October 20th

2004
KEY LARGO WASTEWATER TREATMENT DISTRICT BOARD OF COMMISSIONERS MEETING

AGENDA

Wednesday, October 20, 2004 at 5:00 PM
Key Largo Civic Club, 209 Ocean Bay Drive
Key Largo, FL

Gary Bauman ~ Chairman
Jerry Wilkinson ~ Vice Chairman
Cris Beaty ~ Secretary
Charles Brooks ~ Commissioner
Andrew Tobin ~ Commissioner

Charles F. Fishburn General Manager
Thomas Dillon District Counsel
Carol Simpkins Board Clerk

PLEASE TAKE NOTICE AND BE ADVISED, that if any interested person desires to appeal any decision of the KLWTD Board, with respect to any matter considered at this meeting, such interested person will need a record of the proceedings, and for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. Persons with disabilities requiring accommodations in order to participate in the meeting should contact the Board Clerk at 305-451-5105 at least 48 hours in advance to request accommodations.

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

IV. APPROVAL OF AGENDA WITH ANY ADDITIONS OR DELETIONS

V. APPROVAL OF MINUTES
   1. September 29, 2004 and October 6, 2004

KLWTD Agenda
October 20, 2004
VI. PUBLIC COMMENT

VII. ACTION ITEMS

2. District Counsel Thomas Dillon’s Contract

TAB 2

VIII. FINANCIAL OFFICER’S REPORT

3. Approval of Pending Payments list for October 20, 2004

TAB 3

4. Report on transitional status

IX. LEGAL COUNSEL REPORT

X. ENGINEERS REPORT

5. KLTV Construction Update

XI. GENERAL MANAGER’S REPORT

6. KLTV Escalation

TAB 4

7. KLP Update

TAB 5

8. Roevac Purchase Order

TAB 6

9. Sexton Cove Update

TAB 7


XII. COMMISSIONER’S COMMENTS

XIII. ADJOURNMENT

ITEMS OF ONGOING CONCERN

a. Water Quality Testing
b. Project request for FEMA deadline extension
c. CDBG Grants and/or funds for private connection
d. Procedures
e. Website Development
f. Elections at Large versus Seats
g. Agency Coordination
h. Inter-local Government Task Force
KEY LARGO WASTEWATER TREATMENT DISTRICT
Agenda Request Form

Meeting Date: Oct. 20, 2004
Agenda Item No.

[ ] PUBLIC HEARING

[ ] RESOLUTION

[ ] DISCUSSION

[ ] BID/RFP AWARD

[ ] ACTION ITEM

[ ] CONSENT AGENDA

[X] Other:


RECOMMENDED MOTION/ACTION: Approval of Minutes of 9.29.04 & 10.06.04 with any needed additions, deletions, and/or corrections.

Approved by General Manager

Date: 10-11-04

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[ ] Engineering

All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.

Yes I have notified everyone__________

or

Not applicable in this case__________:

Please initial one.

Summary Explanation/Background:

Resulting Board Action:

☐ Approved  ☐ Tabled  ☐ Disapproved  ☐ Recommendation Revised
MINUTES
Key Largo Wastewater Treatment District (KLWTD)
Board of Commissioner’s Special Call Meeting
September 29, 2004, 5:00 PM,
Key Largo Civic Club, 209 Ocean Bay Drive

The KLWTD Board of Commissioners met for a regular meeting on Sept 29, 2004 at 5:00 PM. Present were Chairman Gary Bauman, Commissioners Charles Brooks, Andrew Tobin, Jerry Wilkinson and Cris Beaty. Also present were General Manager Charles Fishburn, Board Clerk Carol Simpkins, District Counsel Thomas Dillon and all appropriate District staff.

Chairman Gary Bauman led the Pledge of Allegiance.

APPROVAL/ADDITIONS/DELETIONS TO THE AGENDA.

Motion: Commissioner Jerry Wilkinson made a motion to approve the agenda. The motion was seconded by Commissioner Cris Beaty.

Vote on motion:

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Motion passed 5 to 0

MINUTES

Motion: Commissioner Jerry Wilkinson made a motion to approve the minutes of September 15, 2004. Motion was seconded by Commissioner Cris Beaty.

Vote on Motion

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Commissioner Brooks  X
Commissioner Beaty  X
Commissioner Wilkinson  X
Chairman Bauman  X

Motion passed 5 to 0

PUBLIC COMMENT: The following persons addressed the Commission: General Manager Charles Fishburn took this time to introduce Myles Milander the new inspector, to the Board.

ACTION ITEMS
Pending Payments
General Manager Charles Fishburn presented the pending payments schedule for Sept 29, 2004.

Motion: Commissioner Cris Beaty made a motion to approve the pending payments list for September 29, 2004 Commissioner Charles Brooks seconded the motion.

Vote on motion:

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Motion passed 5 to 0

ENGINEERS REPORT
Ed Castle, with the assistance of Elizabeth Ignoffo, EI, gave a power point presentation on the status of the RFQ for the Sexton Cove/Lake Surprise Project. See exhibit “A”.

Commissioner Andrew Tobin stated that he thinks that it would be better if there was a range presented for the project cost.
Commissioner Jerry Wilkinson asked Mr. Castle if the Deep Injection Well process had to be used. Mr. Castle explained that once a plant reaches the 1 million gallons permitted capacity it is required that the deep well process has to be used.

Commissioner Charles Brooks questioned the cost of the chemicals that are used for the Bardenpho Process (BNR) and the Biological Phosphorus Removal (SBR) Process. Mr. Castle answered that the cost of each would be approximately the same. He further stated that an additional benefit to ultraviolet disinfection is that no potentially harmful residual chlorine is discharged to the environment.

