



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

5:00 PM Wednesday, July 21, 2004  
Key Largo Civic Club, 209 Ocean Bay Drive  
Key Largo, Monroe County, Florida

## Board Members Present

Gary Bauman, Chairman  
Cris Beaty (joined the meeting at 5:05 pm)  
Charles Brooks  
Andrew Tobin  
Jerry Wilkinson

## Staff Present

Charles Fishburn, General Manager  
Thomas Dillon, Board Attorney  
Martin Waits, Finance Officer  
Ed Castle, P.E., Board Engineer  
Carol Simpkins, Board Clerk  
David Miles, GSG (via telephone)  
Faith Doyle, GSG (Acting Clerk)

## Guest Present

Steve Gibbs, reporter  
Walt Messer, DN Higgins  
Stu Oppenheim, Brown and Caldwell  
Peter Kinsley, the Haskell Company  
Rob Ori, PRMG  
Freddie Fountain, DN Higgins  
John Darmody, MWH  
Mark Weis, Key Largo Resident  
Robert E. Burt, KLTV  
Glenn Patton, Key Largo Resident

### I - Call to Order

Chairman Bauman called the meeting to order at 5:00 p.m.

### II - Pledge of Allegiance

The pledge was recited.

### III - Additions, Deletions or Corrections to the Regular Meeting Agenda

Commissioner Wilkinson requested adding the emailing of action minutes the day after the meeting.

Mr. Fishburn requested Item AC 6 – be added as action on the Sante building. The Board requested it be a discussion item only under the General Manager's section.

Mr. Fishburn requested adding Item GM 6 – concerning the meetings in September, October and November and having meetings video taped.

#### IV - Approval of the Draft July 7, 2004 Meeting Minutes

No action was taken on this item.

#### V - Public Comment

There was no public comment.

#### VI – PRMG Presentation on Rate Study

Mr. Rob Ori was introduced from PRMG to address the issue of conducting a rate study for KLWTD. Mr. Ori gave details on what PRMG would do for the KLWTD. Different rates were described. Mr. Ori noted that PRMG has a good working relationship with the FKAA on sharing data. PRMG has done summary data for KLWTD and the model previously provided would be updated. Mr. Ori stated that he prefers to bill hourly as a rate consultant.

Discussion ensued on the initial study being a financial overview and not a rate design. Discussion ensued on FKAA's rate per EDU. Rate design alternatives were described (flat, consumption or a combination of the two). Mr. Brooks questioned the consumption method in relation to commercial users. It was discussed. Mr. Brooks questioned the relation of operations costs to setting rates. It was discussed.

Mr. Ori noted that operating costs and the capital costs are critical and they must include growth. Mr. Ori suggested a five-year forecast and cash flow because expansion is difficult to plan for and would help to identify the additional costs.

Discussion ensued on the \$35 per month bill rate that the community is anticipating and the \$2,700 System Development charge and whether they could be applied to this project and then changed in the future. Discussion ensued on the current project costs and the operating costs. Some commissioners believe that the \$35/month rate is a "target" and it is not clear whether that target will be achieved. Commissioner Brooks doesn't believe that a full-blown rate study is necessary at present. A bond feasibility study may assist with the business plan or a financial plan to be submitted for future funding.

Mr. Ori stated that a five-year forecast, a rate recommendation for sewers and a policy description on an hourly basis would fit the KLWTD budget. PRMG's fees and a contract were discussed. A not-to-exceed amount of \$5,000 was discussed for a consulting contract.

Discussion ensued on the assistance of FKAA. Mr. Ori believes there will be a cooperative effort with FKAA when gathering data. Discussion ensued on consumption data and flow rates. Chairman Bauman wants things as simple as possible but has a problem with the electronic

data and the future billing difficulties. Mr. Ori believes the FKAA will need to be approached about billing for the district and collecting for the district. The Board directed Mr. Fishburn to contact the FKAA on the billing issue.

Discussion ensued regarding the issues of changing rate structures. The Board directed Mr. Dillon to speak with Mr. Ori concerning the issue. Mr. Ori cautioned that with commercial entities involved rates should be applied consistently, therefore PRMG should be engaged as soon as possible to protect District. Mr. Fishburn agreed that these are critical issues that need to be addressed as soon as possible.

It was the consensus of the Board for Mr. Ori to submit a draft contract to Mr. Fishburn that is to be reviewed by Mr. Dillon in an amount of \$5,000 for consideration at the August 4, 2004 meeting.

Bridge financing was described and discussed at the request of Commissioner Brooks.

## VII - Legal Counsel's Report

### LC 1 - Haskell Notice of Delay – Draft Change Order No. 2

Mr. Dillon introduced the action item and recommended it to be approved. Commissioner Tobin questioned the defining of costs. Mr. Dillon stated that he used the standard terms for defining the costs and believes there is no misunderstanding with Haskell as to what they are.

