

# **Key Largo Wastewater Treatment District Board of Commissioners Meeting Minutes**

**4:00 PM Wednesday, April 9, 2003**

**Key Largo Civic Club**

**209 Ocean Bay Drive**

**Key Largo, Monroe County, Florida**

## **Commissioners Present**

Andrew Tobin, Chairman

Gary Bauman, Member

Cris Beaty, Member

Charles Brooks, Member

Jerry Wilkinson, Member

## **Staff Present**

Robert Sheets, General Manager

David Miles, Chief Financial Officer

Charles L. Sweat, Director of Operations

Terry Lewis, Legal Counsel

Robert Betancourt, P.E. Engineer

Faith Doyle, Clerk to the Board

## **Guests Present**

Nos Espat, Randazza

Stu Oppenheim, Brown and Caldwell

Pete Kinsley, The Haskell Company

Joe Palerinit, Brown and Caldwell

Robert E. Burt, KLTV Homeowners Association

Jerry Cox, CPH Engineers

David Gierach, CPH Engineers

Steve Gibbs, Reporter, Free Press

Michael Longenecker, Key Largo Resident

### **A. Call to Order**

Chairman Tobin called the meeting to order at 4:03 p.m.

### **B. Pledge of Allegiance**

The pledge was recited.

### **C. Additions, Deletions or Corrections to the Agenda**

Action item D-1 was removed because it is not timely and it was moved to next meeting.  
Action item D-2 was moved to the end of the meeting.  
Item E-1 was moved to after the Evaluation Committee report.

#### D. Action Items

1. Presentation by the General Manager of the Work Plan for Development and Implementation of a Non Ad Valorem Assessment Program for administrative and management costs
  - a. Approval of the Work Plan for development and implementation of a Non Ad Valorem Assessment Program

This item was moved to the April 23, 2003 agenda.

2. Presentation by the General Manager of the Professional Consultant Services Agreement by and between KLWTD and Government Services Group, Inc.
  - a. Approval of the Professional Consultant Services Agreement by and between KLWTD and Government Services Group, Inc.

Chairman Tobin stated that Legal Counsel deemed the document legally sufficient.

Mr. Robert Sheets commented that the revised document had been delivered last Wednesday personally to the Board members by the Clerk as part of the agenda package for the April 9, 2003 meeting.

Commissioner Brooks stated that he would prefer to discuss this contract in a workshop setting combining the needs for the next six months for management, legal and engineering services.

Commissioner Wilkinson stated that he would like to not engage in a five-year contract for services until the projects get moving.

Commissioner Bauman stated that the agreement presented was a standard professional services contract and for a lump sum and that a contract for services on an hourly basis would cost three times as much.

Chairman Tobin stated that although a workshop setting would provide a forum for further debate he has reviewed the agreement extensively and the requested changes have been made. Chairman Tobin does not believe the management services contract should be dependent on the legal and engineering contracts.

Commissioner Wilkinson stated concern for funding prior to the BOCC's decision on the MSTU. Chairman Tobin suggested tabling the item until a future meeting but having the contract be retroactive to April 1, 2003.

Commissioner Brooks asked if a regular meeting could be reconvened as a workshop. Mr. Terry Lewis stated that it could if the public notice was worded correctly. Mr. Lewis stated

that a regular meeting cannot be interrupted by an ad hoc session and then reconvened back to a regular meeting. Mr. Lewis stated that workshops are to be noticed. Mr. Lewis stated that an informal discussion on the contract at this meeting is acceptable or the Board could carry over the action until the next meeting. Chairman Tobin suggested moving the item to the end of the agenda before deciding to act on it, move it to the April, 23 meeting or to notice a separate workshop. The Board agreed that item E2 would be moved to the end of the meeting.

#### E. General Manager's Report

1. Discussion of DEP Agreement LP0338, Amendment No. 1 and KLWTD Resolution 2003-14

Item E 1 was moved to later in the meeting.

Mr. Sheets referred to his memorandum that was forwarded to the Board via email. The memorandum concerned the amendment to the Interlocal Agreement. Commissioner Brooks stated that the current suggested changes could be amended in the future. Chairman Tobin asked Mr. Sheets to articulate the requested changes into a document to be presented to the Board at the next meeting for their consideration and approval.

Commissioner Wilkinson expressed concern that these funds would require repayment to the County; he believes that 304 funds were collected from Key Largo citizens and therefore should not be paid back. Commissioner Beaty asked if the funds in question were included in the pro-forma. Mr. Sheets stated that they had, adding that if there is a pay back it would be from impact funds which are restricted for certain uses. Chairman Tobin asked if there could be a policy established to assist low-income families with impact fees. Mr. Sheets stated it could be considered.

#### F. Legal Counsel's Report

Legal counsel, Mr. Terry Lewis stated that the legislation being considered to exempt the KLWTD from Chapter 120 is moving and hopefully will pass soon. Mr. Lewis believes that approximately \$50,000 in savings could be realized by the KLWTD from not having to follow the Administrative Procedures Act.

Mr. Lewis then informed the Board that he is the legislative liaison for the Florida Association of Special Districts (FASD) and with over 100 special districts represented it offers seminars and programs and is a valuable resource for information. Mr. Lewis invited the Board to join the association adding that the Florida Department of Community Affairs was currently offering a registration fee scholarship for the FASD annual conference that is being held in June.

COMMISSIONER BROOKS MADE A MOTION FOR THE KLWTD TO MAKE APPLICATION TO BECOME MEMBERS OF THE FASD. COMMISSIONER WILKINSON SECONDED THE MOTION. ALL WERE IN FAVOR AND THE MOTION WAS UNANIMOUSLY APPROVED.

1. Discussion of Gartek's invoice for additional services

Mr. Lewis stated that after analysis of the Gartek invoice requesting payment of over \$27,000 in additional services and Gartek's contract, the Board should note that the contract was for a flat fee and was capped at \$20,000. Per the Board approved contract any amounts requested by the contractor required written work authorizations that were to be approved by the Board prior to the work being done. Mr. Lewis stated that the engineering requested in the contract was for a specific.

Mr. Lewis noted that to hire an engineer for fees that are greater than \$25,000 the approved CCNA process must be followed. The Board is not obligated to pay Gartek's invoice. The Board could pay up to \$25,000 and not be in violation of the CCNA law. The Gartek additional services invoice brings the total that would be paid to Gartek in total to approximately \$47,000. Mr. Lewis was not aware of any basis for the Board to legally pay the invoice amount requested by Gartek.

Mr. Robert Betancourt of Gartek stated that the original contract was for \$20,000 but that a letter was forwarded to the Board explaining that the original contract was to read one set of 100% plans and that they were sent 3 sets of documents on the Key Largo Park project. In addition the letter explained that Gartek was asked to review the RFP and other additional documents. Also, Gartek had responded to numerous requests to be on conference calls and to be a member of the Key Largo Trailer Village proposals Evaluation Committee. These additional services were not anticipated in the original contract. Mr. Betancourt concluded that all of these issues were addressed in the February 14, 2003 letter with a request to be paid for these additional services. Mr. Betancourt respectfully requested that the Board consider the work done as the Board had directed and that Gartek be paid for it.

