March 17th

2004
Key Largo Wastewater Treatment District  
Guest Sign In Sheet  
Wednesday, March 17, 2004

***Please Print***

<table>
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<tr>
<th>Name &amp; Company</th>
<th>E-mail</th>
<th>Phone</th>
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<tbody>
<tr>
<td>1. Will English Haskell</td>
<td><a href="mailto:William.English@TheBushCo.com">William.English@TheBushCo.com</a></td>
<td>904-357-4225</td>
</tr>
<tr>
<td>2. Shirley Wood</td>
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<td>305-441-0232</td>
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<tr>
<td>3. Lynn Cossuth</td>
<td><a href="mailto:lynn.cossuth@hotmail.com">lynn.cossuth@hotmail.com</a></td>
<td>669-4140</td>
</tr>
<tr>
<td>4. Barbara Bank</td>
<td><a href="mailto:nattson@bellsouth.com">nattson@bellsouth.com</a></td>
<td>451-4894</td>
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<tr>
<td>5. Burke Cannon</td>
<td>☑️</td>
<td>852-6029</td>
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Key Largo Wastewater Treatment District
Board of Commissioner’s Meeting Agenda
5:00 PM Wednesday, March 17, 2004
Key Largo Civic Club, 209 Ocean Bay Drive
Key Largo, Monroe County, Florida

A. Call to Order
B. Pledge of Allegiance
C. Additions, Deletions or Corrections to the Regular Meeting Agenda
E. Public Comment
F. Legal Counsel’s Report
   1. Update on the meeting with Mayor Nelson
   2. Update on the correspondence with Rep. Sorensen concerning use of funds for administrative costs
   3. Update on the definitions of direct and indirect costs
G. Action Items
   1. Approval of the Pending Payments List for March 10, 2004
   2. Approval of the use of a facilitator for the March 27, 2004 workshop
   3. Approval of the Haskell submittal recommending a Project Manager
H. General Manager’s Report
   1. Update on the allowable uses of KLWTD revenue sources
   2. Update on the March 10, 2004 Design Team Meeting
I. Engineer’s Report
   1. Discussion to limit the requirement for mylar copies of drawings
J. Public Comment
K. Commissioner’s Items
L. Meeting Adjournment
March 11, 2004

Attorney General Charlie Crist
The Capitol PL05
Tallahassee, Florida 32399-1050

Request for Attorney General’s Opinion regarding use of county funds to pay administrative expenses of an independent local sewer district.

Dear Attorney General Crist:

As Chairman of the Key Largo Wastewater Treatment District, I am writing to request an opinion regarding the use of county funds to pay administrative expenses of the Key Largo Wastewater Treatment District, an independent local district established under Florida Laws ch. 337, 2002.

As discussed in the memorandum prepared by the District’s Counsel, the Clerk of the Circuit Court is taking the position that use of county funds for District administrative expenses would violate the Florida Constitution. The District believes that the clerk’s position is not well taken, and requests that your office prepare an opinion on the matter.

Yours truly,

[Signature]

Gary Bauman, Chairman

C: J. Richard Collins, Monroe County Attorney
Mayor Murray Nelson

Board of Commissioners: Chairman Gary Bauman, Andrew Tobin, Cris Beaty, Charles Brooks, Jerry Wilkinson
March 11, 2004

Attorney General Charlie Crist
The Capitol PL05
Tallahassee, Florida 32399-1050

Key Largo Wastewater Treatment District

Memorandum in support of District for Attorney General’s Opinion regarding use of county funds to pay administrative expenses of the Key Largo Wastewater Treatment District.

Dear Attorney General Crist:

I am Counsel for the Key Largo Wastewater Treatment District. I am writing this memorandum in support of the District’s request for an Attorney General’s opinion.

Introduction

The District has had an ongoing disagreement with the County of Monroe, specifically, Circuit Court Clerk Danny Kolhage, with regard to use by the District of certain funds.

Stated simply, Mr. Kolhage takes the position that he is prohibited under the Florida Constitution from allowing the District to spend funds collected through ad valorem taxing for District administrative expenses. Mr. Kolhage bases his position on a memorandum by Assistant Monroe County Attorney Rob Wolfe to the effect that Article VIII, section 1(h), of the Florida Constitution prohibits the use of County funds because their expenditure does not confer a benefit on Incorporated cities within Monroe County.

This memorandum will show that the memorandum upon which Mr. Kolhage relies is ill-considered and misstates the applicable law, and in fact there is no constitutional prohibition that would prevent the Circuit Court Clerk from using County funds to reimburse District administrative expenses.

Facts

The District is the recipient of funds from two County sources:

1. A loan of $100,000 provided by the County under an Interlocal Agreement executed on December 18, 2003 (Ex. A.) (hereinafter “Loan Agreement”); and

2. Funds collected through ad valorem taxes collected by the County on behalf of the Key Largo Wastewater Treatment Municipal Service Taxing Unit or “MSTU.” Three relevant documents are attached:
a. An Interlocal Agreement dated February 26, 2003, by and between Monroe County, the Florida Keys Aqueduct Authority, and the District (Ex. B)(Exhibits omitted);

b. Monroe County Ordinance No. 018-2003 (Ex. C) establishing the MSTU;

c. An Interlocal Agreement dated December 17, 2003, by and between Monroe County and the District, providing for payment to the District of MSTU funds (Ex. D).

All of the documents described above express the intent of the County to fund the District’s efforts to complete and operate sewer facilities on Key Largo.

For example, the Loan Agreement provides, “Whereas, the County’s Board of County Commissioners have determined that the completion of the [sewer] Projects is a proper County public purpose pursuant to Sec. 125.01(1), FS...” (Ex. A, at 1.)

The Interlocal Agreement of February 26, 2003 reflects the fact that the County has made an “Administrative Loan” to the District. (Ex. B, at 5, Section 2.03.A.1.) In addition, the County committed to establish an MSTU for the District. (Ex. B, at 7, Section 2.03.A.8.)

Monroe County Ordinance No. 018 – 2003, dated May 20, 2003, implemented the County’s commitment to establish the MSTU. The ordinance provides, in relevant part:

SECTION 2. AUTHORITY AND PURPOSE.

... (C) The purpose of this Ordinance is to create a municipal services taxing unit to fund the provision of municipal services associated with the administration, planning and development of wastewater and reclaimed water projects within the municipal service taxing unit as generally described in Section 3 of this Ordinance. This Ordinance shall be liberally construed to effect the purposes hereof.

(D) This Ordinance is adopted to fulfill the request of the Key Largo Wastewater Treatment District ... to provide limited funding source for the reimbursement and provision of municipal services relating to administration, planning and development of wastewater and reclaimed water projects ...

... SECTION 5. USE OF REVENUE; IMPLEMENTATION.

(A) Revenues derived from ad valorem taxes levied within the Key Largo Wastewater Treatment District Municipal Service Taxing Unit pursuant to Section 4 shall be used solely to pay for and provide finding for administration, planning and development costs associated with and incurred in advancing of wastewater and reclaimed water projects within and benefiting the Key Largo Wastewater Treatment District Municipal Service Taxing Unit.

(Ex. C, at 1 – 3.)
The District believes that the County began to receive revenues on behalf of the District MSTU in November 2003. However, the Circuit Court Clerk refused to disburse any MSTU funds to the District in the absence of a further Interlocal Agreement providing for such disbursement. Therefore, at the District’s request, the County Board of County Commissioners adopted a new Interlocal Agreement on December 17, 2003. (Ex. D.) That agreement provides, in relevant part:

2. a) The ad valorem tax revenue collected by the MSTU shall be used solely to pay for and provide funding for administration, planning, and development costs associated with and incurred in advancing of wastewater and reclaimed water projects within and benefiting the KLWTD MSTU, without regard to whether the costs were incurred by the KLWTD before or after the effective date of Ordinance No. 018-2003 (May 20, 2003).

(Ex. D, Section 2.a.)

In addition, the new Interlocal Agreement provided for MSTU funds to be advanced to the District. (Ex. D., Section 2.b.)

On or about December 18, 2003, the undersigned met with County Attorney Richard Collins and Circuit Court Clerk Danny Kolhage. At the meeting, Mr. Kolhage advised the undersigned that he could not disburse funds for administrative expenses due to an opinion letter from the County Attorney’s office.

On December 22, 2003, the undersigned wrote to Mr. Kolhage requesting a copy of the opinion letter. (Ex. E.) In response, Mr. Kolhage sent the undersigned a memorandum issued by Chief Assistant County Attorney, Rob Wolfe, dated June 18, 2002. (Ex. F.) Briefly summarized, the memorandum, which was written before the District actually existed, raises constitutional objections to payment of District administrative expenses from County funds. Specifically, the memorandum relies on Article VIII, section 1(h), of the Florida Constitution for the proposition that County funds cannot be spent for District administrative expenses because the District’s activities do not confer a benefit on the incorporated portions of the County.

The District believes that the memorandum is flawed in many respects. It ignores significant precedent, the most prominent of which is City of St. Petersburg v. Briley, Wild & Associates, 239 So.2d 817 (Fla. 1970). As will be further explained below, that decision expressly held that construction of sewers in the unincorporated portions of a county confers real and substantial benefits on the incorporated cities.

Further, the memorandum predates and therefore does not numerous actions by the County Board of County Commissioner expressing the County’s belief that the District’s work is beneficial to the entire county.

Finally, the memorandum predates and therefore does not consider the fact that the MSTU funds are not collected from property owners in incorporated portions of the County, but are collected only from property owners within the District.

On December 29, 2003, the undersigned wrote to County Attorney Richard Collins asking him to rescind the Wolfe memorandum and to advise the Circuit Court Clerk that there was no constitutional prohibition preventing the use of County funds for District administrative
expenses. (Ex. G.) Although Mr. Collins promised to so advise Mr. Kolhage, no such advice has been given.

Pursuant to the various Interlocal Agreements, the County advanced 20% of the funds received on account of the MSTU to the District. On March 3, 2004, the District provided documentation showing that it had expended $151,231.15 from the funds for administrative purposes, and requested a further advance in that amount. (Ex. H.) On March 8, 2004, the District's Chief Financial Officer advised the undersigned that Mr. Kolhage had declined to reimburse any of the expenses, apparently due to the County Attorney’s memorandum described above and attached hereto as Exhibit F. (Ex. I.)

The District therefore requests an Attorney General’s Opinion whether the constitutional prohibition asserted in the County Attorney’s memorandum prohibits the use of County funds, including MSTU funds raised as ad valorem taxes on property within the District, to pay for District administrative expenses.

1. The County Is not prohibited from spending general fund revenues on a sewer project in Key Largo.

Article VIII, section 1(h), Florida Constitution (“Section 1(h)”), provides:

Property situate within municipalities shall not be subject to taxation for services rendered by the county exclusively for the benefit of the property or residents in unincorporated areas.

Our Supreme Court has described Section 1(h) as a provision that prohibits double taxation. Generally speaking, a county may not expend funds collected as ad valorem taxes on property within municipalities unless the municipalities and their residents receive a benefit. The benefit must be of a magnitude described by the court as “real and substantial.” City of St. Petersburg v. Briley, Wild & Associates, 239 So.2d 817, 823 (Fla. 1970); Town of Palm Beach v. Palm Beach County, 460 So.2d 879, 881 (Fla. 1985). As the court stated in Palm Beach,

substantial is not necessarily a quantifiable term and a benefit may achieve substantiality without being direct or primary. All that is required is a minimum level of benefit which is not illusory, ephemeral or inconsequential.

Id.

Notably, the Palm Beach court held that a person challenging the expenditure of funds must carry the burden to prove that a service provided by a county and funded by countywide revenues does not provide a real and substantial benefit to the particular municipality. Id. This is a heavy burden. Id. In the Briley, Wild decision, the court held specifically that the construction and operation of a sewage treatment plant in the unincorporated area of a county can provide a real and substantial benefit to the municipalities by reducing pollution from open sewage discharge, saying:

Water pollution and the attendant diseases and ills to human habitation that flow therefrom know no city or county lines. The evidence before the trial court indicates that the contamination of the waters of Pinellas County which occurs in the unincorporated areas contaminates waters located in the incorporated areas through the natural process of flow. Disease originating in the unincorporated areas resulting from improperly-treated sewage can
substantial benefit to the water quality of all of Monroe County, including the incorporated areas.

Any impartial trier of fact would be hard pressed to find that the District’s sewer projects do not confer upon the municipalities a real and substantial benefit. In fact, all of Monroe County will suffer if the District’s project is not funded. Recent developments and agreements between the County and the State underscore the fact that both the State of Florida and Monroe County consider sewage treatment issues to be matters of county-wide concern. Therefore, the Incorporated portions of the County will clearly receive a real and substantial benefit from sewer ing the District, and the County may spend general fund moneys on that work.

2. **There is no authority for the proposition that the ability to use county funds to cover administrative expenses of a special district turns on whether the district is dependent or independent.**

The memorandum cites the decision in *State v. Sarasota County*, 372 So.2d 1115 (Fla. 1979) for the proposition that a county’s ability to fund administrative expenses turns on whether a district is dependent or independent. Although it appears from the Sarasota decision that the special utility district at issue was formed by the county as a dependent district, the decision simply does not make the distinction attributed to it by the opinion. Nor does the decision imply a test based on whether the administrative functions of the district may be similar to, or duplicate, those of the county. In fact, nothing in the Sarasota decision alters conclusion in *Bridley, Wilde* and its progeny. If the expenditure of county funds confers a real and substantial benefit to the incorporated portions of the county, the county may expend the funds regardless of whether the District is independent or dependent.

Further, there is no basis for the assumption in the memorandum that spending general fund moneys on District general expenses would duplicate County functions. There is no portion of County government with direct responsibility to provide wastewater treatment for the area encompassed by the District. No one in County Government has been elected, appointed, or otherwise designated to ensure that a sewer system will be built in District or to perform any of the administrative tasks necessary to accomplish the planning and construction of a sewage treatment system in the District.

As established by the Legislature, the District has “exclusive jurisdiction over the acquisition, development, operation, and management of a wastewater management system in and for the district boundaries.” Only the District has the authority and responsibility to plan and construct the system, including holding hearings and public meetings, preparing procurement documents, approving and administering contracts and all the myriad tasks incidental to that responsibility. The District’s exclusive role clearly shows that its functions do not duplicate those of the County.

3. **District administrative expenses are an integral part of the cost of sewer ing the District.**

The District is the agency created by the Legislature with the exclusive authority to provide a sewer system for Key Largo. The District’s purpose, as established by the Legislature, includes:

To perform such acts as shall be necessary for the sound planning, acquisition, development, operation, and maintenance of a wastewater
management system within the district, including all business facilities necessary and incidental thereto. The district shall have exclusive jurisdiction over the acquisition, development, operation, and management of a wastewater management system in and for the district boundaries.

There can be no doubt that the wastewater management system will not plan, acquire, develop, operate, or maintain itself. These tasks can be accomplished only if a Board is in place to accomplish them. The costs of the Board are therefore incidental to, and a part of, the costs of planning, acquisition, development, operation, and maintenance. Because the cost of sewerage the District is a proper object of expenditure of County funds, it is clear that the cost of administering the District is also a proper object of such expenditures. There is, therefore, no basis for the Chief Assistant County Attorney’s conclusion that these costs cannot be paid from County funds.

4. Use of MSTU funds for District expenses, including administration, does not violate the "double taxation" principal.

The Board of County Commissioners adopted Monroe County Ordinance 018-2003 on May 20, 2003. The express purpose of the ordinance was to set up a Municipal Services Taxing Unit ("MSTU") to “fund the provision of municipal services associated with the administration, planning and development of wastewater and reclaimed water projects within the municipal service taxing unit.” (Ex. C, Section 2(C).) Further, the ordinance is to “be liberally construed to effect the purposes thereof.” (Id.)

Assuming for the sake of discussion that the double taxation principal in Florida Constitution Section 1(h) prohibited the expenditure of county general funds within the District, that principal does not apply to MSTU funds, which have been collected by ad valorem taxation of property located within the District, and not from incorporated portions of the County. Moreover, the ordinance expresses the County’s intent to use the MSTU mechanism as a method of providing funds to achieve a purpose that benefits the County.

The Chief Assistant County Attorney’s memorandum was prepared before the adoption of Ordinance 018-2003, and before the BOCC expressed its desire to provide funding for the administration of the District. The BOCC’s expression of purpose is sufficient to support the proposition that the MSTU funds can be used for administrative purposes.

Conclusion.

Based on the foregoing, it appears that the Chief Assistant County Attorney’s advice to Mr. Kolhage as expressed in the attached memorandum is incorrect and inapplicable in light of the present facts, including the County’s numerous resolutions adopting the District’s activities as benefiting the County, and the fact that MSTU funds are not derived from properties in the incorporated areas of the County. I request that your office issue an opinion accordingly.

Yours truly,

[Signature]

Counsel for Key Largo
Wastewater Treatment District
INTERLOCAL AGREEMENT

Key Largo Wastewater District Board

This Interlocal Agreement is entered into pursuant to Sec. 163.01, Florida Statutes, by and between Monroe County, a political subdivision of the State of Florida, hereafter County, and the Key Largo Wastewater District Board, an independent special district, hereafter District.

WHEREAS, the District now has the obligation to continue to completion, and after completion to operate, the following central sewage treatment projects: Key Largo Trailer Village, and the Key Largo Park, plus related collection infrastructure, hereafter the Projects;

WHEREAS, the District at present does not have in place a funding mechanism to complete and operate the Projects;

WHEREAS, the County’s Board of County Commissioners have determined that the completion of the Projects is a proper County public purpose pursuant to Sec. 125.01(1), FS; and

WHEREAS, the County desires to lend the District $100,000 to help the District in its completion of the Projects; now, therefore,

IN CONSIDERATION of the mutual covenants and promises set forth below, the parties agree as follows:

1. a) The County agrees to lend the District the sum of $100,000 to assist the District in its completion of the Projects.

   b) The County will tender the $100,000 to the District within ten business days of the District establishing a federally insured account for the funds at a financial institution authorized by State law to receive deposits of public funds. The District must deposit the funds in that account.
2. The District must repay the $100,000 to the County within three years from the date the County tendered the funds to the District, together with interest at the adjusted rate per annum established by the State Revolving Loan Fund calculated from the date the County tendered the $100,000 to the District.

3. The District must keep its records pertaining to the County loan according to generally accepted accounting principles and make those records available to auditors employed by the County or the Clerk of the Circuit Court during normal business hours (Monday through Friday, 9 AM to 5 PM, holidays excepted).

4. This Interlocal Agreement will take effect when a fully executed copy is filed with the Clerk of the Circuit Court for Monroe County.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the dates written below.

[Seal]
ATTEST: DANNY L. KOLHAGE, CLERK

By
Deputy Clerk
Date December 18, 2002

[Seal]
Attest:

By
Secretary
Date

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By Mayor/Chairman

KEY LARGO WASTEWATER
DISTRICT BOARD

By Chairman
INTERLOCAL AGREEMENT
RELATING TO THE TRANSITION OF WASTEWATER JURISDICTION AND SERVICES FROM THE FLORIDA KEYS AQUEDUCT AUTHORITY TO THE KEY LARGO WASTEWATER TREATMENT DISTRICT

BY AND BETWEEN
MONROE COUNTY,
THE FLORIDA KEYS AQUEDUCT AUTHORITY AND
THE KEY LARGO WASTEWATER TREATMENT DISTRICT

ADOPTED ______, 2003
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**ARTICLE II**

**INTERLOCAL AGREEMENT**

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**ARTICLE III**

**GENERAL PROVISIONS**

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INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT is made and entered into as of this ___ day of February, 2003, by and between Monroe County, Florida (the "County"), the Florida Keys Aqueduct Authority (the "Authority") and the Key Largo Wastewater Treatment District ("the District").

WITNESSETH:

WHEREAS, pursuant to Chapter 76-441, Laws of Florida, as amended, and certain agreements executed between the County and the Authority, the Authority had exclusive wastewater jurisdiction in the District wastewater district; and,

WHEREAS, the District was formed in 2002 by the Legislature of the State of Florida pursuant to House Bill 471, Chapter 2002-37, Laws of Florida, for the purpose of performing such acts as shall be necessary for the sound planning, acquisition, development, operation and maintenance of a wastewater management system within the district, including all business facilities necessary and incidental thereto; and,

WHEREAS, Chapter 2002-37, Laws of Florida, provides the District with exclusive jurisdiction over the acquisition, development, operation and management of a wastewater management system in and for the District boundaries; and,

WHEREAS, the County is a political subdivision of the State of Florida with home rule authority to provide waste treatment and disposal services throughout Monroe County and may enter into agreements with the Authority and the District relative to such activities; and

WHEREAS, the County has entered into agreements with the Authority as its agent and the District in order to assist the District with the establishment and operation of a wastewater management system within its jurisdiction; and

WHEREAS, the County and the Authority have worked to identify funding sources and grants from local, state and federal sources to advance the provision of central wastewater and wastewater services and programs within the District; and

WHEREAS, it was imperative to the health, safety and welfare of the citizens of the District that the delivery of such wastewater facilities and programs be expeditiously advanced, and therefore, the County and the Authority entered into certain joint resolutions and interlocal agreements to utilize the resources of two grants and County Capital Infrastructure Funds for the benefit of the District; and

WHEREAS, the District is not expected to have a revenue stream for approximately 30 months from the date of this Agreement, unless the County creates a Municipal Services Taxing Unit ("MSTU") to assist the District; and

WHEREAS, the County has the legal authority to provide funding to the District as provided herein to accomplish its purposes until the District has an established stream of revenue.
NOW, THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration each to the other, receipt of which is hereby acknowledged by each party, the County, the Authority and the District hereby agree, stipulate and covenant as follows:

ARTICLE I
SOURCES OF FUNDING

SECTION 1.01. GRANTS. It is hereby ascertained, determined and declared that:

A. Federal Grant. Under Public Law 106-31, the Emergency Supplemental Appropriations Act for Fiscal Year 1999 (1249 and 1259 Unmet Needs Program), a supplemental appropriation by the United States Congress was made available to Monroe County for wastewater projects in the District area.

1. The Authority has been designated as recipient/sub-grantee under the Unmet Needs Program to receive and expend grant funds for wastewater project(s) in the District area. The Federal Emergency Management Agency ("FEMA") and the State of Florida Department of Community Affairs ("DCA") are charged with administering grants under the Unmet Needs Program.

2. A Joint Resolution between the County and the Authority was entered into under County Resolution 093-2002 and Authority Resolution 02-08 (a copy of which is attached hereto and marked as Exhibit A) to secure this grant and to name the Authority as the wastewater authority to accept this grant. The payment by the County of $182,857.00 (20% of the County’s committed amount of $914,285) has been made to the Authority pursuant to this commitment. This Resolution also established that the site at Mile Marker 100.5 would serve the system funded by this grant.

3. The total grant includes project funding as follows:

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<td>Federal Share</td>
<td>$5,485,714.00</td>
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<td>State Share</td>
<td>$ 914,286.00</td>
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<td>Local Share</td>
<td>$ 914,285.00</td>
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<td>Total</td>
<td>$7,314,285.00</td>
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4. DCA (the grantee of this federal grant) and the Authority entered into a Disaster Relief Funding Agreement to fund implementation of the Key Largo Trailer Village wastewater treatment project on the 30th day of August, 2002 (a copy of which is attached hereto and marked as Exhibit B), pursuant to DCA’s authority to administer federal financial assistance from FEMA, and to disburse the grant funds to the Authority, as further described in the Disaster Relief Funding Agreement ($914,286).

B. Transition of Key Largo Trailer Village to the District. Pursuant to FEMA’s guidelines under this grant, as set forth in a letter dated September 18, 2002 from FEMA to the
Florida Division of Emergency Management, (attached hereto and marked as Exhibit C), the Key Largo Trailer Village Project will be fully transferred to the District and the District will become the recipient/sub-grantee for the project when the following conditions have been met: (1) Completion of the entire environmental assessment process per the National Environmental Policy Act (NEPA) and related statutes (including completion of a site specific environmental review document and associated public meeting); (2) the funds have been obligated in an approval letter from FEMA to the State of Florida; (3) the State of Florida has developed a contract with the Authority (agreement for Phase I funding for planning and engineering is complete); and (4) a transition plan between the Authority and the District has been executed with assurances that the original scope of work and its associated site development requirements will be implemented (this Transition Interlocal Agreement).

1. Responsibility for the Key Largo Trailer Village Project will be transferred to the District following receipt by the Authority of proposals for design/build services for the project. Before March 1, 2003, the Authority will provide the District with the design/build proposals for Key Largo Trailer Village. The Authority’s continued involvement in the project will be exclusively limited to meetings and responsibilities directly related to the FEMA site-specific environmental assessment (EA) process.

2. The Authority is using the collective FEMA grant funds for the planning and preliminary design and engineering of the Key Largo Trailer Village and all monies not utilized at the transition stated heretofore shall be either returned to FEMA or assigned to the District as per the direction of FEMA.

C. State Grant. Under State of Florida 2002-03 General Appropriations Act, Line Item 1765-A, Fixed Capital Outlay, Keys Wastewater Management Plan Implementation from Land Acquisition Trust Fund, a specific appropriation by the State of Florida was made available to Monroe County for the District in the amount of $1,660,000.

