



MINUTES

The Key Largo Wastewater Treatment District Board of Commissioners met for their regular scheduled meeting at 4:00 PM on November 3, 2015. Present were Chairman David Asdourian, Commissioner Andrew Tobin, Commissioner Robert Majeska, Commissioner Stephen Gibbs, and Commissioner Norman Higgins. Also present were General Manager Paul Christian, Chief Information Officer Rob Bulkiewicz, General Counsel Ray Giglio, Finance Manager Connie Fazio, Operations Manager Chuck Adams, Ed Castle with Weiler Engineering, District Clerk Katherine Jackson, and other appropriate District Staff.

Mr. Ray Giglio led the Pledge of Allegiance.

AGENDA ADDITIONS, CORRECTIONS OR DELETIONS

- Commissioner Majeska added a discussion of rates under Commissioner's Items.
- Mr. Paul Christian added Change Order No. 6 of the Biosolids Digester Project for Wharton-Smith under Construction Report and changed Weiler Engineering Work Authorization Renewal Realignment for FY16 from action to discussion.

APPROVAL OF AGENDA

Motion: Commissioner Higgins made a motion to approve the agenda as amended, and Commissioner Gibbs seconded the motion. The motion passed without objection.

RECOGNIZE DISTRICT STAFF

Mr. Rudy Perez, Lead System Technician, was recognized as Employee of the Month for October 2015.

APPROVAL OF MINUTES OF PREVIOUS MEETINGS

Minutes of October 13, 2015

Motion: Commissioner Higgins made a motion to approve the minutes of October 13, 2015, and Commissioner Majeska seconded the motion.

Vote on Motion

Member	Yes	No	Other
Commissioner Tobin	X		
Commissioner Gibbs	X		
Commissioner Higgins	X		
Commissioner Majeska	X		
Chairman Asdourian	X		

Motion passed 5 to 0

Minutes of October 20, 2015

Motion: Commissioner Higgins made a motion to approve minutes of October 20, 2015, and Commissioner Majeska seconded the motion.

Vote on Motion

Member	Yes	No	Other
Commissioner Tobin	X		
Commissioner Gibbs	X		
Commissioner Higgins	X		
Commissioner Majeska	X		
Chairman Asdourian	X		

Motion passed 5 to 0

CONSTRUCTION REPORT

Monthly Construction Update

Mr. Chuck Adams presented the Monthly Construction Update and answered questions from the Board.

Change Order No. 6 of the Biosolids Digester Project for Wharton-Smith

Mr. Paul Christian presented to the Board Change Order No. 6 from Wharton-Smith for a 21-day extension for the construction of the elevated walkway. Mr. Christian stated that the reason for the change order was a delay in manufacturing of the walkway, which was beyond the control of Wharton-Smith. Staff answered questions from the Board.

Motion: Commissioner Gibbs made a motion to approve the Change Order No. 6 of the Biosolids Digester Project for Wharton-Smith, and Commissioner Higgins seconded the motion.

Vote on Motion

Member	Yes	No	Other
Commissioner Tobin	X		
Commissioner Gibbs	X		
Commissioner Higgins	X		
Commissioner Majeska	X		
Chairman Asdourian	X		

Motion passed 5 to 0

OPERATIONS REPORT

Recommendation of Intent to Award for Dual Buffer Tank Installation

Mr. Chuck Adams presented to the Board a contract to Redland Company for the installation of a dual buffer tank at Paradise Point Senior Living Center and recommended award.

Mr. Paul Christian informed the Board that this installation would need an easement to complete the work as designed.

Staff answered questions from the Board.

Motion: Commissioner Tobin made a motion to authorize the manager to enter into a contract with Redland Company based upon the terms and conditions that were discussed, including the easement, and Commissioner Gibbs seconded the motion.

Vote on Motion

Member	Yes	No	Other
Commissioner Tobin	X		
Commissioner Gibbs	X		
Commissioner Higgins	X		
Commissioner Majeska	X		
Chairman Asdourian	X		

Motion passed 5 to 0

ENGINEER'S REPORT

Update on Status of Negotiations with Wharton-Smith for Blower Upgrade

Mr. Ed Castle reported that he has scheduled a meeting for next week to negotiate the price for the blowers, and that he is making progress negotiating the price for the control panels as well.

Mr. Castle and staff answered questions from the Board.

ADMIN/CUSTOMER SERVICE REPORT

Administration Building Progression Timeline

Mr. Rob Bulkiewicz reported that phase II of the Administration Building Remodel project is complete. Mr. Bulkiewicz informed the Board that staff continues to work with Chris Vogt from Vogt-Spear to mitigate costs for the project and that an updated contract would be presented to the Board at a later meeting.

Staff answered questions from the Board.

COMMISSIONER'S ITEMS

Morgado, PA Invoice (Chairman Asdourian)

Chairman Asdourian led a discussion regarding the Morgado, PA invoice, stating that he believes the bill for the legal research and memorandum should not be passed down to the ratepayers. Commissioner Higgins stated his opinion that that the Board needs to make a decision on how to handle a situation such as this in the future.

Commissioner Gibbs stated that the Board should approve the payment only if the research and memorandum provide a benefit to the ratepayers, and he made a public request that the document be provided to the Board.

Commissioner Tobin stated his opinion that the Board needs to ensure they are not violating the law, and read from e-mails between himself and General Counsel Ray Giglio (attached to these minutes as "Attachment A" and "Attachment B"). Commissioner Tobin also stated that he would like Mr. Ray Giglio to write his legal opinion before he releases the memorandum from Morgado, PA. Chairman Asdourian stated that he believes Commissioner Tobin was acting unilaterally, and feels the District is in violation of the Sunshine Law because the District does not have access to the information.

