably, to allow owners to consider whether to participate in or opt out of the nonexistent onsite system program.

At its October 7, 2014 meeting, Ed Castle reported to the Board that the cost to the District to install compliant onsite systems ranged between \$30,000.00 and 40,000.00. The Board took no action.

At the Board's December 11, 2015 meeting, Ray Giglio reported that he, Paul Christian, and David Asdourian met with DOH to address noncompliant parcels along C905. Commissioner Tobin suggested that the Board explore the feasibility and cost to the District of installing onsite treatment systems. The Board took no action.

Based on the foregoing, it is my opinion that the District has not developed, approved or implemented a plan to install onsite wastewater treatment systems for the parcels that are the subject of DOH's final notice. If the Board chooses to provide assistance to the owners of noncompliant parcels, I recommend that it do so by adopting a resolution approving a specific plan and identifying a funding source.