Commissioner Wilkinson asked if the Board could issue a supplemental contract to cover the additional services because the work had been done for the citizens of Key Largo.

Mr. Lewis stated that the issue is not that the work has been done, but that the Gartek contract was for a not to exceed price for a concise scope of work. If the scope of work became more than what was contracted for then the contract should have been renegotiated or a work authorization issued prior to any additional work commencing. The amount invoiced is double the original contract amount. Chapter 287 states that if an engineer is used that was not selected via the CCNA process the contract amount is limited to \$25,000 per project per year. The law was written so that projects would not be piecemealed to stay under the CCNA threshold amount. The only exception to the act is a declaration of purchase during an emergency.

Commissioner Brooks does not want to find fault, but a solution that would result in Gartek being compensated. Commissioner Brooks believes authorizing an additional \$5,000 for an emergency would be warranted because the KLWTD Board has been in an emergency situation from the first day the Board was formed.

Commissioner Beaty reviewed the Gartek contract and the specific responsibilities defined had circumstances arise that did not allow Gartek to do the work requested and Gartek was placed in a position that they incurred additional costs.

Commissioner Wilkinson stated that the Board has a fiduciary responsibility to pay because the Board had requested and expected the work.

Commissioner Bauman asked Mr. Lewis if any option stated was legally acceptable. Mr. Lewis stated that the only exception to the \$25,000 limit is an emergency. Commissioner Brooks suggested that an additional \$5,000 be approved to be paid due to an emergency situation. Mr. Lewis is not aware of any retroactive emergency, which is essentially what the Board is suggesting. Mr. Lewis stated that the law does not specifically prohibit it, however more research on retroactive emergency declarations should be conducted and it must be clear the Board will have to follow the law.

Commissioner Bauman stated that when a contract has a specific scope, any additional work should have been change ordered and presented to the Board for approval. A professional working in the business should know to present a change order for approval.

Commissioner Brooks asked for clarification on emergency situations and if the impending funding deadlines could be considered an emergency in the KLWTD's case. Mr. Lewis stated it could be a basis to declare an emergency, but it needs to be verified that a retroactive emergency could be done. Mr. Lewis quoted from the act and stated that the CCNA language is not specific on emergencies only that if the emergency is valid and is declared by the entity. Commissioner Brooks would like to see an emergency declared then the Board should establish a procedure that ensures this does not happen again.

Chairman Tobin stated that there is no doubt the work has been done and Gartek has done a great job monitoring another engineering firm and has been outspoken when assisting the Board. However, approving a retroactive emergency when, in his opinion, there was none is not good public policy. Chairman Tobin stated he does not agree with Gartek's billing practices of billing full rate for attendance of several Gartek staff members being present at the same meeting.

Mr. Betancourt stated that if he would charge for the true hours it would have been greater and he has given free time even though he is not an elected official. Mr. Betancourt stated he is responsible to pay his sub-consultants and he doesn't have the money and that he is not charging more than what is in the contract.

Commissioner Brooks entertained a motion to declare an emergency. Mr. Lewis stated that a reason for the emergency must be stated for the record. Commissioner Brooks asked if to meet funding deadlines would be an emergency. Mr. Lewis stated that to go forward with this emergency, an amended contract with assigned tasks would be necessary.

Mr. Lewis stated that prior to today he had not received any notification of an emergency or a request for a contract amendment and that it is highly unusual that the first notification to the Board by the contractor was for an amount in excess of \$15,000 of the original contract.

COMMISSIONER BROOKS MOTIONED TO DECLARE AN EMERGENCY BECAUSE OF THE TIME CONSTRAINTS TO MEET DEADLINES TO RECEIVE FUNDS THAT WOULD BE REAPPROPRIATED AFTER JUNE 1, 2003. Commissioner Tobin stated that he was uncomfortable declaring an emergency without the legal research supporting the action. Mr. Lewis stated that he could research the issue and update the Board. Mr. Lewis stated that he could not give a sound legal opinion on a retroactive emergency without research. Mr. Lewis informed the Board that they could go forward and pay on an amended contract into

the future to address the emergency. A SECOND TO THE MOTION WAS MADE BY COMMISSIONER WILKINSON FOR FURTHER DISCUSSION. Discussion ensued on the specifics of what the amended contract should contain. Mr. Lewis stated that the amended contract should be task by task and a not to exceed amount. Discussion ensued on declaring an emergency. Mr. Lewis stated that the declaration of emergency should state that it required suspension of the CCNA requirements until a specific date; specifically the grant deadline date because due to the time constraints associated with selecting a contractor for the KLTV project, the need for professional engineering advice and the deadline for securing project grant money, the CCNA procedures could not be followed. Discussion ensued on the process in which Gartek was originally contracted. COMMISSIONER BROOKS WITHDREW THE ORIGINAL MOTION.

COMMISSIONER BROOKS MADE A MOTION TO APPROVE PAYMENT TO GARTEK UPTO THE CCNA EXEMPTION LIMIT OF \$25,000. THE MOTION WAS SECONDED BY COMMISSIONER WILKINSON. CHAIRMAN TOBIN CALLED FOR A VOTE, WHICH WAS AS FOLLOWS:

COMMISSIONER BAUMAN	NO
COMMISSIONER BEATY	YES
CHAIRMAN TOBIN	YES
COMMISSIONER BROOKS	YES
COMMISSIONER WILKINSON	YES

THE MOTION CARRIED.

Discussion ensued on the members of the contract negotiating team for the KLTV project. Mr. Lewis stated it was typical for the general manager and staff to negotiate a draft contract for the Board's consideration and approval.

COMMISSIONER BROOKS MADE A MOTION TO DECLARE AN EMERGENCY THAT SUSPENDS THE CCNA PROCESS DUE TO THE TIME CONSTRAINTS IMPOSED ON THE KLWTD TO MEET THE JUNE 30, 2003 DEADLINE FOR FDEP FUNDING. COMMISSIONER WILKINSON SECONDED THE MOTION FOR DISCUSSION.

Commissioners Brooks and Wilkinson stated that Gartek Engineering should be included on the KLTV contract negotiating team. It was stated that again in this situation that due to the time constraints associated with awarding the KLTV and KLP projects procuring a consulting engineer could not be done by the CCNA procedure while attempting to make the deadline for securing the FDEP grant. Commissioner Bauman stated that due to the present additional services issue with Gartek that the negotiation work should be a documented contract amendment identifying specific tasks for a not to exceed price. WITH NO FURTHER DISCUSSION CHAIRMAN TOBIN CALLED FOR A VOTE, WHICH WAS AS FOLLOWS:

COMMISSIONER BAUMAN	NO
COMMISSIONER BEATY	YES
CHAIRMAN TOBIN	NO
COMMISSIONER BROOKS	YES
COMMISSIONER WILKINSON	YES

THE MOTION CARRIED.