Motion: Commissioner Higgins made a motion that Commissioner Tobin not be liable to pay the \$850 Morgado, PA invoice out of pocket, and Commissioner Majeksa seconded the motion.

Vote on Motion

Member	Yes	No	Other
Commissioner Tobin	X		
Commissioner Gibbs		X	
Commissioner Higgins	X		
Commissioner Majeska	X		
Chairman Asdourian		X	

Motion passed 3 to 2

Letter from Margaret Blank (Commissioner Tobin)

Commissioner Tobin lead a discussion regarding a letter from Margaret Blank, stating that since she is a former General Manager of the District, when she has concerns over how the District is operating, he has concerns as well. Commissioner Tobin also stated that he has concerns over the timing of the recent loss of personnel, since it was right before Mr. Chuck Adams was hired.

Mr. Paul Christian informed the Board of the new structure of personnel job responsibilities, and reminded the Board that Weiler Engineering has always managed construction projects and continues to do so.

Commissioner Gibbs asked Mr. Christian if any other parts of Mrs. Blank’s letter were inaccurate. Mr. Christian explained that Mr. Dan Saus had held a Class “B” Wastewater Treatment Plant Operators license, not a Class “A” as Mrs. Blank stated in her e-mail, that the plant is in compliance, and that the District has already implemented a backup plan in the event of the absence of the Class “A” operator.

Motion: Commissioner Tobin made a motion that the General Manager will notify the Board when staff members are hired or terminated, but need not provide any explanation, and Commissioner Higgins seconded the motion.

Vote on Motion

Member	Yes	No	Other
Commissioner Tobin	X		
Commissioner Gibbs	X		
Commissioner Higgins	X		
Commissioner Majeska	X		
Chairman Asdourian	X		

Motion passed 5 to 0

Commissioner Gibbs left at 5:30 PM.

Rates

Commissioner Majeska led a discussion regarding wastewater rates. Commissioner Majeska referenced a newspaper article regarding FKAA rates for the new Cudjoe Key system, noting that they have a lower monthly base rate, but a higher per gallon rate.

Mr. Paul Christian addressed Commissioner Majeska's concerns, and reviewed the rates of all of the wastewater entities in Monroe County.

BUDGET AND FINANCE REPORT


Weiler Engineering Work Authorization Renewal Realignments for FY16

Mr. Paul Christian presented 5 new work authorizations that would replace the 3 current work authorizations for Weiler Engineering. Mr. Christian explained to the Board that the work authorization changes are largely housekeeping and represented no changes in the budgeted amounts for Weiler Engineering. Mr. Ed Castle stated that the new work authorizations were recommended by Bishop, Rosasco & Company to better fit the budget.

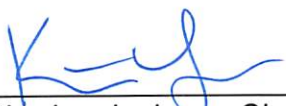
Staff answered questions from the Board, and the Board asked staff to bring this item back at a future meeting.

ADJOURNMENT

The Meeting was adjourned at 5:59 PM.



David Asdourian, Chairman



Katherine Jackson, Clerk

tobinlaw

From: ABudder [abudder@yahoo.com]
Sent: Friday, September 11, 2015 4:13 PM
To: Ray Giglio
Cc: Tobin Andrew
Subject: Questions

Ray,

I again request that you answer (agree or disagree) each of the following 9 questions (I added one). That way we will know where we stand.

If it helps your analysis, my comment about the prominent status of the company was meant to convey that most of the other code enforcement referrals involved properties that were in foreclosure or persons without the financial ability to hook up. That FACT led me, and two other commissioners to RATIONALLY conclude there must be a reason the company had not connected. Today we learned the failure was not deliberate. I therefore stand by my vote.

Thank you,

Andy

QUESTIONS

- 1) The Board's decision to defer did not violate any criminal laws.
- 2) The Board's decision to defer did not violate any state statutes.
- 3) The Board's decision to defer was not unethical in any manner.
- 4) The Board's decision to defer was fact based.
- 5) The Board's decision to defer met the rational basis test.
- 6) The Board had the discretion to defer one person for one week.
- 7) In the future, the Board has the lawful authority to defer one person rather than everyone on the list, provided the decision is rationally based.
- 8) The Manager (like the Board) has the lawful authority to remove one person from the list if the decision is rationally based.
- 9) The decision to defer for one week was not "selective enforcement of the law" as that term is defined by the Supreme Court, i.e enforcement of the law based on unconstitutional criteria.

9/15/2015

tobinlaw

From: Ray Giglio [ray.giglio@klwtd.com]

Sent: ~~Saturday, September 12, 2015, 2:41 PM~~

To: Andy Tobin

Subject: Responses to emails

Hi Andy,

In a number of recent emails, you have asked me to respond to and to address some very interesting issues, all of which are of significance to the District and to the other members of the Board. For that reason, I feel that it would be inappropriate for me not to include the other Commissioners in any response(s).

Unfortunately, if I do include the other Commissioners in any such response(s), I would be violating the spirit, as well as the letter, of the Sunshine Law.

Therefore, I am precluded from addressing the issues raised in your emails.

I am copying each KLWTD Commissioner by "Bcc" so that if one Commissioner replies to me directly from my email, he does not inadvertently copy his fellow commissioners. I would respectfully remind all the Commissioners not to respond to or to copy any other Commissioner(s).

Ray

(305) 340-9198

ray.giglio@klwtd.com

9/15/2015