

MINUTES of the Continuation of the January 20, 2009 meeting  
 Held on January 22, 2009 at 4:00 PM  
 Key Largo Wastewater Treatment District (KLWTD) Board of  
 Commissioners Meeting



98880 OVERSEAS HWY, KEY LARGO, FL 33037

The Key Largo Wastewater Treatment District Board of Commissioners met for a regular meeting at 4:00 PM. Present were Commissioners Robbie Majeska (arriving at 4:04 PM), Norman Higgins, Andrew Tobin, Charles Brooks and Chairwoman Susie Hammaker. Also present the General Manager Charles F. Fishburn, District Counsel Thomas Dillon, District Clerk Carol Walker, and other appropriate District Staff.

The Pledge of Allegiance was said.

**APPROVAL OF AGENDA**

The agenda was approved by consensus.

**LEGAL**

*RESOLUTION 04-01-09*

*A RESOLUTION OF THE KEY LARGO WASTEWATER TREATMENT DISTRICT, REQUESTING THE ASSISTANCE OF REPRESENTATIVE RON SAUNDERS TO AMEND 1999 FLA. LAWS CH. 395 REGARDING WASTEWATER DISPOSAL WELLS*

District Counsel Thomas Dillon introduced Resolution No. 04-01-09.

**Motion:** Commissioner Tobin made a motion to Resolution No. 04-01-09 with the inclusion of State Senator Larcenia Bullard. Commissioner Brooks seconded the motion.

**Vote on Motion**

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

**Motion passed 5 to 0**

**ADJOURNMENT**

The KLWTD Board adjourned the Board Meeting at 8:08 PM

The KLWTD meeting minutes of January 20, 2009 held on January 22, 2009 were approved on February 17, 2009.



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Chairwoman Hammaker



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Carol Walker, CMC  
District Clerk

# EXHIBIT "A"

**Carol Walker**

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**From:** Thomas M Dillon [lawtmd@gmail.com]  
**Sent:** Wednesday, January 14, 2009 2:30 PM  
**To:** Carol Walker  
**Subject:** FW: Sweetings Four assessment

Backup re Sweetings Four agenda item

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

Please update your address book to show my new email address:  
[lawtmd@gmail.com](mailto:lawtmd@gmail.com)

**From:** Thomas M Dillon [mailto:lawtmd@gmail.com]  
**Sent:** Friday, January 09, 2009 2:20 PM  
**To:** Margaret Blank; Syndi Lankford; Martin Waits; 'Andrew Tobin'; 'Carol Walker'; Charlie Brooks; 'Chuck Fishburn'; 'Norman Higgins'; Robby Majeska; Susan Ford Hammaker  
**Subject:** FW: Sweetings Four assessment

FYI

Thomas M Dillon PA  
Board Certified in Construction Law  
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Key Largo, Florida 33037  
Phone: 305-240-1767  
Fax: 305-853-2693

Please update your address book to show my new email address:  
[lawtmd@gmail.com](mailto:lawtmd@gmail.com)

**From:** Lin Sweeting [mailto:lin.sweeting@gmail.com]  
**Sent:** Friday, January 09, 2009 2:16 PM  
**To:** Thomas M Dillon  
**Cc:** Mlsgls  
**Subject:** Re: Sweetings Four assessment

Mr. Dillon:

Sweetings Four agrees and concurs with your representations.

We will attend and await the Board's ruling on January 22, 2009.

We hope to forego any legal action that will result in the expenditure of time and money for both Sweetings Four and the District.

If the Board approves the agreed proposal, I will immediately withdraw the Sunshine requests upon receipt of the email copy of the notice of adjustment to the Tax office.

Thank you again for your assistance in possibly resolving this matter.