1. Pursuant to the requirements of this grant, the Authority on behalf of the County initiated a proposed project in the District on or before August 19, 2002.

2. The grant established that the sites necessary to project viability must be acquired; construction bids or design/build proposals must be received; and a system of user charges, fees, or assessments must be established no later than March 1, 2003.

3. The County has selected the community known as Key Largo Park as the designated project area. A copy of Joint Resolution confirming selection (County Resolution 349-2002 and Authority Resolution 02-25), is attached hereto and marked as Exhibit D.

4. The grant is only for capital improvements, not including engineering and planning. Therefore, the County has agreed to pay up to $356,000.00 for project engineering, design, bidding services, and planning as reflected by County Resolution 349-2002 and Authority Resolution 02-25 as amended, attached hereto and marked as Exhibit D.

5. The State of Florida Department of Environmental Protection ("DEP") has prepared a State Financial Assistance Agreement, DEP Agreement No. LP0338, between DEP
and the District, for the purposes of facilitating the $1,660,000 state grant, a copy of which is attached hereto and marked as Exhibit E.

SECTION 1.02. COUNTY FUNDING. See Section 2.03 of this Agreement.

ARTICLE II
INTERLOCAL AGREEMENT

SECTION 2.01. PURPOSE OF INTERLOCAL AGREEMENT. The purpose of this Agreement is to cause a smooth transition of both projects, grants, engineering and all related administrative activities from the Authority to the District so that the intent of the District Legislation may be implemented and both grants mentioned heretofore may be preserved, utilized and result in projects as anticipated by them. Therefore, the parties agree that each entity will have the following duties and responsibilities.

SECTION 2.02. DUTIES AND RESPONSIBILITIES OF THE AUTHORITY.

A. Key Largo Trailer Village. The Authority agrees to complete the following duties and responsibilities with regard to the Key Largo Trailer Village project.

1. Complete a design/build request for proposals ("RFP").
2. Solicit and receive design/build technical proposals and cost proposals.
3. Deliver the design/build technical proposals and cost proposals received to the District for evaluation and selection.
4. Provide information and assistance to FEMA as necessary to complete the site-specific environmental assessment of the projects as required under the National Environmental Policy Act (NEPA).
5. The Authority agrees that its contractual design professional may be utilized by the District at the discretion of the District, and subject to the design professional's consent, to assist the District with the design/build proposal evaluation process, subject to the availability of sufficient grant funding or other sources of funding to reimburse the contractual design professional for their continuing services.

B. Key Largo Park. The Authority agrees to complete the following duties and responsibilities with regard to the Key Largo Park project.

2. Solicit and receive construction bids.
3. Deliver the construction bids received to the District for evaluation and selection.
4. The Authority agrees that its contractual design professional may be utilized by the District, at the District’s election and expense, to assist the District in evaluating RFP responses.

C. Transition. The Authority agrees to assist the District with the transition of projects and to effect an orderly transition in the governance, operation and maintenance of wastewater services in the district boundaries, and specifically to assist the District in meeting the March 1, 2003 deadlines imposed by the State.

D. Transfer of Funds. The Authority agrees to transfer any remaining funds it received from the County for the projects to the extent such funds remain upon project transfer. This includes, but is not limited to, the $182,857 transferred to the Authority from the County for the Key Largo Trailer Village project, described below, less the sum of $8,900 to reimburse the Authority for administrative expenses incurred in association with management and coordination of the Key Largo Park project.

SECTION 2.03. DUTIES AND RESPONSIBILITIES OF THE COUNTY.

A. Financial Commitments. The County agrees to provide certain funds it has available to support the development of the Key Largo Trailer Village and Key Largo Park projects. These commitments are outlined in Exhibits A and D and are provided specifically in Exhibit F. Exhibit F outlines all financial commitments to date, including state and federal funds commitments. The County will provide funds through several different committed funding sources with conditions for the use of these funds, as outlined below.

1. Administrative Loan. Pursuant to an Interlocal Agreement entered into on December 18, 2002 between the County and the District, attached hereto and marked as Exhibit G, the County loaned the District $100,000. Unless otherwise agreed between the County and the District, this $100,000 is to be reimbursed to the County, the terms of which are outlined in the referenced Interlocal Agreement.

2. Capital Funds for Key Largo Trailer Village. Pursuant to County Resolution 093-2002, attached hereto and marked as Exhibit A, the County will provide capital funds to the District in order to secure a commitment to the Key Largo Trailer Village project up to $914,285, as needed, to complete the project. As costs are incurred by the District, and upon a request for payment of expenses, the County will transfer necessary funds to the District for payment of such expenses. These funds will be provided to the District as a loan to be repaid upon such terms and conditions to be agreed upon between the District and the County within the next 90 days. To date, 20% of the $914,285 has been transmitted to the Authority ($182,857). The County will direct that the Authority transfer these funds to the District to the extent that such funds remain after project development to date.

3. Cesspit Grant Funds. Pursuant to DCA Contracts, a total of $1,225,600 will be provided to the District for Key Largo Trailer Village and Key Largo Park.
a. DCA Contract 00-DR-1W-11-54-01-002, and DCA Contract 01-DR-16-11-54-001 are attached hereto and marked as Exhibit H.

b. The County will administer the grant funds, and will disburse only if the District provides an audit trail identifying that funds will be used to replace cesspits equivalent to approximately $10,100 per cesspit replaced.

c. The County will continue to administer these funds and as costs are incurred by the District, upon a request for payment of expenses, the County will transfer funds to the District out of these grant funds. The County agrees that these funds can be utilized for construction as a part of Key Largo Trailer Village or Key Largo Park.

4. **County Match to Cesspit Grant.** The County agrees to match the DCA Cesspit Grant in the amount of approximately $929,527 for Key Largo Park or Key Largo Trailer Village.

a. This amount ($929,527) is dependent on remaining dollars from the Cesspit Identification and Elimination Grant Program, currently administered by the Florida Department of Health for the County. As of the date of execution of this Agreement, a minimum of $790,000 remains in this Program.

b. These funds were originally used as a match to State Cesspit replacement dollars, but they do not have to be utilized for replacement.

5. **County Capital Infrastructure Funds.** Pursuant to County Resolution 349-2002, attached hereto and marked as Exhibit D, the County agrees to fund the District in the amount of $356,000 for engineering, planning, legal and administrative expenses during fiscal year 2003/2004 for Key Largo Park. Any and all funds remaining out of the County Capital Infrastructure Funds provided for this purpose are to be transferred to the District within 60 days of completion of tasks 1, 2, 3 and 4 provided in Section 2.02B of this Agreement.

a. A portion of these funds are currently being utilized to pay Boyle Engineering for engineering design on the collection system for the entire Key Largo Park area.

b. The County, with the District’s concurrence, will continue to provide these funds directly to Boyle (not to exceed $356,000) until design work and other obligations are completed.

6. **County Infrastructure Tax Funds.** These funds ($826,234.31) have been expended and the land will be transferred to the District within 90 days of the date of execution of this Agreement. The County and the District agree that after the County transfers
the land to the District, the County may utilize that portion of the land which is not being utilized by the District, if necessary, for non-structural purposes.

7. **$250,425 Commitment for Operational Expenses.** The County agrees to provide $250,425 as a grant, in addition to the $100,000 loan already provided to the District, as set forth in the Interlocal Agreement attached hereto and marked as Exhibit G and described above. Specifically, the grant shall be utilized for design, engineering, legal and all related administrative tasks required for implementation of the Key Largo Trailer Village and Key Largo Park projects. The County will forward to the District twenty percent (20%) of the $250,425, which is the amount of $50,085, upon execution of this Agreement. Upon District submission to County of written request for additional sums from this $250,425 commitment, based upon previous expenditure documentation submitted to the County, the County shall disburse additional reimbursement not to exceed the stated 20% ($50,085).

8. The County agrees to consider adopting a Municipal Services Taxing Unit (“MSTU”) for the District, pursuant to the District’s Amended Resolution 2003-4, attached hereto and marked as composite Exhibit I. Pursuant to this Resolution, the District requested that the County establish an MSTU for the District, pursuant to section 125.01(1)(q), Florida Statutes, and requested a millage rate not-to-exceed .35. This item will be placed on the County Commission meeting agenda as a request for advertisement on February 19, 2003, and will be considered for adoption at the May 21, 2003 County Commission meeting, pursuant to the attached draft County Ordinance (attached hereto as composite Exhibit I).

B. The District is required to, and has in fact established a federally-insured account for the funds at a financial institution authorized by State law to receive deposits of public funds. The District must deposit the funds in said account, and account for all expenditures as required by Florida law and accepted government accounting standards.

C. **Transfer of Real Property.**

1. The County agrees to transfer the land known as the “Mile Marker 100.5” Parcel to the District within 90 days of execution of this Agreement for purposes of establishing a wastewater treatment plant. The parties agree that the District is obligated to meet all of the conditions contained within the U.S. Fish & Wildlife Service (“FWS”) and FEMA documents, attached hereto and marked as Exhibits J and K, respectively.

2. The County will retain a conservation easement in accordance with Monroe County regulations on the portion of the property not intended for development.

D. **Affordability and Financing Obligations.**

1. FEMA requires that the County meet Environmental Justice standards relating to project affordability in order to receive FEMA funds for Key Largo Trailer Village.

2. The County believes that the Environmental Justice criteria will be necessary at a minimum throughout the County to provide grant funds to Low and Very Low Income homesteaded property owners and has adopted a policy in this regard, pursuant to
Resolution 306-2002, attached hereto and marked as Exhibit L. The County has defined Low and Very Low Income levels in accordance with the HUD definition of 80% and 50%, respectively, of the median household income for the County. The Commission adopted this standard based on staff recommendations, attached hereto and marked as Exhibit M.

3. The County and the District have adopted a guideline for wastewater system hook-up fees of $2,700 and monthly Operation and Maintenance Fees of $35. These figures do not include the on-site decommissioning of existing wastewater systems or of the amortization into monthly fees of any capital costs (lateral hook-up fees).

4. The County will consider adoption of an Ordinance establishing a revolving loan fund and low and very low income grant programs by June 2003 and will work with the District and the Authority to ensure that the programs adopted and implemented are fair and equitable across wastewater jurisdictions.

E. Assistance during transition. The County agrees to continue working with the District, as is reasonable, to effect an orderly transition in the governance of the District wastewater services.

SECTION 2.04. DUTIES AND RESPONSIBILITIES OF THE DISTRICT.

A. Financial Commitment. The District must establish, and has established, a federally-insured account for the funds received by the County at a financial institution authorized by State law to receive deposits of public funds. The District must deposit the County loan funds or other funds provided directly to the District in said account.

B. Affordability and Financing Obligations. The District agrees to adopt similar affordability and user financing standards as provided in Exhibit L attached hereto and contemplated in the near future by the County, including the establishment of low interest revolving loan fund programs or grant programs for low and very low income homesteaded households.

C. Records.

1. For all funds forwarded or transferred to the District under this Agreement, the District must establish fiscal control and fund accounting procedures that comply with generally accepted government accounting principles, satisfactory to the County’s Clerk, in order to assure that the County funds forwarded or transferred to the District are spent for the purposes set forth in this Agreement. All District financial records pertaining to this Agreement must be made available, upon request, to the County Clerk, an auditor employed by the County or State of Florida. Any funds forwarded or transferred by the County to the District under this Agreement that are determined by the Clerk, an auditor employed by the County or the State to have been spent on a purpose not contemplated by this agreement must be paid back to the County with interest calculated pursuant to Section 55.03(1), Florida Statutes, from the date the auditor determines the funds were expended for a purpose not authorized by this Agreement. The District agrees to provide the County Clerk and Administrator with quarterly status reports.
concerning the expenditure of County funds in sufficient detail to demonstrate compliance with the provisions of this Agreement.

2. Said records must be available for public scrutiny during regular hours of operation and must be available within a reasonable time to auditors employed by the County or the Clerk of the Circuit Court upon request.

D. Projected Commitment. The District acknowledges the time and financial commitment put into completing the Key Largo Trailer Village and the Key Largo Park projects to date by the County and the Authority.

1. To the best of its ability, the District commits to completing the Key Largo Trailer Village and Key Largo Park projects within the constraints of the funds appropriated to date.

2. The District agrees to pursue agreements through FEMA and DCA to have committed Phase II funds for initiating and completing final design and construction of Key Largo Trailer Village as the Authority completes its commitment for Phase I funds to develop and follow through with preliminary engineering documents and finalization of the site specific environmental assessment process for Key Largo Trailer Village.

3. The District agrees that it will be bound by all substantive terms of any federal, state or local grant which is transferred to it as sub-grantee.

E. Cooperation. In the event bids for the Key Largo Trailer Village project and the Key Largo Park project exceed the District’s projected budget for the projects, the District, in cooperation with the County, FDEP and FEMA, will evaluate three options: (1) provide a revised scope of work to the bidders; (2) conduct “value engineering”; or (3) re-bid the projects. In addition, the District will use due diligence in locating additional grant sources in order to meet any revenue shortfalls as a result of higher-than-expected bids.

ARTICLE III

GENERAL PROVISIONS

SECTION 3.01. RECORDING; EFFECTIVE DATE.

A. This Agreement, and any amendment hereto, shall be filed with the Clerk of the Circuit Court for Monroe County, Florida, as required by Section 163.01(11), Florida Statutes.

B. This Agreement shall become effective upon execution hereof by the County, the Authority and the District as provided herein.

C. This Agreement must be approved by the Federal Emergency Management Agency, the Florida Department of Community Affairs and the Department of Environmental Protection of the State of Florida.
SECTION 3.02. AMENDMENT.

This Agreement shall not be modified or altered except by another written agreement executed by the County, the Authority and the District.

IN WITNESS WHEREOF, the County, the Authority and the District have caused this Interlocal Agreement to be duly executed and entered into on the date first above written.

BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA

By:  
Mayor/Chairperson

Danny L. Kolhage, Clerk
By:  
Deputy Clerk

THE FLORIDA KEYS AQUEDUCT AUTHORITY

By:  
Interim Executive Director as authorized by FKAA Board 2/20/03

THE KEY LARGO WASTEWATER TREATMENT DISTRICT

By:  
Chairman

ATTEST:

ATTEST:

Clerk

Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

ROBERT N. WOLFF
DATE 2-15-03
MONROE COUNTY, FLORIDA

ORDINANCE NO. 018 - 2003

AN ORDINANCE OF MONROE COUNTY, FLORIDA, CREATING THE KEY LARGO WASTEWATER TREATMENT DISTRICT MUNICIPAL SERVICE TAXING UNIT LOCATED WITHIN THE UNINCORPORATED AREA OF MONROE COUNTY, FLORIDA, TO PROVIDE WASTEWATER AND RECLAIMED WATER SERVICES AND FACILITIES; DEFINING THE BOUNDARIES OF THE UNIT; AUTHORIZING THE BOARD TO ANNUALLY LEVY AD VALOREM TAXES WITHIN THE BOUNDARIES OF SUCH UNIT NOT TO EXCEED 0.35 MIL; AUTHORIZING THE USE OF THE TAX REVENUE FOR ENUMERATED PURPOSES; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA THAT:

SECTION 1. TITLE. This ordinance may be cited as the Key Largo Wastewater Treatment District (KLWTD) Municipal Service Taxing Unit (MSTU).

SECTION 2. AUTHORITY AND PURPOSE.

(A) This Ordinance is enacted under the authority of Article VIII, Section 1, Florida Constitution, and Sections 125.01 and 125.66, Florida Statutes. The Board of County Commissioners (the "Board") of Monroe County, Florida, has all powers of local self-government to perform county and municipal functions and to render services in a manner not inconsistent with general law and such power may be exercised by the enactment of county ordinances and resolutions.

(B) Section 125.01(1)(q), Florida Statutes, provides specific legislative authorization for counties to establish a municipal service taxing unit for any part or all of the unincorporated areas within its boundaries, or within the municipal boundaries of an incorporated area upon consent of the governing body of such municipality, within which may be provided essential facilities and services.

(C) The purpose of this Ordinance is to create a municipal service taxing unit to fund the provision of municipal services associated with the administration, planning and...
development of wastewater and reclaimed water projects within the municipal service taxing unit as generally described in Section 3 of this Ordinance. This Ordinance shall be liberally construed to effect the purposes hereof.

(D) This Ordinance is adopted to fulfill the request of the Key Largo Wastewater Treatment District and in consideration of the Board’s obligations under a Transition Agreement by and between the Key Largo Wastewater Treatment District, the Florida Keys Aqueduct Authority (the “Authority”), and the Board to provide limited funding source for the reimbursement and provision of municipal services relating to administration, planning and development of wastewater and reclaimed water projects (the “Transition Agreement”).

SECTION 3. CREATION OF MUNICIPAL SERVICE TAXING UNIT.

(A) Pursuant to the provisions of section 125.01(1)(q), Florida Statutes, there is hereby created a municipal service taxing unit for that portion of the County within the unincorporated of Key Largo under the jurisdiction of the KLWTD. Such municipal service taxing unit shall be known as the Key Largo Wastewater Treatment District Municipal Service Taxing Unit. All matters concerning such municipal service taxing unit shall be governed by the Board.

(B) The boundaries of the Key Largo Wastewater Treatment District Municipal Service Taxing Unit (MSTU) are also described in Exhibit A hereto and same are incorporated by reference.

(C) From time to time the Board may by resolution take any action not inconsistent with this Ordinance or the Transition Agreement to assist the KLWTD in funding the administration, planning and development of wastewater and reclaimed water projects within and benefiting the Key Largo Wastewater Treatment District Municipal Service Taxing Unit.

SECTION 4. AUTHORIZATION OF AD VALOREM TAXES.

(A) The Board is hereby authorized, in the manner and under the authority provided by section 125.01(1)(q) and (r), Florida Statutes, to levy and collect additional ad valorem taxes at a millage rate not to exceed 0.35 mil upon real and personal property within the Key Largo Wastewater Treatment District Municipal Service Taxing Unit commencing with County fiscal year 2003-2004. The foregoing millage limitation shall not be increased without the Key Largo Wastewater Treatment District first adopting a resolution consenting thereto.
(B) The collection of ad valorem taxes as authorized herein shall cease after four (4) consecutive fiscal years and the Key Largo Wastewater Treatment District Municipal Service Taxing Unit shall terminate at the end of County fiscal year 2007-2008.

SECTION 5. USE OF REVENUE; IMPLEMENTATION.

(A) Revenues derived from ad valorem taxes levied within the Key Largo Wastewater Treatment District Municipal Service Taxing Unit pursuant to Section 4 shall be used solely to pay for and provide funding for administration, planning and development costs associated with and incurred in advancing of wastewater and reclaimed water projects within and benefiting the Key Largo Wastewater Treatment District Municipal Service Taxing Unit.

(B) The Board shall adopt a budget for the Key Largo Wastewater Treatment District Municipal Service Taxing Unit for the fiscal year beginning October 1, 2003, and each year thereafter, at the same time and in the same manner as the County budget. Such budget shall contain all or such portions of the costs incurred and planned in conjunction with the funding of municipal services contracted to be provided by the Authority under any interlocal agreement.

SECTION 6. SEVERABILITY. Should any provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this Ordinance as a whole, or any part thereof, other than the part declared to be invalid.

SECTION 7. CONFLICT WITH OTHER ORDINANCES. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of said conflict.

SECTION 8. INCLUSION IN THE CODE OF ORDINANCES. The provisions of this Ordinance shall be included and incorporated in the Code of Ordinances of the County of Monroe, Florida, as an addition or amendment there to, and shall be appropriately renumbered to conform to the uniform numbering system of the code.

SECTION 9. EFFECTIVE DATE.

(A) The effectiveness of this Ordinance shall be subject to the Key Largo Wastewater Treatment District adopting a resolution consenting to the inclusion of the unincorporated areas of the Key Largo Wastewater Treatment District within the boundaries of the Key Largo Wastewater Treatment District Municipal Service Taxing Unit.
Ordinance Creating Key Largo Wastewater Treatment District MSTU

(B) This Ordinance shall be filed with the Department of State prior to June 30, 2003.

(C) After enactment by the Board, this Ordinance shall be filed with the Department of State as provided in section 125.66(2), Florida Statutes.

[Remainder of page intentionally left blank.]
PASSED AND ADOPTED by the Board of County Commissioners, Monroe County, Florida at a regular meeting of said Board held on this 20th day of May, 2003.

Mayor Dixie Spehar
Mayor Pro Temp Murray Nelson
Commissioner George Neugent
Commissioner Charles "Sonny" McCoy
Commissioner David Rice

yes
yes
no
yes
yes

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By: Dixie M. Spehar
Mayor/Chairperson

Danny Kolhage, Clerk

By: Franklin Stancil
Deputy Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: Robert W. White
Dated 6/13/03

FILED FOR RECORD

2003 JUN 17
AM 11:50
DANNY L. KOLHAGE
MONROE COUNTY, FLA.
EXHIBIT A

KEY LARGO WASTEWATER TREATMENT DISTRICT MUNICIPAL SERVICE TAXING UNIT AREA

The Municipal Services Taxing Unit will include all areas within the boundaries of the Key Largo Wastewater Treatment District inclusive as identified in the attached map graphic.
AMENDED RESOLUTION 2003-4

A RESOLUTION BY THE KEY LARGO WASTEWATER TREATMENT DISTRICT BOARD OF COMMISSIONERS REQUESTING THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS TO ADOPT A MUNICIPAL SERVICES TAXING UNIT ("MSTU") AND ESTABLISHING A SUGGESTED MSTU MILLAGE RATE FOR KEY LARGO WASTEWATER TREATMENT DISTRICT

WHEREAS, the establishment by the Monroe County Board of County Commissioners of a MSTU would serve a valid county purpose and a special district purpose, specifically for water, wastewater and sewage collection and disposal and related municipal services;

WHEREAS, pursuant to section 125.01(2), Florida Statutes, the Board of County Commissioners shall be the governing body of any MSTU created pursuant to section 125.01(1)(q), Florida Statutes;

WHEREAS, the Board of Commissioners of the Key Largo Wastewater Treatment District desires to request the Monroe County Board of County Commissioners to establish a MSTU for the District, pursuant to section 125.01(1)(q), Florida Statutes.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE KEY LARGO WASTEWATER TREATMENT DISTRICT:

1. The Board hereby requests the Monroe County Board of County Commissioners to establish a MSTU for the District, pursuant to section 125.01(1)(q), Florida Statutes.

2. The Board hereby recommends that a millage rate not to exceed .35 should be applied to the Board's request to the Monroe County Board of County Commissioners of establishment of a MSTU.

PASSED AND ADOPTED this 29th day of January, 2003.

FAILED this _____ day of January, 2003.

KEY LARGO WASTEWATER TREATMENT DISTRICT GOVERNING BOARD

Chair, Key Largo Wastewater Treatment District

Secretary
INTERLOCAL AGREEMENT
Key Largo Wastewater Treatment District

THIS INTERLOCAL AGREEMENT (Agreement) is entered into pursuant to Sec. 163.01, FS, by and between Monroe County, a political subdivision of the State of Florida, (County), and the Key Largo Wastewater Treatment District, an independent special district, (KLWTD).

WHEREAS, the Board of County Commissioners created the following municipal services taxing unit (MSTU): The Key Largo Wastewater Treatment MSTU (Ordinance No. 018-2003) for the purpose of funding the costs associated with the administration, planning and development of wastewater and reclaimed water projects within the MSTU, the boundaries of which are identical to the boundaries of the KLWTD;

WHEREAS, the KLWTD is authorized by Chap. 2002-337, Laws of Florida, to plan, design, and develop wastewater treatment systems and KLWTD employs, or has under contract, individuals professionally qualified to accomplish those tasks;

WHEREAS, the County desires that the KLWTD perform the planning and development studies necessary as a condition precedent to the development of central wastewater collection and treatment infrastructure and to develop the infrastructure needed to serve the property owners within the MSTU;

WHEREAS, the KLWTD is able and willing to undertake the tasks afore described; now, therefore

IN CONSIDERATION of the mutual consideration and promises set forth below, the parties agree as follows:

1. The parties agree that the revenue to fund this agreement consists of the annual ad valorem tax levied on real estate within the MSTU created by Ordinance No. 018-2003. A copy of the MSTU Ordinance is attached to and incorporated in this agreement as Exhibit A. In each fiscal year during the term of this agreement the County's obligation to pay the KLWTD for services rendered under this agreement may not exceed the total amount of revenue actually collected from the ad valorem tax levied within the MSTU. The County also reserves the right to fund this
agreement from any legally available revenue source which is not ad valorem in an amount equal to that which would be generated by the MSTU ad valorem levy.

2. a) The ad valorem tax revenue collected by the MSTU shall be used solely to pay for and provide funding for administration, planning, and development costs associated with and incurred in advancing of wastewater and reclaimed water projects within and benefiting the KLLWTD MSTU, without regard to whether the costs were incurred by the KLLWTD before or after the effective date of Ordinance No. 018-2003 (May 20, 2003).

b) All funds transferred by the County to the KLLWTD under this agreement may only be spent for the purposes described in subparagraph 2(a) of this agreement. Upon the effective date of this agreement, the County shall pay to the KLLWTD 20% of the amount of ad valorem tax revenue estimated by the Clerk of the Circuit Court (Clerk) to be collected by the MSTU in fiscal year 2003-2004. Thereafter, during the course of the fiscal year the KLLWTD may request additional payments of 20% upon submission of documentation of previous expenditures equaling 20% of the total amount of ad valorem revenue collected until the total amount of ad valorem tax revenue collected by the MSTU for the fiscal year is exhausted. For the purposes of this agreement the phrase “total amount of ad valorem revenue collected” excludes those amounts paid to the Property Appraiser, Tax Collector and Clerk for their services in collecting and dispensing the MSTU ad valorem tax revenue. The disbursement process just described shall also be utilized in the subsequent fiscal years of this agreement.