### LC 2 – Prompt Pay Act Am. No. 1 to the Haskell Contract

Mr. Dillon introduced the action item and stated that it was the product of negotiations with Haskell. He addressed concerns on the prompt pay act and the need for the notice to proceed to be issued once funds are secured. It also gave notice that Mr. Fishburn would be the District contact as general manager. Mr. Dillon recommended the Amendment be approved.

### LC 3 – Status of Calusa Condo Document Review

Mr. Dillon reviewed the document that had been distributed by email and was not included in the agenda package. The clerk distributed copies.

### LC 4 - D.N. Higgins letter dated 7-14-04

Mr. Dillon distributed the response made by Mr. Fishburn on behalf of the District to assertions by Douglas N. Higgins, Inc. ("Higgins"), that it was entitled to additional compensation on account of alleged delays. Mr. Dillon stated that the contract expressly does not entitle Higgins to additional compensation due to delays; Higgins is entitled to additional time, only. Mr. Fishburn noted that he had discussed the issue with Mr. Daniel Higgins, the vice President of Higgins, and Mr. Fishburn believes that this issue will be resolved amicably.

Mr. Fishburn stated that Haskell intends to get numbers from Higgins on consolidating the park and to amend the contract so that Haskell would assume responsibility for installation of the collection system. Mr. Fishburn noted that Roevac and Fluidyne have asked for price increases. Mr. Fishburn noted that the KLP and KLTV collection systems need to be completed at the

same time and the issue should be resolved by Friday. Mr. Fishburn stated that he would update the Board by email on the issue.

## VIII - Action Items

### AC 1 – Approval of the Clerk’s Employment Agreement

**Commissioner Wilkinson moved to approve item AC 1. Commissioner Tobin seconded the motion.** Commissioner Brooks stated that he had received an email this week that disturbed him concerning a vacation for a new employee. He was concerned that the vacation policy is not defined properly in the contract, and that a vacation should be at the convenience of the Board and it should be accrued. Commissioner Tobin also expressed concern. Ms. Simpkins asked if it was a paid vacation or unpaid leave and asked if when the request was received if it was set against the policy. Chairman Bauman stated that the District must protect itself from employees taking twelve days of paid vacation and then quitting.

Mr. Waits commented that the District has its first employees without policies in place. The policies need to be done soon and that personnel policies in most instances have vacation time earned on an accrual basis. However, if there were prior commitments that should have been considered prior to employment, this could be handled as a non-paid leave of absence. Chairman Bauman agreed and asked Mr. Dillon if this issue should be in a policy statement or in the contract. Mr. Dillon stated it should be addressed in a policy statement that is part of the contract. Chairman Bauman asked if it would be acceptable to change the contract to include vacation is to be accrued one day for each month up to 12 days annually, and Mr. Dillon agreed to revise the contract form. Commissioner Beaty questioned the listing of the Clerk’s minimum duties. Mr. Dillon stated the list was drafted and reviewed by the transition committee and that Mr. Fishburn also reviewed them. Commissioner Brooks asked about the title change to administrative officer. Mr. Dillon stated that he understood the consensus of the Board to be that the title would not change, but that assignment of administrative duties would be included in the contract as expressed at the last meeting.

**With no further discussion the question was called. All were in favor and the item was unanimously approved.**

### AC 2 – Approval of the CFO’s Employment Agreement

Mr. Dillon noted that the title of CFO had been changed to Finance Officer.

**Commissioner Wilkinson moved to approve item AC 2. Commissioner Beaty seconded the motion. All were in favor and the item was unanimously approved.**

Commissioner Brooks requested discussion on the vacation request made by the general manager. Chairman Bauman stated that it would be addressed under the General Manager’s report.

### AC 3 – Approval of Resolution 2004-02 Authorized Signatories on KLWTD Bank Accounts

Mr. Martin Waits stated that a final revised copy was distributed to the Board members and described the changes made. Mr. Fishburn stated the document was to transfer the authority

from GSG to local staff, however the resolution should be refined to include more detail in the future.

**Commissioner Brooks move the item and asked if these were to sign checks only after Board approval. Mr. Waits answered in the affirmative. It was noted that GSG staff would not sign checks after July 31, 2004. The motion was seconded by Commissioner Wilkinson. Chairman Bauman asked why Commissioner Tobin was included as a signatory. Mr. Waits stated he had considered taking him off but with the potential difficulties in locating a Board member when necessary he was left on. A scrivener's item was noted that financial officer should be changed to Board Clerk. With no further discussion all were in favor and the motion was unanimously approved.**

AC 4 - Approval of Change Order No. 2 to the Haskell Contract (162 day extension)

**Commissioner Brooks moved to approve the item. Commissioner Beaty seconded the motion. All were in favor and the item was unanimously approved.**

AC 5 – Approval of Amendment No. 1 to the Haskell Contract

**Commissioner Tobin moved to approve the item. Commissioner Wilkinson seconded the motion. All were in favor and the item was unanimously approved.**

IX – Finance Officers Report

CFO 1 - Approval of the Pending Payments List for July 21, 2004

Mr. Miles reviewed the memorandum that was provided. Commissioner Wilkinson questioned the FKAA funds being held. Mr. Miles stated that he had requested a written response on May 28<sup>th</sup> and had received no response to date. Mr. Miles has been trying to find a resolution to the issue for four months.