COMMISSIONER BROOKS MADE A MOTION PREDICATED ON THE DECLARED MOTION TO AUTHORIZE THE 2<sup>ND</sup> CONTRACT AMENDMENT STATING THAT GOING FORWARD FROM THIS DATE THAT AN EXPENDITURE OF \$6,000 FOR CONTRACT NEGOTIATIONS WAS APPROVED FOR GARTEK ENGINEERING DURING THE NEXT MONTH. COMMISSIONER WILKINSON SECONDED THE MOTION. Chairman Tobin asked for any further discussion. Discussion ensued on the need for a negotiation team and to have it in place prior to the vote on this motion. CHAIRMAN TOBIN CALLED FOR A VOTE, WHICH WAS AS FOLLOWS:

COMMISSIONER BAUMAN	NO
COMMISSIONER BEATY	YES
CHAIRMAN TOBIN	NO
COMMISSIONER BROOKS	YES
COMMISSIONER WILKINSONSON	YES

THE MOTION CARRIED.

Chairman Tobin recessed the meeting at 5:35 p.m.  
Chairman Tobin reconvened the meeting at 5:45 p.m.

#### G. Engineer's Report

The engineer had no other items to discuss with the Board.

#### H. Commissioner's Items

##### 1. Commissioner Brooks - Status report on the Evaluation Committee

Commissioner Brooks stated that his report would be made with little preparation because the Evaluation Committee concluded it's business and adjourned at approximately 2:45 p.m., April 9, 2003.

Commissioner Brooks stated that the meeting was with the proposers on the KLTV project. The proposers were asked for additional information and those who provided it added to the process. Commissioner Brooks stated that the technical proposals were reviewed and ranked by the Committee and he provided a copy of the summary sheet to the Board. After the proposals were ranked the cost proposals were opened and the results read into the record of the Evaluation Committee meeting. The Committee requested additional cost information. A copy of the KLTV cost summary sheet was provided for the Board.

Commissioner Brooks informed the Board that Harry Pepper and Associates declined to provide additional cost information or to participate in the interview. UEC did not provide additional cost information by the deadline. UEC did arrive to participate at the interview without responding to the Committee's deadline. The Committee gave UEC the opportunity to present the information they brought for the Committee.

Commissioner Brooks stated that the Wharton Smith/CPH and Haskell interviews were very informative and productive.

Commissioner Brooks as Chairman of the Evaluation Committee stated that the Committee recommends negotiating with The Haskell Company/Brown Caldwell & Higgins and if an agreement cannot be reached then staff would negotiate a contract with Wharton Smith/CHP.

The Committee further recommended that the KLWTD would be better served to continue under the present bidding process than to risk re-bidding the projects as a single project.

Discussion ensued on the option of renegotiating the KLP project without re-bidding it or if it could be combined with the KLTV project. Mr. Lewis stated that combining the projects without re-bidding would mostly likely not be possible but options would be looked at. Mr. Sheets asked Mr. Refling to request an extension to the KLP bids. Chairman Tobin requested the contract negotiating team determine if there were any options to combine the projects legally and within the deadline.

COMMISSIONER BROOKS MADE A MOTION SELECTING THE HASKELL COMPANY AS THE VENDOR FOR CONTRACT NEGOTIATION ON THE KLTV PROJCTET. COMMISSIONER WILKINSON SECONDED THE MOTION. COMMISSIONER BROOKS AMENDED THE MOTION TO ADD IF HASKELL NEGOTIATIONS FAIL THEN NEGOTIATIONS WITH WHARTON-SMITH/CPH WOULD BEGIN. COMMISSIONER WILKINSON SECONDED THE AMENDMENT. ALL WERE IN FAVOR AND THE MOTION WAS UNANIMOUSLY APPROVED.

Commissioner Beaty added that the Committee work was consuming but it resulted in a great deal of information being provided by both vendors. The Committee thanked the vendors present for the time and effort invested by them.

## 2. Commissioner Brooks - Discussion on the re-bidding of the KLP and KLTV projects

This item was moved to the April 23, 2003 meeting agenda.

Commissioner Bauman and Chairman Tobin thanked the members of the Evaluation Committee for their work.

The Board Clerk was directed to provide notice that the Evaluation Committee meeting scheduled for April 16, 2003 is cancelled because the Committee's business is finished.

Chairman Tobin then directed the General Manager and Legal Counsel to proceed with contract negotiations for the KLTV project along with the assistance of the design engineer, Boyle Engineering, the KLWTD engineer, Gartek Engineering and Commissioner Brooks. It was the consensus of the Board to have a draft contract brought to the Board for approval as soon as possible.



3. Commissioner Wilkinson - Motion to reconsider approval of DEP Agreement LP0338, Amendment No. 1

Commissioner Wilkinson stated that for the original vote on this item he cast a "yes" however, upon further review of his backup information he discovered he reviewed an incorrect version, would he have reviewed the most recent version of the item he would have voted "no" along with Chairman Tobin.

COMMISSIONER WILKINSON MADE A MOTION TO RECONSIDER DEP AGREEMENT LP0338, AMENDMENT NO. 1. COMMISSIONER BEATY SECONDED THE MOTION FOR DISCUSSION. Commissioner Wilkinson stated concern with the plant site at MM101.5 being approved by FEMA. Commissioner Wilkinson believes it is a possibility that funds won't be disbursed prior to October 1, 2003. Commissioner Wilkinson wants the October date stricken. The manager was asked where the amendment stood with the FDEP. Mr. Sheets stated that the approved amendment was with Dick Smith of the FDEP, however, it has not been returned to the KLWTD because the Board requested it to be redrafted and the dates extended. Mr. Sheets stated that FDEP has been flexible. A corrected amendment could be sent after the new dates are decided. It was noted that after the Board took action on the amendment Chairman Tobin contacted the FDEP in Tallahassee stating that a drop-dead deadline was not acceptable when the KLWTD was operating in good faith. The FDEP conceded and stated they understand the concerns of the KLWTD. Representative Sorenson was contacted for assistance and he gave assurances that the grant money would not be in jeopardy if a deadline was missed. Chairman Tobin requested that a resolution be acted on that would modify the approved contract amendment to remove the reference to the October deadline. Commissioner Brooks stated that funds have been expended for engineering but the funds were from the 304 money provided by the County. Commissioner Brooks agrees that the October 31, 2003 deadline needs to be removed and the dates in Schedule C amended as previously stated. COMMISSIONER WILKINSON AMENDED HIS MOTION TO RECONSIDER THE CONTRACT (FDEP LP0338) AMENDMENT NO. 1 AND DISCUSS THE PROPOSED REVISIONS WITH THE FDEP AND TO SUBMIT A REVISED SCHEDULE C TO THE FDEP. COMMISSIONER BEATY SECONDED THE AMENDED MOTION. WITH NO FURTHER DISCUSSION CHAIRMAN TOBIN CALLED FOR A VOTE, WHICH WAS AS FOLLOWS:

COMMISSIONER BAUMAN	NO
COMMISSIONER BEATY	YES
CHAIRMAN TOBIN	YES
COMMISSIONER BROOKS	YES
COMMISSIONER WILKINSON	YES

THE MOTION CARRIED.