For funds forwarded or transferred to the KLLWTD under this agreement, the KLLWTD must establish fiscal control and fund accounting procedures that comply with generally accepted government accounting principles, satisfactory to the Clerk, in order to assure that the MSTU funds transferred to the KLLWTD are spent for the purposes set forth in this agreement. All KLLWTD financial records pertaining to this agreement must be made available, upon request, to the Clerk, an auditor employed by the County or the State of Florida. Any funds transferred by the MSTU to the KLLWTD under this agreement that are determined by the Clerk, an auditor employed by the County or employed by the State to have been spent on a purpose not contemplated by this agreement must be paid back to the County with interest calculated pursuant to Sec. 55.03(1), F.S.,
from the date the auditor determines the funds were expended for a purpose not authorized by this agreement. The KLWTD agrees to provide the Clerk with quarterly status reports concerning the expenditure of MSTU funds in sufficient detail to demonstrate compliance with the provisions of this agreement.

c) Written notices required by this Agreement shall be sent by certified mail or a national courier service (e.g. Federal Express) to:

For the County
George Garrett, Director
Marine Resources
Marathon Government Center
2798 Overseas Highway
Marathon, FL 33050

For the KLWTD
David Miles, Director
Key Largo Wastewater Treatment District
Attn: Finance Department
614 North Wymore Road
Winter Park, Fl 32789-2862

3. This agreement will terminate at the end of fiscal year 2007-2008.

4. The parties agree that this written document represents their final mutual agreement and replaces any prior agreements, understandings, or communications on the subject matter of this agreement, whether written or oral.

5. This agreement will take effect on the date a copy executed by both parties is filed with the Clerk of the Courts of Monroe County, Florida.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals this 17th day of December, 2003.

(SEAL)
ATTEST: DANNY L. KOLHAGE, CLERK

By
Deputy Clerk

(SEAL)
Attest:

By
Secretary
Date 12-16-03

JlaKLWTD.dk

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By
Mayor/Chairperson

KEY LARGO WASTEWATER
DISTRICT BOARD

By
Chairman

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:

ROBERT N. WOLFE
CHIEF ASSISTANT COUNTY ATTORNEY
Date 12-16-03
December 22, 2003

Amy L. Kolhage
Ler of the Circuit Court
Key West, Florida

Fax: 305-295-3663

Dear Mr. Kolhage,

When we met last week, I think you advised me that you had an opinion from the County Attorney's office upon which you base your position that MSTU funds cannot be used for general expenses of the Key Largo Wastewater Treatment District. Unfortunately, neither Mr. Collins nor Mr. Wolfe seems to be able to locate a copy of that letter.

When we talked last, I believe you said that you could provide a copy. I would appreciate it if you could send a copy by fax to me at 853-2693.

Thank you,

Thomas M. Dillon
Attorney

Board of Commissioners: Chairman Gary Bauman, Andrew Tobin, Cris Beaty, Charles Brooks, Jerry Wilkinson
MEMORANDUM

DATE: June 18, 2002

TO: Jim Hendrick
    BOCC members
    County Attorney

FROM: Rob Wolfe
      Chief Assistant County Attorney

RE: Commissioner Nelson's item regarding transfer of funds ($100,000)
    Key Largo Wastewater Treatment District

I believe the BOCC may, pursuant to Sec. 163.01, FS, enter into an interlocal agreement with the District for part of the payment of the District's costs in planning and construction of wastewater treatment facilities, providing the Board determines that such a payment serves a County purpose. Alternatively the County could lend the District the funds, see AGO 2000-25.

There are two caveats to the above:

1. The funds could not be paid out of the County general fund. That fund contains revenue raised through a County-wide (including the cities) ad valorem levy. The reason is that the District is serving a specific municipal purpose in Key Largo without a benefit to, say, Key West. See Town of Palm Beach v. Palm Beach County, 460 So.2d 879 (Fla. 1984). Infrastructure sales tax funds may be available, although I assume Mr. Roberts has more insight on this issue than I do.

2. The County funds should also not be used for general administrative purposes of the District (as opposed to the planning and construction). The reason for this is that the District is an independent special district, i.e., it is not a part of County government. Under Art 7, Sec. 9, Fla. Cons’t. (1968), the BOCC may levy taxes (including the
infrastructure sales tax) for its "respective purposes." While the Board may determine that the planning and the construction of Key Largo wastewater treatment facilities constitutes a County purpose and enter into an agreement with the District to carry out that purpose, it is questionable that general District administrative expenses constitute a respective purpose of the County anymore than paying the expenses of the Key West City Manager or the City Attorney. The result would be different if the District were dependent, i.e., the BOCC was also the governing body. In that situation, the District would be just another County financing mechanism that could have its administrative expenses at least partially funded out of non-District funds. See State v. Sarasota County, 372 So.2d 1115 (Fla. 1979).

I have consulted with Mr. Kolhage regarding the foregoing and he concurs.

I would finally point out a certain practical problem with entering into an interlocal agreement with the District, to-wit: nobody is presently home at the District, the elections for the District board not yet having taken place. At the moment, who can agree to an interlocal agreement on the District's behalf?

RNW/jeh

cc: Danny Kolhage
From: Mr. Danny L. Kolhage

Date: 12/22/2003

Attention: Mr. Danny L. Kolhage

Company:

Fax Number: 295-3663

Voice Number:

To: Thomas Dillon

Company:

Fax Number: 305-853-2693

Voice Number: 305-304-6735

Subject: MSTU usage

Comments:

Please see attached letter.

Letter from County Attorney attached.

EX. F
December 29, 2003

Mr. Richard Collins
County Attorney
Monroe County
P.O. Box 1026
Key West, Florida 33041-1026

Re: Use of County funds for Key Largo Wastewater Treatment District ("District") administrative expenses.

Dear Richard:

The purpose of this letter is to request that your office reconsider an opinion memorandum issued by the Chief Assistant County Attorney, Rob Wolfe, dated June 18, 2002, and specifically that your office advise Mr. Kolhage that funds collected by Monroe County ("County") may be used to cover administrative expenses of the District. In particular, this request applies to the funds loaned to the District by the County and the funds collected by the County on behalf of the District as a Municipal Services Taxing Unit ("MSTU") for District administrative expenses.

Background

On December 17, 2003, you and I discussed with Mr. Kolhage the propriety of using certain funds to pay District administrative expenses. Mr. Kolhage advised us that he was relying on a County Attorney’s opinion for the proposition that funds collected by Monroe County ("County") could not be used for those expenses. You were unaware of the opinion, but you said that the opinion likely would have been written by Mr. Wolfe. On December 18, I contacted Mr. Wolfe by telephone, and he did not recall the opinion. Finally, on December 22, I wrote to Mr. Kolhage, who provided me a copy of the opinion memorandum on the same day. A copy is attached hereto for your reference.

The opinion memorandum was written before the District was organized and therefore without District input. The memorandum reaches two main conclusions. First, the memorandum concludes that County funds cannot be spent to construct sewer improvements in Key Largo because the funds include revenue raised through a County-wide ad valorem levy and the expenditure of those funds allegedly would not benefit Key West or, presumably, any other incorporated area. Second, the memorandum concludes that County funds cannot be used to pay District administrative expenses because the District is an independent special district.

As more fully set out below, I believe that the opinion memorandum incorrectly states the law regarding a county’s right to use funds levied on property within an incorporated municipality to construct improvements in unincorporated areas of the county. Further, Mr. Kolhage’s position that MSTU funds cannot be used to pay District administrative expenses is not supported by the law or the opinion letter.

1. The County is not prohibited from spending general fund revenues on a sewer project in Key Largo.

Article VIII, section 1(h), Florida Constitution ("Section 1(h)"), provides:

Property situate within municipalities shall not be subject to taxation for services rendered by the county exclusively for the benefit of the property or residents in unincorporated areas.

Board of Commissioners: Chairman Gary Bauman, Andrew Tobin, Cris Beaty, Charles Brooks, Jerry Wilkinson
Our Supreme Court has described Section 1(h) as a provision that prohibits double taxation. Generally speaking, a county may not expend funds collected as ad valorem taxes on property within municipalities unless the municipalities and their residents receive a benefit. The benefit must be of a magnitude described by the court as "real and substantial." *City of St. Petersburg v. Briley, Wild & Associates*, 239 So.2d 817, 823 (Fla. 1970); *Town of Palm Beach v. Palm Beach County*, 460 So.2d 879, 881 (Fla. 1985). As the court stated in *Palm Beach*,

substantial is not necessarily a quantifiable term and a benefit may achieve substantiality without being direct or primary. All that is required is a minimum level of benefit which is not illusory, ephemeral or inconsequential.

*Id.*

Notably, the *Palm Beach* court held that a person challenging the expenditure of funds must carry the burden to prove that a service provided by a county and funded by county-wide revenues does not provide a real and substantial benefit to the particular municipality. *Id.* This is a heavy burden. *Id.* In the *Briley, Wild* decision, the court held specifically that the construction and operation of a sewage treatment plant in the unincorporated area of a county can provide a real and substantial benefit to the municipalities by reducing pollution from open sewage discharge, saying:

Water pollution and the attendant diseases and ills to human habitation that flow therefrom know no city or county lines. The evidence before the trial court indicates that the contamination of the waters of Pinellas County which occurs in the unincorporated areas contaminates waters located in the incorporated areas through the natural process of flow. Disease originating in the unincorporated areas resulting from improperly-treated sewage can and will readily spread throughout the county. Protection against such contamination and disease is not merely an incidental or collateral benefit which would result to the incorporated areas of the county by the correction of the problem in the unincorporated areas. This Court takes judicial knowledge of the fact that Pinellas County, with its numerous bays and streams, some of which are within the County and others contiguous thereto, is one of the finest recreation areas devoted to boating, fishing and swimming, in the entire southeastern portion of the nation. The population of this area has increased by leaps and bounds during the last decade as evidenced by the unofficial 1970 Census recently published by the U.S. Census Bureau. The population of Pinellas County during this decade increased from 374,000 plus to 515,000 plus, or a percentage increase of approximately thirty-six per cent. And the record indicates that this increase in population has brought with it attendant increase in pollution and contamination of the waters, soils and streams of the County, and that the present sewage disposal systems are not adequate to cope with the same. We are now living in a time when our citizenry is pollution conscious. As Judge John Rawls of the District Court of Appeal, First District of Florida, recently remarked in *St. Regis Paper Company v. State of Florida, by and through Fla. Air and Water Pollution Control Commission*, 237 So.2d 797, opinion filed July 14, 1970, "ecology is the 'in' subject of today's citizenry, as it well should be." Some of the beaches of Florida have become almost uninhabitable with a great deal of the condition caused by inadequate sewage treatment and disposal. Again quoting Judge Rawls, "Man of all animals pollutes his habitat the greatest."

It is impossible to separate as between the various areas of the county the deleterious effect upon the public health of contamination and pollution occurring in a particular area. It is unrealistic to say that the elimination of pollution and contamination of the soils, waters and streams of the unincorporated areas of Pinellas County will not be of substantial benefit, health-wise and recreation-wise, to the incorporated areas.
Id. at 824.

The Chief Assistant County Attorney's memorandum of June 18, 2002, seems to overlook the Briley, Wild decision, and to assume that there can be no benefit to the incorporated municipalities from construction of a sewer system in Key Largo. The memorandum fails to cite any evidence in support of that proposition and fails to consider that a "real and substantial" benefit to the residents of the incorporated areas does not require that they receive a "direct and primary" benefit. An argument can be made that residents of incorporated portions of Monroe County will not receive a direct and primary benefit from sewer ing the District, since the sewer system will not be built within those incorporated portions. But, in light of Briley, Wild, there cannot be any serious argument that sewer ing of the District will provide a direct and substantial benefit to the water quality of all of Monroe County, including the incorporated areas.

I believe that if this issue were seriously considered, any impartial trier of fact would be hard pressed to find that the District's sewer projects do not confer upon the municipalities a real and substantial benefit. In fact, all of Monroe County will suffer if the District's project is not funded. The recent correspondence between the Department of Community Affairs and Mayor Nelson shows that both the State of Florida and Monroe County consider sewage treatment issues to be matters of county-wide concern. Therefore, the incorporated portions of the County will clearly receive a direct and substantial benefit from sewer ing the District, and the County may spend general fund moneys on that work.

2. There is no authority for the proposition that the ability to use county funds to cover administrative expenses of a special district turns on whether the district is dependent or independent.

The memorandum cites the decision in State v. Sarasota County, 372 So.2d 1115 (Fla. 1979) for the proposition that a county's ability to fund administrative expenses turns on whether a district is dependent or independent. Although it appears from the Sarasota decision that the special utility district at issue was formed by the county as a dependent district, the decision simply does not make the distinction attributed to it by the opinion. Nor does the decision imply a test based on whether the administrative functions of the district may be similar to, or duplicate, those of the county. In fact, nothing in the Sarasota decision alters conclusion in Briley, Wilde and its progeny. If the expenditure of county funds confers a real and substantial benefit to the incorporated portions of the county, the county may expend the funds regardless of whether the District is independent or dependent.

Further, there is no basis for the assumption in the memorandum that spending general fund moneys on District general expenses would duplicate County functions. There is no portion of County government with direct responsibility to provide wastewater treatment for the area encompassed by the District. No one in County Government has been elected, appointed, or otherwise designated to ensure that a sewer system will be built in District or to perform any of the administrative tasks necessary to accomplish the planning and construction of a sewage treatment system in the District.

As established by the Legislature, the District has "exclusive jurisdiction over the acquisition, development, operation, and management of a wastewater managements system in and for the district boundaries." Only the Board of the District has the authority and responsibility to plan and construct the system, including holding hearings and public meetings, preparing procurement documents, approving and administering contracts and all the myriad tasks incidental to that responsibility. The District's exclusive role clearly shows that its functions do not duplicate those of the County.

3. District administrative expenses are an integral part of the cost of sewer ing the District.

The District is the agency created by the Legislature with the exclusive authority to provide a sewer system for Key Largo. The District's purpose, as established by the Legislature, includes:
To perform such acts as shall be necessary for the sound planning, acquisition, development, operation, and maintenance of a wastewater management system within the district, including all business facilities necessary and incidental thereto. The district shall have exclusive jurisdiction over the acquisition, development, operation, and management of a wastewater management system in and for the district boundaries.

There can be no doubt that the wastewater management system will not plan, acquire, develop, operate, or maintain itself. These tasks can be accomplished only if a Board is in place to accomplish them. The costs of the Board are therefore incidental to, and a part of, the costs of planning, acquisition, development, operation, and maintenance. Because the cost of sewer ing the District is a proper object of expenditure of County funds, it is clear that the cost of administering the District is also a proper object of such expenditures. There is, therefore, no basis for the Chief Assistant County Attorney’s conclusion that these costs cannot be paid from County funds.

4. Use of MSTU funds for District expenses, including administration, does not violate the “double taxation” principal.

The Board of County Commissioners adopted Monroe County Ordinance 018-2003 on May 20, 2003. The express purpose of the ordinance was to set up a Municipal Services Taxing Unit (“MSTU”) to “fund the provision of municipal services associated with the administration, planning and development of wastewater and reclaimed water projects within the municipal service taxing unit.” Ordinance 018-2003, Section 2(C). Further, the ordinance is to “be liberally construed to effect the purposes thereof.” Id.

Assuming for the sake of discussion that the double taxation principal in Florida Constitution Section 1(h) prohibited the expenditure of county general funds within the District, that principal does not apply to MSTU funds, which have been collected by ad valorem taxation of property located within the District, and not from incorporated portions of the County. Moreover, the ordinance expresses the County’s intent to use the MSTU mechanism as a method of providing funds to achieve a purpose that benefits the County.

Chief Assistant County Attorney’s memorandum was prepared before the adoption of Ordinance 018-2003, and before the BOCC expressed its desire to provide funding for the administration of the District. The BOCC’s expression of purpose should be sufficient to allow the County Attorney to render an opinion that the MSTU funds can be used for administrative purposes.

5. The County’s interpretation of the law regarding the use of County funds for special districts appears to be unprecedented.

After Mr. Kolhage explained to you and me his position regarding County funds, I wrote to Charles Profilet, the Executive Director of the Florida Association of Special Districts to ask whether Mr. Kolhage’s position was a generally accepted one? He wrote back advising that he did not have an answer. Copies of the correspondence are attached. I am not aware of any other county that takes a position similar to that of Mr. Kolhage, and I believe that it does not represent the state of the law.

Conclusion.

Based on the foregoing, I respectfully request that you reconsider the Chief Assistant County Attorney’s advice to Mr. Kolhage as expressed in the attached memorandum. I believe that the advice is not supported by the facts or the law, and that the County Attorney should advise Mr. Kolhage that the use of County funds, including MSTU funds and county general funds may properly be expended to support the administration, planning and development of a wastewater treatment system within the District, including the costs of honoraria for Commissioners attending meetings of the District.
Yours truly,

Counsel for Key Largo
Wastewater Treatment District
March 3, 2004

Mr. Danny Kolhage  
Clerk of Courts  
Monroe County  
500 Whitehead Street  
Key West, FL 33040

Dear Mr. Kolhage:

Pursuant to the tax distribution Interlocal Agreement between Monroe County and the Key Largo Wastewater Treatment District (the District), dated December 17, 2003, attached is draw number 2 from the Key Largo Wastewater Treatment District MSTU. Please find attached the appropriate backup information for the following list of payments made by the District:

<table>
<thead>
<tr>
<th>Check No.</th>
<th>Payee</th>
<th>Reason</th>
<th>Amount</th>
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<tbody>
<tr>
<td>355</td>
<td>FMIT</td>
<td>Liability Insurance (1st Qtr)</td>
<td>$1,875.00</td>
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<td>358</td>
<td>FL. DCA</td>
<td>Special Dist Fee (03/04)</td>
<td>175.00</td>
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<tr>
<td>364</td>
<td>BellSouth</td>
<td>Telephone Bill (Oct. 03)</td>
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<td>366</td>
<td>GSG, Inc.</td>
<td>Management Fees (Oct 03)</td>
<td>10,800.00</td>
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<td>367</td>
<td>Cooke Commtns</td>
<td>Legal Ads (Oct 03)</td>
<td>290.35</td>
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<tr>
<td>368</td>
<td>GSG, Inc.</td>
<td>Copy/Postage Charges (Oct 03)</td>
<td>1,140.90</td>
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<tr>
<td>369</td>
<td>GSG, Inc.</td>
<td>Management &amp; Misc Fees (Nov 03)</td>
<td>12,176.49</td>
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<tr>
<td>370</td>
<td>Lewis, Longman, Walker, P.A.</td>
<td>Legal Fees</td>
<td>841.60</td>
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<td>373</td>
<td>Mull &amp; Assoc.</td>
<td>Annual Audit</td>
<td>2,250.00</td>
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<tr>
<td>374</td>
<td>BellSouth</td>
<td>Telephone Bill (Nov. 03)</td>
<td>84.50</td>
</tr>
<tr>
<td>375</td>
<td>Thomas Dillon</td>
<td>Legal Fees (Oct 03)</td>
<td>636.50</td>
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<td>376</td>
<td>Cooke Comm.</td>
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<td>Legal Fees (Final - Sept 03)</td>
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<td>The News Press</td>
<td>Legal Ads (Nov 03)</td>
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<td>Bellsouth</td>
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<td>Management &amp; Misc Fees (Jan 04)</td>
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<td>BellSouth</td>
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<td>387</td>
<td>Citizens Conf.</td>
<td>Conference Calls</td>
<td>151.25</td>
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<td>388</td>
<td>Thomas Dillon</td>
<td>Legal Fees (Nov &amp; Dec 03)</td>
<td>14,859.88</td>
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</table>

Board of Directors: Chairman Gary Bauman, Cris Beaty, Charles Brooks, Andrew Tobin, Jerry Wilkinson
389  TIB Bank  Loan Interest  377.15  
392  BellSouth  Telephone Bill (Feb 04)  97.51  
393  GSG, Inc.  Management & Misc Fees (Feb 04)  13,019.50  
394  Mull & Assoc.  Annual Audit  1,840.00  
395  Weiler Engineering  Professional Svs (Calluso Campgrd)  7,455.00  

**Total Accounts Payable Checks:**  $99,686.10

**Payroll Expenses:**

<table>
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<th>Date</th>
<th>Amount</th>
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<tbody>
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<td>3/26/03</td>
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<td>8/28/03</td>
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<tr>
<td>9/10/03</td>
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<tr>
<td>11/10/03</td>
<td>4,844.25</td>
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<td>12/11/03</td>
<td>2,906.55</td>
</tr>
<tr>
<td>1/9/04</td>
<td>3,229.50</td>
</tr>
</tbody>
</table>

**Total Payroll:**  $51,565.05

**Total Requested:**  $151,251.15

I am hereby requesting that the check of $151,251.15 be mailed to the new address of the KLWTD Finance Department as follows:

Key Largo Wastewater Treatment District  
ATTN: Finance Department  
280 Wekiva Springs Road #203  
Longwood, FL 32779

I certify that the above checks have been submitted to the vendors as noted and that the expenses are accurate and in agreement with the records of the Key Largo Wastewater Treatment District.

Your immediate assistance with this request would be appreciated. I can be reached at (407) 629-6900 if there are any questions.

Sincerely,

DAVID R. MILES, CGFO  
Chief Financial Officer

cc: KLWTD Board of Commissioners  
District Manager, Robert Sheets  
District Attorney, Tom Dillon
I just received a phone call from Danny Kohlage. He was in receipt of our MSTU payment request number 2 for $151,251.15. This request was supported by $99,686.10 in accounts payable payments made between October 2003 and February 2004, plus $51,251.15 of board payroll expenses from November 2002 through January 2004.

The purpose of his call was to tell me that he could not reimburse any of the expenses in the draw, because they were all "administrative expenses", and not specific project engineering or construction expenses for either the Park or Village projects.

I told him that it was my understanding that these were precisely the types of expenses that the MSTU was set up by the County to pay. He then stated he still had a County Attorney letter that told him that these payments for administration were not allowable expenses. I told him that our Board Attorney had spoken with Mr. Collins the County Attorney, and that he was told Mr. Collins was rescinding the letter that Mr. Kohlage had in hand, written by an Assistant County Attorney. Danny appeared to be unaware of that fact.

He was aware that a local bill was pending in the legislature, but stated that until it passed, he could not disburse additional MSTU funds to the District.

He stated he would contact Representative Sorensen and County Attorney Collins to check on the status of the local bill and the letter rescinding the Assistant County Attorney letter. He said he would then get back to me. Right now he will not pay against our draw number 2, even in the form of an additional advance.
Key Largo Wastewater Treatment District
Board of Commissioner's Meeting Agenda
5:00 PM Wednesday, February 4, 2004
Key Largo Civic Club, 209 Ocean Bay Drive
Key Largo, Monroe County, Florida

Board members present
Gary Bauman
Cris Beaty
Charlie Brooks
Andrew Tobin
Jerry Wilkinson

Staff Present
Charles Sweat, GSG
David Miles, GSG
Thomas Dillon, Board Attorney
Ed Castle, WEC, Board Engineer
Michael Hatfield, WEC, Board Engineer
Faith Doyle, Board Clerk

Guest present

A. Call to Order
Chairman Bauman called the meeting to order at 5:08 p.m.

B. Pledge of Allegiance

C. Additions, Deletions or Corrections to the Regular Meeting Agenda
Mr. Wilkinson stated that certain discussion items have been neglected because of the lengthy agendas. Chairman Bauman agreed that certain items merit further consideration and should be carried over if the members consider them relevant.

Commissioner Brooks motioned to approve all the minutes except for the January 14, 2004. Commissioner Brooks stated that he did not have difficulty with the minutes but with what was discussed at the meeting. Commissioner Tobin seconded for discussion. Mr. Tobin does not believe that a verbatim transcript is needed but only a summary with the motions, seconds and votes. The audio tapes are also available. Commissioner Brooks asked Mr. Dillon if he bills
for review of the minutes. Mr. Dillon confirmed that review of the minutes is considered part of the $100 charge for attending a meeting. Discussion ensued on the need for summary minutes which are more detailed or motion minutes which include only the final actions taken by the Board. Commissioner Wilkinson asked Mr. Dillon what his position is concerning the minutes. Mr. Dillon advised that the meeting minutes are hearsay, and that the recording is the actual record of the meeting; whether the minutes are summary in form or more descriptive of the discussions was not legally significant. Commissioners Wilkinson, Brooks and Beaty expressed a preference for more detailed minutes. Chairman Bauman called for a vote on the January 7, 2004; December 3, 2003; November 19, 2003; and the November 5, 2003. All were in favor and the motion was approved. The Board requested that the January 14, 2004 minutes be placed on the next agenda.

E. Public Comment

Mr. Tobin introduced Mr. Bill Guy who is a local contractor who could do laterals because he is an underground utility contractor. Commissioner Tobin suggested he introduce himself to Mr. Messer of D.N. Higgins.

