



# Key Largo Wastewater Treatment District Board of Commissioner's Meeting Minutes

5:00 PM Wednesday, March 17, 2004

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

## Board Members Present

Gary Bauman, Chairman  
Cris Beaty, Member (joined the meeting in progress at 5:10 p.m.)  
Charles Brooks, Member  
Andrew Tobin, Member (Joined the meeting in progress at 5:15 p.m.)  
Jerry Wilkinson, Member

## Staff Members Present

Robert Sheets, General Manager, Government Services Group, Inc.  
Charles L. Sweat, Director of Operations, Government Services Group, Inc.  
Thomas Dillon, Esq., Board Attorney  
Ed Castle, P.E., Board Engineer, Weiler Engineering Corporation (WEC)  
Faith Doyle, Board Clerk

## Guests Present

Will English, Haskell Company, Project Manager  
Shirley Wood, Manager, Calusa Resort  
Lynn Cossuth, Key Largo Resident  
Robert E. Burt, President, Key Largo Trailer Village Homeowners Association  
Burke Cannon, Key Largo Resident

### A. Call to Order

Chairman Bauman called the meeting to order at 5:02 p.m.

### B. Pledge of Allegiance

The pledge was recited.

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

Mr. Wilkinson requested that his punch list of status report items be added for discussion. Chairman Bauman added the item as K1 and the Board agreed to the addition.

### D. Minutes – Draft February 4, 2004; Draft February 18, 2004 and Draft March 3, 2004

**Commissioner Brooks moved to approve the February 4, February 18 and March 3, 2004 meeting minutes. Commissioner Wilkinson seconded the motion. All members present were in favor and the motion carried.**

## E. Public Comment

Ms. Shirley Wood, manager of the Calusa Resort addressed the Board. She stated that the resort had been making improvements to the on site system and that the proposed improvements by the KLWTD would not be possible. The association prefers to do their rehabilitation themselves. Commissioner Brooks noted that the Board wants to provide options to the Resort prior to the enactment of a mandatory connection policy. The Board has not decided a course of action and is still exploring the feasibility and economics of connecting. Commissioner Brooks stated that the study done by WEC provided the details for the options. Ms. Wood requested a copy of the report. Chairman Bauman stated that he would be happy to meet with the Resort Board to discuss the issues. Chairman Bauman and Ms. Wood stated they would schedule a future meeting and advise the balance of the Board and staff.

## F. Legal Counsel's Report

### 1. Update on the meeting with Mayor Nelson

Mr. Dillon informed the Board that he and Commissioner Tobin had meet with Mayor Nelson concerning various alternatives for reimbursing the County for the \$100,000 loan. Mayor Nelson acknowledged being in support of alternative methods of satisfying the loan. Mayor Nelson suggested the Board should hold payments until all options are explored.

### 2. Update on the correspondence with Rep. Sorensen concerning use of funds for administrative costs

Mr. Dillon stated that County Attorney Wolf had initialed off on the Interlocal and is therefore apparently not of the opinion that funds are not for administrative cost. The County Clerk, Mr. Kohlage insists on being assured of the proper disbursement policy prior to writing checks. Mr. Dillon has requested an Attorney Generals opinion on the issue. Mr. Kohlage has acknowledged that if Representative Sorensen's proposed legislation were approved he would reimburse the District for administrative costs.

### 3. Update on the definitions of direct and indirect costs

Mr. Dillon informed the Board that support documents have been forwarded to the Haskell Company and he is waiting for their response.

Mr. Dillon informed the Board of an additional item of interest. An amendment to the Haskell Contract has been drafted and forwarded to Mr. Pete Kinsley for consideration and would be presented to the Board on a future agenda.

Mr. Dillon informed the Board that he is in the process of securing a finalized Roovac warranty. Mr. Dillon stated that it must be finalized prior to the issuance of any purchase orders to maximize the warranty period and that if there would be a delay on the plant the District would not want to install warranted items before the plant comes on line.

Commissioner Brooks asked if staff should be directed to suspend payments on the \$100,000 County loan by motion of the Board until all payment options are explored. Mr. Dillon stated that because of the vague payment terms in the agreement the District would not be considered delinquent by not making payments at this time. The issue was raised as a result of Auditor's note to the financial statement. Mr. Dillon suggested that action on suspending payments be added as an action item to the next agenda.