Commissioner Charles Brooks asked if the ability of permitting a deep well has been looked into yet. Mr. Castle explained that since the deep well is a requirement of the DEP he did not think that there would be any problem getting the permit, although some opposition by environmental groups could be encountered. He stated that the opposition would be minimized by treating the effluent to AWT standards.

Commissioner Charles Brooks then asked if reuse has been considered and if we are not going to do reuse has the rational for that decision been discussed. Mr. Castle replied that it is a requirement of the permitting process so the engineers that are selected will be required to do a reuse study.

Commissioner Andrew Tobin would like to see the District start the process for the application to go for the other 1.2 acres of land for use by the District.

Chairman Gary Bauman expressed concern over the possibility of a hurricane and severe flooding. It was explained that the land is on an elevation of seven feet and everything electrical will be raised up above the 100 year flood.

Commissioner Jerry Wilkinson wanted to know which of the systems, BNR or SBR, would recover the quickest if they were flooded with salt water. Mr. Castle stated that the recovery time would be about the same for each of the systems.

Chairman Gary Bauman would like to see some technical coordination between all of the entities involved with wastewater in Monroe County.

Mr. Castle stated that the next step will be to write the scope, review it and work with the attorney on putting a contract together to go out with the RFQ.

GENERAL MANAGER’S REPORT
KLTV Escalation Change Request
General Manager Charles Fishburn presented the Material Escalation Claim by the Haskell Company.

District Counsel Thomas Dillon stated that the Haskell Company had been given an extension of time for five months. In that agreement the right was reserved that if the
Haskell Company wanted further increases they would have to show the District, Entitlement, Causation and Damages.

Entitlement: There is a contract provision that allows for an increase if there is a delay do to causes beyond the contractors control they are entitled to an increase to cover the reasonable additional increase in cost do to the delay.

Causation: This is a big problem. There is a schedule in the contract and it is not a CMP schedule and it does not show the critical path. You can not tell the effect of various delays in the timing of things. The schedule is ridiculously hopeful and optimistic. The correspondence gives the impression that the assumption was that the Phase II FEMA funding would be available sometime last fall. A letter was sent to Haskell Company stating that it looks like Phase II would be delayed and the Haskell Company immediately sent out a notice of delay. As it turned out the funding did not turn up until August. It was a delay not in Haskell control, but on the other hand there were lots of delays in their control. The only time they get compensation is when it is only delays outside of their control. These are concurrent and Haskell is probably not entitled to additional compensation. There is no evidence, right now, that they have provided either that the delay has been due to causes only beyond their control or the quantity of the delay.

Damages: The damages are not clear with the documentation that has been provided.

District Counsel Thomas Dillon stated that he believes every claim deserves to be considered for settlement as soon as it is reasonably possible. The Board should also have the data that would allow them to make a rational decision to settle a claim. The Board does not have Causation or Damages in this case.

Mr. Dillon explained that in his opinion the claim is not something that they could rationally settle at this time for this amount of money, especially against the recommendation of the General Manager.

Motion: Commissioner Charles Brooks made a motion to reject the Haskell Company’s proposal letter as well as their letter for the summary of settlement proposal, material escalation claim and also rejecting the counter offer items, 1, 2 & 3 in the email sent out Sept. 28, 2004. Motion seconded by Commissioner Jerry Wilkinson.

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Wilkinson | X |
Commissioner Cris Beaty | X |
Chairman Gary Bauman | X |

Motion passed 5 to 0

*Key Largo Park Contract*
General Manager Charles Fishburn presented the facts concerning the contract. He recommends that the Notice to Proceed be issued to Higgins, Inc.

**Motion:** Commissioner Charles Brooks made a motion to direct the General Manager to issue the Notice to Proceed to Higgins, Inc. The motion was seconded by Commissioner Andrew Tobin

**Vote on motion:**

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Motion passed 5 to 0

*Rate Study Direction*
General Manager Charles Fishburn had no comment on this item at this time.

**COMMISSIONER COMMENTS**

*Inter-Local Government Task Force*
Chairman Gary Bauman explained that he has presented to Ken Sorenson and Murray Nelson that the District took the stand that the grant money should go to one or two locations in the County and that the Key Largo Wastewater Treatment District would wait for another money source.

Commissioner Charles Brooks commented that his presentation before the BOCC as he stated was to defend the Inter-Local Governmental Task Force because it has been a five year process of which today he just played a tape/CD that he had that was the Dec. 3, 2001 Inter-Governmental Task Force meeting that Nora Williams was chairing and being
a member of that committee since being elected here and being a private citizen attending those meetings he felt that some of the comments made about the Inter-Local Governmental Task Force needed defending. It is a good body and ironically it is comprised of the same people that Ken Sorenson and the Mayor are suggesting meet. It was his main thrust as a private citizen that he objected very strongly as to the processes that are being suggested for making decisions regarding funding. Not the 10 million but funding in general and one of the main things that he pointed out to the BOCC and which Vice Mayor Rice pointed out he was correct in, was that we have been left out of the matrix. The point is not the 10 million dollars but it is the process. They are talking about a plan for the future, not the 10 million now, but the plan for the future of where the other State money is going to come in and we are going to have the Mayor of Key West and the Mayor of Marathon determine when we get in that line and how much we get. That is what he objects to. He does not feel that the Task Force is defunct, it still has a function. He discussed it with Mr. Nelson and Mr. Sorenson, they have no objection to the Inter-Local Governmental Task Force meeting. He thinks that if the Inter-Local Governmental Task Force does nothing else but meet and answer the remarks that have been made about the committee and say fine we agree with the State, we agree with all of this we will disband. He does not think that committee should be told by one or two individuals that they no longer exist.