On Fri, Jan 9, 2009 at 2:06 PM, Thomas M Dillon <[lawtmd@gmail.com](mailto:lawtmd@gmail.com)> wrote:

Yes

Thomas M Dillon PA

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**From:** Lin Sweeting [<mailto:lin.sweeting@gmail.com>]

**Sent:** Friday, January 09, 2009 2:05 PM

**To:** Thomas M Dillon

**Cc:** Mlsgls

**Subject:** Re: Sweetings Four assessment

Mr. Dillon:

What about the size of the connection. Will the District commit to at least the 6 inch connection for this Parcel based on the 5 EDU assessment?

On Fri, Jan 9, 2009 at 1:58 PM, Thomas M Dillon <[lawtmd@gmail.com](mailto:lawtmd@gmail.com)> wrote:

Ms. Sweeting:

In the interest of settling a disputed claim, I am willing to submit to the Board a recommendation to change the 2008 assessment for Parcel AK 1641642 to a number based on 5.0 EDU's. The District staff will endorse this change. If the

Board approves the change, the District would notify the Tax Collector by January 22, 2009 and provide a copy to you by email.

I understand that you want to make representations to prospective buyers. THE DISTRICT IS NOT IN THE LAND DEVELOPMENT BUSINESS AND WILL NOT MAKE OR ENDORSE ANY OPINION AS TO WHAT CAN OR CANNOT BE DONE WITH THE PROPERTY. The District will provide the connection that is designed within the right of way adjacent to the property, and will provide Sweetings Four or the buyer with the specifications necessary to design the connecting infrastructure on the property. However, it is up to the property owner to determine for itself whether the property is suitable for the intended use and what improvements may be required for that use. PLEASE DO NOT REPRESENT THAT THE DISTRICT HAS PROVIDED YOU WITH ANYTHING OTHER THAN THE FACTUAL INFORMATION DESCRIBED IN THE SECOND SENTENCE OF THIS PARAGRAPH.

Regarding the document request, I understand that you are requesting the District to avoid making any expenditures on your behalf in connection with responding to the request until at least January 21, 2009. If you decide to revoke the request, you must provide a notice to me in written or email form. Otherwise, the District will be obligated to begin expending funds for your account.

Thomas M Dillon PA

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Please update your address book to show my new email address:

[lawtmd@gmail.com](mailto:lawtmd@gmail.com)

**From:** Lin Sweeting [mailto:[lin.sweeting@gmail.com](mailto:lin.sweeting@gmail.com)]

**Sent:** Friday, January 09, 2009 11:11 AM

**To:** Thomas M Dillon

**Subject:** Re: Sweetings Four assessment

Mr. Dillon:

Then, based upon your response, this is what we propose.

5 EDUs with the understanding that the District will install a 6 inch connection sufficient for a restaurant. That way we can represent as a seller or lessor that the connection is sufficient for same without altering the proposed use of the property. This building's seating capacity is limited to 24 and will be reduced when the necessary expansion of the bathrooms is made to accommodate and comply with disability laws. This building will never be a high capacity restaurant with linens, etc. because of that limitation.

Of course, whatever use it is eventually put to, the District will have the right to reassess if the usage goes up; and the buyer or lessor will have the right to request a reassessment if the usage is something less.

We want the District's agreement in submitting this proposal so that hopefully there will not be significant opposition from the Board members, i.e. we want this to be the District's recommendation.

If the agreed proposal is approved on January 20, 2009, then by no later than January 22, 2009, we want the District to convey in writing this adjustment to the Monroe County Tax office so that the tax bill can be revised and hopefully my parents can get the payment in before the end of the month before they lose another discount percentage. We also want to be provided with a copy of that written notice by no later than January 22, 2009.

If the District agrees with this proposal and will put this recommendation in writing and submit same to the Board, then I will further defer the District's response to the Sunshine requests through the date of the hearing on January 20, 2009.

If the Board votes in agreement with the proposal and the written adjustment is provided to the Monroe County Tax office by January 22, 2009, I will withdraw the Sunshine requests.

Thank you.

On Fri, Jan 9, 2009 at 10:08 AM, Thomas M Dillon <[lawtmd@gmail.com](mailto:lawtmd@gmail.com)> wrote:

Ms. Sweeting:

1. 5 EDU's
2. Starbucks is not connected yet, but the connection size will be 6".