Mr. Michael Hatfield of WEC was introduced and it was noted that he will be involved with the KLTV and KLP projects.

F. Action Items

1. Pending Payments List

Chairman Bauman brought the pending payment list to the floor for consideration. Commissioner Tobin discussed flat fee billing and payment options of the GSG Contract. He has concerns with the construction management contract. Commissioner Tobin stated that because of the notice of resignation this should be reconsidered. He is open to suggestions for a resolution of how the payments should be made on a contract that is not going to be fulfilled. Commissioner Brooks also stated concerned with making payments for services that may be a duplication of effort and it appears that some of the tasks being performing are purely administrative.

Commissioner Wilkinson asked if there was a formal resignation. Chairman Bauman stated that an official notice had not been received. Mr. Sweat was asked if he had a letter with him to present to the Board. Mr. Sweat stated that he did not but he would provide one if the Board wishes. Chairman Bauman stated that a letter was to be provided and Mr. Sweat stated that he would insure that one was provided.

Discussion continued concerning Chairman Bauman’s instructions to Mr. Dillon to prepare a time and material contract with strict documentation of time spent and that the fixed fees should be removed so that a final payment can be determined. Commissioner Tobin doesn’t believe that would rectify the situation and that the payments should be discussed among Mr. Dillon and Mr. Miles who should be able to determine an equitable figure to conclude the contract. Chairman Bauman requested that Commissioner Tobin, Mr. Miles and Mr. Dillon review the GSG invoices, contract and work authorizations and provide him with a time and materials contract. Commissioner Tobin wants a reconciliation of the flat fee contract.
Discussion ensued on the details of the 30% design meeting that had taken place amongst staff earlier. Commissioner Brooks had attended the meeting and observed the actions of staff and thought that it was a very productive meeting.

Commissioner Tobin doesn’t want to pay the GSG bills until time and attendance records and a brief description of what the times were for has been provided. Mr. Miles stated in the January 7th agenda book the information requested had been provided. Commissioner Tobin stated that the time sheets and detail given were not sufficient. Mr. Miles discussed the information noting the hours attributed to financial management, CIP projects, etc. Commissioner Tobin stated the monthly breakdown doesn’t give you a great indicator and assuming that the information is true we have to understand how much money is owed. Mr. Miles noted that a ½ a man year of time has been accrued by GSG for the Key Largo work.

Commissioner Beaty suggested that installment 5 of 24 be paid to true things up and have GSG work for a time and materials basis from this point forward. Commissioner Tobin agreed that installment 5 of 24 should be paid today and then reconcile what to do from this point forward and that the termination date should be April 1, 2004. Mr. Miles cautioned the Board that time and materials would increase the KLWTD costs greatly.

Discussion continued concerning when notification was given, if 90 days severance pay is required, on the effective date of the notice and monies owed. Mr. Sweat stated that GSG would not leave the board high and dry, and would provide service until the transition.

Mr. Sweat stated that the termination letter would terminate the fixed price contract and initiate the time and material option. Commissioner Wilkinson asked Mr. Dillon if a letter is required to be sent. Mr. Dillon stated that a letter would provide documentation.

Chairman Bauman asked if there were any other questions on the payments pending list. Commissioner Wilkinson stated that the legal invoices should be reviewed to verify if some of the costs could be reimbursed from project funds. Discussion ensued concerning shortfalls in the project funds if it is financially prudent.

Commissioner Tobin made a motion to approve the pending payments list. Commissioner Beaty seconded the motion adding that the KLWTD would evaluate and reconcile the GSG invoices. All were in favor and the motion was approved.

At 6:06 p.m. Commissioner Brooks requested to change the agenda to have David Andrews of Mull & Associate present the Comprehensive Annual Financial Report. Mr. Andrews reviewed the document which had been provided to the Board. Mr. Andrews stated that Gatsby 34 brings government accounting more similar to corporate accounting and that the independent auditors report states that the accounting provides a reasonable basis and standards for an audit and to develop an opinion. Commissioner Tobin asked what Mull does in relationship to over site of GSG. Mr. Andrews stated that Mull reviews contracts in comparison with financial transactions.

Mr. Miles stated that the Board should accept the information and then it can be filed as per act 189. The Annual Financial Report must be forwarded to the Department of Banking and Finance. It must be executed by the Chairman and will be brought to the Board on February 18th for consideration. It must go within 45 days to the Department of Banking and Finance. A copy will be forwarded to Monroe County and it needs to be forwarded to the bank and any
grantor agency. Mr. Andrews notes that on page 16 the $78,000 deficit that if it remains in the CAFR for two years extra reporting would be required. Discussion ensued concerning the CAFR report.

Commissioner Tobin moved to accept the report as information only. Commissioner Wilkinson seconded for discussion. He questioned the populations and the acreage reported. Discussion ensued if Monroe County might forgive the loan. Commissioner Wilkinson stated that Mayor Nelson told him that the loan could be forgiven by submitting qualifying paid invoices to the County Clerk's office. All were in favor and the motion carried.

Mr. Sweat stated that he and Mr. Messer had discussed presenting a purchase order to Roevac for the pits because it is a two month lead time item and the risk would be Roevac's and not the Board's. Mr. Messer would take possession of the pits until they are used for construction. Discussion ensued. Mr. Messer stated that Higgins would issue the purchase order. Discussion ensued concerning the Board issuing the purchase order to save on the sales tax. Chairman Bauman and commissioner Beaty supported the idea. Commissioner Brooks wants the KLWTD to sign the purchase order. Mr. Dillon stated that he should review the Higgins prepared purchase order prior to the KLWTD signing it.

Mr. Messer requested that if the Haskell change order is approved that Mr. Messer be given his bonds back.

Chairman Bauman requested that the Roediger valve pit purchase order to the next agenda.

Mr. Castle informed the Board that the staff had met at 1:00 p.m. to review the 30% design of the KLTV collection system and gravity maintenance issues were discussed. The 30% design of the treatment plant was received. Mr. Castle's initial review was positive, but several items from Appendix G need to be addressed. Mr. Dillon comments that a design protocol must be submitted and that some legal issues were raised including the Haskell notices of delay. Mr. Dillon stated that he appreciated the opportunity to attend the meeting and be present for legal issues. Mr. Castle will do the final review of the design protocol and it would be presented to the Board at the next meeting. It was noted that copies of the final concept review had been provided to the Board Chair.

Commissioner Tobin noted that Mr. Castle was impressive with his attention to detail on future maintenance issues and anticipating problems. Mr. Fishburn comments that all went well at the review and he has no issues with the 30% design and the 60% designs will be much more complete and detailed.

Mr. Will English, of the Haskell Company stated that he is meeting with George Garrett concerning site mitigation and other issues concerning the treatment plant.

Commissioner Brooks stated that he attended the staff meeting and that it was pleasant and encouraging to see the staff working well together. Commissioner Brooks believes the 60% designs would ease concerns.

Chairman Bauman recessed the meeting at 7:10 p.m.
Chairman Bauman reconvened at 7:25 p.m.
Commissioner Tobin excused himself at 7:28 p.m. stating that he recommends approval of the Haskell change order only if it notes that they don’t get paid if KLWTD doesn’t get grant funds.

Commissioner Bauman requested that the legal counsel report be next. Mr. Dillon informed the Board that he met with Mr. Collins the Monroe County Attorney and that the County Attorney said he would write an opinion that County funds could be used for the Board’s salary and other general administrative costs. The County Attorney interprets the Interlocal Agreement to require a budget line item for Board compensation. Mr. Dillon will work with Mayor Nelson to have the County add a budget line the County budget, which should correct it.

He noted that Representative Sorensen’s office had requested draft legislation to cover District issues. Mr. Dillon drafted a paragraph that amends the enabling legislation to provide for appointment by the remaining Board members of a person to fill a vacancy. Discussion ensued on the default mechanism of the 189 statute and filing vacancies.

The Board requested that the legislative changes proposed be considered as an action item on the next agenda. Discussion ensued on the cost of holding a special election and constitutional issues of making requirements on appointed officials.

2. Standard Engineering Contracts with the top ranked firms from the April 2003 CCNA process. (Please note these include all revisions that were made to the WEC contract that was previously approved by the Board)
   a. ARCADIS
   b. Boyle
   c. CPH
   d. Calvin, Giordano & Associates, Inc.
   e. Malcolm Pirnie, Inc.
   f. Metcalf & Eddy
   g. PBS&J

Commissioner Brooks made a motion to approve the Standard Engineering Contracts with the top ranked firms. Commissioner Beaty seconded the motion. Commissioner Wilkinson stated that he does not like the CCNA process. Commissioner Beaty noted that the process is required by law. Commissioner Brooks noted that on page 5 he would like the wording to be changed to reflect that the Board would make the decisions on issues with work authorizations. Mr. Miles noted that by previous Board resolution that the staff only has approval to enter into work authorizations under $2,500 and then must seek retroactive Board approval at the next meeting. Mr. Dillon suggested drafting an amendment to the agreement to reflect the Board’s desire. The Board requested that the amendment be drafted and placed as an action item on the next agenda. Commissioner Brooks noted that on page 7 article seven paragraph 3 refers to termination or suspension. Mr. Dillon stated that it is standard and is included for the event that a contract is terminated for convenience. Mr. Dillon recommended the contracts be approved. Discussion ensued on the CCNA process and the bidding process. Chairman Tobin requested a roll call vote, which was as follows:

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<td>Commissioner Brooks</td>
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KLWTD draft February 4, 2004 Minutes
The motion was approved.

3. Approval of the Revised Haskell Change Proposal for Key Largo Park

Chairman Bauman brought the item to the floor for discussion. Mr. Dillon stated that he approves of the document as to form. Mr. Beaty made a motion to approve the change order. Commissioner Wilkinson seconded for discussion. Commissioner Wilkinson stated that he believes the District is being over charged for the markup fees. Discussion ensued on the cost plus five percent issue and the contract provisions. Chairman Bauman asked the Manager to go back to Haskell to accept absorbing the cost of the change order. Commissioner Brooks moved to table the item.

G. General Manager's Report

1. Annual Audit and CAFR Presentation

See above.

2. Financial Update

Moved to the next meeting.

3. Update on the Tax Exempt Status

Moved to the next meeting.

4. Discussion on Rescheduling of the Transition Plan and Administrative Procedures Workshops

Moved to the next meeting.

H. Legal Counsel's Report

1. Meeting with Monroe County Attorney Richard Collins concerning the reimbursement of Board payroll from County funds

See above.

I. Engineer's Report

1. Design-Build Agreement design requirements (30% design submittal)

See above.

2. Calusa Campground Presentation

Mr. Castle began the presentation at 8:30 p.m. Mr. Castle concluded the presentation at 8:55 p.m. Discussion ensued on the issue of complying with the County master plan, the private land issue and RV influent.

3. Haskell Monthly Progress Reports for October, November and December

Mr. English noted that the reports are not detailed because the projects haven't begun construction. Commissioner Brooks questioned the progress reports and why they haven't been updated. Mr. Castle stated that a revised schedule should be submitted. Mr. Dillon comments
that the first two reports and the schedule provided do conflict and do demonstrate delay. Mr. English stated that MPR's usually don't start until the construction starts. Mr. Dillon noted that the contract states that the project manager was to be approved by the Board. Mr. English stated that he would provide a resume to the Board and address the issues raised concerning the progress reports with Mr. Kinsley.

4. WEC Engineering Status Report

Mr. Castle reviewed his report and stated that they will get much more detailed as time progresses and construction begins.

J. Public Comment

No one present wished to address the Board.

K. Commissioner's Items

1. Discussion of Strategic Planning and Consulting Strategic Planning Firm -- Chairman Bauman (CARRIED OVER FROM 1-14-04 AGENDA)

Chairman Bauman deferred his item to the next meeting.

2. Discussion of near shore water testing – Chairman Bauman (CARRIED OVER FROM 1-14-04 AGENDA)

Chairman Bauman deferred his item to the next meeting.

3. Discussion of “Decision Time” email dated 1-22-04 -- Commissioner Wilkinson

Commissioner Wilkinson deferred his item to the next meeting.

4. Discussion of all e-mail and other communications since our last meeting – Commissioner Brooks

Commissioner Brooks deferred his item to the next meeting.

5. Update and discussion of the PMP (Project Management Plan) regarding future Federal funding through the Army Corps of Engineers/South Florida Water Management District – Commissioner Brooks

Item K-5 was brought to the floor for discussion by Chairman Bauman. Commissioner Brooks stated that information was needed to be given to the Army Corp of Engineers by the 20th of January. He provided copies to the Board members. He reviewed the schedule of existing and possible projects that he had provided to assist in securing the funds available. He provided the information on his own because he had no direction from the Board. Commissioner Brooks passed out an email concerning the issue.

L. Meeting Adjournment

Commissioner Beaty made a motion to adjourn at 9:12 p.m. Commissioner Wilkinson seconded the motion. All were in favor.
KLWTD Board Meeting
March 17, 2004

Draft
February 18, 2004

Meeting Minutes
Key Largo Wastewater Treatment District
Board of Commissioner's Meeting Minutes
5:00 PM Wednesday, February 18, 2004
Key Largo Civic Club, 209 Ocean Bay Drive
Key Largo, Monroe County, Florida

Board Members Present
Gary Bauman, Chairman
Cris Beaty
Charles Brooks
Andrew Tobin
Jerry Wilkinson

Staff Present
Robert Sheets
Charles Sweat
Thomas Dillon
David R. Miles
Ed Castle

Guests Present
William English, The Haskell Company
Jon Morrison, Florida League of Cities
Amy Osborne, Key Largo Resident
Tom Evans, Evans Environmental
Jill Patterson, Key Largo Resident
Burkeee Cannon, Key Largo Resident
Steve Gibbs, Reporter for the Free Press
Fred & Ann Nickerson, Key Largo Residents
Kim Wigington, Key Largo Resident
Robert E. Burt, Key Largo Resident

A. Call to Order
Chairman Bauman called to order at 5:10 p.m.

B. Pledge of Allegiance
The Pledge was recited.

C. Additions, Deletions or Corrections to the Regular Meeting Agenda
Commissioner Brooks requested that a Resolution concerning sending a letter to the Florida Legislature and the Governor expressing KLWTD's unanimous support for the "Landmark Monroe County Conservation Proposal" that sets goals for protecting near shore waters and native forests be added for consideration. He explained his and Mayor Nelson's position on the issue. His point of view indicates that KLWTD should voice its opinion on the issue to the Governor. Chairman Bauman and Comm. Tobin objected to the resolution being acted on tonight and placed it as Commissioner's Item K-8 for discussion.

Commissioner Brooks also noted that with the commissioner's items being last they continue to be put off, he is interested in the discussion on Comm. Wilkinson's items K-3 and his item K-4 and suggested they be placed in front of the other commissioner's items.

Comm. Wilkinson's 2-15-04 email concerning an extension to the FEMA grant was added as Item K-9.

D. Minutes – Draft Draft October 17th 2003 and January 14, 2004

Commissioner Brooks made a motion to approve the October 17, 2003 minutes with the inclusion of Mr. Dillon's suggested changes. Commissioner Wilkinson seconed the motion. Commissioner Tobin abstained from voting because he had not had time to review the minutes. The motion was approved with a vote of four in favor and one abstention.

The January 14, 2004 minutes were tabled. Chairman Bauman requested they be included on the next meeting agenda.

E. Public Comment

Mr. Robert Burt informed the Board that the KLTV picnic would be held at the west park off Buttonwood at the end of Park Drive on March 27, 2004 at 4:00 p.m. He invited the members to attend.

Ms. Ann Osborn introduced herself as a resident of KLTV and expressed her interest in any administrative secretary/clerk positions that become available with the District. She attended the meeting to observe the work of the Board. Chairman Bauman welcomed her and stated that the transition to local employees is in the future and that once an advertisement for the position is posted the Board would consider all applications submitted.

1. Presentation by the Florida League of Cities on the KLWTD Insurance coverage

Mr. Jon Morrison of the Florida League of Cities presented information on the District's insurance coverage. The General Liability Policy had been forwarded in its entirety to the Board Members.

Mr. Morrison noted that the District has Errors and Omissions Endorsement to cover decisions made by the Board or by individual members and that historically it provides legal counsel to the insured. Any lawsuits filed against the District would have defense counsel provided through the League's approved list. Any cost of investigation (depositions, court reporters, etc.) would be covered and no court cost would be due from the District for a covered litigated claim. The District would need to notify the League of any claims or potential claims. If a summons or
complaint is received it must be reviewed by the League to verify if it is covered. Determination is made by the allegations in the complaint.

Commissioner Tobin questioned if the District would be covered while meeting at the Key Largo Civic Club for a slip and falls. Mr. Morrison stated that the Civic Club as a 501.3c would have their own coverage. Discussion ensued on liability issues including defense costs for third party claims, which are not covered, damage during construction activities, which would be covered by the contractor and District representative traveling on District business, which would be covered by workers compensation and the individuals automobile policy.

Commissioner Beaty asked about sewage backups or other negligent acts. Mr. Morrison stated that an investigation would be conducted and that negligence based acts only would be covered and if a lawsuit were filed they would defend them. Negligence scenarios were discussed. Commissioner Wilkinson asked if the insurance would cover a malfunctioning valve. Mr. Morrison stated that the manufacture would be contacted for reimbursement on any claims paid.

Mr. Morrison stated that he would provide standard insurance forms to the clerk in the event any claims were made. Mr. Sheets stated that the District as a governmental entity was protected by sovereign immunity and that for certain claims would not pay more than the coverage limits on claims.

Chairman Bauman thanked Mr. Morrison for the information provided.

F. Legal Counsel’s Report

Please see below.

G. Action Items

1. Approval of Legislative Change to House Bill 471 to 2002-337 Laws of Florida concerning vacancies to the Board

Commissioner Beaty made a motion to approve the item. Commissioner Wilkinson seconded the motion for discussion. Commissioner Brooks asked whether the last sentence of the change provides that the District may not use funds for any purpose that is expressly prohibited by the granting agency. Mr. Dillon stated that the County’s position that the District may not use funds for administrative expenses, including Board compensation was based on the County’s belief that the restriction was implicit and not explicit. The proposed legislation would allow a restriction only if the granting agency explicitly imposed the restriction. Discussion ensued on whether the Board could provide health insurance coverage for the Board. Mr. Dillon advised that the Board had the authority to do so. Chairman Bauman asked for any further discussion. All were in favor and the motion was approved.

2. Approval of Legislative Change to House Bill 471 to 2002-337 Laws of Florida concerning payments of Board salaries

Mr. Dillon introduced the vacancy provision. Commissioner Beaty moved to approve the amendment as stated. Commissioner Wilkinson seconded for discussion. Commissioner Wilkinson stated that it is his opinion that as an elected Board that all
members should be elected. Discussion ensued concerning if an appointment were made when would the appointee’s term end. Discussion ensued concerning Chapter 189, Chapter 337 concerning special districts and the possibility of the Governor appointing Board members. Chairman Bauman invited public comment. Ms. Jill Patterson, a Key Largo resident stated that she felt strongly that if time permits the public should vote on all members of the Board. Mr. Burke Cannon also believes that the public should elect members. Discussion ensued concerning appointments adversely impacting the staggering of the expiration of individual members terms and the cost of holding a special election. Reworking the amendment was discussed. Chairman Bauman requested a roll call vote, which was as follows:

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<td>Commissioner Wilkinson</td>
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<td>Chairman Bauman</td>
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The motion was defeated.

Commissioner Beaty made a motion to reconsider the legislative change with a change to amendment paragraph 6, striking the words “remainder of the expired term” and replacing it with “the next general election. Commissioner Wilkinson seconded the motion. Chairman Bauman requested a roll call vote.

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<td>Chairman Bauman</td>
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The motion carried.

3. Approval of the K LWTD Annual Financial Report to the Department of Banking and Finance

Commissioner Beaty moved to approve the KLWTD Annual Financial Report to be forwarded to the Department of Banking and Finance. Commissioner Brooks seconded the motion. All were in favor and the motion was approved.

4. Approval of Amendment No. 1 to the Haskell Contract

Mr. Dillon informed the Board that the item was a housekeeping amendment that would change the notice from the default of Lewis, Longman and Walker to Mr. Dillon and includes a clause concerning the prompt pay act. Commissioner Wilkinson moved to approve the amendment. Commissioner Beaty seconded the motion for discussion. Commissioner Brooks asked if the persons to receive notices should be identified by title instead by name. It was suggested that both title and name be used and a copy to the KLWTD P.O. Box. The Board requested that Haskell sign the amendment prior to it being presented for consideration. The motion was withdrawn and the item was tabled until a future meeting.
5. Approval of Amendment No. 2 to the Standard Engineering Consulting Contracts

Mr. Dillon explained to the Board that the amendment was drafted to clarify that the Board approves invoices and not the staff. Commissioner Brooks moved to approve the item. Commissioner Wilkinson seconded the motion. All were in favor and the motion was approved.

6. Acceptance of the Government Services Group, Inc. Letter of Resignation and the GSG Time and Materials Exhibit A

Mr. Sheets stated that the letter was submitted at the request of the Board and to formalize the verbal resignation tendered in December of 2003. The letter indicates that by this notice GSG would provide services under the present contract until May 9. It was noted that monthly fees are not to exceed $6,600.00 for grant management. Commissioner Tobin stated that he was not ready to accept a time and materials option for any additional work. Chairman Bauman stated that the resignation has been accepted but the Board requires more discussion concerning the time and materials option.

Mr. Sheets requested clarification and direction from the Board because after the last meeting and discussion with staff and the chair he believed that after the 90 days any work would be compensated at time and materials. Commissioner Tobin stated that he would need projections before acting. Mr. Dillon was asked to draft a document to cover services after May 9, 2003.

Commissioner Brooks asked if the resignation was negated. Mr. Sheets stated that under the present contract this notice indicates that GSG would not be the General Manager after May 9, 2004 and that for services to continue after that point a new scope of service must be defined and approved by the Board. Commissioner Brooks expressed concern that immediate steps must be taken to replace GSG. Chairman Bauman proposed an all day meeting on a Saturday to develop solutions. Chairman Bauman stated that a formal transition plan is needed.

Commissioner Beaty asked if the “true up” on hours expended by GSG had been provided. Mr. Sheets stated that the information had been provided in the January 7, 2004 agenda materials.

Mr. Sheets agreed to bill under second contract for grant administration on an hourly basis with a not to exceed amount of $6,600. Chairman Bauman asked if this was acceptable to the Board. Commissioners Tobin, Brooks and Chairman Bauman stated yes. Mr. Sheets stated that he would forward his recollection of the Board’s wishes to Mr. Dillon.

7. Approval of the Pending Payments List for February 11, 2004

Mr. Miles informed the Board that he had emailed a copy of the invoices to each member of the Board last Thursday. Commissioner Tobin questioned WEC’s request for payment on the Calusa Campground report and if it was lump sum. Mr. Sheets and Mr. Dillon confirmed that they had completed the scope of the work order. Commissioner Beaty moved to approve the Pending Payments list for February 11, 2004. Commissioner Tobin seconded the motion. Commissioner Wilkinson requested a future agenda item to discuss charging some items against the grant for administration. With no further discussion all voted in favor and the item was unanimously approved.
H. General Manager’s Report

1. Quarterly Financial Reports

This item was presented for informational purposes only.

2. Update on the Tax Exempt Status

This item was provided for informational purposes only. Mr. Miles noted that the certificate must be sent with each purchase order and that the District on a District check to be considered tax-exempt must issue payment.

3. February 4, 2003 Thirty Percent Design Meeting Minutes

This item was provided for informational purposes only. Commissioner Wilkinson stated that he didn’t like the format and it was not at the level of detail he would like to see. Mr. Sweat stated that these types of notes are typical of design construction meetings. Chairman Bauman asked who follows up items indicated in the minutes and when. Mr. Sweat stated that the tasks had been assigned during the discussions at the meeting. Mr. Dillon noted that the contract indicated that a submittal protocol was required to be submitted to the Board but there is not a contractual need for minutes. Discussion ensued on the development and implementation of an issue log.

Commissioner Brooks noted that at last meeting he requested that who ever provides reports or minutes states who provided them.

4. Update on the rescheduling of the Transition Plan, Administrative Procedures and Strategic Planning Workshops

Mr. Sheets stated that there was no backup information provided with this item. He informed the Board that staff had meet and would provide a memorandum at the March 3 meeting. Mr. Sheets indicated that a series of planning workshop should be scheduled between now and the end of April and all day meetings to be held on Saturdays were suggested. These workshops would cover strategic planning, the transition plan and administrative procedures.

The dates of March 20, March 27, April 3, and April 17 were offered. It was suggested that for the strategic planning process a facilitator be brought in to help the process. The strategic plan would help to address the other issues. The Chairman would be given names of facilitators to contact.

Mr. Burke Cannon a Key Largo Resident commented that a facilitator is an interesting concept. From his past business experience workshops and seminars were a productive way to find direction and set priorities.

Commissioner Tobin commented that strategic planning has been discussed, but there are serious deadlines that need to be considered immediately, including hiring a secretary clerk. He suggested dual planning with advertising in the Keynoter and Reporter to begin interviewing for a secretary/clerk.
Mr. Sheets informed the Board that there would be a conference call on Thursday that would include Mr. Castle, Mr. Sweat, Mr. Dillon and himself to discuss the FONSI fine points with Ms. Science Kilner of FEMA.