Chairman Gary Bauman said that he had met with Representative Sorenson the day before the meeting and he assured the Chairman that the five year plan would include input from the KLWTD Board. Mr. Sorenson called Sonny McCoy and he also agreed that the KLWTD Board would be involved. Jim Roberts also called Mr. Bauman asking for the District plans for the next few years to be included in both the bonding and the planning that the County is doing. He told Commissioner Brooks that his presentation got some people moving.

Commissioner Andrew Tobin left the meeting at 7:45 PM.

Commissioner Charles Brooks stated that if he is the liaison on the funding then he thinks that he should be in the loop. And he has not been in the loop if Chairman Gary Bauman has been discussing this with Mr. Sorenson and Mayor Nelson. He knows that here is a Sunshine issue and if the way the Mayor is trying to turn this around to only mayors then he feels that he is not needed as liaison.

Chairman Gary Bauman stated that it will include the Chairman of the KLWTD Board and that it should be the Chairman and the Mayors who work on the allocations. He agreed with Commissioner Charles Brooks that he should not be the liaison.

The discussion will be continued at the October 6, 2004 meeting.

ADJOURNMENT

After a motion and second to adjourn the meeting adjourned at 7:48 PM.
The KLWTD minutes of September 29, 2004 were approved on _____________.

Chairman Gary Bauman

Carol Simpkins, CMC
Board Clerk
Exhibit "A" is the same item that Ed Castle passed out at the Sept. 20, 2004 meeting and will be attached to the official minutes.
MINUTES
Key Largo Wastewater Treatment District (KLWTD) Board of Commissioner's Meeting
October 6, 2004  5:00 PM,
Key Largo Civic Club, 209 Ocean Bay Drive

The KLWTD Board of Commissioners met for a regular meeting on Oct. 6, 2004 at 5:00 PM. Present were Chairman Gary Bauman, Commissioners Charles Brooks, Jerry Wilkinson and Cris Beaty. Commissioner Andrew Tobin arrived at 5:05 PM. Also present were General Manager Charles Fishburn, Board Clerk Carol Simpkins, District Counsel Thomas Dillon, Financial Officer Martin Waits, and all appropriate District staff.

Chairman Gary Bauman led the Pledge of Allegiance.

ADDITIONS/DELETIONS TO THE AGENDA.
General Manager Charles Fishburn requested that the proposed new contract for District Counsel Thomas Dillon be added under Legal Report for discussion.

Motion: Commissioner Jerry Wilkinson made a motion to approve the agenda as amended. The motion was seconded by Commissioner Charles Brooks

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Motion passed 4 to 0

PUBLIC COMMENT: The following persons addressed the Commission: Robert Burt, resident of the Key Largo Village stated that he and his neighbors are very pleased that the trenching has begun. They have been waiting 20 years for the start of the wastewater system. He thanked the Board for all of their efforts. Steve Gibbs, resident of Key Largo, thanked the Board for rising over some very serious odds against them from the very beginning and he feels that the Board is on the way to a very big success and he is very proud of them.

ACTION ITEMS
Copier Contract
General Manager Charles Fishburn stated that District was able to take advantage of very favorable rates in a Miami-Dade School District contract to achieve the lowest cost possible.

**Motion:** Commissioner Charles Brooks made a motion to approve the copier contract with Toshiba. The motion was seconded by Commissioner Andrew Tobin.

**Vote on motion**

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Motion passed 5 to 0

*General Liability Insurance and Workers' Compensation Insurance*

The Board directed staff to place the cost of the General Liability Insurance and the cost of the Workers’ Compensation Insurance on separate lines in the spreadsheets.

**Motion:** Commissioner Jerry Wilkinson made a motion to accept the General Liability Insurance and Workers’ Compensation Insurance and approve the first quarter payment. The motion was seconded by Commissioner Andrew Tobin.

**Vote on motion**

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Motion passed 5 to 0

**CHIEF FINANCIAL OFFICERS REPORT**

*Pending Payments*

Financial Officer Martin Waits presented the pending payments schedule for October 6, 2004.
Commissioner Cris Beaty questioned the cost of the office rent at $250. Mr. Waits explained that it was for two months rent on the small office (suite 202) at $125 a month.
Commissioner Beaty asked if the Contractor would be paying for the cost of the construction signs. Mr. Fishburn answered that the Contractor would probably not pay for the signs. The cost will be charged to the FEMA Phase II grant since the sign is a requirement of the grant.

Commissioner Andrew Tobin questioned whether the District was earning as much interest as possible on its funds. Financial Officer Martin Waits explained that the District is keeping the money in its checking account for the present because the funds are expected to be paid out in a fairly short time frame. Mr. Miles of GSG has advised that there is little incentive to obtain a high rate of interest, since the amount of the grant will be reduced by the amount of any interest earned. However, Mr. Waits will look into opportunities to increase the interest earned on the funds.

Chairman Gary Bauman asked if the salary amounts would be capitalized. Mr. Waits said that an allocated portion of salaries will be capitalized to the extent permitted by the grants.

**Motion:** Commissioner Cris Beaty made a motion to approve the pending payments list subject to the availability of the funds for October 6, 2004. Commissioner Andrew Tobin made the second.

**Vote on motion:**

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Motion passed 5 to 0

**LEGAL COUNSEL REPORT**
District Counsel Thomas Dillon has worked with General Manager Charles Fishburn to provide the Haskell Co. with a written explanation of the Board's decision not to honor that request. See exhibit “A”.