Chairman Tobin then brought item D-2 back to the floor for further discussion.

COMMISSIONER BEATY MADE A MOTION TO APPROVE THE MANAGEMENT SERVICES AGREEMENT WITH GOVERNMENT SERVICES GROUP. COMMISSIONER BAUMAN SECONDED THE MOTION. Commissioner Wilkinson objected to the terms of the agreement and does not believe the contract should be through 2005. Legal Counsel noted that the agreement has a 90-day termination clause. Commissioner Wilkinson believes

there are too many uncertainties to enter into a lengthy contract. Chairman Tobin stated that the agreement has been redrafted and that GSG has conceded to all requested changes. Legal Counsel stated that the contract is legally sufficient. Commissioner Wilkinson stated that he would prefer a 30-day termination clause. Discussion ensued on other points of the contract. Commissioner Wilkinson believes that there are too many District responsibilities listed and it is restrictive. Commissioner Wilkinson stated that the KLWTD management should be in Key Largo. Commissioner Brooks stated that he also objects to the agreement being through 2005 but he believes the termination clause provides an option to end it before then if necessary, however, he stated concern that it could be terminated without cause and that once terminated the GSG would still be paid for the 90 days. Commissioner Brooks asked what was involved with supervising engineering. Mr. Sheets stated that once an engineer of record is selected by the CCNA process they would need to communicate through the manager instead of directly to all members of the Board. Mr. Lewis stated that generally Boards either have all business routed to the Board via the Manager or they have business routed via the Manager, Legal Counsel and the Engineer. Mr. Lewis stated that from past experience working with various boards that having one source of directions from a manager to the staff is preferred and that in light of all the issues facing the KLWTD Board a simple style of management is necessary at this time. WITH NO FURTHER DISCUSSION CHAIRMAN TOBIN CALLED FOR A VOTE, WHICH WAS AS FOLLOWS:

COMMISSIONER BAUMAN	YES
COMMISSIONER BEATY	YES
CHAIRMAN TOBIN	YES
COMMISSIONER BROOKS	YES
COMMISSIONER WILKINSON	NO

THE MOTION CARRIED.

Commissioner Brooks stated that that the EPA's request for comments on the Program Management Plan (PMP) have been developed. The point of most concern was the issue of the "unincorporated area of Key Largo" which is now the area to share in the allocation of the 29 million dollars per the PMP as written. Commissioner Brooks believes the issue needs to be resolved so that the allocation remains in Key Largo only as originally planned. COMMISSIONER BROOKS MADE A MOTION TO SUBMIT THE SUGGESTED CHANGES AND THAT THE DOCUMENT SHOULD STATE THE ISLAND OF KEY LARGO VERSUS UNINCORPORATED KEY LARGO. COMMISSIONER BEATY SECONDED THE MOTION. ALL WERE IN FAVOR. THE MOTION WAS UNANIMOUSLY APPROVED.

Chairman Tobin requested a resolution be drafted stating the changes for approval by the Board at a future meeting.

Commissioner Bauman stated that the named projects in the PMP needed to be reviewed and that he would provide comments to Commissioner Brooks as soon as possible.

Chairman Tobin requested that project re-bidding benchmarks be provided to the Board. Mr. Sheets stated that he would meet with the engineers following the meeting to discuss schedules and deadlines.

I. Minutes – February 26 2003 and March 5, 2003

COMMISSIONER BAUMAN MADE A MOTION TO APPROVE THE MINUTES OF THE FEBRUARY 26, 2003 AND MARCH 5, 2003 MEETINGS. COMMISSIONER BEATY SECONDED THE MOTION. ALL WERE IN FAVOR AND THE MOTION WAS UNANIMOUSLY APPROVED.

J. Meeting Adjournment

Chairman Tobin adjourned the meeting at 7:25 p.m.

# **Key Largo Wastewater Treatment District Board of Commissioners Meeting Minutes**

**4:00 PM Wednesday, April 23, 2003**

**Key Largo Civic Club  
209 Ocean Bay Drive  
Key Largo, Monroe County, Florida**

## **Board Members Present**

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

## **Staff Present**

Robert Sheets, General Manager, Government Services Group, Inc.  
Terry Lewis, Esq., Legal Counsel, Lewis, Longman and Walker, P.A. (via telephone)  
Robert Bentancourt, PE, Gartek Engineering  
Faith Doyle, Board Clerk, Government Services Group, Inc.

## **Guests Present**

David Refling, P.E. DEE, Boyle Engineering  
Walter E. Messer, D.N. Higgins, Inc.  
James B. Jones, Roediger Pittsburgh, Inc.  
Charles Fishburn, Gartek Engineering  
Michael Longenecker, Key Largo Resident  
Pete Kinsley, The Haskell Company  
Nos Espat, Randazza  
Ann Henson, Reporter for the Key Largo Reporter  
Steve Gibbs, Reporter for the Free Press

### **A. Call to Order**

Chairman Tobin called the meeting to order at 4:00 p.m.

### **B. Pledge of Allegiance**

The Pledge of Allegiance to the United States of America was recited.

### **C. Additions, Deletions or Corrections to the Agenda**

Mr. Tobin asked the general manger to report on the recent negotiations meeting with FKAA. Mr. Sheets stated that he and Commissioner Brooks attended the meeting along with representatives of the FDCA, FEMA and FKAA. The FEMA schedule for the Environmental

Assessment or what FEMA refers to as a 'FONSI' Phase I should be signed in July. The KLTV project cannot start until the 'FONSI' Phase II is signed mostly likely in early September. Funds are contingent on the 'FONSI' being approved. The October 31 date becomes moot because it cannot be met due to no fault of the KLWTD.

Mr. Sheets stated that with the Board's approval he would forward a letter to the FCAA to request reimbursable costs for KLWTD's sub-contractors for Phase 1 costs. Mr. Sheets stated that only KLTV costs between now and July would be for KLTV Phase 1 engineering. Commissioner Bauman asked for a new timeline. Mr. Sheets stated that the FDEP requires a new Schedule C and that one would be prepared and forwarded once the KLTV and KLP contract negotiations are concluded.

Chairman Tobin requested Item E 6 "Status report on the KLTV contract negotiations" be brought to the floor for discussion. Mr. Sheets referred to his memorandum that had been distributed to the Board at the meeting.

Mr. Terry Lewis, legal counsel, joined the meeting by phone at 4:15 pm.

Mr. Sheets stated that as a result of the meetings with Haskell approximately \$550,000 in savings had been negotiated. Discussion ensued concerning the specifics of the memorandum and the attachments to it. The memorandum is made part of this record as "Attachment A".