Thomas M Dillon PA

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**From:** Lin Sweeting [mailto:[lin.sweeting@gmail.com](mailto:lin.sweeting@gmail.com)]

**Sent:** Friday, January 09, 2009 9:35 AM

**To:** Thomas M Dillon

**Subject:** Re: Sweetings Four assessment

Mr. Dillon:

The obvious question. What is the lowest EDU where the District will install pipe with restaurant capacity?

What size is installed for the Starbucks?

On Thu, Jan 8, 2009 at 4:11 PM, Thomas M Dillon <[lawtmd@gmail.com](mailto:lawtmd@gmail.com)> wrote:

Ms. Sweeting:

I acknowledge receipt of your email advising the District that it may defer efforts to comply with your document request until 1/13/09. I note that you are not listed with the State of Florida as an officer of Sweetings Four, Inc.; therefore I am assuming that you are the attorney for Sweetings Four, Inc., with full authority to act on behalf of the corporation. Please confirm.

I am attaching a draft copy of the notice of public hearing that is being published. The final copy is also being mailed to the address currently shown in the Property Appraiser's records, as follows: SWEETING'S FOUR INC, PO BOX 370141, KEY LARGO, FL 33037-0141. If you would like an additional courtesy copy sent to another address, please advise.

I will attempt to address your further question as follows. The District will provide a connection point for the parcel within the public right-of-way adjacent to the parcel. The District facilities are in the design process and will be based on the anticipated flow from the parcel, which will be based on the flow used for assessment purposes, currently 29.2 EDU's. The assessment includes \$2,250 to cover the cost of the connection provided by the District. If that cost exceeds \$2,250, the excess amount will be added to the assessment. In addition, the parcel owner may be required to construct improvements at its own cost to complete connection from the owner's structure to the District connection. Until the design of District facilities is complete, the nature of such improvements will not be known.

If Sweetings Four accepts the recommended assessment, based on 9.9 EDU's, the design of the connection will be adjusted accordingly. In order to settle this matter, the District will be willing to consider a reasonable proposal to use a flow number less than the currently recommended basis for assessment. If a lower flow rate is used, the design of the connection will be adjusted accordingly. However, if the use of the parcel changes such that flow is expected to increase above the flow finally used for the assessment purposes, and the District must upgrade the connection to handle the anticipated flow, the owner of the parcel will be required to pay for the upgrade as a lump sum. Further, as provided in the Final Assessment Resolution, if actual flow changes significantly, even if the rate does not require a change in the physical connection, the District may change the assessment amount to reflect actual flow.

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**From:** Lin Sweeting [mailto:[lin.sweeting@gmail.com](mailto:lin.sweeting@gmail.com)]

**Sent:** Thursday, January 08, 2009 3:28 PM

**To:** [lawtmd@gmail.com](mailto:lawtmd@gmail.com)

**Cc:** Mlsgls

**Subject:** Sweeting's Four assessment

Mr. Dillon;

Thank you for your time today along with Mr. Fishburn regarding potential resolution of the above.



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Please accept this as my agreement that the District may defer its response to my Florida Sunshine requests until next Tuesday, January 13, 2009, to provide the District and Sweeting's Four additional time to reach a proposed resolution of the matters discussed. I understand that any proposed resolution will have to be voted on and approved by the Board. Please ensure that Sweeting's Four receives due and proper notice of any hearing date where this matter is on the District's Agenda.

Should we reach a proposed resolution, I will again defer the District's response to the Florida Sunshine requests until such time as the Board votes on and approves the proposal. If any proposed resolution is approved by the Board, I will withdraw the Florida Sunshine requests.

As one follow up question to our discussions today, relative to the size of the pipe that will be installed at this property's location, I want to know if that plan or determination has, in reality, already been made. Since the budget and plan for this project was developed before the assessments, isn't it already the plan to install a pipe that has the sewage capacity for a restaurant at this site?

Thank you for yours, the District's and the Commissioners' assistance throughout..

Linda C. Sweeting