Also, they have prepared a “Notice to Proceed” to Higgins Inc. Mr. Dillon explained that the notice to proceed is a “soft” notice, which invites Higgins to provide suggestions as to compensation and contract time in light of changes to the project. See exhibit “B”.

Commissioner Andrew Tobin stated that the letter and memo were good.
District Counsel Thomas Dillon has provided a suggested contract to cover legal services beginning November 1, 2005, which is the anniversary of the current contract. The proposal is the same as the current contract with the exceptions that the payment for time in excess of 15 hours would be increased from $135/hour to $150/hour and that travel off of Key Largo be compensated. He requested that the contract be brought back to the October 20, 2004 meeting for action.

Commissioner Charles Brooks asked if the money for an increase in the legal cost for the year be covered in the budget. Mr. Dillon said that it would likely come in just under $60,000 for the year.

ENGINEERS REPORT
Mr. Castle is at meetings on the West Coast.

GENERAL MANAGER’S REPORT
Key Largo Trailer Village
General Manager Charles Fishburn reported that trenching will begin on Kay Drive on Thursday October 7, 2004. The contractor is not going to use horizontal boring on Kay Drive. They are planning on using horizontal boring to cross US 1. The District is getting a very good response on its request for septic tank placement information.

The Board suggested that there be documentation concerning the District locating the septic tanks.

The County requested a five year funding forecast from the District and it will be send to them on Friday, October 8, 2004. The information is needed to help the County determine bonding needs in the future to help fund Wastewater Treatment in Monroe County. General Manager Charles Fishburn explained that the forecast is flexible and items can be added or subtracted from the projections as available funding requires.

Treatment Plant
The clearing of the exotics was started the last week in September, 2004. General Manager Charles Fishburn explained that the permit for clearing the entire site is ready for pick up. Work should be started on October 11, 2004. The contractor could have started a week earlier but there was a delay in picking up the permit by Haskell. The FDEP permit for the Treatment Plant has not been approved. Representatives from the Haskell Company will be meeting with the FDEP in Ft. Myers on Thursday October 7, 2004. There is quite a bit of work to be done but Haskell feels that they can go forward “At Risk” to do the foundations but there will defiantly be changes to the Fluidyne Plant but the main tank will be alright for production. The District will be represented by someone from Weiler Inc. at the meeting.

Key Largo Park
A letter was sent to Daniel N. Higgins, Vice President of Higgins, Inc. See exhibit “B”.

Fluidyne Purchase Order
The purchase order has been signed. District Counsel Thomas Dillon prepared a letter to confirm that if there were any changes or cost impacts that the Haskell Company will bear the cost.

**Roevac Purchase Order**

Tom Evans, Sales Representative for Roevac requested that the purchase order be held off one week. Commissioner Andrew Tobin expressed concern over signing the purchase order and then trying to retrieve the extra cost back from the Haskell Company. District Counsel Thomas Dillon stated that the procedure from the beginning was that the District would issue the purchase order and then the District would get a deductive change order on the Haskell contract for the amount of the purchase order and the amount of the sales taxes which would have accrued on it. If Haskell only allows the lower price for credit then a unilateral change order will be issued and then it will become a dispute to be settled at a later date.

**COMMISSIONER COMMENTS**

**Inter-local Governmental Task Force**

Chairman Gary Bauman stated that what he would like to understand is whether or not the Board would like to continue to go forward with the Task Force for Federal money or leave it to the politicians, the County, the Municipalities, the KLWTD, and public officials to allocate any Federal monies that would be available in the future.

Commissioner Charles Brooks stated that Representative Sorensen has made the charge that the Task Force has been worthless. He takes great exception to that in the sense that the Task Force has evolved into a very good committee to bring about consensus for the Federal money and with some implications but no clear understanding for the State money. The Task Force has evolved into the Product Development Team which was set up by the Army Corp of Engineers. The Task Force was designed to bring about and convince the State government that the County could take grant money and not squabble over it. That is what the Task Force has done. Mr. Brooks finds it disturbing that some of the Press has stated that Representative Sorensen wanted to disband the Task Force, this is not true. Mr. Brooks had talked to Rep. Sorensen at the Way Station meeting and Rep. Sorensen stated that his authority does not lie within the Task Force and that he has no desire to disband it. Mr. Brooks has also heard from Mayor Murray Nelson that he has no objection to the Task Force meeting in the future.

Commissioner Charles Brooks stated that his position is that the District has been charged with doing everything that can be done to bring about the building of the Wastewater System. If there is some plan to bring about wastewater in Monroe County then the District should be at the meeting. If the State does not want to use the Task Force that is the State’s prerogative. They can say how the money can be distributed. He sees a lot of trouble with the State doing this. He is worried about a possible Sunshine Law violation. Mr. Brooks stated that he thinks that if the Task Force meets again the District should be there.

Commissioner Jerry Wilkinson asked if the Task Force has any power behind it. He does not see any Federal Money coming in to help with the unfunded mandate. He stated that the Sunshine Law should be taken care of by the governmental group. He has been opposed in the way that the Task Force has come up with the split of the money, 29 ½ per cent.
Commissioner Cris Beaty stated that as long as the Task Force is in existence then the District should be a part of it. Who does have the authority to disperse the Federal Funds if the money ever comes? Chairman Gary Bauman explained that sometimes the legislation itself states who gets the money.

Commissioner Andrew Tobin agrees that wherever the District is invited, they should go, whether it is the Task Force or the Council of Mayors. The purpose of the groups is to try to establish rapport amongst competitors for the monies. He thinks that it would be in the best interest of the District to attend and be cooperative with the District’s neighbors.