Chairman Tobin stated that after the discussion on re-bidding the projects, he was still open to it. Commissioner Bauman asked Mr. Sheets what action was required by the Board to stay on track. Mr. Sheets stated that either the Board needs to approve beginning the negotiation process at the present meeting or at the May 14, 2003 meeting or to act to re-bid the projects at the May 14, 2003 in order to make the June 30, 2003 deadline.

Mr. Refling reiterated the comments of Mr. Sheets concerning the negotiation team, adding that all members have done an excellent job. Mr. Refling added that at present it is hard to identify all cost savings options because the KLTV project has not been fully designed yet, it is conceptual, and at the 30%, 60% 90% submittals, more savings could be identified. The benefits of a lump sum contract were discussed. It was noted that one of the major benefits is that the required documentation is less and if any cost savings are realized it is shared between KLWTD and the contractor, but if there are overages (not as a result of an owner requested change order) the contractor absorbs them. Mr. Sheets noted that although the documentation requirements are less, the KLWTD does not give up any audit rights.

Chairman Tobin asked about reduction to the number of valves and how the design continues to be refined. Mr. Refling stated that the companies looked at the conceptual design and gave initial cost saving ideas after entering the negotiation process and that Haskell's engineers have looked at the concept in the Park and have identified where there is potential for adding a gravity system at the end of some lines. Mr. Pete Kinsley of Haskell added that all parties are concerned with proper design, especially Haskell, because they are contracted to guarantee an operating system.

Discussion ensued as to where pits would be located and if there would be stubs for undeveloped lots. Mr. Refling stated that there would be an exhibit to the contract demonstrating that all future building lots would be connectable to the system.

Chairman Tobin asked that Mr. Refling explain in detail all eleven points stated in Mr. Sheets' memorandum.

Mr. Refling stated that item one concerning sales tax savings is not an addressable issue at present. The amount stated was an estimate and could be used if feasible, however the amount was not included in Haskell's 'best and final' price. The sales tax issue can be decided at a later time and is contained in the contract documents.

Mr. Refling stated that item two concerning the use of Airvac or Roevac as vacuum system supplier is something that he personally needs more information on to make a decision. Mr. Fishburn added that Haskell feels comfortable with both so competition could result in savings. Mr. Refling added that there is time to look at it further.

Discussion on the bottom line savings ensued. Mr. Fishburn stated that directional boring may provide benefits and potential savings but there are concerns with the technology. Mr. Kinsley commented that in their experience the technology is good for force mains and cables, but a vacuum system needs to be done on a slope. Mr. Walt Messer of Higgins has done boring but not for gravity lines and believes there is too much risk to be ignored. Commissioner Tobin stated that if the technology is available that the engineers need to look at it and decide. Mr. Refling stated that he is not convinced yet because of the complexity of this system and the field conditions make it complicated and it may not work. Commissioner Wilkinson doesn't believe it would work with Airvac. Discussion ensued on the process. Chairman Tobin asked if the technology could be tested in the area. Mr. Messer suggested the U.S. 1 cut across would be a good place to try it due to its proximity to the plant. Chairman Tobin asked who makes the decision to do it. Mr. Kinsley stated that KLWTD would suggest it and the contractor would decide due to liability issues, adding that all members must be comfortable so the warranty is enforceable. It was noted that the FDOT would not permit a total closing of U.S. 1 to complete the cut across.

Discussion ensued on the use of USBF, and Mr. Kinsley stated that there would be no significant cost savings on installation but the maintenance is less.

Commissioner Wilkinson asked for clarification on what spare parts would be eliminated. Mr. Refling stated that they are whole valves, but there are spare parts in both contracts and it was a duplication of effort and they are not needed for both projects.

Commissioner Bauman asked if the construction management services were being reduced. Mr. Sheets stated that \$300,000 was programmed in for KLP and after talking to staff there is a commitment that \$150,000 would cover it.

Commissioner Beaty questioned the reasoning for the \$50,000 reduction on the U.S. 1 crossing. Mr. Messer spoke with Mike Reese of the FKAA who verified that FDOT doesn't require casing so the savings are on the casing and that this would be confirmed when a permit application is filed.

Commissioner Brooks commented that going through contract negotiations for the first time is tiring and time consuming but rewarding and he believes the KLWTD is in a win/ win situation. Commissioner Brooks stated that there is nothing but benefits for the KLWTD if the Board moves forward. He stated that with all the concessions given by Higgins and Haskell, there is cash in the bank. He stated that he recommends KLWTD go forward with the negotiations with Haskell.

Commissioner Brooks made a motion to follow the recommendations as specified on page 3 of Mr. Sheets' memorandum. Commissioner Tobin stated that he is not at Commissioner Brooks' comfort level and would like to continue discussion. Commissioner Brooks stated that if the Board does not move in this direction and attempts a re-bid it is uncertain if they would be lower and they could be higher. Commissioner Brooks was also concerned a re-bid could jeopardize the \$1.66 million from FDEP. Chairman Tobin asked for reaffirmation that the process should go forward.

Mr. Terry Lewis stated that a motion to go forward as quickly as possible with Haskell negotiations was acceptable. Then the next item for the Board to consider would be to determine the low bidder for the KLP and motion for award. Mr. Lewis stated that at that point, in his opinion, the Board would be able to discuss simultaneous negotiations with Haskell and Higgins. Mr. Lewis stated that the negotiation team has done competent work. Chairman Tobin stated that he was comfortable with the legal opinion provided. Commissioner Brooks withdrew the motion on the floor.

**COMMISSIONER BROOKS MADE A MOTION TO FOLLOW THE RECOMMENDATIONS OF THE NEGOTIATING TEAM AND THAT THE BOARD AUTHORIZE THE TEAM TO CONTINUE AND MOVE FORWARD TO FINAL NEGOTIATIONS FOR THE KLTV PROJECT. COMMISSIONER BAUMAN SECONDED THE MOTION. CHAIRMAN TOBIN ASKED FOR ANY FURTHER DISCUSSION. Commissioner Wilkinson asked if the Board was continuing the negotiations in an effort to bring back the contract for Board approval. Mr. Sheets stated that was correct. ALL WERE IN FAVOR AND THE MOTION WAS UNANIMOUSLY APPROVED.**

Chairman Tobin recessed the meeting at 5:35 p.m.

Chairman Tobin reconvened the meeting at 5:45 p.m.

Chairman Tobin called the next item of business, an additional item, to be named action item D 4, the consideration of the apparent low bidder for the KLP project. Chairman Tobin requested that the letter of recommendation be presented for ratification at the next meeting. Chairman Tobin asked Mr. Refling to reiterate what was contained in the recommendation letter. Mr. Refling stated that the KLP project was based on a design/bid/build set of documents and bids were received based on a base bid and two alternates. The RFP specified that consideration would be on the lowest responsive, responsible bidder on the base bid only. D.N. Higgins was low bidder and lowest responsive, responsible bidder and Boyle Engineering recommends D.N. Higgins for award of the base bid.