Mr. Sheets informed the Board that there would be a meeting scheduled to go over the site 100.5 issues including site mitigation and the recently discovered issue of the two land use zones. It would include Mr. Dillon, Mr. Sheets, Mr. Sweat, a Brown and Caldwell representative and Commissioner Tobin.

Chairman Bauman recessed the meeting at 7:55 p.m.

Chairman Bauman reconvened the meeting at 8:05 p.m.

I. Engineer's Report

1. The Haskell Company's Design Development Protocol Review

Mr. Castle stated that the design build agreement required a design protocol. This draft includes that staff's comments and is being presented for the Board's comments. Once accepted by the Board then Haskell will implement the protocol. Mr. Castle would include an in issue log, which is to include comments and who made them, who will take care of them and when they are completed. The Manager will maintain the log and provide a copy to the Board and staff. Discussion ensued concerning the Manager being the main contact and if there would be problems with the upcoming transition. Mr. Castle offered his assistance during the transition but with a change in the scope of work compensation would need to be discussed. Commissioner Wilkinson stated that the Board must be copied on all comments and requested Mr. English to provide him with the comments from Haskell and Brown and Caldwell on the 30% submittal.

Discussion ensued concerning the receipt of the 60% drawings, when the 99% drawings would be ready and how vacant lots would be hooked up. It was noted that Haskell had been requested to design the entire project and the District would build as far out as funds would permit.

Mr. Sweat stated that the Board would be copied on the issue log and informed of the next design meeting.

Mr. Dillon requested direction from the Board concerning his attendance at the design review meetings. It was the consensus of the Board the Mr. Dillon not attends any subsequent design meeting.

J. Public Comment

Mr. Burke Cannon stated that he questions why the Board is considering a transition at this time. It is his opinion that there are two many issues facing the Board to be changing administration.

K. Commissioner's Items

1. Discussion of Strategic Planning -- Chairman Bauman
Please see above.

2. Update/Discussion of Near Shore Water Testing – Chairman Bauman

Chairman Bauman stated that it would be a disservice to Key Largo residents if no testing was done to document the water quality during droughts, the tourist season, the rainy season, etc. Discussion ensued. Commissioner Wilkinson noted that lake water testing could be done by certain government agencies at no charge such as Florida University. Commissioner Wilkinson offered to pass information to Mr. Sheets. Mr. Sheets stated that he would contact the agencies and update the Board.

3. Discussion of “Decision Time” Email – Commissioner Wilkinson

Commissioner Wilkinson’s email stating concern over the project not being able to meet AWT standards was brought to the floor at 8:35 p.m. Mr. Castle stated that he firmly believes that AWT standard could be met with present design and modifications. Discussion ensued on the expansion of plants on the site. Mr. Sweat stated that the plant would be built, as capacity is needed.

4. Discussion of e-mails and communications – Commissioner Brooks

Commissioner Brooks stated that he would second terminating the present design build contract and starting all over if so much time and effort hadn’t been committed.

Commissioner Brooks is concerned with limited distribution of emails and asked Mr. Dillon if the person who writes the emails discussing things coming before the Board can be responded to. Mr. Dillon stated that there couldn’t be any substitute for debate. All debate must be held at a public Board meeting he added that the first opinion out is the only opinion out until a meeting.

Chairman Bauman requested that Commissioner Wilkinson not respond to Board issues by email. Discussion ensued on the Sunshine Law.

Mr. Dillon was asked his legal opinion of the situation. Mr. Dillon stated that no one has violated the Sunshine Law and that the first one to speak is the only one to get to speak until the meeting. Mr. Dillon stated that he would warn the Board if he suspects a violation.

5. Discussion of enacting a resolution to begin a search for an administrative secretary/clerk – Commissioner Tobin

Commissioner Tobin wants to advertise for secretary so that an office can be set up and the Board can get control of their documents. He suggested to get started with Mr. Dillon as the point person. Chairman Bauman stated that it would be more logical to hire a manager first who would then hire the clerk and set up the office. Mr. Dillon stated that he must have strategic plan because there is no consensus of the Board on any of the issues relating to the transition. Mr. Sheets commented that at this time what to advertise for has not been decided, will the employee be full-time, part-time a contractor will the person receive benefits, where would they work from, etc.

Commissioner Tobin requested the item be included repeated as a discussion item on the next agenda.
Commissioner Beaty stated that as part of the transition committee it would be premature to look for a secretary prior to finding a general manager.

Commissioner Tobin requested that a discussion of office space be place on the next agenda.

6. Discussion of the Legislative Forum Membership Meeting and Legislative Reception – Commissioner Brooks

The item was presented for information only. No members expressed interest in attending.

7. Update/Discussion on the Ileana Ros-Lehiten meeting – Chairman Bauman

Chairman Bauman informed the Board that at the meeting most people attending stated that finding solutions to the wastewater issue are paramount in the Keys. All the local officials present expressed the same opinion. Ms. Ros-Lehiten promised as much money as politically possible for the wastewater issue.

8. Discussion of a resolution to send a letter to the Florida cabinet and Governor expressing KLWTD’s unanimous support for: The Landmark Monroe County Conservation Proposal (LMCP) that sets goals for protecting near shore waters and native forests – Commissioner Brooks

Commissioner Brooks stated that passing the resolution was a matter of stating interest in getting money. Chairman Bauman stated that this is a strategic planning issue. Commissioner Tobin stated that this is an ongoing debate that the KLWTD should not become involved with quickly. Action on this item would have long-term implications and the resolution needs work it needs a conclusion.

9. Commissioner Wilkinson made motion to elevate the FEMA Grant Extension suggested in his 2-15-04 email to an action item on the next agenda. Commissioner Tobin seconded the motion.

Mr. Sheets stated that he would contact with Ms. Science Kilner of FEMA and provide the Board with a status report at the next meeting.

L. Meeting Adjournment

Chairman Bauman adjourned the meeting at 9:25 p.m.
Draft

March 3, 2004

Meeting Minutes
Key Largo Wastewater Treatment District
Board of Commissioner’s Meeting Agenda
5:00 PM Wednesday, March 3, 2004
Key Largo Civic Club, 209 Ocean Bay Drive
Key Largo, Monroe County, Florida

Board Members Present
Gary Bauman, Chairman
Cris Beatty, Member
Charles Brooks, Member
Andrew Tobin, Member (Comm. Tobin joined the meeting in progress at 5:20 p.m.)
Jerry Wilkinson, Member

Staff Members Present
Charles Sweat, Director of Operations, Government Services Group, Inc.
Tom Dillon, Board Attorney
Ed Castle, Board Engineer
Faith Doyle, Board Clerk

Guests Present
Will English, The Haskell Company
Luis M. Areos, Key Largo Resident
Steve Gibbs, Reporter for the Free Press
Burke Cannon, Key Largo Resident

A. Call to Order
Chairman Bauman called the meeting to order at 5:12 p.m.

B. Pledge of Allegiance
The pledge of allegiance was recited.

C. Additions, Deletions or Corrections to the Regular Meeting Agenda
Commissioner Wilkinson request a discussion concerning the paying of invoices from grant funds. The item was added as K3 with back provided by Comm. Wilkinson entitled SUSTAINABLE DISTRICT FISCAL VIABILITY.

D. Minutes – Draft
Commissioner Beaty made a motion to approve the minutes of January 14, 2004. Commissioner Wilkinson seconded the motion. Chairman Bauman requested a roll call vote.

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<tr>
<td>Commissioner Wilkinson</td>
<td>Yes</td>
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<tr>
<td>Commissioner Tobin</td>
<td>Not Present</td>
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<tr>
<td>Chairman Bauman</td>
<td>Yes</td>
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The motion was approved.

Commissioner Brooks made a motion to postpone action on the February 4, 2004 minutes and the February 18, 2004 minutes until the next meeting. Commissioner Beaty seconded the motion. All were in favor.

E. Public Comment

No one present wished to address the Board.

F. Legal Counsel's Report

Mr. Dillon presented the letter forwarded to Rep. Sorenson that included the financial impact statement. Mr. Dillon informed the Board that he had received an email receipt stating that the amendment had been received by Rep. Sorenson and that he would introduce it during the 2004 session.

G. Action Items

1. Approval of the Pending Payments List for February 25, 2004

Chairman Bauman brought the pending payments list to the floor for consideration. Commissioner Tobin asked about Payment No. 1 to Monroe County and if the first principle and interest payment is due per the agreement with Monroe County. Commissioner Wilkinson suggests holding the payment until paid invoices could be forwarded to Monroe County to offset this expense. He believes paid invoices should be considered as credits because the $100,000 had been tax funds paid by the residents and the work being done is for the wastewater to be completed as required. Commissioner Wilkinson informed the Board that he had spoken with Mayor Nelson who requested an email concerning the issue be forwarded from the Board and he would then follow up on the idea of crediting the KLWTD for invoices paid. Commissioner Tobin believes the agreement should be honored and payment should be forwarded to avoid default. Commissioner Brooks agreed with Comm. Wilkinson because the original discussions were to have the $100,000 be a grant, it should be held until the repayment issue is resolved. Discussion ensued. The Board requested a future agenda item requesting the County to consider forgiveness of the $100,000.

Commissioner Wilkinson made a motion to approve the pending payments list with the exclusion of the Monroe County payment. Commissioner Brooks seconded the motion. All were in favor and the motion was approved.

H. General Manager's Report
Mr. Sweat requested the Board consider a letter from Haskell dated March 2, 2004 that indicated the change order had been redrafted per the concerns expressed by the Board. Mr. Kinsley stated that in November a change proposal for $76,000 was approved unanimously by the Board. The design work began as indicated by the change order. Minor changes to the document were presented on 2-4-04. Commissioner Wilkinson's concerns on approximately $2,800 of costs and the 5% issue caused the item to be tabled. Mr. Kinsley outlined the response and noted it included concessions in the amount of $1,950. Discussion ensued concerning the document. The issue of 5% mark up on indirect or direct costs were discussed. It was noted that expanded drawings that were not included in the original plan would be considered direct costs. Mr. Dillon stated that indirect and direct costs were not specified in the contract and he used the Florida construction guidelines for a basis. He recommended that the Board might want to approve the change order as presented and consider the costs as indirect. Mr. Kinsley offered to take out the questionable costs to get the item processed so that the designers, Brown and Caldwell could be paid. Comm. Tobin continued to question if the objections were conceded to and if approving the document would set precedent. Mr. Kinsley requested the document be signed as approved adding that he did not believe it would be setting precedent. It was noted that at the next design team meeting discussion of what is and is not direct and indirect costs would be done. Commissioner Brooks recalled 5% over the costs on change orders being discussed at the review meetings. Commissioner Brooks doesn't want to reopen the issue because cost plus 5% on change orders was in the contract. Commissioner Bauman suggested that Mr. Dillon research for the next design team meeting what direct and indirect costs are.

Commissioner Tobin made a motion to approve the change order with the additional deduction of $1,080 and added "This change Order does not establish a precedent as to the manner in which the contractor may mark up contract costs for change orders." Commissioner Brooks seconded the motion. Chairman Bauman requested a roll call vote.

<table>
<thead>
<tr>
<th>Commissioner</th>
<th>Vote</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commissioner Beaty</td>
<td>Yes</td>
</tr>
<tr>
<td>Commissioner Brooks</td>
<td>Yes</td>
</tr>
<tr>
<td>Commissioner Tobin</td>
<td>Yes</td>
</tr>
<tr>
<td>Commissioner Wilkinson</td>
<td>No</td>
</tr>
<tr>
<td>Chairman Bauman</td>
<td>Yes</td>
</tr>
</tbody>
</table>

The 3% bonding cost was discussed and it was requested that the issue be clarified for the next change order. Commissioner Tobin asked for proof of how the insurance works so that there is a specific add on amount for design build contracts. Mr. Kinsley of Haskell agreed to do this. Mr. Dillon stated for clarification that the agreement was amended to state that precedent had not been set and that the final total was $73,767.

1. Update on Strategic Planning

Mr. Sweat asked the Board to consider the 2-25-04 Memorandum from Mr. Sheets. He recommended the Board accept the Saturday schedule and entertain hiring Dr. Marlowe. Discussion ensued on the need for a facilitator, the cost of a facilitator and if the facilitator would be required at all workshops scheduled. Commissioner Tobin was not in favor. He believes the short-term issues need to be tackle first, such as employing an office secretary, a financial manager and a utility manager. Commissioner Wilkinson agreed that the district should be ready to go on its own by May 9 and that Mr. Sheets should be the facilitator under the terms of his contract he has the experience to set up an interim strategic plan from the master plan. Commissioner Beaty stated that the Saturday dates do not work with his schedule.
Commissioner Brooks reads from the memo and adds that he and others had requested workshops several times over the past year. He suggested holding a workshop as an advertised public meeting but to make decisions but to create consensus for setting action item for future agendas.

Chairman Bauman accepted public comment from Mr. Gibbs who stated that facilitated local meetings would be a good experience for the Board. Mr. Burk Cannon wants it to be in the public and added that a facilitator has the expertise to try to bring the Board together in a common direction.

Chairman Bauman agreed the Board should start with a ½ day on the transition plan. He believes a facilitator is necessary and that the Board owes the citizens a clear statement of direction and a plan. Discussion continued.

Commissioner Brooks moved to set the first workshop meeting to be held on Saturday the 27th of March beginning at 1:00 p.m. at the Key Largo Civic Club if it is available. Commissioner Tobin seconded the motion. All were in favor.

Discussion concerning the use of facilitator continued. Chairman Bauman requested that the suggested facilitator contact each Board member. Commissioner Brooks made a motion to direct staff to contact Dr. Herb Marlowe or other facilitators to contact each Board member prior to March 17, 2004, and to add an action item to the March 17, 2004 agenda to act on the attendance of a facilitator at the March 27, 2004 workshop. Commissioner Beaty seconded the motion. Chairman Bauman requested a roll call vote.

<table>
<thead>
<tr>
<th>Commissioner Beaty</th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commissioner Brooks</td>
<td>Yes</td>
</tr>
<tr>
<td>Commissioner Tobin</td>
<td>Yes</td>
</tr>
<tr>
<td>Commissioner Wilkinson</td>
<td>Yes</td>
</tr>
<tr>
<td>Chairman Bauman</td>
<td>Yes</td>
</tr>
</tbody>
</table>

The motion was unanimously approved.

2. Update on conversation with Science Kilner of FEMA on a FEMA Grant Extension

Mr. Sheet’s memo was presented to the Board. Mr. Sweat stated that the issue of requesting an extension would be addressed at the 3/10/04 design team meeting. Commissioner Wilkinson feels an extension should be requested immediately before the need becomes paramount. Commissioner Wilkinson stated that at least a six-month extension be requested. Discussion ensued on the need to initiate a request for an extension immediately or waiting.

It was the consensus of the Board to request a letter from The Haskell Company concerning the submission of the site plan and the conditional use application. Mr. Sweat stated he would draft and forward a letter.

3. Update on Initial Contact with Agencies Concerning Near Shore Water Monitoring and Testing

Mr. Sweat updated the board as per the memorandum adding that research would continue and the Board would be updated at future meetings.

Chairman Bauman recessed the meeting at 7:05 p.m.
Chairman Bauman reconvened the meeting at 7:10 p.m.

I. Engineer's Report

1. KLWTD Engineering Status Report for the Period Ending 02/24/04

Mr. Castle presented and reviewed the report. Dry line permitting was discussed and that the scheduling would be handled by the contractor. It was noted that the Board as the permittee would have to give its approval of any permit issued.

Commissioner Tobin asked if there was a time frame for action concerning the Calusa Campground Report. Mr. Castle stated that the next step would be to develop a connection policy and to provide acceptable options to the property owners. Discussion ensued. A meeting to accept public input was suggested prior to implementation of any connection policy.

It was suggested a letter be forwarded to the condominium association. Mr. Sweat suggested meeting with the condo board prior to a letter being sent. Commissioner Tobin thinks the Board should be the first contact and provide them with information and a copy of the study and invite them to attend the KLWTD meetings. It was the consensus of the Board to have a letter forwarded to the Calusa Campground Condominium Association by Mr. Sweat. The letter was to be signed by Chairman Bauman.

Chairman Bauman made a formal request for Mr. Dillon's attendance at the design team meetings. The Board discussed it with Commissioner Wilkinson commenting that he should attend at the hourly rate. Commissioner Brooks was not sure if there were enough legal issues to incur the expense for several hours. Chairman Bauman suggested Mr. Dillon stand by on the cell phone. It was noted that it is difficult to ascertain what is a legal issue. Commissioner Tobin stated that it would be of benefit to have Mr. Dillon attend. However Mr. Sweat as the Director of Operations should conduct the meetings.

J. Public Comment

Mr. Burk Cannon asked why public comment would be requested from Calusa if they would have to come on line by statute. Discussion ensued on the enforceability of mandatory connection ordinances. Discussion ensued on the issue of deciding if the expansion of the plant should be explored versus completing the KLP.

K. Commissioner's Items

1. Discussion of the Haskell Company suggested project manager – Chairman Bauman

It was noted that the contract stated the District has the right to approve a submittal suggesting a project manager. Mr. English was requested to have Mr. Kinsley forward a submittal for the Board’s consideration at the March 17, 2004 meeting.

2. Discussion of Municipal Wastewater Appropriations Deadlines – Commissioner Tobin

The item was informational.

3. Discussion of SUSTAINABLE DISTRICT FISCAL VIABILITY – Commissioner Wilkinson

DRAFT – March 3, 2004 KLWTD Minutes
Discussion ensued on spending grant money versus MSTU funds. It was noted that grant money is restricted and MSTU funds are less restricted. Discussion ensued on the accounting issues and if Mr. Miles should be directed to pursue the issue of deducting administrative fees from the County $100,000 loan. Commissioner Tobin suggested the Board enact a policy of 25% of project cost be considered overhead to be submitted for credit to the project cost. It was the consensus of the Board to have Mr. Miles research and recommend if this could be done. The Board requested that Mr. Miles attend the next meeting by phone.

L. Meeting Adjournment

Chairman Bauman adjourned the meeting at 8:02 p.m.
Update on the correspondence with Rep. Sorensen concerning use of funds for administrative costs.
Faith Doyle

From: Thomas Dillon [thomasdillon@terranova.net]
Sent: Wednesday, March 10, 2004 7:59 AM
To: Andrew Tobin; Charles Brooks (E-mail); Cris Beaty (E-mail); Gary Bauman (E-mail); Jerry Wilkinson; Faith Doyle
Cc: Robert Sheets; EdRCastle@aol.com; David Miles; Charles Sweat; Charles Fishburn; Jeff Weiler; weiler7@comcast.net
Subject: Re: Key Largo Wastewater Treatment District

I agree, and will draft the request this week. Tom

----- Original Message ----- 
From: Jerry Wilkinson
To: Thomas Dillon
Sent: Tuesday, March 09, 2004 12:29 AM
Subject: RE: Key Largo Wastewater Treatment District

Tom:
Why don't we ask the AG for an opinion? Charlie Christ is a nice person. This is ridiculous! Danny should ask his own attorney as a constitutional officer.
Jerry

-----Original Message-----
From: Thomas Dillon [mailto:thomasdillon@terranova.net]
Sent: Monday, March 08, 2004 12:36 PM
To: Ken Sorensen
Subject: Key Largo Wastewater Treatment District

Representative Sorensen,

I am attaching a letter I sent this date to County Attorney Richard Collins concerning use by the Key Largo Wastewater Treatment District of funds collected by Monroe County.

I'm also attaching an email from David Miles recounting his conversation this date with Mr. Kolhage.

The County continues to refuse to allow the District to use County funds for administrative and overhead expenses. On behalf of the District, I would appreciate any assistance you can provide.

3/10/04
March 8, 2004

Mr. Richard Collins
County Attorney
Monroe County
P.O. Box 1026
Key West, Florida 33041-1026

Re: Key Largo Wastewater Treatment District

Dear Richard,

You will recall my letter to you of December 29, 2003, and our conversations regarding the use of County funds to cover overhead and administrative expenses of the Key Largo Wastewater Treatment District.

Based on those conversations, I was under the impression that your office was taking steps to rescind Mr. Wolfe's letter of June 18, 2002 and to advise Mr. Kolhage that there was no legal impediment to paying District overhead and administrative expenses with county funds and, more specifically funds collected by the County under the MSTU tax authority.

It appears that Mr. Kolhage continues to prevent use of the MSTU funds to pay District overhead and administrative expenses. Please see the attached email from David Miles of Government Services Group, Inc. regarding his discussion with Mr. Kolhage this date.

I would like to discuss this further with you, and to have your assurance that you will take the steps that we discussed to rescind the Wolfe letter so that these funds may be made available. Please call me at your earliest convenience at 304-6735.

Sincerely,

[Signature]

Thomas M. Dillon

Cc: Mayor Murray Nelson
Representative Ken Sorensen
Key Largo Wastewater Treatment District Board
Government Services Group, Inc.

Attachment: Miles email 3/8/04, 11:44 a.m.
I just received a phone call from Danny Kohlage. He was in receipt of our MSTU payment request number 2 for $151,251.15. This request was supported by $99,686.10 in accounts payable payments made between October 2003 and February 2004, plus $51,251.15 of board payroll expenses from November 2002 through January 2004.

The purpose of his call was to tell me that he could not reimburse any of the expenses in the draw, because they were all "administrative expenses", and not specific project engineering or construction expenses for either the Park or Village projects.

I told him that it was my understanding that these were precisely the types of expenses that the MSTU was set up by the County to pay. He then stated he still had a County Attorney letter that told him that these payments for administration were not allowable expenses. I told him that our Board Attorney had spoken with Mr. Collins the County Attorney, and that he was told Mr. Collins was rescinding the letter that Mr. Kohlage had in hand, written by an Assistant County Attorney. Danny appeared to be unaware of that fact.

He was aware that a local bill was pending in the legislature, but stated that until it passed, he could not disburse additional MSTU funds to the District.

He stated he would contact Representative Sorensen and County Attorney Collins to check on the status of the local bill and the letter rescinding the Assistant County Attorney letter. He said he would then get back to me. Right now he will not pay against our draw number 2, even in the form of an additional advance.
Item F – 3

Update on the definitions of direct and indirect costs.
Faith Doyle

From: Thomas M. Dillon [thomasdillon@terranova.net]
Sent: Thursday, February 05, 2004 10:50 AM
To: Ed Castle; Charles Sweat; David Miles; Jeff Weiler; Robert Sheets; Andrew M. Tobin; Charles Brooks; Cris Beaty; Gary Bauman; Faith Doyle; Jerry Wilkinson
Subject: Haskell Change Order # 1

This is to provide guidance in the pricing of Haskell proposed Change Order # 1.

At the Board meeting of 2/4/04, under topic F.3, the individual Board members expressed their recollections of representations made by Haskell as to the pricing of change orders. As I understand those recollections, they were that Haskell promised that it would add 5% of the third party costs of change orders, which would cover profit, overhead, etc. On that basis, the Board directed that Change Order # 1 be amended to eliminate certain proposed charges, including the following:
Project Director ($1,800)
General Conditions ($1,000)
Markup on Project Director and General Conditions ($140)

I did not have the Design-Build Agreement with me at the meeting, and could not analyze this issue at that time.

The Design-Build Agreement provides for the pricing of extra work in a way that differs from the recollections expressed at the meeting.

The Design-Build Agreement provides in Section 9.3 that the parties will agree on a lump sum or unit price for extra work, and in the absence of such agreement Haskell is entitled to the "cost of the work as determined under Section 9.3(c). As I interpret, these costs would be equal to the Brown & Caldwell fee of $68,207. In addition, the Design-Build Agreement provides, at Section 9.3:

"CONTRACTOR shall be entitled to its 5% markup on all direct costs, including bonds and insurance, of these items for the CONTRACTOR'S fee."

The term "direct costs" is not defined in the Design-Build Agreement. However, costs are generally defined in the construction industry as follows:

"Direct costs consist of job-site or field expense increases, such as labor, payroll, taxes, insurance, bonding, subcontractors, material costs, and equipment rental.
"Indirect costs represent the project's overhead, such as the cost of the project's superintendent or manager, travel expenses, site offices, off-site offices, and telephone/stationery expenses.
"Total costs are the sum of the direct and indirect costs."

Stephen M. Siegfried, Florida Construction Law, §10.04[A], at 211-212 (2001)

Based on the terms of Design-Build Agreement Section 9.3, if the parties are unable to agree on a lump sum price, I believe that Haskell would be entitled to the following amounts:

(1) Direct Costs: Brown & Caldwell: $68,206.60
(2) Actual increased costs, if any, of insurance and bonding (not shown in CO # 1)
(3) 5% of the total of (1) and (2).