Chairman Gary Bauman commented that the Sunshine Law could be covered by advertising the meeting. The District does not have any inter-local agreement with the Task Force and if the Board thinks that it would be a good idea then an agreement should be put in place. He does not want the FKAA or anyone else on the Task Force to tell the District what funds the District would be getting. The distribution should be negotiated out by the politicians and that they should decide where in Monroe County the funds should go. It should not be arbitrarily decided by a certain percentage. Mr. Bauman recognizes that the Task Force has been in place for quite sometime and they have been able to agree on some allocations. He thinks that if Mr. Sorensen and Mayor Nelson think that it is still a good idea for the Task Force to meet then it is a null issue at this point. But, when it come to allocating funds to say the District gets an arbitrary 30% is rather bizarre.

Commissioner Charles Brooks stated that neither the Task Force nor the Mayors Council is a legal entity to say where the money goes. It will come down to the DEP, on the Readiness to Proceed criteria, to decide where the money will go. The Task Force or the Mayors Counsel will go to the DEP and say what they feel the best course of action will be for the money.

ADJOURNMENT
After a motion and second to adjourn the meeting adjourned at 6:45 PM.
The KLWTD minutes of October 6, 2004 were approved on ________________.

______________________________
Chairman Gary Bauman

______________________________
Carol Simpkins, CMC
Board Clerk
Memo

To: Peter Kinsley, Haskell Company  
From: Charles F. Fishburn, General Manager  
CC: District Counsel Thomas Dillon  
Date: October 6, 2004  
Re: Change Order Proposal No. 004

In Change Order No. 002, Haskell and the District agreed that it would consider future requests for additional compensation "to determine whether Haskell has demonstrated entitlement, causation, and quantum." Upon review of the Haskell change proposal No.004 "Material Escalation Claim" request for additional compensation, the Board concluded that Haskell had not demonstrated that the delays it has incurred were the result of causes beyond Haskell's control, or that Haskell will actually incur the cost increases claimed. Further, the board did not believe that awarding the Key Largo Park work to Haskell was in the best interests of the District.

In the interest of settlement of this issue the district is willing to continue to negotiate a change order that would allow the District and Haskell to remove this cloud from our project.
October 5, 2004

Daniel N. Higgins, Vice President
D. N. Higgins, Inc.
3390 Travis Pointe Road, Suite A
Ann Arbor, Michigan 48108

By Facsimile: 734-995-5480, and first class mail

Dear Mr. Higgins:

Pursuant to that certain Contract dated June 25, 2003, between the Key Largo Wastewater Treatment District ("District") and D. N. Higgins, Inc. ("Higgins"), the District hereby gives to the Higgins notice to proceed with the construction of the project.

As you know, the layout and specific design of the project is being changed to reflect design work performed by the engineering group, Brown and Caldwell. Generally speaking, the principal changes include layout of the piping, and switching to vacuum pits manufactured by Roediger. On this date we have requested Haskell Inc. to direct Brown and Caldwell to Fed Ex to Walt Messer the signed and sealed drawings of the revised KLP drawings. In order to expedite this process I would ask that Walt Messer use the signed and sealed (dated 9.20.04) “construction set” of drawings for the “vacuum collection system for the Key Largo Park and Key Largo Trailer Village”, specifically G1 through G4, C1 through C7, C10, C100, through C103, C200 through C227. Also include the increased piping required to connect Calusa Camp Ground to the collection system. We ask that you examine the revised plans and specifications and prepare a change order for District consideration, covering changes in compensation and project timing that may be required as a result of these project changes. Bear in mind this project is a unit price contract that should protect Higgins and the District from any estimating errors. For changes in quantities of unit-priced items already included in the Contract, Higgins may seek an adjustment pursuant to Paragraph 8.2, only.

Pursuant to the Contract, Paragraph 1.15, this notice to proceed is supposed to specify the date upon which Contract Time will begin to run. In addition, Paragraph 2.6 requires a Preconstruction Conference, and Paragraph 7.2 specifies preparation and submission of a project schedule for the work. However, we would like to cover the timing for those matters in the change order requested in the preceding paragraph.

It is the intent of the District to work cooperatively with Higgins and to accommodate Higgins’s reasonable requirements in accomplishing the work in an expeditious manner. After you have completed your review of the revised plans and specifications, please contact me so that we can finalize these matters. I am hopeful that you will be able to do so within ten working days from the date of this letter; if that is not possible, please let me know when you will be in a position to proceed.

Yours,

Charles F. Fishburn
General Manager

CC: Mr. Walt Messer, Faxed 305-292-7717
Key Largo Wastewater Treatment District Board
Thomas M. Dillon
KEY LARGO WASTEWATER TREATMENT DISTRICT
Agenda Request Form

Meeting Date: Oct. 20, 2004
Agenda Item No.

[ ] PUBLIC HEARING [ ] RESOLUTION
[ ] DISCUSSION [ ] BID/RFP AWARD
[X] GENERAL APPROVAL OF ITEM [ ] CONSENT AGENDA

[ ] Other:

SUBJECT: Agreement for Legal Services by & between Thomas M. Dillon & KLWTD

RECOMMENDED MOTION/ACTION:

Approved by General Manager
Date: 10-14-04

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All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.

Yes I have notified everyone__________
or
Not applicable in this case__________:
Please initial one.

Summary Explanation/Background: District Counsel Thomas Dillon is proposing a $15 / hour increase (from $130 to $150 hour) for the hours in excess of 15 hours per month, exclusive of Board meetings ($100 a meeting). Counsel is also requesting travel expenses for travel off the island of Key Largo.