Mr. Lewis suggested a motion to select Higgins as the apparent low bidder contingent on Higgins negotiating to determine cost savings by integrating the projects. Mr. Messer of Higgins asked if integrating the projects meant doing them both together. If so Higgins

agreed. Commissioner Brooks asked for confirmation of DEP restrictions on combining projects. Mr. Sheets stated that the contract would need to be carefully constructed because of DEP procurement policies and the fact that the \$1.66 million can only pay for KLP components. Mr. Sheets stated that because these are federalized due to the FEMA involvement we need to keep them informed. Mr. Lewis suggested the verbiage 'negotiate simultaneous contracts'. Commissioner Wilkinson objects due the fact that Higgins' position would be strengthened and Haskell's weakened. Mr. Lewis explained that the selection of Higgins as low bidder would be conditional on successful concurrent negotiations to get the lowest price possible, and if the negotiations fail, the Board would be in the position to re-bid.

THE MOTION WAS MADE BY COMMISSIONER BROOKS AS SUGGESTED AND SECONDED BY CHAIRMAN TOBIN. Discussion ensued on how the continued negotiations would be handled. Mr. Messer of Higgins asked if the KLP was a bid process and not a design build, how do you negotiate a low bid. Mr. Refling stated for clarity that what he believes Mr. Lewis said was once these motions are made and approved then the Board would motion for the negotiation team to meet and this would permit all parties to talk and take all factors into consideration. Mr. Lewis affirmed Mr. Refling's statement.

**COMMISSIONER BROOKS MADE A MOTION TO SELECT D.N. HIGGINS AS APPARENT LOW BIDDER CONDITIONED ON SUCCESSFUL CONCURRENT NEGOTIATIONS WITH D.N. HIGGINS AND HASKELL TO LOWER THE OVERALL COSTS OF THE INTEGRATED PROJECTS. IF THE NEGOTIATIONS ARE UNSUCCESSFUL THE BOARD MAY REJECT THE BIDS. COMMISSIONER BAUMAN SECONDED THE MOTION FOR DISCUSSION.** Chairman Tobin stated that this brings two projects together that never should have been separated. Commissioner Bauman added that if the contract is achieved then we could look at adjusting the work by change order. **CHAIRMAN TOBIN CALLED FOR FURTHER DISCUSSION.** Commissioner Wilkinson had concerns with premature selection of Higgins without the KLTV contract being final. Chairman Tobin stated that he still had concerns but this looks like a more efficient way to move forward. Discussion ensued concerning if the Board had the right to re-bid until a contract is signed. It was noted that re-bid would still be possible but the purpose is to come back with contracts for Board approval as soon as possible. Mr. Sheets assured the Board that the negotiation team would go slow so that all parties have no regrets after signing, while keeping within the deadlines. Mr. Sheets stated that if the Board makes the decision it would provide him with the information to revise Schedule C with reasonable deadlines. Chairman Tobin asked when draft contracts could be expected. Mr. Sheets stated that possibly by May 14<sup>th</sup> a draft for review with action at the May 28<sup>th</sup> meeting unless a special meeting is called. Mr. Sheets stated that with three weeks between today and the May 14<sup>th</sup> meeting it could be done. Mr. Lewis suggested the Board notice a special meeting on the 21<sup>st</sup> and if it is not needed then it could be cancelled. **CHAIRMAN TOBIN CALLED FOR A VOTE WHICH WAS AS FOLLOWS:**

COMMISSIONER BAUMAN	YES
COMMISSIONER BEATY	YES
COMMISSIONER BROOKS	YES
COMMISSIONER WILKINSON	NO
CHAIRMAN TOBIN	YES



## **THE MOTION CARRIED.**

### **Action Items**

1. Approval of the Work Plan for Developing and Implementation of a Non Ad Valorem Assessment Program for administrative and management costs

Chairman Tobin informed the Board that John Dent, attorney for the Monroe County Property Appraiser, called him concerning a potential problem with the KLWTD MSTU request that is on the May 19, 2003 BOCC agenda. Legal Counsel will verify that in February the KLWTD had communicated with the Tax Collector who indicated that the deadline had been met. Mr. Lewis stated that Chapter 200 the 'TRIM' statute has a section that says MSTU taxes on a tax role need to be created prior to January 1. But, the same section states that the deadline doesn't apply if the MSTU is to be created in an area to be served by a special taxing district. MSTU creation should not be a problem in Mr. Lewis' opinion. Mr. Lewis will contact Mr. Dent to remind him that this point has been researched. Mr. Lewis does not feel there is any prohibition to creating an MSTU. Chairman Tobin stated that this work plan relates to the MSTU being approved. Commissioner Brooks stated that the non ad-valorem process should be initiated after the MSTU decision to avoid incurring costs. Chairman Tobin asked what the deadline was for special assessment. Mr. Sheets stated that notice is required to meet the uniform information act, which includes getting the role prepared and holding a public hearing by September 15, 2003.

**COMMISSIONER BEATY MADE A MOTION TO TABLE THE ITEM UNTIL THE BOCC ACTS ON THE MSTU. COMMISSIONER BAUMAN SECONDED THE MOTION. ALL WERE IN FAVOR AND THE MOTION WAS UNANIMOUSLY APPROVED.**

2. Approval of Gartek, Engineering Corporation additional services request for KLTv Contract Negotiations Phase

Mr. Lewis stated that at the last meeting the Board approved changing Gartek's contract to the maximum amount permissible per the CCNA laws. The Board also declared an emergency and authorized the spending of an additional \$6,000 for Gartek to participate in the KLTv contract negotiations. The only pending issue is on the retroactive amount over and above the \$25,000 CCNA threshold. Mr. Lewis has conducted the research requested by the Board and did not find case law to support retroactive emergencies.

Chairman Tobin asked for discussion the item. Commissioner Brooks stated that he was concerned because he had made the motions and he is upset that an email after the fact had resulted in an additional change in the contract. Commissioner Brooks stated that as far as the legal handling of resolutions after a motion is made, a resolution should be drafted and reviewed for legal sufficiency. Commissioner Brooks stated that he then received an email from Ms. Dukes (legal counsel) containing the Gartek amendment to contract that incorporated changes to the motions already made and passed by the Board. Mr. Lewis stated that he did not recall reviewing any resolutions and if the contract does not reflect what the Board would like it could be corrected. He added that no intent to negate the actions of the Board was intended. Commissioner Brooks quoted Section 1.02.E concerning duplicate payments. Commissioner Brooks believes this to be a major change in his mind

and it was disturbing to him that the email that resulted in this change should also be a public record.