Commissioner Brooks asked if the line of credit would have to be used until the questions on the use of MSTU funds is resolved. Mr. Dillon stated that an Attorney General's opinion would not be binding on Mr. Kohlage but the pending legislation would. However, the District might have to file suit if the legislation fails. Mr. Sheets noted that the line of credit would be needed by May if the MSTU fund issues were not resolved.

Commissioner Brooks questioned the need for defining direct and indirect costs. Mr. Dillon stated that the terms were not defined in the contract. This issue should be resolved in order to avoid disputes in future change orders. Staff will review the potential impact and advise the Board prior to the submission of any future change orders. Mr. Dillon noted that Haskell was forwarded a memorandum concerning the definition of indirect and direct costs and Mr. Dillon is awaiting a response.

Commissioner Wilkinson suggested that submitting District invoices that has been paid as credit against the loan should pay the \$100,000 loan down. He is concerned that the District could be in a negative cash position.

Commissioners Wilkinson and Beaty questioned the impact of direct and indirect costs on the final project costs. Mr. Dillon stated that Haskell is entitled to 5% of direct costs unless otherwise agreed in a change order. The 5% is intended to cover indirect costs and profit. Mr. Dillon noted that staff will scrutinize all future change proposals in order to ensure they comply with the contract or they would not be recommended for Board approval.

Chairman Bauman questioned the impact of Haskell's notice of delay. Mr. Sheets stated that it is being discussed with Haskell and a written document is to be forwarded to staff by March 18, 2004.

#### G. Action Items

##### 1. Approval of the Pending Payments List for March 10, 2004

In light of the previous Legal Counsel report Mr. Sheets requested that the loan payment to the County be removed from the pending payments list. **Commissioner Brooks moved to approve the Pending Payments List less the County loan payment for March 10, 2004. Commissioner Beaty seconded the motion. All were in favor and the item was unanimously approved. Staff was directed to not include payments for the County loan until the Board has explored all options.**

##### 2. Approval of the use of a facilitator for the March 27, 2004 workshop

**Commissioner Wilkinson moved to contract with Dr. Herb Marlowe to act as facilitator at a cost of \$1,500.00 for the first workshop. Commissioner Brooks seconded the motion. Chairman Bauman called for a vote as follows:**

<b>Commissioner Beaty</b>	<b>Yes</b>
<b>Commissioner Brooks</b>	<b>Yes</b>
<b>Commissioner Tobin</b>	<b>Yes</b>
<b>Commissioner Wilkinson</b>	<b>Yes</b>
<b>Chairman Bauman</b>	<b>Yes</b>

**The motion was approved.**

Mr. Sheets stated that he would secure a formal agreement in advance of the March 27<sup>th</sup> workshop.

3. Approval of the Haskell submittal recommending a Project Manager

Mr. Dillon stated that the action is a formality and by the contract the Board retained the right to approve the project manager. The submittal recommending Mr. Will English as the named project manager in Haskell's proposal.

**Commissioner Brooks moved to approve Mr. English as the Haskell Company's project manager. Commissioner Wilkinson seconded the motion.**

Discussion ensued on Mr. English's activities as project manager. Mr. English stated that field supervisor would be on site full time and that he would be on site 2-3 days a week for the first half of the project. Commissioner Tobin asked what the time frame was on the building permit. Mr. English stated the application would be presented to the County next week for action on their April 19 agenda.

Discussion ensued on the need for complete and timely communications especially if problems arise. Mr. English stated that he is proactive on all construction projects because if problems are not addressed quickly they could become major issues. Commissioner Beaty asked Mr. Castle if the working relationship between them is beneficial. Mr. English and Mr. Castle agreed that both are very responsive to each other. Commissioner Brooks asked if a superintendent had been assigned to the project. Mr. English stated one would be assigned and would live in the area once all permits are secured and the office trailer was set. The superintendent would oversee all operations and the Haskell and Higgins employees. It was noted that the super would be approved by the Board and would be open and ready to welcome any questions from the Board or public.

Chairman Bauman stated that he was concerned because the Board had not been provided with an updated project schedule. Mr. English stated that one would be provided when the 60% drawing are complete and approved.