Resulting Board Action:
☐ Approved  ☐ Tabled  ☐ Disapproved  ☐ Recommendation Revised
Agreement for Legal Services
By and Between
Thomas M. Dillon
And
Key Largo Wastewater Treatment District

THIS agreement is entered effective November 1, 2004, by and between Thomas M Dillon (Attorney) and the Key Largo Wastewater Treatment District (District).

Attorney agrees promptly and diligently to provide legal services as requested by District in connection with District’s business, as requested by District’s Board of Commissioners and by individual Commissioners and other representatives of District who have been duly authorized by the Board of Commissioners to request legal services on behalf of District.

Attorney has acknowledged the need to conduct certain types of activities necessary to familiarize himself with Florida law, usages, customs, practices, and persons with who District conducts business. Attorney will perform these activities at no cost to District. For other services, District agrees to pay Attorney at the following rates:

1. For each public meeting of District, $100.00, to include review of the meeting notice and agenda, attendance at the meeting for the purpose of providing legal services, and review of the meeting minutes.

2. For other services, up to and including fifteen hours in any calendar month, $95.00 per hour.

3. For other services, in excess of fifteen hours in any calendar month, $150.00 per hour.

4. District shall reimburse Attorney for travel costs, including travel, meals, and lodging, at rates approved by District and consistent with Florida Statutes 112.061, provided that Attorney shall not charge for travel on the island of Key Largo, Florida.

After the close of each calendar month, Attorney shall deliver to District a detailed invoice showing charges and reimbursable expenses incurred in the preceding month. Payment shall be due within 60 days after receipt of an invoice. If any part of the charges or expenses is disputed, District shall promptly pay Attorney the undisputed amounts and advise Attorney of any amounts in dispute.

This is an “at-will” contract. Either party may terminate this contract upon thirty days’ written notice to the other party. In case of termination, Attorney shall cooperate with District in transferring responsibility for legal issues to a successor attorney selected by the District, and District shall compensate Attorney at the rates provided above for all services rendered prior to the effective date of termination.
District's contact for invoicing and general communications is:

Charles F. Fishburn, General Manager  
Key Largo Wastewater Treatment District  
P.O. Box 491  
Key Largo, Florida 33037

Invoices will be delivered by email, with a copy to: Andrew M. Tobin:   
tobinlaw@terranova.net

Attorney's business contact information is:

94220 Overseas Highway, Unit 2B  
Tavernier, Florida 33070-3005

Telephone: 305-240-1767  
Alternate: 305-852-1996  
Fax: 305-853-2693  
E-mail: thomasdillon@terranova.net

IN WITNESS WHEREOF the parties have signed this agreement on the dates opposite their names.

KEY LARGO WASTEWATER TREATMENT DISTRICT  

THOMAS M. DILLON

By ____________________________  
Its ____________________________  
Thomas M. Dillon

Date ____________________________

Attorney Agreement  
Page 2 of 2
Carol, this is the info regarding my contract proposal. Tom

----- Original Message -----
From: Thomas Dillon
To: Chuck Fishburn
Cc: Carol Simpkins
Sent: Friday, September 17, 2004 2:28 PM
Subject: Revised fee agreement

Chuck,

Per our recent discussion, I am submitting a proposed fee agreement to take effect November 1. I would like the Board to consider this proposal in October.

From November of last year through 8/31/04, I have incurred 532.31 total hours on behalf of the District, of which 499.47 hours were billable. My fees were $50,594.40, for an average billing rate of $101.30/hour.

Of the 499.47 billable hours, 116.22 hours were for public meetings, and 150 hours were billed at the rate of $95/hour, leaving a balance of 233.25 hours billed at the rate of $135/hour.

I am proposing to keep the rates for Board meetings and the first 15 hours per month unchanged. I am proposing to increase the rate for hours in excess of 15 per month, exclusive of Board meetings, from $135/hour to $150/hour.

Assuming the same spread of billable time at the proposed rates, the fees for 499.47 hours would be increased by $3,498.75 to $54,093.65, or 6.9%. The average billing rate would increase from $101.30/hour to $108.30/hour. These changes will result in a modest but reasonable increase in my compensation, which is well below the market rate for an attorney with my qualifications.

I am also proposing to make travel expenses, but not travel time, off the island of Key Largo reimbursable. Currently, travel is reimbursable only if outside Monroe County or Dade County. I estimate that travel expenses in a year would be less than $150.00.

Tom
KEY LARGO WASTEWATER TREATMENT DISTRICT
Agenda Request Form

Meeting Date: Oct. 20, 3004

[ ] PUBLIC HEARING
[ ] DISCUSSION
[X] GENERAL APPROVAL OF ITEM
[ ] RESOLUTION
[ ] BID/RFP AWARD
[ ] CONSENT AGENDA

[ ] Other:

SUBJECT: Pending Payments List

RECOMMENDED MOTION/ACTION: Motion to approve pending payments list for payment contingent upon available funds.

Approved by General Manager
Date: 10-14-04

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All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.

Summary Explanation/Background:

Resulting Board Action:
☐ Approved  ☐ Tabled  ☐ Disapproved  ☐ Recommendation Revised
Key Largo Wastewater Treatment District

Payments Pending 10/20/04
Prepared 10/14/04

CONSOLIDATED CASH BALANCE FORWARD $ 1,341,503.34

Administration & Operations
Cash Balance A&O Account Forward $ 93,311.67

Plus: None
Sub-total Receipts 0.00

Less: GSG - September 1,873.43
  George Scott - November Rent Suite 200 700.00
  George Scott - November Rent Suite 202 125.00
Sub-total Invoices 2,698.43

Cash Balance A&O Account If All Paid $ (2,698.43)
  Memo: MSTU Draw #5 Submitted 9/17/04 $72,302.56

Key Largo Park
Cash Balance KLP Account Forward $ (38,370.69)

Less: GSG - September 212.50

Cash Balance KLP Account If All Paid $ (38,583.19)
  Memo: Draw Submitted 8/2/04 $16,450 MC148 (FKAA)

Key Largo Trailer Village
Cash Balance KLTV Account Forward $1,285,306.36

Less: GSG - September 42.50
  Haskell #12 160,084.66
Sub-total Invoices 160,127.16

Cash Balance KLTV Account If All Paid $1,125,179.20

CONSOLIDATED CASH BALANCE IF ALL PAID $ 1,178,465.25

Approved for payment:

Gary Bauman, Chairman

Cris Beaty, Secretary
KEY LARGO WASTEWATER TREATMENT DISTRICT
Agenda Request Form

Meeting Date: Oct. 20, 2004
Agenda Item No.