Commissioner Brooks stated that during the discussion prior to voting on his motions on the Gartek issue, as he recalls from his own memory and the draft minutes provided by the clerk, that the increase of \$5,000 was a change to the original contract and should be a separate amendment. Mr. Lewis stated that there is no legal purpose in separating them. Commissioner Brooks stated his intention for the emergency declared was for the purpose of retroactively paying the balance to Gartek for the additional \$27,000. Commissioner Brooks reiterated that his intent was to okay the payment of additional services. Commissioner Brooks stated that his next motion was to approve the additional \$6,000 to Gartek to participate in the negotiation process for the KLTv project award and it was his understanding that this was to be a contract amendment. Commissioner Brooks believes the beginning of the emergency was November 19, 2002.

Mr. Lewis stated that he could find no basis in law to declare a retroactive emergency and that after reviewing case law, Gartek should have presented a change order and that even with a change order the Board by law could not approve anything above \$25,000 without a bonafide emergency. Mr. Lewis stated that there is no case law that would support payment of the unapproved additional services. Discussion ensued on the case law concerning overages to a contract. Mr. Lewis stated that if the Board was aware of the work, the Administrative Procedures Act (which Mr. Lewis noted that the KLWTD was under presently) states that the declaration of an emergency must be from a period in time going forward. Mr. Lewis found no basis in law that demonstrates an emergency could be declared retroactively. Mr. Lewis understands the dilemma faced by the Board but can give no support from the law in support of the Board's decision. Commissioner Brooks asked directly if Mr. Lewis could provide support that the Board could not pay it. Mr. Lewis stated that before paying it the Board could request an opinion from the State Attorney General. Commissioner Brooks reaffirmed that the next step would be to ask for an A.G.O. Mr. Lewis answered in the affirmative but does not believe the opinion would result in a positive answer. Mr. Lewis would not advise the KLWTD to spend the money. Commissioner Brooks stated that the amendment in front of the Board should be approved so that Gartek would be compensated for the \$5,000 and the additional \$6,000, however he would like to find a legal way to pay the \$27,000 in additional services. Commissioner Brooks asked if Gartek would still be paid the \$5,000 if the amendment was not approved. Mr. Lewis stated that the \$5,000 could be paid because the Board approved the motion, however a contract amendment is ultimately required. Mr. Lewis stated that the Board could approve the amendment with the suggested changes.

The Chairman asked for additional comments from the Board.

Commissioner Bauman stated that the discussion of the Gartek additional services request was presented as a legal discussion item and not as an action item and that in his opinion Commissioner Brooks made three motions that the Board had no time to review.

Commissioner Beaty stated that the agreement is sufficient. He questioned the Board's ability to pay the additional services if a change order was approved by the Board. Commissioner Beaty stated that he agreed that Gartek should be paid for the additional services and that the Board should continue to try and find the means to do so.

Commissioner Tobin stated that to go back to the reason for contracting with Gartek it was by request of Commissioner Wilkinson who wanted another engineering opinion to improve his comfort level with the information provided by the FKAA. Chairman Tobin asked Mr. Refling at that time if it were reasonable to have an additional engineering opinion.

Chairman Tobin recalled that Mr. Refling agreed that two engineers were reasonable for the KLTV project because it was a design/build project. Mr. McGarry indicated that the expenditure for the additional engineering was possible.

Chairman Tobin stated that after speaking with Robert and Chuck at length that he agrees they are doing good work for the KLWTD, however, the legality of a retroactive emergency and asking for an A.G.O. could cause the KLWTD more expense and embarrassment. Chairman Tobin recalled that the emergency was to be based on legal research to determine if there could be a retroactive emergency. Chairman Tobin stated that he was concerned with any contractor double billing and that double billing was addressed in the contract amendment because of his concerns with being charged for the attendance of both Chuck and Robert on the invoices in question. Chairman Tobin stated that he wants to be fair and to do what is right and if there are circumstances that warrant the charges for two staff members' attendance they should be pre-approved. Chairman Tobin noted that the KLWTD does not have the extra money in the budget and that Gartek is looking at reducing their bill. Chairman Tobin also stated concern with the use of sub-consultants because the Board has no privities with Gartek's sub-consultants. Chairman Tobin concluded that the Board is aware that Gartek's work is good but the Board has to struggle with setting bad precedent by passing a retroactive emergency if there is not legal authority to do so. Chairman Tobin would support only paying critical services that were helpful to the KLTWD and to pay them from grant money for engineering services only.

Commissioner Brooks stated that his issues include making changes to an already approved 'resolutions' via email, the \$5,000 increase to the original \$20,000 contract, the declaration of an emergency, and the additional \$6,000 for contract negotiations. Commissioner Brooks stated that no motion was made by the Board to put in the amendment that Gartek would receive no payment for two staff members being present and it is improper to add or take away from the intent of a motion. Commissioner Brooks quoted from the draft April 9, 2003 minutes. Stating that his point was that this legal opinion was not part of his motion. Mr. Lewis apologized for being the one who presents problems but added that he cannot make up the law to support an action.

Commissioner Wilkinson stated he as technical committee chair was not aware of the invoice amounts or that the CCNA threshold of \$25,000 had been exceeded. He feels Gartek should be paid, if not retroactively it should be paid from the FKAA engineering funds. Commissioner Tobin believed that the original \$20,000 had been approved by the FKAA. Mr. Sheets stated that he would explore getting reimbursed for costs incurred on these projects with Phase I moving forward.

Commissioner Bauman stated that he doesn't recall anyone on the Board being assigned to review invoices for Gartek nor should the Board take any blame for the situation. He believes it is the vendor's responsibility to get change orders for their work. The original

contract was a \$20,000 fixed fee, not-to-exceed contract and that Gartek is a professional services firm and to over-bill by \$22,000 is a problem.

Commissioner Brooks quoted again from the April 9, 2003 draft minutes. Chairman Tobin stated that you cannot debate recollection and if the motion was recalled wrong it should be restated and the vote taken again.

**COMMISSIONER BROOKS MOTIONED TO APPROVE THE AMENDMENT WITH THE STRIKING OF SECTION 1.02.E SECTION** Commissioner Brooks asked for an explanation of the last whereas clause. Mr. Lewis stated that it was his understanding of the amended contract. Commissioner Brooks stated that it was his intent for the emergency to be retroactive and it is not. Mr. Lewis stated that the Board could vote to approve the amendment while striking the last whereas. **COMMISSIONER BROOKS CONTINUED HIS MOTION ADDING AND STRIKING THE LAST WHEREAS CLAUSE. COMMISSIONER WILKINSON SECONDED FOR DISCUSSION.** Chairman Tobin believed Section 1.02.E should stay because striking it sets precedent for vendors to double bill. It doesn't say we won't pay if double billing is warranted it just gives us the right to determine if it is valid. Chairman Tobin stated that by taking it out it would open the door to be double billed. Discussion ensued on what the definition of double billing was. Commissioner Bauman asked if the \$6,000 for contract negotiation was a fixed price not-to-exceed \$6,000. Mr. Lewis confirmed that it was a not-to-exceed price of \$6,000. **COMMISSIONER BROOKS RESTATED HIS MOTION TO STRIKE SECTION 1.02.E FROM THE GARTEK CONTRACT AMMENDMENT. COMMISSIONER WILKINSON SECONDED THE MOTION. CHAIRMAN TOBIN ASKED FOR FURTHER DISCUSSION. THERE BEING NONE HE CALLED FOR THE VOTE.**