Note that if the actual increased costs of bonding and insurance are 3%, as implied in the Change Order form, then the total value of the Change Order would be:

B&C: $68,206.60
+ 3%: $2,046.20
Subtotal: $70,252.80
+5%: $3,512.64
Total: $73,765.44

Tom

3/9/04
Item G – 1

Approval of the Pending Payments List for March 10, 2004.
TO: Key Largo Wastewater Treatment District Board Members

CC: Robert E. Sheets, General Manager
   Faith Doyle, Clerk to the Board
   Charles Sweat, Director of Operations
   Thomas Dillon, Board Attorney

FROM: David R. Miles, Director of Finance

DATE: March 10, 2004

RE: Pending Payments Key Largo Wastewater Treatment District

Dear Commissioners:

This agenda item is designed to provide an update on the financial status of the Key Largo Wastewater Treatment District. As of March 10, 2004 the District had $323,640.12 in its bank account. We have $38,524.04 in invoices in-hand for payment by March 31, 2004. Exhibit A is the list of currently outstanding invoices pending payment. As requested by the Board at the January 14, 2004 meeting, separate accounting of cash balances are shown as follows as of March 10, 2004:

<table>
<thead>
<tr>
<th></th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administration &amp; Operations:</td>
<td>$ 80,691.84</td>
</tr>
<tr>
<td>Key Largo Park:</td>
<td>(25,009.25)</td>
</tr>
<tr>
<td>Key Largo Trailer Village:</td>
<td>267,957.53</td>
</tr>
<tr>
<td>Total</td>
<td>$ 323,640.12</td>
</tr>
</tbody>
</table>

The second draw request from the FDEP grant for KL Park was mailed February 25, 2004 in the amount of $14,602.99. FDEP has not yet paid this grant request, but it was processed for payment March 9. A second advance of $250,000.00 in FEMA Phase 1 funds was received on March 8, 2004 and was deposited in the KLWTD bank account. These funds are for use on the Key Largo Trailer Village project.

Staff sent a second draw request from Monroe County for MSTU funds on March 3, 2004. We have received verbal notification from Mr. Danny Kohlage, Clerk of Court, on March 8, 2004 that none of the $151,251.15 requested was eligible for reimbursement because it was all administrative expenses. This decision has been relayed to the Board Attorney.
This pending payment list includes the first payment to Monroe County on the initial $100,000.00 loan. It includes $10,000.00 in principle and $3,024.69 in interest. The interest payment is through December 31, 2003, and includes the $2,212.50 of interest that was accrued in the prior fiscal year audited financial statements.
<table>
<thead>
<tr>
<th>Date of Invoice</th>
<th>Vendor</th>
<th>Invoice #</th>
<th>Description</th>
<th>Payment Category</th>
<th>Invoice Amount</th>
<th>Date Due</th>
<th>Date Paid</th>
</tr>
</thead>
<tbody>
<tr>
<td>02/10/04</td>
<td>Bell South</td>
<td>804-0446-2</td>
<td>Phone bill Feb 10-March 9, 04</td>
<td>1</td>
<td>$ 40.94</td>
<td>3/1/04</td>
<td>2/20/04</td>
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<tr>
<td>02/18/04</td>
<td>Garry Bauman</td>
<td></td>
<td>Travel &amp; Expenses</td>
<td>1</td>
<td>$15.00</td>
<td>Upon Receipt</td>
<td>2/27/04</td>
</tr>
<tr>
<td>03/01/04</td>
<td>Thomas M. Dillon</td>
<td>1012</td>
<td>Professional Services February 2004</td>
<td>1</td>
<td>$4,149.13</td>
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<tr>
<td>03/02/04</td>
<td>Government Services Group, Inc.</td>
<td>03021-7527</td>
<td>Management Fee for March 2004</td>
<td>1</td>
<td>$10,800.00</td>
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<td>03021-7537</td>
<td>Copy &amp; Postage for February 2004</td>
<td>1</td>
<td>$837.98</td>
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<tr>
<td>02/25/04</td>
<td>Monroe County</td>
<td></td>
<td>Principal &amp; Interest Monroe County Loan</td>
<td>1</td>
<td>$13,024.69</td>
<td>Upon Approval</td>
<td></td>
</tr>
</tbody>
</table>

**Total Invoices for Administration & Operations**

Balance Forward if All Admin & Operations Invoices Paid

Balance Forward if All Key Largo Park Invoices Paid

Balance Forward if All Key Largo Trailer Village Invoices Paid

**Total All Invoices**

Approved for Payment:

Gary Bauman, KLWTD Chair

Cris Beaty, KLWTD Secretary

Payment Category Key:
1- District Administration
2- Key Largo Park Construction
3- Key Largo Trailer Village Construction
KLWTD Board Meeting
March 17, 2004

Item G – 3

Approval of the Haskell submittal recommending a Project Manager.
March 9, 2004

Re: Wastewater Management System For The Key Largo Trailer Village Area
Key Largo, Florida
Issue 01-024 – K LWTD Project Staff Approval

Mr. Robert Sheets
Government Services Group, Inc.
1500 Mahan Drive
Suite 250
Tallahassee, Florida 32308

Dear Mr. Sheets:

As required by Paragraph 3.3.3 of the Design-Build Agreement and as requested by the Key Largo Wastewater Treatment District, The Haskell Company is designating Will English as the Project Manager for the Wastewater Management System for the Key Largo Trailer Village Area project. Mr. English will participate in design development, be responsible during construction and serve as a single point of contact for the project. Attached, please find Mr. English’s corporate resume for review and approval by the KLWTD. In performing your review, please note that The Haskell Company will assign an on-site Construction Superintendent to the project as the start date approaches and in accordance with Paragraph 5.6 of the Design-Build Agreement, present their credentials to the KLWTD for review and approval.

Should you have any questions or require further information, please do not hesitate to contact me at (904) 357-4868.

Sincerely,

Peter M. Kinsley

cc: Issue File 01-024
SECTION 2 - QUALIFICATIONS OF DESIGN-BUILD TEAM

Employee Information:
William English
Project Manager
The Haskell Company

Project Title: Project Manager

Experience: Haskell - 3 yrs. Others - 3 yrs.

Education:
B.S. - Building Construction and Contracting

Professional Registration:
State of Georgia, Licensed Utility Construction Manager

Applicable Work Experience:
As project manager, English is involved from the earliest stages of project development, continuing through the design and construction processes to closeout and client follow-up. His responsibilities include conceptual estimating, scheduling, value engineering/alternate analysis and procurement of subcontractors and material. When a project reaches the construction phase, English maintains sufficient involvement to insure a smooth project flow with satisfactory results. This is accomplished through cost control review, client contact and other activities, as necessary. In addition, one of his major responsibilities is to function as a team leader during the entire project delivery process, coordinating the efforts of the complete Haskell team and providing a single source of contact.

♦ Port of Miami, Florida
  - Lummus Island Sanitary Sewer Improvements
  - DERM Sewer Laterals and Ship Pumpouts
  $3.5 million, Miami, FL

♦ Glades Road Water Treatment Plant Membrane Softening Process Addition, $47 million, Boca Raton, FL

♦ Forest Hills Park, City of Coral Springs, FL

♦ Lake Oconee Water Transfer Station,
  Madison, GA

♦ City of Covington Fuel Containment Facility,
  Covington, GA

♦ City of Gainesville Raw Water Pump Improvements, Gainesville, GA

♦ City of Sandersville Digester Improvements,
  Sandersville, GA

♦ City of Villa Rica Intermediate Pump Station,
  Villa Rica, GA

♦ Ocmulgee East Pump Station, Macon, GA

♦ Windermere Sewage Treatment Plant,
  Cumming, GA

♦ Water System Improvements at Georgia Power Site - Storage and pumping facilities, Athens, GA

♦ Windermere Pump Stations No. 1 & 2,
  Cumming, GA

♦ Middle Oconee Water Pollution Control Plant,
  Athens, GA

♦ Hickory Flat Booster Pump Station, Canton, GA

♦ Jackson Co. SR60 Storage & Pumping Facilities,
  Pendergrass, GA

♦ Sweetwater Pump Station Upgrade, Cobb County, GA

♦ Oconee Co. Land Application System, Watkinsville, GA
Item H – 1

Update on allowable uses of KLWTD revenue sources.
TO:       Key Largo Wastewater Treatment District Commissioners

CC:       Robert E. Sheets, General Manager
          Faith Doyle, Clerk to the Board
          Charles Sweat, Director of Operations
          Thomas Dillon, Board Attorney

FROM:     David R. Miles, Director of Finance

DATE:     March 10, 2004

RE:       Acceptable Uses of KLWTD Revenue Sources

Dear Commissioners:

Some concern has been expressed as to what types of expenses can be paid out of each source of revenue available to the Key Largo Wastewater Treatment District. As the Board is aware, virtually all revenue available to the District is in the form of Federal, State and Local grants, or Monroe County MSTU taxes.

In the case of the Monroe County MSTU taxes, the Clerk of Court has stated to me on March 8, 2004 that none of our operational or administrative expenses qualify for reimbursement. We believe that to not be the case, and told him that the MSTU was established specifically to fund operational and administrative expenses. He has stated that until the pending bill is passed by the State Legislature, his hands are tied. This issue has been discussed with the Board Attorney, who may have additional input.

Attached is a matrix that has been researched with the grantor agencies and applicable grant documents. It breaks expenses down into four categories:

1. Construction expenses
2. Engineering and design expenses
3. Operations expenses
4. Administration expenses

Staff has taken the total FY 2004 budget and stratified it by funding sources. Then with a simple Yes or No identified whether the grantor agency and/or grant document allows each category of expenses to be paid from that source of funds. As can be seen, although we have multiple sources for paying for engineering and construction categories, our choices for funding administrative and operating expenses are very limited. This has been particularly problematic for the Key Largo Park project. The position of the Clerk of Courts has also made reimbursement of administrative and operational costs from the MSTU more difficult. I will be happy to answer questions on this attached matrix.

Board of Commissioners: Chairman Gary Bauman, Andrew Tobin, Cris Beaty, Charles Brooks, Jerry Wilkinson
# Key Largo Wastewater Treatment District

## ALLOWABLE EXPENSES

<table>
<thead>
<tr>
<th>Sources of Funds</th>
<th>Operating Revenue</th>
<th>Construction</th>
<th>Engineering</th>
<th>Operations</th>
<th>Administration</th>
</tr>
</thead>
<tbody>
<tr>
<td>MSTU Revenue</td>
<td>$599,562</td>
<td>Yes*</td>
<td>Yes*</td>
<td>No*</td>
<td>No*</td>
</tr>
<tr>
<td>Interest Income</td>
<td>4,500</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>2,000</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>

### Key Largo Trailer Village

#### Federal
- FEMA Phase I: 1,097,143
- FEMA Phase II: 4,388,571

#### State:
- SFWMD: 100,000
- DCA- Cess PIt Grant: 535,155
- DCA- Unmet Needs: 914,286

#### Local:
- 304 Fund FEMA Phase 1&2 Match: 914,285
- 304 Cess PIt Fund: 224,327
- 304 Land Purchase (in kind): 826,234

### Key Largo Park

#### State:
- FDEP: 1,660,000
- FDEP II: 187,312
- DCA- Cess PIt Grant: 690,445

#### Local:
- 148 Fund: 356,000
- 304 Cess PIt Fund: 705,200

| Total Budget | $13,205,020 |

*Per Mr. Danny Kolhage, Clerk of the Court, Monroe County

**Conflicting language exists in interlocal agreement between Monroe County, FKAA and KLWTD dated February 26, 2003. Section 1.01C4 restricts this source as follows: "This grant is only for capital improvements, not including engineering and planning." Section 2.03A5 provides for "...the County agrees to fund $356,000 for engineering, planning and administrative expenses during fiscal year 2003/2004 for Key Largo Park."
Item I – 1

Discussion to limit the requirement for mylar copies of drawings.
MEMORANDUM

To: KLWTD Board
From: Ed Castle
Date: March 9, 2004
Re: Mylar drawings

The Design/Build Agreement specifies that mylar copies of all phases of design development documents be submitted to the District. Stu Oppenheim has requested that we waive the requirement for all but the final construction drawings and the record drawings.

I have discussed this request with all members of staff and we all agree that mylar copies of the final construction drawings and of the record drawings will be sufficient. Paper copies and electronic copies of all design development submittals are required and are sufficient for our needs.

Weiler Engineering recommends that the Board approve Mr. Oppenheim’s request to limit the requirement for mylar copies to the final construction set and the record drawings.
Key Largo Wastewater Treatment District
Board of Commissioner's Meeting Agenda
5:00 PM Wednesday, March 17, 2004
Key Largo Civic Club, 209 Ocean Bay Drive
Key Largo, Monroe County, Florida

A. Call to Order
B. Pledge of Allegiance
C. Additions, Deletions or Corrections to the Regular Meeting Agenda
E. Public Comment
F. Legal Counsel's Report
   1. Update on the meeting with Mayor Nelson
   2. Update on the correspondence with Rep. Sorensen concerning use of funds for administrative costs
   3. Update on the definitions of direct and indirect costs
G. Action Items
   1. Approval of the Pending Payments List for March 10, 2004
   2. Approval of the use of a facilitator for the March 27, 2004 workshop
   3. Approval of the Haskell submittal recommending a Project Manager
H. General Manager's Report
   1. Update on the allowable uses of KLWTD revenue sources
   2. Update on the March 10, 2004 Design Team Meeting
I. Engineer's Report
   1. Discussion to limit the requirement for mylar copies of drawings
J. Public Comment
K. Commissioner's Items
L. Meeting Adjournment
Draft

February 4, 2004

Meeting Minutes
Board members present

Gary Bauman
Cris Beaty
Charlie Brooks
Andrew Tobin
Jerry Wilkinson

Staff Present

Charles Sweat, GSG
David Miles, GSG
Thomas Dillon, Board Attorney
Ed Castle, WEC, Board Engineer
Michael Hatfield, WEC, Board Engineer
Faith Doyle, Board Clerk

Guest present

A. Call to Order

Chairman Bauman called the meeting to order at 5:08 p.m.

B. Pledge of Allegiance

C. Additions, Deletions or Corrections to the Regular Meeting Agenda

Mr. Wilkinson stated that certain discussion items have been neglected because of the lengthy agendas. Chairman Bauman agreed that certain items merit further consideration and should be carried over if the members consider them relevant.


Commissioner Brooks motioned to approve all the minutes except for the January 14, 2004. Commissioner Brooks stated that he did not have difficulty with the minutes but with what was discussed at the meeting. Commissioner Tobin seconded for discussion. Mr. Tobin does not believe that a verbatim transcript is needed but only a summary with the motions, seconds and votes. The audio tapes are also available. Commissioner Brooks asked Mr. Dillon if he bills
for review of the minutes. Mr. Dillon confirmed that review of the minutes is considered part of the $100 charge for attending a meeting. Discussion ensued on the need for summary minutes which are more detailed or motion minutes which include only the final actions taken by the Board. Commissioner Wilkinson asked Mr. Dillon what his position is concerning the minutes. Mr. Dillon advised that the meeting minutes are hearsay, and that the recording is the actual record of the meeting; whether the minutes are summary in form or more descriptive of the discussions was not legally significant. Commissioners Wilkinson, Brooks and Beaty expressed a preference for more detailed minutes. Chairman Bauman called for a vote on the January 7, 2004; December 3, 2003; November 19, 2003; and the November 5, 2003. All were in favor and the motion was approved. The Board requested that the January 14, 2004 minutes be placed on the next agenda.

E. Public Comment

Mr. Tobin introduced Mr. Bill Guy who is a local contractor who could do laterals because he is an underground utility contractor. Commissioner Tobin suggested he introduce himself to Mr. Messer of D.N. Higgins.

Mr. Michael Hatfield of WEC was introduced and it was noted that he will be involved with the KLTV and KLP projects.

F. Action Items

1. Pending Payments List

Chairman Bauman brought the pending payment list to the floor for consideration. Commissioner Tobin discussed flat fee billing and payment options of the GSG Contract. He has concerns with the construction management contract. Commissioner Tobin stated that because of the notice of resignation this should be reconsidered. He is open to suggestions for a resolution of how the payments should be made on a contract that is not going to be fulfilled. Commissioner Brooks also stated concerned with making payments for services that may be a duplication of effort and it appears that some of the tasks being performing are purely administrative.

Commissioner Wilkinson asked if there was a formal resignation. Chairman Bauman stated that an official notice had not been received. Mr. Sweat was asked if he had a letter with him to present to the Board. Mr. Sweat stated that he did not but he would provide one if the Board wishes. Chairman Bauman stated that a letter was to be provided and Mr. Sweat stated that he would insure that one was provided.

Discussion continued concerning Chairman Bauman’s instructions to Mr. Dillon to prepare a time and material contract with strict documentation of time spent and that the fixed fees should be removed so that a final payment can be determined. Commissioner Tobin doesn’t believe that would rectify the situation and that the payments should be discussed among Mr. Dillon and Mr. Miles who should be able to determine an equitable figure to conclude the contract. Chairman Bauman requested that Commissioner Tobin, Mr. Miles and Mr. Dillon review the GSG invoices, contract and work authorizations and provide him with a time and materials contract. Commissioner Tobin wants a reconciliation of the flat fee contract.
Discussion ensued on the details of the 30% design meeting that had taken place amongst staff earlier. Commissioner Brooks had attended the meeting and observed the actions of staff and thought that it was a very productive meeting.

Commissioner Tobin doesn’t want to pay the GSG bills until time and attendance records and a brief description of what the hours were for has been provided. Mr. Miles stated in the January 7th agenda book the information requested had been provided. Commissioner Tobin stated that the time sheets and detail given were not sufficient. Mr. Miles discussed the information noting the hours attributed to financial management, CIP projects, etc. Commissioner Tobin stated the monthly breakdown doesn’t give you a great indicator and assuming that the information is true we have to understand how much money is owed. Mr. Miles noted that a ½ a man year of time has been accrued by GSG for the Key Largo work.

Commissioner Beaty suggested that installment 5 of 24 be paid to true things up and have GSG work for a time and materials basis from this point forward. Commissioner Tobin agreed that installment 5 of 24 should be paid today and then reconcile what to do from this point forward and that the termination date should be April 1, 2004. Mr. Miles cautioned the Board that time and materials would increase the KLWTD costs greatly.

Discussion continued concerning when notification was given, if 90 days severance pay is required, on the effective date of the notice and monies owed. Mr. Sweat stated that GSG would not leave the board high and dry, and would provide service until the transition.

Mr. Sweat stated that the termination letter would terminate the fixed price contract and initiate the time and material option. Commissioner Wilkinson asked Mr. Dillon if a letter is required to be sent. Mr. Dillon stated that a letter would provide documentation.

Chairman Bauman asked if there were any other questions on the payments pending list. Commissioner Wilkinson stated that the legal invoices should be reviewed to verify if some of the costs could be reimbursed from project funds. Discussion ensued concerning shortfalls in the project funds if it is financially prudent.

**Commissioner Tobin made a motion to approve the pending payments list. Commissioner Beaty seconded the motion adding that the KLWTD would evaluate and reconcile the GSG invoices. All were in favor and the motion was approved.**

At 6:06 p.m. Commissioner Brooks requested to change the agenda to have David Andrews of Mull & Associate present the Comprehensive Annual Financial Report. Mr. Andrews reviewed the document which had been provided to the Board. Mr. Andrews stated that Gatsby 34 brings government accounting more similar to corporate accounting and that the independent auditors report states that the accounting provides a reasonable basis and standards for an audit and to develop an opinion. Commissioner Tobin asked what Mull does in relationship to over site of GSG. Mr. Andrews stated that Mull reviews contracts in comparison with financial transactions.

Mr. Miles stated that the Board should accept the information and then it can be filed as per act 189. The Annual Financial Report must be forwarded to the Department of Banking and Finance. It must be executed by the Chairman and will be brought to the Board on February 18th for consideration. It must go within 45 days to the Department of Banking and Finance. A copy will be forwarded to Monroe County and it needs to be forwarded to the bank and any
grantor agency. Mr. Andrews notes that on page 16 the $78,000 deficit that if it remains in the CAFR for two years extra reporting would be required. Discussion ensued concerning the CAFR report.

**Commissioner Tobin moved to accept the report as information only. Commissioner Wilkinson seconded for discussion. He questioned the populations and the acreage reported. Discussion ensued if Monroe County might forgive the loan. Commissioner Wilkinson stated that Mayor Nelson told him that the loan could be forgiven by submitting qualifying paid invoices to the County Clerk’s office. All were in favor and the motion carried.**

Mr. Sweat stated that he and Mr. Messer had discussed presenting a purchase order to Roevac for the pits because it is a two month lead time item and the risk would be Roevac's and not the Board's. Mr. Messer would take possession of the pits until they are used for construction. Discussion ensued. Mr. Messer stated that Higgins would issue the purchase order. Discussion ensued concerning the Board issuing the purchase order to save on the sales tax. Chairman Bauman and commissioner Beaty supported the idea. Commissioner Brooks wants the KLWTD to sign the purchase order. Mr. Dillon stated that he should review the Higgins prepared purchase order prior to the KLWTD signing it.

Mr. Messer requested that if the Haskell change order is approved that Mr. Messer be given his bonds back.

**Chairman Bauman requested that the Roediger valve pit purchase order to the next agenda.**

Mr. Castle informed the Board that the staff had met at 1:00 p.m. to review the 30% design of the KLTV collection system and gravity maintenance issues were discussed. The 30% design of the treatment plant was received. Mr. Castle’s initial review was positive, but several items from Appendix G need to be addressed. Mr. Dillon comments that a design protocol must be submitted and that some legal issues were raised including the Haskell notices of delay. Mr. Dillon stated that he appreciated the opportunity to attend the meeting and be present for legal issues. Mr. Castle will do the final review of the design protocol and it would be presented to the Board at the next meeting. It was noted that copies of the final concept review had been provided to the Board Chair.

**Commissioner Tobin noted that Mr. Castle was impressive with his attention to detail on future maintenance issues and anticipating problems. Mr. Fishburn comments that all went well at the review and he has no issues with the 30% design and the 60% designs will be much more complete and detailed.**

Mr. Will English, of the Haskell Company stated that he is meeting with George Garrett concerning site mitigation and other issues concerning the treatment plant.

**Commissioner Brooks stated that he attended the staff meeting and that it was pleasant and encouraging to see the staff working well together. Commissioner Brooks believes the 60% designs would ease concerns.**

**Chairman Bauman recessed the meeting at 7:10 p.m. Chairman Bauman reconvened at 7:25 p.m.**
Commissioner Tobin excused himself at 7:28 p.m. stating that he recommends approval of the Haskell change order only if it notes that they don’t get paid if KLWTD doesn’t get grant funds.

Commissioner Bauman requested that the legal counsel report be next. Mr. Dillon informed the Board that he met with Mr. Collins the Monroe County Attorney and that the County Attorney said he would write an opinion that County funds could be used for the Board’s salary and other general administrative costs. The County Attorney interprets the Interlocal Agreement to require a budget line item for Board compensation. Mr. Dillon will work with Mayor Nelson to have the County add a budget line to the County budget, which should correct it.

He noted that Representative Sorenson’s office had requested draft legislation to cover District issues. Mr. Dillon drafted a paragraph that amends the enabling legislation to provide for appointment by the remaining Board members of a person to fill a vacancy. Discussion ensued on the default mechanism of the 189 statute and filing vacancies.

The Board requested that the legislative changes proposed be considered as an action item on the next agenda. Discussion ensued on the cost of holding a special election and constitutional issues of making requirements on appointed officials.

2. Standard Engineering Contracts with the top ranked firms from the April 2003 CCNA process. (Please note these include all revisions that were made to the WEC contract that was previously approved by the Board)
   a. ARCADIS
   b. Boyle
   c. CPH
   d. Calvin, Giordano & Associates, Inc.
   e. Malcolm Pirnie, Inc.
   f. Metcalf & Eddy
   g. PBS&J

Commissioner Brooks made a motion to approve the Standard Engineering Contracts with the top ranked firms. Commissioner Beaty seconded the motion. Commissioner Wilkinson stated that he does not like the CCNA process. Commissioner Beaty noted that the process is required by law. Commissioner Brooks noted that on page 5 he would like the wording to be changed to reflect that the Board would make the decisions on issues with work authorizations. Mr. Miles noted that by previous Board resolution that the staff only has approval to enter into work authorizations under $2,500 and then must seek retroactive Board approval at the next meeting. Mr. Dillon suggested drafting an amendment to the agreement to reflect the Board’s desire. The Board requested that the amendment be drafted and placed as an action item on the next agenda. Commissioner Brooks noted that on page 7 article seven paragraph 3 refers to termination or suspension. Mr. Dillon stated that it is standard and is included for the event that a contract is terminated for convenience. Mr. Dillon recommended the contracts be approved. Discussion ensued on the CCNA process and the bidding process. Chairman Tobin requested a roll call vote, which was as follows:

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<th>Commissioner Beaty</th>
<th>Yes</th>
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<td>Commissioner Brooks</td>
<td>Yes</td>
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The motion was approved.

3. Approval of the Revised Haskell Change Proposal for Key Largo Park

Chairman Bauman brought the item to the floor for discussion. Mr. Dillon stated that he approves of the document as to form. Mr. Beaty made a motion to approve the change order. Commissioner Wilkinson seconded for discussion. Commissioner Wilkinson stated that he believes the District is being over charged for the markup fees. Discussion ensued on the cost plus five percent issue and the contract provisions. Chairman Bauman asked the Manager to go back to Haskell to accept absorbing the cost of the change order. Commissioner Brooks moved to table the item.

G. General Manager’s Report

1. Annual Audit and CAFR Presentation
See above.

2. Financial Update
Moved to the next meeting.

3. Update on the Tax Exempt Status
Moved to the next meeting.

4. Discussion on Rescheduling of the Transition Plan and Administrative Procedures Workshops
Moved to the next meeting.

H. Legal Counsel’s Report

1. Meeting with Monroe County Attorney Richard Collins concerning the reimbursement of Board payroll from County funds
See above.