[ ] PUBLIC HEARING
[X] DISCUSSION
[] GENERAL APPROVAL OF ITEM
[] Other:

SUBJECT: KLTV Escalation

RECOMMENDED MOTION/ACTION: No action requested at this time.

Approved by General Manager
Date: 10-15-04

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Yes I have notified everyone
Or
Not applicable in this case:
Please initial one.

Originating Department: General Manager

Summary Explanation/Background: Discussions have taken place with Pete Kinsley of the Haskell Co. after their Counsel recommend that he continue negotiations on the request for escalation by Haskell.

Resulting Board Action:
☐ Approved   ☐ Tabled   ☐ Disapproved   ☐ Recommendation Revised
KEY LARGO WASTEWATER TREATMENT DISTRICT
Agenda Request Form

Meeting Date: Oct. 20, 2004
Agenda Item No.

[ ] PUBLIC HEARING
[X] DISCUSSION
[ ] GENERAL APPROVAL OF ITEM
[ ] Other:

SUBJECT: KLP Status

RECOMMENDED MOTION/ACTION: No action requested at this time.

Approved by General Manager ______________________
Date: 10-14-04

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All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.

Summary Explanation/Background: A meeting was held with Walt Messer of D.N. Higgins Inc. on Thursday November 14, 2004 to discuss the status of the KLP project.

Resulting Board Action:
☐ Approved    ☐ Tabled    ☐ Disapproved    ☐ Recommendation Revised
KEY LARGO WASTEWATER TREATMENT DISTRICT
Agenda Request Form

Meeting Date: Oct. 20, 2004

[ ] PUBLIC HEARING
[X] DISCUSSION
[ ] GENERAL APPROVAL OF ITEM
[ ] Other:

Agenda Item No.

[ ] RESOLUTION
[ ] BID/RFP AWARD
[ ] CONSENT AGENDA

SUBJECT: Roevac Purchase Order

RECOMMENDED MOTION/ACTION: No action requested at this time.

Approved by General Manager
Date: 10-14-04

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Engineering____
Clerk____

All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.

Yes I have notifyed
everyone__________
or
Not applicable in this
case__________:

Please initial one.

Summary Explanation/Background: Discussions continue with Roevac on their price increase request. Roevac's Pittsburgh plant received significant damage from flooding caused by one of the recent hurricanes. They have stated that a delay in issuing a purchase order at this time will not affect delivery.

Resulting Board Action:
☐ Approved
☐ Tabled
☐ Disapproved
☐ Recommendation Revised
KEY LARGO WASTEWATER TREATMENT DISTRICT
Agenda Request Form

Meeting Date: Oct. 20, 2004  Agenda Item No.

[ ] PUBLIC HEARING  [ ] RESOLUTION
[X] DISCUSSION  [ ] BID/RFP AWARD
[ ] GENERAL APPROVAL OF ITEM  [ ] CONSENT AGENDA
[ ] Other:

SUBJECT: Sexton Cove

RECOMMENDED MOTION/ACTION: No action requested at this time.

Approved by General Manager

Date: 10-15-04

Originating Department:
General Manager

Costs: $
Funding Source:
Acct. #

[ ] Engineering
[ ] Clerk

Department Review:
[ ] District Counsel
[X] General Manager
[ ] Finance

Advertised:
Date: ______________
Paper: ______________
[X] Not Required

All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.

Yes I have notified everyone______________
or
Not applicable in this case______________.
Please initial one.

Summary Explanation/Background: Recap and review of Sexton Cove Project

Resulting Board Action:
[ ] Approved  [ ] Tabled  [ ] Disapproved  [ ] Recommendation Revised
KEY LARGO WASTEWATER TREATMENT DISTRICT

PROPOSAL FOR A WASTEWATER PROJECT

- Expansion of wastewater treatment plant to first train of the 2.25 MGD Regional Plant. (1.125 MGD in first phase)

- Install a 5.5 mile force main from regional treatment plant to Sexton Cove and Lake Surprise, the number one “hot spot” in the keys now that Little Venice has been serviced

- Wastewater collection system at Sexton Cove and Lake Surprise (mile marker 106) and connection of enough larger commercial users along U.S. 1 to provide enough flow to allow the wastewater treatment plant to operate correctly.

- This project would initially connect approximately 4000 EDU’s to the new treatment plant while replacing approximately 1000 septic tanks and cesspits.

The transmission line would be sized to sewer the entire northern half of Key Largo in the future. The 2.25 MGD site will provide AWT treatment capacity for all of the island of Key Largo. (12000 + EDU’s)

   All of our plans will meet advanced wastewater treatment standards, the one million gallon plus treatment plant will be able to meet AWT standards much easier than with the smaller pilot plants now being used. Reuse will be used when feasible.

2. Involve construction, not planning.
   Our planning for this project is on going. WE have a contract with an engineering company to prepare the RFQ. Once this phase is complete future funding will be used for collection systems.