COMMISSIONER BEATY	NO
COMMISSIONER BAUMAN	NO
CHAIRMAN TOBIN	NO
COMMISSIONER BROOKS	YES
COMMISSIONER WIKINSON	YES

**THE MOTION FAILED BY A VOTE OF THREE AGAINST AND TWO IN FAVOR.**

**COMMISSIONER BROOKS MADE A MOTION TO STRICK THE LAST WHEREAS CLAUSE FROM THE GARTEK CONTRACT AMENDMENT. COMMISSIONER WILKINSON SECONDED THE MOTION. CHAIRMAN TOBIN ASKED FOR DISCUSSION.** Chairman Tobin asked if the 'whereas' should be stricken or should it read as an affirmative declaration of a retroactive emergency. **COMMISSIONER BROOKS RESTATED HIS MOTION SO THAT THIS EMERGENCY BY THE DISTRICT BOARD SHALL BE CONSIDERED TO APPLY RETROACTIVELY. COMMISSIONER WILKINSON SECONDED THE RESTATED MOTION.** Commissioner Wilkinson stated that if this is declared a retroactive emergency the Board still needs to deal with the additional services bill and someone should be designated to sit down with Gartek and bring back a final invoice amount. **CHAIRMAN TOBIN ASKED FOR FURTHER DISCUSSION. THERE BEING NONE HE CALLED FOR A VOTE.**

COMMISSIONER BAUMAN	NO
COMMISSIONER BEATY	YES

**COMMISSIONER BROOKS  
COMMISSIONER WILKINSON  
CHAIRMAN TOBIN**

**YES  
YES  
NO**

**THE MOTION CARRIED.**

Chairman Tobin asked if legal counsel could take the lead on discussing the invoices with Gartek. Commissioner Bauman stated that he had a problem with legal doing the review. Mr. Sheets stated that the CFO David Miles would be more appropriate.

**COMMISSIONER WILKINSON MADE A MOTION TO APPROVE THE AMENDED CONTRACT WITH GARTEK. COMMISSIONER BEATY SECONDED THE MOTION. WITH NO FURTHER DISCUSSION CHAIRMAN TOBIN CALLED FOR A VOTE.**

<b>COMMISSIONER BAUMAN</b>	<b>NO</b>
<b>COMMISSIONER BEATY</b>	<b>YES</b>
<b>COMMISSIONER BROOKS</b>	<b>YES</b>
<b>COMMISSIONER WILKINSON</b>	<b>YES</b>
<b>CHAIRMAN TOBIN</b>	<b>NO</b>

**THE MOTION CARRIED.**

Chairman Tobin recessed the meeting at 7:30 p.m.

Co-Chairman Wilkinson reconvened the meeting at 7:40 p.m.

**3. Approval of the Pending Payments Schedule**

Mr. Sheets presented the Pending Payments Schedule and noted that the Gartek payment of \$5,000 was included. Mr. Sheets stated that an additional payment needed to be added for \$175.00 payable to the Florida Department of Community Affairs for KLWTD annual special districts fee.

**COMMISSIONER BEATY MOTIONED TO APPROVE THE PENDING PAYMENTS SCHEDULE WITH THE ADDITION OF THE \$175.00 PAYMENT TO THE FDCA. COMMISSIONER BROOKS SECONDED THE MOTION. CO-CHAIRMAN WILKINSON ASKED FOR ANY DISCUSSION. WITH NO FURTHER DISCUSSION ALL WERE IN FAVOR AND THE MOTION CARRIED.**

**D. General Manager's Report**

**1. State of Florida Commission on Ethics Statement of Financial Interests**

Mr. Sheets stated that this item required no action from the Board if the members had previously filed an ethics statement with the clerk of courts. The clerk would be forwarding a list of the KLWTD Commissioners to the Commission on Ethics per their request.

**2. Interim Financial Reports for KLWTD as of March 31, 2003**

Mr. Sheets stated that this item was informational and that no Board action was required.

3. Status Report/Discussion regarding the final amendment to the Inter-Local Agreement between the County, FCAA and District

Mr. Sheets stated that the information presented would be drafted into a letter to be forwarded to the BOCC attorney requesting these changes to the agreement and requesting that they be considered by the BOCC at their May meeting.

4. Status Report Florida Association of Special District membership and Florida Department of Community Affairs FASD Annual Conference Scholarship

Mr. Sheets stated that the Special District Association offered a pro-rated membership fee to the KLWTD and that an application for a scholarship for registration fees to attend the annual conference in early June had been submitted. Mr. Sheets stated that it was highly suggested that KLWTD members attend.

5. Status report on the Consulting Engineering Services Request for Qualifications - CCNA process

Mr. Sheets stated that no action was necessary on this item and that the list of vendors that had requested or been forwarded submittal packages was being provided for informational purposes.

6. Status report on the KLTv Contract Negotiations

Mr. Sheets stated that this item had been covered in previous discussion.

7. Status report on the Amendment No. 1 to DEP Agreement LP0338 – Revised Schedule C

Mr. Sheets stated at a revised Schedule C would be provided at the May 14, 2003 meeting.

Mr. Sheets requested that the Board consider holding a budget workshop prior to the May 14, 2003 meeting to discuss the FY2004 KLWTD Budget. It was the Board's consensus to hold the budget workshop beginning at 3:00 p.m. at the Key Largo Civic Club on May 14, 2003 and for a public notice to be issued.

#### E. Legal Counsel's Report -- NONE

There were no other legal counsel items to be discussed.

#### F. Engineer's Report

There were no other engineer's items to be discussed.

#### G. Commissioner's Items

1. Commissioner Brooks – Discussion on the re-bidding of the KLP and KLTv projects

Commissioner Brooks stated that due to the earlier discussion the item should be tabled.

2. Commissioner Brooks -- Discussion of comments submitted for the EPA's PMP

Commissioner Brooks requested the item be tabled until the May 14, 2003 meeting.

3. Commissioner Bauman – Discussion on Gartek Engineering, Inc. correspondence dated February 14, 2003

Commissioner Bauman stated that he had no further comments on this issue.

H. Minutes – March 26, 2003

**COMMISSIONER BROOKS MADE A MOTION TO APPROVE THE MARCH 26, 2003 MINUTES. COMMISSIONER BEATY SECONDED THE MOTION. CHAIRMAN TOBIN VOTED NO. THE MOTION CARRIED.**

I. Meeting Adjournment

**Commissioner Brooks made a motion to adjourn. Commissioner Beaty seconded the motion. All were in favor. The meeting was adjourned at 8:10 p.m.**