**The question was called and all were in favor and the motion carried.**

H. General Manager's Report

1. Update on the allowable uses of KLWTD revenue sources

Mr. Sheets reviewed the memo provided with the agenda materials. He reviewed the matrix that indicated the uses for the individual funding sources. Discussion ensued and the Board's ability to make policy decisions to use funds for administrative costs. Commissioner Brooks asked if the District was incurring costs for investigating the MSTU issue and if the District had any recourse to recover the costs. Mr. Dillon stated that if a suit was filed and a court ruling was made in the District's favor the County would be liable for the District's costs. Mr. Dillon noted that he had approximately 7 hours to be billed for the investigation.

## 2. Update on the March 10, 2004 Design Team Meeting

Mr. Sweat gave a verbal update and informed the Board a formal report would be provided for the April 7<sup>th</sup> meeting. The meeting was productive and the collection system 60% drawing was reviewed with the staff's comments being noted. The final drawings are to be provided to staff by the 19<sup>th</sup> and the staff's final review is to be complete by the 25<sup>th</sup>. The site plan, survey, zoning issues and the filing of the application for a special exception were covered. Mr. English is working with the County on the mitigation issue. The 30% treatment plant drawings were reviewed and the 60% plans are expected by the 25<sup>th</sup> of March. The preliminary geotechnical report was reviewed with some minor concern on the back fill to be used in certain areas. Mr. Sheets stated that the site mitigation plan is critical to the permitting process and the final FONSI. Mr. George Garrett is assisting in drafting the action plan. Mr. Sheets requested the Board's approval to have Commissioner Tobin assist if there are any difficulties during the conditional use application process. The Board gave its consensus. Chairman Bauman requested a schedule of permitting deadlines. Mr. Sweat stated that he would provide it for the next meeting.

Discussion ensued on the site mitigation plan and the requirements of the Federal and County governments. It was noted that Ms. Science Kilner would no longer be the District's contact and that Dr. Straw is finalizing the FONSI. Chairman Bauman requested an update on the site mitigation plan at every meeting. Discussion ensued on the development review and the planning commission's involvement in a minor conditional use permit request.

### I. Engineer's Report

#### 1. Discussion to limit the requirement for Mylar copies of drawings

Mr. Castle informed the Board that he had received a request from Stu Oppenheim of Brown and Caldwell limiting the amount of Mylar drawings that are required to be submitted per the contract. Staff stated that only construction and final plans are necessary and they would be provided by electronic means in addition to the Mylar. Chairman Bauman asked if a contract amendment would be required. Mr. Dillon stated that a consensus of the Board would be needed. Commissioner Tobin questioned the cost reduction and if it would be considered value engineering. Discussion ensued on the vacant lot issue. Mr. Castle suggested that the vacant lot issue be an action item on the next agenda. Mr. Sheets stated that a recommendation would be made to the Board for action once the designs are complete.

Discussion continued on capacity fees, fee schedules and the connection of commercial entities.

### J. Public Comment

Chairman Bauman asked if any one wished to address the Board. There being none the meeting continued.

### K. Commissioner's Items

Chairman Bauman brought item K-1 that had been added to the agenda to the floor for discussion.

#### K-1 Update of prior agenda items:

1. FEMA FONSI – Mr. Sheets will contact FEMA concerning the final draft.
2. Water Quality Testing -- Chairman Bauman provided information to the Board. Mr. Sweat stated that he is continuing to research options and would provide a formal report on April 7, 2004.
3. Project Design Protocol – Mr. Sweat stated that staff had reviewed the draft and Haskell has been requested to add 3 more items. Mr. English stated that he would follow up on the item.
4. \$100,000 Loan Payment in-kind – was discussed earlier in the meeting.
5. Site mitigation – was discussed earlier in the meeting.
6. KLP vacant lot resolution – Mr. Sheets stated the issue is not the design but how many can be reached and which lots are developable. Marlene Conaway is to be contacted on the probability of lot development.
7. Project request for FEMA deadline extension – Mr. Sheets stated that as previously reported Mr. Miles Anderson of the DCA suggests that no action be taken until the true length of an extension is determined.

#### L. Meeting Adjournment

Chairman Bauman adjourned the meeting at 6:50 p.m.