3. Complete facilities or significant phases of facilities.
   This project would provide the back bone for sewer all of Key Largo north of the current treatment plant. The number one “hot spot” in the Florida Keys would be sewer as part of the first phase of this project. The treatment plant site will serve all of Key Largo.

4. Be included in the Monroe County Sanitary Wastewater Master Plan or other legitimate planning document addressing engineering and financing.
This project follows the plan in the “Monroe County Sanitary Wastewater Master Plan” by CH2MILL. The island of Key Largo has the number 2,4,7,9,14,15,17,19,20,21,24,27, and 29 “hot spots” in all of the Keys.

5. **Be openly procured among contractors qualified to build wastewater facilities in the unique physical environment of the Florida Keys.**

The competitive bidding process would be used to select experienced contractors for all phases of this project. Once the initial phase in completed, future projects will involve only underground contractors installing collection systems.

6. **Be ready to proceed with construction.**

Under the current plan the transmission line along US 1 would begin first. The Sexton Cove and Lake Surprise collection system and treatment plant expansion would follow. Future funding would go directly into pipes in the ground for collection systems.

7. **Leverage other monies.**

A combination of system development charges and other local sources would provide additional funding for this project.

8. **Address wastewater service for underserved residents, with provisions to ease the cost burden on such residents.**

Monroe County has funded a Wastewater Assistance Plan for low and very-low income households. This program currently provides 70% for low income and 90% for very-low income house holds to substantially assist with both system development charges and hook up costs.

C. F. Fishburn
General Manager
Key Largo Wastewater Treatment District
Phone: 305-451-5105
October 4, 2004
KEY LARGO WASTEWATER TREATMENT DISTRICT
FIVE YEAR CAPITAL IMPROVEMENT PROGRAM
For Fiscal Years FY 2005- FY 2009
(Dollars in Thousands)

<table>
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<tr>
<th>PROJ. NO.</th>
<th>PROJECT</th>
<th>FY 2005</th>
<th>FY 2006</th>
<th>FY 2007</th>
<th>FY 2008</th>
<th>FY 2009</th>
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<td></td>
<td>$4,165</td>
<td>$5,773</td>
<td>$14,250</td>
<td>$14,250</td>
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<td>$38,438</td>
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Sources of Funds

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<th></th>
<th>FY 2005</th>
<th>FY 2006</th>
<th>FY 2007</th>
<th>FY 2008</th>
<th>FY 2009</th>
<th>Total</th>
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<tr>
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<td>448</td>
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<tr>
<td>Total</td>
<td>$4,165</td>
<td>$5,773</td>
<td>$14,250</td>
<td>$14,250</td>
<td>$ -</td>
<td>$38,438</td>
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</tbody>
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Prepared: 10/14/2004
KEY LARGO WASTEWATER TREATMENT DISTRICT
CAPITAL IMPROVEMENTS PROGRAM (FY 2005-2009)
PROJECT SUMMARY FORM

Project Name: Lake Surprise - Sexton Cove
Project No.: KL0503

Priority Rating: 5
Category: WW
Proposer: C. Fishburn
Phone No.: (305) 451-5105

Required By Date: Sep-07

1. PROJECT LOCATION/DESCRIPTION:
This project consists of upgrading the WWTP site to the first train of the regional plant, estimated at 1.25 - 2.25 MGD for this phase, and will install a force main transmission line from the Lake Surprise area at 106 MM to the WWTP at 100.5 MM including highway crossings and points of connection for future projects. The collection system portion of this project will service Lake Surprise - Sexton Cove and as much of the surrounding area as funding allows. It will also make service available to commercial properties for nearly six miles along US 1.

2. JUSTIFICATION OF PROJECT:
The Lake Surprise - Sexton Cove area is now the No. 1 hot spot in the Florida Keys following the successful sewer of the Little Venice area. Of at least equal significance, this project also provides the backbone transmission line and treatment capacity for the sewer of the entire northern half of Key Largo, which area also contains the No. 4, 7 and 15 hot spots in all of the Florida Keys. Future projects in North Key Largo will only require funding of incremental collection systems feeding into the main transmission line which will be installed as part of this project.

3. ESTIMATED PROJECT COST ($ in thousands):

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<tbody>
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<td>600</td>
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<td>Mgmt. &amp; Other</td>
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<td></td>
<td></td>
<td>150</td>
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<td>150</td>
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<tr>
<td><strong>TOTALS</strong></td>
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4. FUNDING SOURCE ($ in thousands):

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<tbody>
<tr>
<td>Repair &amp; Replacement</td>
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<td></td>
<td></td>
<td>600</td>
<td>2,551</td>
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<td>702</td>
<td>448</td>
<td>2,141</td>
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<td>Wastewater Capacity</td>
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<td>4,742</td>
<td>4,831</td>
<td>11,804</td>
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<td>84</td>
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<tr>
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<td><strong>TOTALS</strong></td>
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<td>14,250</td>
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<td>34,557</td>
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5. ANNUAL OPERATING IMPACT CREATED BY PROJECT ($ in thousands):

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<tbody>
<tr>
<td>New Positions (FT/PT)</td>
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<tr>
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<td></td>
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</tr>
</tbody>
</table>
Not all areas are conducive to being consolidated into a regional system because of the distance that would be required between study areas, and consequently, the higher costs associated with implementation of this option. This is particularly true in the Lower Keys.

Therefore, many areas will remain central community wastewater collection and treatment system service areas, and will continue serving one or several “Hot Spot” areas because it is not cost effective to do otherwise. Details of this plan are illustrated in Exhibit F-1 in Appendix F.