I. Engineer’s Report

1. Design-Build Agreement design requirements (30% design submittal)
See above.

2. Calusa Campground Presentation

Mr. Castle began the presentation at 8:30 p.m. Mr. Castle concluded the presentation at 8:55 p.m. Discussion ensued on the issue of complying with the County master plan, the private land issue and RV influent.

3. Haskell Monthly Progress Reports for October, November and December

Mr. English noted that the reports are not detailed because the projects haven’t begun construction. Commissioner Brooks questioned the progress reports and why they haven’t been updated. Mr. Castle stated that a revised schedule should be submitted. Mr. Dillon comments
that the first two reports and the schedule provided do conflict and do demonstrate delay. Mr. English stated that MPR's usually don't start until the construction starts. Mr. Dillon noted that the contract states that the project manager was to be approved by the Board. Mr. English stated that he would provide a resume to the Board and address the issues raised concerning the progress reports with Mr. Kinsley.

4. WEC Engineering Status Report

Mr. Castle reviewed his report and stated that they will get much more detailed as time progresses and construction begins.

J. Public Comment

No one present wished to address the Board.

K. Commissioner's Items

1. Discussion of Strategic Planning and Consulting Strategic Planning Firm – Chairman Bauman (CARRIED OVER FROM 1-14-04 AGENDA)

Chairman Bauman deferred his item to the next meeting.

2. Discussion of near shore water testing -- Chairman Bauman (CARRIED OVER FROM 1-14-04 AGENDA)

Chairman Bauman deferred his item to the next meeting.

3. Discussion of "Decision Time" email dated 1-22-04 -- Commissioner Wilkinson

Commissioner Wilkinson deferred his item to the next meeting.

4. Discussion of all e-mail and other communications since our last meeting -- Commissioner Brooks

Commissioner Brooks deferred his item to the next meeting.

5. Update and discussion of the PMP (Project Management Plan) regarding future Federal funding through the Army Corps of Engineers/South Florida Water Management District -- Commissioner Brooks

Item K-5 was brought to the floor for discussion by Chairman Bauman. Commissioner Brooks stated that information was needed to be given to the Army Corp of Engineers by the 20th of January. He provided copies to the Board members. He reviewed the schedule of existing and possible projects that he had provided to assist in securing the funds available. He provided the information on his own because he had no direction from the Board. Commissioner Brooks passed out an email concerning the issue.

L. Meeting Adjournment

Commissioner Beaty made a motion to adjourn at 9:12 p.m. Commissioner Wilkinson seconded the motion. All were in favor.
Key Largo Wastewater Treatment District
Board of Commissioner’s Meeting Minutes
5:00 PM Wednesday, February 18, 2004
Key Largo Civic Club, 209 Ocean Bay Drive
Key Largo, Monroe County, Florida

Board Members Present
Gary Bauman, Chairman
Cris Beaty
Charles Brooks
Andrew Tobin
Jerry Wilkinson

Staff Present
Robert Sheets
Charles Sweat
Thomas Dillon
David R. Miles
Ed Castle

Guests Present
William English, The Haskell Company
Jon Morrison, Florida League of Cities
Amy Osborne, Key Largo Resident
Tom Evans, Evans Environmental
Jill Patterson, Key Largo Resident
Burkeee Cannon, Key Largo Resident
Steve Gibbs, Reporter for the Free Press
Fred & Ann Nickerson, Key Largo Residents
Kim Wigington, Key Largo Resident
Robert E. Burt, Key Largo Resident

A. Call to Order
Chairman Bauman called to order at 5:10 p.m.

B. Pledge of Allegiance
The Pledge was recited.

C. Additions, Deletions or Corrections to the Regular Meeting Agenda
Commissioner Brooks requested that a Resolution concerning sending a letter to the Florida Legislature and the Governor expressing KLWTD’s unanimous support for the “Landmark Monroe County Conservation Proposal” that sets goals for protecting near shore waters and native forests be added for consideration. He explained his and Mayor Nelson’s position on the issue. His point of view indicates that KLWTD should voice its opinion on the issue to the Governor, Chairman Bauman and Comm. Tobin objected to the resolution being acted on tonight and placed it as Commissioner’s Item K-8 for discussion.

Commissioner Brooks also noted that with the commissioner’s items being last they continue to be put off, he is interested in the discussion on Comm. Wilkinson’s items K-3 and his item K-4 and suggested they be placed in front of the other commissioner’s items.

Comm. Wilkinson’s 2-15-04 email concerning an extension to the FEMA grant was added as Item K-9.

D. Minutes – Draft Draft October 17th 2003 and January 14, 2004

Commissioner Brooks made a motion to approve the October 17, 2003 minutes with the inclusion of Mr. Dillon’s suggested changes. Commissioner Wilkinson seconded the motion. Commissioner Tobin abstained from voting because he had not had time to review the minutes. The motion was approved with a vote of four in favor and one abstention.

The January 14, 2004 minutes were tabled. Chairman Bauman requested they be included on the next meeting agenda.

E. Public Comment

Mr. Robert Burt informed the Board that the KLTV picnic would be held at the west park off Buttonwood at the end of Park Drive on March 27, 2004 at 4:00 p.m. He invited the members to attend.

Ms. Ann Osborn introduced herself as a resident of KLTV and expressed her interest in any administrative secretary/clerk positions that become available with the District. She attended the meeting to observe the work of the Board. Chairman Bauman welcomed her and stated that the transition to local employees is in the future and that once an advertisement for the position is posted the Board would consider all applications submitted.

1. Presentation by the Florida League of Cities on the KLWTD Insurance coverage

Mr. Jon Morrison of the Florida League of Cities presented information on the District’s insurance coverage. The General Liability Policy had been forwarded in its entirety to the Board Members.

Mr. Morrison noted that the District has Errors and Omissions Endorsement to cover decisions made by the Board or by individual members and that historically it provides legal counsel to the insured. Any lawsuits filed against the District would have defense counsel provided through the League’s approved list. Any cost of investigation (depositions, court reporters, etc.) would be covered and no court cost would be due from the District for a covered litigated claim. The District would need to notify the League of any claims or potential claims. If a summons or
complaint is received it must be reviewed by the League to verify if it is covered. Determination is made by the allegations in the complaint.

Commissioner Tobin questioned if the District would be covered while meeting at the Key Largo Civic Club for a slip and falls. Mr. Morrison stated that the Civic Club as a 501.3c would have their own coverage. Discussion ensued on liability issues including defense costs for third party claims, which are not covered, damage during construction activities, which would be covered by the contractor and District representative traveling on District business, which would be covered by workers compensation and the individuals automobile policy.

Commissioner Beaty asked about sewage backups or other negligent acts. Mr. Morrison stated that an investigation would be conducted and that negligence based acts only would be covered and if a lawsuit were filed they would defend them. Negligence scenarios were discussed. Commissioner Wilkinson asked if the insurance would cover a malfunctioning valve. Mr. Morrison stated that the manufacture would be contacted for reimbursement on any claims paid.

Mr. Morrison stated that he would provide standard insurance forms to the clerk in the event any claims were made. Mr. Sheets stated that the District as a governmental entity was protected by sovereign immunity and that for certain claims would not pay more than the coverage limits on claims.

Chairman Bauman thanked Mr. Morrison for the information provided.

F. Legal Counsel’s Report

Please see below.

G. Action Items

1. Approval of Legislative Change to House Bill 471 to 2002-337 Laws of Florida concerning vacancies to the Board

Commissioner Beaty made a motion to approve the item. Commissioner Wilkinson seconded the motion for discussion. Commissioner Brooks asked whether the last sentence of the change provides that the District may not use funds for any purpose that is expressly prohibited by the granting agency. Mr. Dillon stated that the County’s position that the District may not use funds for administrative expenses, including Board compensation was based on the County’s belief that the restriction was implicit and not explicit. The proposed legislation would allow a restriction only if the granting agency explicitly imposed the restriction. Discussion ensued on whether the Board could provide health insurance coverage for the Board. Mr. Dillon advised that the Board had the authority to do so. Chairman Bauman asked for any further discussion. All were in favor and the motion was approved.

2. Approval of Legislative Change to House Bill 471 to 2002-337 Laws of Florida concerning payments of Board salaries

Mr. Dillon introduced the vacancy provision. Commissioner Beaty moved to approve the amendment as stated. Commissioner Wilkinson seconded for discussion. Commissioner Wilkinson stated that it is his opinion that as an elected Board that all
members should be elected. Discussion ensued concerning if an appointment were made when would the appointee’s term end. Discussion ensued concerning Chapter 189, Chapter 337 concerning special districts and the possibility of the Governor appointing Board members. Chairman Bauman invited public comment. Ms. Jill Patterson, a Key Largo resident stated that she felt strongly that if time permits the public should vote on all members of the Board. Mr. Burke Cannon also believes that the public should elect members. Discussion ensued concerning appointments adversely impacting the staggering of the expiration of individual members terms and the cost of holding a special election. Rewording the amendment was discussed. Chairman Bauman requested a roll call vote, which was as follows:

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<td>Commissioner Tobin</td>
<td>No</td>
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<tr>
<td>Commissioner Wilkinson</td>
<td>No</td>
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<td>Chairman Bauman</td>
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The motion was defeated.

Commissioner Beaty made a motion to reconsider the legislative change with a change to amendment paragraph 6, striking the words “remainder of the expired term” and replacing it with “the next general election. Commissioner Wilkinson seconded the motion. Chairman Bauman requested a roll call vote.

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<td>Chairman Bauman</td>
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The motion carried.

3. Approval of the KLWTD Annual Financial Report to the Department of Banking and Finance

Commissioner Beaty moved to approve the KLWTD Annual Financial Report to be forwarded to the Department of Banking and Finance. Commissioner Brooks seconded the motion. All were in favor and the motion was approved.

4. Approval of Amendment No. 1 to the Haskell Contract

Mr. Dillon informed the Board that the item was a housekeeping amendment that would change the notice from the default of Lewis, Longman and Walker to Mr. Dillon and includes a clause concerning the prompt pay act. Commissioner Wilkinson moved to approve the amendment. Commissioner Beaty seconded the motion for discussion. Commissioner Brooks asked if the persons to receive notices should be identified by title instead by name. It was suggested that both title and name be used and a copy to the KLWTD P.O. Box. The Board requested that Haskell sign the amendment prior to it being presented for consideration. The motion was withdrawn and the item was tabled until a future meeting.
5. Approval of Amendment No. 2 to the Standard Engineering Consulting Contracts

Mr. Dillon explained to the Board that the amendment was drafted to clarify that the Board approves invoices and not the staff. **Commissioner Brooks moved to approve the item. Commissioner Wilkinson seconded the motion. All were in favor and the motion was approved.**

6. Acceptance of the Government Services Group, Inc. Letter of Resignation and the GSG Time and Materials Exhibit A

Mr. Sheets stated that the letter was submitted at the request of the Board and to formalize the verbal resignation tendered in December of 2003. The letter indicates that by this notice GSG would provide services under the present contract until May 9. It was noted that monthly fees are not to exceed $6,600.00 for grant management. Commissioner Tobin stated that he was not ready to accept a time and materials option for any additional work. Chairman Bauman stated that the resignation has been accepted but the Board requires more discussion concerning the time and materials option.

Mr. Sheets requested clarification and direction from the Board because after the last meeting and discussion with staff and the chair he believed that after the 90 days any work would be compensated at time and materials. Commissioner Tobin stated that he would needs projections before acting. Mr. Dillon was asked to draft a document to cover services after May 9, 2003.

Commissioner Brooks asked if the resignation was negated. Mr. Sheets stated that under the present contract this notice indicates that GSG would not be the General Manager after May 9, 2004 and that for services to continue after that point a new scope of service must be defined and approved by the Board. Commissioner Brooks expressed concern that immediate steps must be taken to replace GSG. Chairman Bauman proposed an all day meeting on a Saturday to develop solutions. Chairman Bauman stated that a formal transition plan is needed.

Commissioner Beaty asked if the “true up” on hours expended by GSG had been provided. Mr. Sheets stated that the information had been provided in the January 7, 2004 agenda materials.

Mr. Sheets agreed to bill under second contract for grant administration on an hourly basis with a not to exceed amount of $6,600. Chairman Bauman asked if this was acceptable to the Board. Commissioners Tobin, Brooks and Chairman Bauman stated yes. Mr. Sheets stated that he would forward his recollection of the Board’s wishes to Mr. Dillon.

7. Approval of the Pending Payments List for February 11, 2004

Mr. Miles informed the Board that he had emailed a copy of the invoices to each member of the Board last Thursday. Commissioner Tobin questioned WEC’s request for payment on the Calusa Campground report and if it was lump sum. Mr. Sheets and Mr. Dillon confirmed that they had completed the scope of the work order. **Commissioner Beaty moved to approve the Pending Payments list for February 11, 2004. Commissioner Tobin seconded the motion. Commissioner Wilkinson requested a future agenda item to discuss charging some items against the grant for administration. With no further discussion all voted in favor and the item was unanimously approved.**
H. General Manager's Report

1. Quarterly Financial Reports

This item was presented for informational purposes only.

2. Update on the Tax Exempt Status

This item was provided for informational purposes only. Mr. Miles noted that the certificate must be sent with each purchase order and that the District on a District check to be considered tax-exempt must issue payment.

3. February 4, 2003 Thirty Percent Design Meeting Minutes

This item was provided for information only. Commissioner Wilkinson stated that he didn't like the format and it was not at the level of detail he would like to see. Mr. Sweat stated that these types of notes are typical of design construction meetings. Chairman Bauman asked who follows up items indicated in the minutes and when. Mr. Sweat stated that the tasks had been assigned during the discussions at the meeting. Mr. Dillon noted that the contract indicated that a submittal protocol was required to be submitted to the Board but there is not a contractual need for minutes. Discussion ensued on the development and implementation of an issue log.

Commissioner Brooks noted that at last meeting he requested that who ever provides reports or minutes states who provided them.

4. Update on the rescheduling of the Transition Plan, Administrative Procedures and Strategic Planning Workshops

Mr. Sheets stated that there was no backup information provided with this item. He informed the Board that staff had meet and would provide a memorandum at the March 3 meeting. Mr. Sheets indicated that a series of planning workshop should be scheduled between now and the end of April and all day meetings to be held on Saturdays were suggested. These workshops would cover strategic planning, the transition plan and administrative procedures.

The dates of March 20, March 27, April 3, and April 17 were offered. It was suggested that for the strategic planning process a facilitator be brought in to help the process. The strategic plan would help to address the other issues. The Chairman would be given names of facilitators to contact.

Mr. Burke Cannon a Key Largo Resident commented that a facilitator is an interesting concept. From his past business experience workshops and seminars were a productive way to find direction and set priorities.

Commissioner Tobin commented that strategic planning has been discussed, but there are serious deadlines that need to be considered immediately, including hiring a secretary clerk. He suggested dual planning with advertising in the Keynoter and Reporter to begin interviewing for a secretary/clerk.
Mr. Sheets informed the Board that there would be a conference call on Thursday that would include Mr. Castle, Mr. Sweat, Mr. Dillon and himself to discuss the FONSI fine points with Ms. Science Kilner of FEMA.

Mr. Sheets informed the Board that there would be a meeting scheduled to go over the site 100.5 issues including site mitigation and the recently discovered issue of the two land use zones. It would include Mr. Dillon, Mr. Sheets, Mr. Sweat, a Brown and Caldwell representative and Commissioner Tobin.

Chairman Bauman recessed the meeting at 7:55 p.m.

Chairman Bauman reconvened the meeting at 8:05 p.m.

I. Engineer's Report

1. The Haskell Company's Design Development Protocol Review

Mr. Castle stated that the design build agreement required a design protocol. This draft includes that staff's comments and is being presented for the Board's comments. Once accepted by the Board then Haskell will implement the protocol. Mr. Castle would include an in issue log, which is to include comments and who made them, who will take care of them and when they are completed. The Manager will maintain the log and provide a copy to the Board and staff. Discussion ensued concerning the Manager being the main contact and if there would be problems with the upcoming transition. Mr. Castle offered his assistance during the transition but with a change in the scope of work compensation would need to be discussed. Commissioner Wilkinson stated that the Board must be copied on all comments and requested Mr. English to provide him with the comments from Haskell and Brown and Caldwell on the 30% submittal.

Discussion ensued concerning the receipt of the 60% drawings, when the 99% drawings would be ready and how vacant lots would be hooked up. It was noted that Haskell had been requested to design the entire project and the District would build as far out as funds would permit.

Mr. Sweat stated that the Board would be copied on the issue log and informed of the next design meeting.

Mr. Dillon requested direction from the Board concerning his attendance at the design review meetings. It was the consensus of the Board the Mr. Dillon not attends any subsequent design meeting.

J. Public Comment

Mr. Burke Cannon stated that he questions why the Board is considering a transition at this time. It is his opinion that there are too many issues facing the Board to be changing administration.

K. Commissioner's Items

1. Discussion of Strategic Planning – Chairman Bauman
2. Update/Discussion of Near Shore Water Testing – Chairman Bauman

Chairman Bauman stated that it would be a disservice to Key Largo residents if no testing was done to document the water quality during droughts, the tourist season, the rainy season, etc. Discussion ensued. Commissioner Wilkinson noted that lake water testing could be done by certain government agencies at no charge such as Florida University. Commissioner Wilkinson offered to pass information to Mr. Sheets. Mr. Sheets stated that he would contact the agencies and update the Board.

3. Discussion of “Decision Time” Email – Commissioner Wilkinson

Commissioner Wilkinson’s email stating concern over the project not being able to meet AWT standards was brought to the floor at 8:35 p.m. Mr. Castle stated that he firmly believes that AWT standard could be met with present design and modifications. Discussion ensued on the expansion of plants on the site. Mr. Sweat stated that the plant would be built, as capacity is needed.

4. Discussion of e-mails and communications – Commissioner Brooks

Commissioner Brooks stated that he would second terminating the present design build contract and starting all over if so much time and effort hadn’t been committed.

Commissioner Brooks is concerned with limited distribution of emails and asked Mr. Dillon if the person who writes the emails discussing things coming before the Board can be responded to. Mr. Dillon stated that there couldn’t be any substitute for debate. All debate must be held at a public Board meeting he added that the first opinion out is the only opinion out until a meeting.

Chairman Bauman requested that Commissioner Wilkinson not respond to Board issues by email. Discussion ensued on the Sunshine Law.

Mr. Dillon was asked his legal opinion of the situation. Mr. Dillon stated that no one has violated the Sunshine Law and that the first one to speak is the only one to get to speak until the meeting. Mr. Dillon stated that he would warn the Board if he suspects a violation.

5. Discussion of enacting a resolution to begin a search for an administrative secretary/clerk – Commissioner Tobin

Commissioner Tobin wants to advertise for secretary so that an office can be set up and the Board can get control of their documents. He suggested to get started with Mr. Dillon as the point person. Chairman Bauman stated that it would be more logical to hire a manager first who would then hire the clerk and set up the office. Mr. Dillon stated that he must have strategic plan because there is no consensus of the Board on any of the issues relating to the transition. Mr. Sheets commented that at this time what to advertise for has not been decided, will the employee be full-time, part-time a contractor will the person receive benefits, where would they work from, etc.

Commissioner Tobin requested the item be included repeated as a discussion item on the next agenda.
Commissioner Beaty stated that as part of the transition committee it would be premature to look for a secretary prior to finding a general manager.

Commissioner Tobin requested that a discussion of office space be place on the next agenda.

6. Discussion of the Legislative Forum Membership Meeting and Legislative Reception – Commissioner Brooks

The item was presented for information only. No members expressed interest in attending.

7. Update/Discussion on the Ileana Ros-Lehiten meeting – Chairman Bauman

Chairman Bauman informed the Board that at the meeting most people attending stated that finding solutions to the wastewater issue are paramount in the Keys. All the local officials present expressed the same opinion. Ms. Ros-Lehiten promised as much money as politically possible for the wastewater issue.

8. Discussion of a resolution to send a letter to the Florida cabinet and Governor expressing KLWTD’s unanimous support for: The Landmark Monroe County Conservation Proposal (LMCP) that sets goals for protecting near shore waters and native forests – Commissioner Brooks

Commissioner Brooks stated that passing the resolution was a matter of stating interest in getting money. Chairman Bauman stated that this is a strategic planning issue. Commissioner Tobin stated that this is an ongoing debate that the KLWTD should not become involved with quickly. Action on this item would have long-term implications and the resolution needs work it needs a conclusion.

9. Commissioner Wilkinson made motion to elevate the FEMA Grant Extension suggested in his 2-15-04 email to an action item on the next agenda. Commissioner Tobin seconded the motion.

Mr. Sheets stated that he would contact with Ms. Science Kilner of FEMA and provide the Board with a status report at the next meeting.

L. Meeting Adjournment

Chairman Bauman adjourned the meeting at 9:25 p.m.
Draft Minutes

Key Largo Wastewater Treatment District
Board of Commissioner’s Meeting Agenda
5:00 PM Wednesday, March 3, 2004
Key Largo Civic Club, 209 Ocean Bay Drive
Key Largo, Monroe County, Florida

Board Members Present

Gary Bauman, Chairman
Cris Beaty, Member
Charles Brooks, Member
Andrew Tobin, Member (Comm. Tobin joined the meeting in progress at 5:20 p.m.)
Jerry Wilkinson, Member

Staff Members Present

Charles Sweat, Director of Operations, Government Services Group, Inc.
Tom Dillon, Board Attorney
Ed Castle, Board Engineer
Faith Doyle, Board Clerk

Guests Present

Will English, The Haskell Company
Luis M. Areos, Key Largo Resident
Steve Gibbs, Reporter for the Free Press
Burke Cannon, Key Largo Resident

A. Call to Order

Chairman Bauman called the meeting to order at 5:12 p.m.

B. Pledge of Allegiance

The pledge of allegiance was recited.

C. Additions, Deletions or Corrections to the Regular Meeting Agenda

Commissioner Wilkinson request a discussion concerning the paying of invoices from grant funds. The item was added as K3 with back provided by Comm. Wilkinson entitled SUSTAINABLE DISTRICT FISCAL VIABILITY.

D. Minutes – Draft

Commissioner Beaty made a motion to approve the minutes of January 14, 2004. Commissioner Wilkinson seconded the motion. Chairman Bauman requested a roll call vote.

<table>
<thead>
<tr>
<th>Commissioner Beaty</th>
<th>Yes</th>
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<tbody>
<tr>
<td>Commissioner Brooks</td>
<td>No</td>
</tr>
<tr>
<td>Commissioner Wilkinson</td>
<td>Yes</td>
</tr>
<tr>
<td>Commissioner Tobin</td>
<td>Not Present</td>
</tr>
<tr>
<td>Chairman Bauman</td>
<td>Yes</td>
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</table>

The motion was approved.

Commissioner Brooks made a motion to postpone action on the February 4, 2004 minutes and the February 18, 2004 minutes until the next meeting. Commissioner Beaty seconded the motion. All were in favor.

E. Public Comment

No one present wished to address the Board.

F. Legal Counsel’s Report

Mr. Dillon presented the letter forwarded to Rep. Sorenson that included the financial impact statement. Mr. Dillon informed the Board that he had received an email receipt stating that the amendment had been received by Rep. Sorenson and that he would introduce it during the 2004 session.

G. Action Items

1. Approval of the Pending Payments List for February 25, 2004

Chairman Bauman brought the pending payments list to the floor for consideration. Commissioner Tobin asked about Payment No. 1 to Monroe County and if the first principle and interest payment is due per the agreement with Monroe County. Commissioner Wilkinson suggests holding the payment until paid invoices could be forwarded to Monroe County to offset this expense. He believes paid invoices should be considered as credits because the $100,000 had been tax funds paid by the residents and the work being done is for the wastewater to be completed as required. Commissioner Wilkinson informed the Board that he had spoken with Mayor Nelson who requested an email concerning the issue be forwarded from the Board and he would then follow up on the idea of crediting the KLWTD for invoices paid. Commissioner Tobin believes the agreement should be honored and payment should be forwarded to avoid default. Commissioner Brooks agreed with Comm. Wilkinson because the original discussions were to have the $100,000 be a grant, it should be held until the repayment issue is resolved. Discussion ensued. The Board requested a future agenda item requesting the County to consider forgiveness of the $100,000.

Commissioner Wilkinson made a motion to approve the pending payments list with the exclusion of the Monroe County payment. Commissioner Brooks seconded the motion. All were in favor and the motion was approved.

H. General Manager’s Report
Mr. Sweat requested the Board consider a letter from Haskell dated March 2, 2004 that indicated the change order had been redrafted per the concerns expressed by the Board. Mr. Kinsley stated that in November a change proposal for $76,000 was approved unanimously by the Board. The design work began as indicated by the change order. Minor changes to the document were presented on 2-4-04. Commissioner Wilkinson’s concerns on approximately $2,800 of costs and the 5% issue caused the item to be tabled. Mr. Kinsley outlined the response and noted it included concessions in the amount of $1,950. Discussion ensued concerning the document. The issue of 5% mark up on indirect or direct costs were discussed. It was noted that expanded drawings that were not included in the original plan would be considered direct costs. Mr. Dillon stated that indirect and direct costs were not specified in the contract and he used the Florida construction guidelines for a basis. He recommended that the Board might want to approve the change order as presented and consider the costs as indirect. Mr. Kinsley offered to take out the questionable costs to get the item processed so that the designers, Brown and Caldwell could be paid. Comm. Tobin continued to question if the objections were conceded to and if approving the document would set precedent. Mr. Kinsley requested the document be signed as approved adding that he did not believe it would be setting precedent. It was noted that at the next design team meeting discussion of what is and is not direct and indirect costs would be done. Commissioner Brooks recalled 5% over the costs on change orders being discussed at the review meetings. Commissioner Brooks doesn’t want to reopen the issue because cost plus 5% on change orders was in the contract. Commissioner Bauman suggested that Mr. Dillon research for the next design team meeting what direct and indirect costs are.

Commissioner Tobin made a motion to approve the change order with the additional deduction of $1,080 and added “This change Order does not establish a precedent as to the manner in which the contractor may mark up contract costs for change orders.” Commissioner Brooks seconded the motion. Chairman Bauman requested a roll call vote.

Commissioner Beaty  Yes
Commissioner Brooks Yes
Commissioner Tobin Yes
Commissioner Wilkinson No
Chairman Bauman Yes

The 3% bonding cost was discussed and it was requested that the issue be clarified for the next change order. Commissioner Tobin asked for proof of how the insurance works so that there is a specific add on amount for design build contracts. Mr. Kinsley of Haskell agreed to do this. Mr. Dillon stated for clarification that the agreement was amended to state that precedent had not been set and that the final total was $73,767.

1. Update on Strategic Planning

Mr. Sweat asked the Board to consider the 2-25-04 Memorandum from Mr. Sheets. He recommended the Board accept the Saturday schedule and entertain hiring Dr. Marlowe. Discussion ensued on the need for a facilitator, the cost of a facilitator and if the facilitator would be required at all workshops scheduled. Commissioner Tobin was not in favor. He believes the short-term issues need to be tackle first, such as employing an office secretary, a financial manager and a utility manager. Commissioner Wilkinson agreed that the district should be ready to go on its own by May 9 and that Mr. Sheets should be the facilitator under the terms of his contract he has the experience to set up an interim strategic plan from the master plan. Commissioner Beaty stated that the Saturday dates do not work with his schedule.
Commissioner Brooks reads from the memo and adds that he and others had requested workshops several times over the past year. He suggested holding a workshop as an advertised public meeting but to make decisions but to create consensus for setting action items for future agendas.

Chairman Bauman accepted public comment from Mr. Gibbs who stated that facilitated local meetings would be a good experience for the Board. Mr. Burk Cannon wants it to be in the public and added that a facilitator has the expertise to try to bring the Board together in a common direction.

Chairman Bauman agreed the Board should start with a ½ day on the transition plan. He believes a facilitator is necessary and that the Board owes the citizens a clear statement of direction and a plan. Discussion continued.

Commissioner Brooks moved to set the first workshop meeting to be held on Saturday the 27th of March beginning at 1:00 p.m. at the Key Largo Civic Club if it is available. Commissioner Tobin seconded the motion. All were in favor.

Discussion concerning the use of facilitator continued. Chairman Bauman requested that the suggested facilitator contact each Board member. Commissioner Brooks made a motion to direct staff to contact Dr. Herb Marlowe or other facilitators to contact each Board member prior to March 17, 2004, and to add an action item to the March 17, 2004 agenda to act on the attendance of a facilitator at the March 27, 2004 workshop. Commissioner Beaty seconded the motion. Chairman Bauman requested a roll call vote.

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<tr>
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<td>Yes</td>
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<tr>
<td>Chairman Bauman</td>
<td>Yes</td>
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The motion was unanimously approved.

2. Update on conversation with Science Kilner of FEMA on a FEMA Grant Extension

Mr. Sheet’s memo was presented to the Board. Mr. Sweat stated that the issue of requesting an extension would be addressed at the 3/10/04 design team meeting. Commissioner Wilkinson feels an extension should be requested immediately before the need becomes paramount. Commissioner Wilkinson stated that at least a six-month extension be requested. Discussion ensued on the need to initiate a request for an extension immediately or waiting.

It was the consensus of the Board to request a letter from The Haskell Company concerning the submission of the site plan and the conditional use application. Mr. Sweat stated he would draft and forward a letter.

3. Update on Initial Contact with Agencies Concerning Near Shore Water Monitoring and Testing

Mr. Sweat updated the board as per the memorandum adding that research would continue and the Board would be updated at future meetings.

Chairman Bauman recessed the meeting at 7:05 p.m.
Chairman Bauman reconvened the meeting at 7:15 p.m.

I. Engineer’s Report

1. KLWTD Engineering Status Report for the Period Ending 02/24/04

Mr. Castle presented and reviewed the report. Dry line permitting was discussed and that the scheduling would be handled by the contractor. It was noted that the Board as the permittee would have to give its approval of any permit issued.

Commissioner Tobin asked if there was a time frame for action concerning the Calusa Campground Report. Mr. Castle stated that the next step would be to develop a connection policy and to provide acceptable options to the property owners. Discussion ensued. A meeting to accept public input was suggested prior to implementation of any connection policy.

It was suggested a letter be forwarded to the condominium association. Mr. Sweat suggested meeting with the condo board prior to a letter being sent. Commissioner Tobin thinks the Board should be the first contact and provide them with information and a copy of the study and invite them to attend the KLWTD meetings. It was the consensus of the Board to have a letter forwarded to the Calusa Campground Condominium Association by Mr. Sweat. The letter was to be signed by Chairman Bauman.

Chairman Bauman made a formal request for Mr. Dillon’s attendance at the design team meetings. The Board discussed it with Commissioner Wilkinson commenting that he should attend at the hourly rate. Commissioner Brooks was not sure if there were enough legal issues to incur the expense for several hours. Chairman Bauman suggested Mr. Dillon stand by on the cell phone. It was noted that it is difficult to ascertain what is a legal issue. Commissioner Tobin stated that it would be of benefit to have Mr. Dillon attend. However Mr. Sweat as the Director of Operations should conduct the meetings.

J. Public Comment

Mr. Burk Cannon asked why public comment would be requested from Calusa if they would have to come on line by statute. Discussion ensued on the enforceability of mandatory connection ordinances. Discussion ensued on the issue of deciding if the expansion of the plant should be explored versus completing the KLP.

K. Commissioner’s Items

1. Discussion of the Haskell Company suggested project manager – Chairman Bauman

It was noted that the contract stated the District has the right to approve a submittal suggesting a project manager. Mr. English was requested to have Mr. Kinsley forward a submittal for the Board’s consideration at the March 17, 2004 meeting.

2. Discussion of Municipal Wastewater Appropriations Deadlines – Commissioner Tobin

The item was informational.

3. Discussion of SUSTAINABLE DISTRICT FISCAL VIABILITY -- Commissioner Wilkinson
Discussion ensued on spending grant money versus MSTU funds. It was noted that grant money is restricted and MSTU funds are less restricted. Discussion ensued on the accounting issues and if Mr. Miles should be directed to pursue the issue of deducting administrative fees from the County $100,000 loan. Commissioner Tobin suggested the Board enact a policy of 25% of project cost be considered overhead to be submitted for credit to the project cost. It was the consensus of the Board to have Mr. Miles research and recommend if this could be done. The Board requested that Mr. Miles attend the next meeting by phone.

L. Meeting Adjournment

Chairman Bauman adjourned the meeting at 8:02 p.m.
Update on the correspondence with Rep. Sorensen concerning use of funds for administrative costs.
Faith Doyle

From: Thomas Dillon [thomasdillon@terranova.net]
Sent: Wednesday, March 10, 2004 7:59 AM
To: Andrew Tobin; Charles Brooks (E-mail); Cris Beaty (E-mail); Gary Bauman (E-mail); Jerry Wilkinson; Faith Doyle
Cc: Robert Sheets; EdRCastle@aol.com; David Miles; Charles Sweat; Charles Fishburn; Jeff Weiler; weiler7@comcast.net

Subject: Re: Key Largo Wastewater Treatment District

I agree, and will draft the request this week. Tom

----- Original Message -----
From: Jerry Wilkinson
To: Thomas Dillon
Sent: Tuesday, March 09, 2004 12:29 AM
Subject: RE: Key Largo Wastewater Treatment District

Tom:
Why don't we ask the AG for an opinion? Charlie Christ is a nice person. This is ridiculous! Danny should ask his own attorney as a constitutional officer.
Jerry

-----Original Message-----
From: Thomas Dillon [mailto:thomasdillon@terranova.net]
Sent: Monday, March 08, 2004 12:36 PM
To: Ken Sorensen
Subject: Key Largo Wastewater Treatment District

Representative Sorensen,

I am attaching a letter I sent this date to County Attorney Richard Collins concerning use by the Key Largo Wastewater Treatment District of funds collected by Monroe County.

I'm also attaching an email from David Miles recounting his conversation this date with Mr. Kolhage.

The County continues to refuse to allow the District to use County funds for administrative and overhead expenses. On behalf of the District, I would appreciate any assistance you can provide.
March 8, 2004

Mr. Richard Collins
County Attorney
Monroe County
P.O. Box 1026
Key West, Florida 33041-1026

Re: Key Largo Wastewater Treatment District

Dear Richard,

You will recall my letter to you of December 29, 2003, and our conversations regarding the use of County funds to cover overhead and administrative expenses of the Key Largo Wastewater Treatment District.

Based on those conversations, I was under the impression that your office was taking steps to rescind Mr. Wolfe's letter of June 18, 2002 and to advise Mr. Kolhage that there was no legal impediment to paying District overhead and administrative expenses with county funds and, more specifically funds collected by the County under the MSTU tax authority.

It appears that Mr. Kolhage continues to prevent use of the MSTU funds to pay District overhead and administrative expenses. Please see the attached email from David Miles of Government Services Group, Inc. regarding his discussion with Mr. Kolhage this date.

I would like to discuss this further with you, and to have your assurance that you will take the steps that we discussed to rescind the Wolfe letter so that these funds may be made available. Please call me at your earliest convenience at 304-8735.

Sincerely,

Thomas M. Dillon

Cc: Mayor Murray Nelson
Representative Ken Sorensen
Key Largo Wastewater Treatment District Board
Government Services Group, Inc.

Attachment: Miles email 3/8/04, 11:44 a.m.
Tom and Leslie Dillon

From: "David Miles" <DMiles@GovMServ.com>
To: "Charles Sweat" <CSweat@GovMServ.com>; "Robert Sheets" <rsteets@govserv.com>
; "Thomas M. Dillon (E-mail)" <thomasdillon@terranova.net>
Sent: Monday, March 08, 2004 11:44 AM
Subject: Phone Conversation with Danny Kohlage

I just received a phone call from Danny Kohlage. He was in receipt of our
MSTU payment request number 2 for $151,251.15. This request was supported by
$99,686.10 in accounts payable payments made between October 2003 and
February 2004, plus $51,251.15 of board payroll expenses from November 2002
through January 2004.

The purpose of his call was to tell me that he could not reimburse any of
the expenses in the draw, because they were all "administrative expenses",
and not specific project engineering or construction expenses for either the
Park or Village projects.

I told him that it was my understanding that these were precisely the types
of expenses that the MSTU was set up by the County to pay. He then stated he
still had a County Attorney letter that told him that these payments for
administration were not allowable expenses. I told him that our Board
Attorney had spoken with Mr. Collins the County Attorney, and that he was
told Mr. Collins was rescinding the letter that Mr. Kohlage had in hand,
written by an Assistant County Attorney. Danny appeared to be unaware of
that fact.

He was aware that a local bill was pending in the legislature, but stated
that until it passed, he could not disburse additional MSTU funds to the
District.

He stated he would contact Representative Sorensen and County Attorney
Collins to check on the status of the local bill and the letter rescinding
the Assistant County Attorney letter. He said he would then get back to me.
Right now he will not pay against our draw number 2, even in the form of an
additional advance.

3/8/2004
KLWTD Board Meeting
March 17, 2004

Item F – 3

Update on the definitions of direct and indirect costs.
Faith Doyle

From: Thomas M. Dillon [thomasdillon@terranova.net]
Sent: Thursday, February 05, 2004 10:50 AM
To: Ed Castle; Charles Sweat; David Miles; Jeff Weiler; Robert Sheets; Andrew M. Tobin; Charles Brooks; Cris Beaty; Gary Bauman; Faith Doyle; Jerry Wilkinson
Subject: Haskell Change Order # 1

This is to provide guidance in the pricing of Haskell proposed Change Order # 1.

At the Board meeting of 2/4/04, under topic F.3, the individual Board members expressed their recollections of representations made by Haskell as to the pricing of change orders. As I understand those recollections, they were that Haskell promised that it would add 5% of the third party costs of change orders, which would cover profit, overhead, etc. On that basis, the Board directed that Change Order # 1 be amended to eliminate certain proposed charges, including the following:
Project Director ($1,600)
General Conditions ($1,000)
Markup on Project Director and General Conditions ($140)

I did not have the Design-Build Agreement with me at the meeting, and could not analyze this issue at that time.

The Design-Build Agreement provides for the pricing of extra work in a way that differs from the recollections expressed at the meeting.

The Design-Build Agreement provides in Section 9.3 that the parties will agree on a lump sum or unit price for extra work, and in the absence of such agreement Haskell is entitled to the "cost of the work as determined under Section 9.3(c). As I interpret, these costs would be equal to the Brown & Caldwell fee of $68,207. In addition, the Design-Build Agreement provides, at Section 9.3:

"CONTRACTOR shall be entitled to its 5% markup on all direct costs, including bonds and insurance, of these items for the CONTRACTOR'S fee."

The term "direct costs" is not defined in the Design-Build Agreement. However, costs are generally defined in the construction industry as follows:

"Direct costs consist of job-site or field expense increases, such as labor, payroll, taxes, insurance, bonding, subcontractors, material costs, and equipment rental.
"Indirect costs represent the project's overhead, such as the cost of the project's superintendent or manager, travel expenses, site offices, off-site offices, and telephone/stationery expenses.
"Total costs are the sum of the direct and indirect costs."

Stephen M. Siegfried, Florida Construction Law, §10.04[A], at 211-212 (2001)

Based on the terms of Design-Build Agreement Section 9.3, if the parties are unable to agree on a lump sum price, I believe that Haskell would be entitled to the following amounts:

(1) Direct Costs: Brown & Caldwell: $68,206.60
(2) Actual increased costs, if any, of insurance and bonding (not shown in CO # 1)
(3) 5% of the total of (1) and (2).

Note that if the actual increased costs of bonding and insurance are 3%, as implied in the Change Order form, then the total value of the Change Order would be:

B&C: $68,206.60
+ 3%: $2,046.20
Subtotal: $70,252.80
+5%: $3,512.64
Total: $73,765.44

Tom

3/9/04
KLWTD Board Meeting
March 17, 2004

Item G – 1

Approval of the Pending Payments List for March 10, 2004.
TO: Key Largo Wastewater Treatment District Board Members

CC: Robert E. Sheets, General Manager
Faith Doyle, Clerk to the Board
Charles Sweat, Director of Operations
Thomas Dillon, Board Attorney

FROM: David R. Miles, Director of Finance

DATE: March 10, 2004

RE: Pending Payments Key Largo Wastewater Treatment District

Dear Commissioners:

This agenda item is designed to provide an update on the financial status of the Key Largo Wastewater Treatment District. As of March 10, 2004 the District had $323,640.12 in its bank account. We have $38,524.04 in invoices in-hand for payment by March 31, 2004. Exhibit A is the list of currently outstanding invoices pending payment. As requested by the Board at the January 14, 2004 meeting, separate accounting of cash balances are shown as follows as of March 10, 2004:

<table>
<thead>
<tr>
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<th>Amount</th>
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<tbody>
<tr>
<td>Administration &amp; Operations</td>
<td>$ 80,691.84</td>
</tr>
<tr>
<td>Key Largo Park</td>
<td>(25,009.25)</td>
</tr>
<tr>
<td>Key Largo Trailer Village</td>
<td>267,957.53</td>
</tr>
<tr>
<td>Total</td>
<td>$ 323,640.12</td>
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</tbody>
</table>

The second draw request from the FDEP grant for KL Park was mailed February 25, 2004 in the amount of $14,602.99. FDEP has not yet paid this grant request, but it was processed for payment March 9. A second advance of $250,000.00 in FEMA Phase 1 funds was received on March 8, 2004 and was deposited in the KLWTD bank account. These funds are for use on the Key Largo Trailer Village project.

Staff sent a second draw request from Monroe County for MSTU funds on March 3, 2004. We have received verbal notification from Mr. Danny Kohlage, Clerk of Court, on March 8, 2004 that none of the $151,251.15 requested was eligible for reimbursement because it was all administrative expenses. This decision has been relayed to the Board Attorney.

Board of Commissioners: Chairman Gary Bauman, Andrew Tobin, Cris Beaty, Charles Brooks, Jerry Wilkinson
This pending payment list includes the first payment to Monroe County on the initial $100,000.00 loan. It includes $10,000.00 in principle and $3,024.69 in interest. The interest payment is through December 31, 2003, and includes the $2,212.50 of interest that was accrued in the prior fiscal year audited financial statements.
KLWTD Board Meeting
March 17, 2004

Item G – 3

Approval of the Haskell submittal recommending a Project Manager.
March 9, 2004

Re: Wastewater Management System For
The Key Largo Trailer Village Area
Key Largo, Florida
Issue 01-024 – K LWTD Project Staff
Approval

Mr. Robert Sheets
Government Services Group, Inc.
1500 Mahan Drive
Suite 250
Tallahassee, Florida 32308

Dear Mr. Sheets:

As required by Paragraph 3.3.3 of the Design-Build Agreement and as requested by the Key Largo Wastewater Treatment District, The Haskell Company is designating Will English as the Project Manager for the Wastewater Management System for the Key Largo Trailer Village Area project. Mr. English will participate in design development, be responsible during construction and serve as a single point of contact for the project. Attached, please find Mr. English’s corporate resume for review and approval by the K LWTD. In performing your review, please note that The Haskell Company will assign an on-site Construction Superintendent to the project as the start date approaches and in accordance with Paragraph 5.6 of the Design-Build Agreement, present their credentials to the K LWTD for review and approval.

Should you have any questions or require further information, please do not hesitate to contact me at (904) 357-4868.

Sincerely,

Peter M. Kinsley

cc: Issue File 01-024
SECTION 2 - QUALIFICATIONS OF DESIGN-BUILD TEAM

Employee Information:
William English
Project Manager
The Haskell Company

Project Title: Project Manager

Experience: Haskell - 3 yrs. Others - 3 yrs.

Education:
B.S. - Building Construction and Contracting

Professional Registration:
State of Georgia, Licensed Utility Construction Manager

Applicable Work Experience:
As project manager, English is involved from the earliest stages of project development, continuing through the design and construction processes to closeout and client follow-up. His responsibilities include conceptual estimating, scheduling, value engineering/alternate analysis and procurement of subcontractors and material. When a project reaches the construction phase, English maintains sufficient involvement to assure a smooth project flow with satisfactory results. This is accomplished through cost control review, client contact and other activities, as necessary. In addition, one of his major responsibilities is to function as a team leader during the entire project delivery process, coordinating the efforts of the complete Haskell team and providing a single source of contact.

- Port of Miami, Florida
  - Lummus Island Sanitary Sewer Improvements
  - DERM Sewer Laterals and Ship Pumpouts
  $3.5 million, Miami, FL

- Glades Road Water Treatment Plant Membrane Softening Process Addition, $47 million, Boca Raton, FL

- Forest Hills Park, City of Coral Springs, FL

- Lake Oconee Water Transfer Station,
  Madison, GA

- City of Covington Fuel Containment Facility,
  Covington, GA

- City of Gainesville Raw Water Pump Improvements, Gainesville, GA

- City of Sandersville Digester Improvements,
  Sandersville, GA

- City of Villa Rica Intermediate Pump Station,
  Villa Rica, GA

- Oc Mulgee East Pump Station, Macon, GA

- Windermere Sewage Treatment Plant,
  Cumming, GA

- Water System Improvements at Georgia Power Site - Storage and pumping facilities, Athens, GA

- Windermere Pump Stations No. 1 & 2,
  Cumming, GA

- Middle Oconee Water Pollution Control Plant,
  Athens, GA

- Hickory Flat Booster Pump Station, Canton, GA

- Jackson Co. SR60 Storage & Pumping Facilities,
  Pendergrass, GA

- Sweetwater Pump Station Upgrade, Cobb County, GA

- Oconee Co. Land Application System, Watkinsville, GA
Item H – 1

Update on allowable uses of KLWTD revenue sources.
TO: Key Largo Wastewater Treatment District Commissioners

CC: Robert E. Sheets, General Manager
Faith Doyle, Clerk to the Board
Charles Sweat, Director of Operations
Thomas Dillon, Board Attorney

FROM: David R. Miles, Director of Finance

DATE: March 10, 2004

RE: Acceptable Uses of KLWTD Revenue Sources

Dear Commissioners:

Some concern has been expressed as to what types of expenses can be paid out of each source of revenue available to the Key Largo Wastewater Treatment District. As the Board is aware, virtually all revenue available to the District is in the form of Federal, State and Local grants, or Monroe County MSTU taxes.

In the case of the Monroe County MSTU taxes, the Clerk of Court has stated to me on March 8, 2004 that none of our operational or administrative expenses qualify for reimbursement. We believe that to not be the case, and told him that the MSTU was established specifically to fund operational and administrative expenses. He has stated that until the pending bill is passed by the State Legislature, his hands are tied. This issue has been discussed with the Board Attorney, who may have additional input.

Attached is a matrix that has been researched with the grantor agencies and applicable grant documents. It breaks expenses down into four categories:

1. Construction expenses
2. Engineering and design expenses
3. Operations expenses
4. Administration expenses

Staff has taken the total FY 2004 budget and stratified it by funding sources. Then with a simple Yes or No identified whether the grantor agency and/or grant document allows each category of expenses to be paid from that source of funds. As can be seen, although we have multiple sources for paying for engineering and construction categories, our choices for funding administrative and operating expenses are very limited. This has been particularly problematic for the Key Largo Park project. The position of the Clerk of Courts has also made reimbursement of administrative and operational costs from the MSTU more difficult. I will be happy to answer questions on this attached matrix.
## ALLOWABLE EXPENSES

**Key Largo Wastewater Treatment District**

### FY 2004 Budget Amount

<table>
<thead>
<tr>
<th>Sources of Funds</th>
<th>Construction</th>
<th>Engineering</th>
<th>Operations</th>
<th>Administration</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Operating Revenue</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>MSTU Revenue</td>
<td>599,562</td>
<td>Yes*</td>
<td>Yes*</td>
<td>No*</td>
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<tr>
<td>Interest Income</td>
<td>4,500</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Miscellaneous</td>
<td>2,000</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td><strong>Key Largo Trailer Village</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Federal</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FEMA Phase I</td>
<td>1,097,143</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
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<tr>
<td>FEMA Phase II</td>
<td>4,388,571</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
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<tr>
<td><strong>State:</strong></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>SFWMD</td>
<td>100,000</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
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<tr>
<td>DCA- Cess Pit Grant</td>
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<td>Yes</td>
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<td>No</td>
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<tr>
<td>DCA- Unmet Needs</td>
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<td>Yes</td>
<td>Yes</td>
<td>No</td>
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<tr>
<td><strong>Local:</strong></td>
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<tr>
<td>304 Fund FEMA Phase 1&amp;2 Match</td>
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<td>304 Land Purchase (in kind)</td>
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<tr>
<td><strong>Key Largo Park</strong></td>
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<tr>
<td><strong>State:</strong></td>
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<td>FDEP</td>
<td>1,660,000</td>
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<td>FDEP II</td>
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<td><strong>Local:</strong></td>
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<tr>
<td>148 Fund</td>
<td>356,000</td>
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<td>Yes**</td>
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<tr>
<td>304 Cess Pit Fund</td>
<td>705,200</td>
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<td>Yes</td>
<td>No</td>
</tr>
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</table>

**Total**: $13,205,020

* Per Mr. Danny Kolhage, Clerk of the Court, Monroe County

**Conflicting language exists in interlocal agreement between Monroe County, FKAA and KLWTD dated February 26, 2003. Section 1.01C4 restricts this source as follows: "This grant is only for capital improvements, not including engineering and planning." Section 2.03A5 provides for "...the County agrees to fund $356,000 for engineering, planning and administrative expenses during fiscal year 2003/2004 for Key Largo Park."
Item I – 1

Discussion to limit the requirement for mylar copies of drawings.
MEMORANDUM

To: K LWTD Board
From: Ed Castle
Date: March 9, 2004
Re: Mylar drawings

The Design/Build Agreement specifies that mylar copies of all phases of design development documents be submitted to the District. Stu Oppenheim has requested that we waive the requirement for all but the final construction drawings and the record drawings.

I have discussed this request with all members of staff and we all agree that mylar copies of the final construction drawings and of the record drawings will be sufficient. Paper copies and electronic copies of all design development submittals are required and are sufficient for our needs.

Weiler Engineering recommends that the Board approve Mr. Oppenheim’s request to limit the requirement for mylar copies to the final construction set and the record drawings.