Mr. Miles noted that Mr. Miles Anderson of the DCA had acknowledged receipt of the FEMA Phase II Documents. Mr. Miles stated that he had asked Mr. Anderson about the \$495,000 of FEMA Phase I funds. It was not determined if the funds were being held until the FEMA Phase II documents were signed or until the FKAA closed out the grant.

**Commissioner Wilkinson moved to approve the item. Commissioner Beaty seconded the motion. All were in favor and the item was unanimously approved.**

CFO 2 – Presentation of the Draft FY2005 Operations Budget

Mr. Waits presented the draft operating budget. Mr. Waits stated that the capital budget would be presented at a future meeting. Chairman Bauman requested the excel spread sheet be forwarded to him by Mr. Miles. The Board requested time to review and comment on the Budget for incorporation prior to the August 4, 2004 meeting. Mr. Miles brought attention to the list of assumptions used in preparing the budget. He noted the \$2,700 connection fee and the \$35/mo/EDU used in preparation of the FY 2005 Operations Budget.

CFO 3 – Status of FEMA Phase I Funds

Please see above.

#### CFO 4 - Status of Transition of the CFO Function

Mr. Waits presented the summary table. All dates for transition of functions will conclude by August 31, 2004. Commissioner Tobin stated concern with not completing the fiscal year. Mr. Miles stated that the disbursement function should go with the other functions for a clean transition. Commissioner Tobin questioned the closing of the books and the need for reporting to various agencies. Mr. Miles stated that the closing function could be done with an Excel spreadsheet or by hand. Mr. Miles suggested that the KLWTD would eventually need government software. Chairman Bauman and Commissioner Beaty also expressed great concern with not ending at the fiscal year. Chairman Bauman stated that he would contact Mr. Robert Sheets concerning the matter. The Board requested Commissioner Beaty speak with Mr. Sheets and Mr. Miles on the concept of continuing the CFO Function until the fiscal year end.

Chairman Bauman recessed the meeting at 7:15 p.m.  
Chairman Bauman reconvened the meeting at 7:30 p.m.

#### X - General Manager's Report

Mr. John Darmody was introduced by Mr. Fishburn to address the sewer strategy issue. Mr. Darmody has worked with the City of Marco Island and believes gravity can be considered in the future. He offered his assistance to the Board and invited questions.

#### GM 1 - Status of the Kings Kamp Letter

Mr. Fishburn informed the Board that he had further conversations with Kings Kamp and they are under a health department warning. Mr. Fishburn stated that Kings Kamp had requested help in determining a compatible system for future hook up to the KLWTD system.

Mr. Fishburn stated that in the future he would like to review all plans submitted to the County. Mr. Fishburn stated that there is a need to look at plan review and inspection fees for the District.

Commissioner Tobin requested a discussion item for the next agenda concerning requesting cooperation with the County and FDEP on being notified of plans that would affect the KLWTD system.

Commissioner Tobin requested a discussion item for the next agenda concerning a resolution to set rates for plan review and inspection fees for the District.

#### GM 2 - Status of the Site Mitigation

Mr. Fishburn noted that the exotic permit is in hand and once a notice to proceed is issued to Haskell they would start the removal of exotics and do the geotechnical studies. Mr. Fishburn talked with Mr. Garrett concerning the mitigation plan costs and they will be presented to the County at the next BOCC meeting held in Key Largo.

#### GM 3 - Status of the System Development Charge

Mr. Fishburn stated this issue would be addressed after the rates are reviewed.

#### GM 4 – Plan for Community Meeting

The agenda was distributed for review. Video taping the meeting was suggested and discussed. Mr. Fishburn noted that there would be a vacuum chamber and that Mr. Mark Bell would be present to describe the low-income program.

#### GM 5 – NOTICE TO PROCEED

Mr. Fishburn stated that once the FEMA Phase II agreement is in place the Notice to Proceed should be issued. Mr. Dillon asked the Board for direction on who should sign it. Commissioner Tobin stated that he had talked with Jeb Bush and invited him to be present at the ground breaking. Mr. Bush expressed interest if it were held on a Friday or a Monday. Mr. Kinsley stated that a groundbreaking ceremony could be scheduled. Mr. Kinsley noted that they would be mobilized within 30 days of receiving the notice to proceed. A tentative date for a ceremony was stated as September 15, 2004.

Mr. Dillon stated that once the FEMA Phase II agreement is signed the District would have reasonable assurance of the availability of federal funds, and should issue the notice to proceed at that time. The Design-Build Agreement provides that the General Manager is the District's representative, and Mr. Fishburn is therefore authorized to issue the notice to proceed. It was the consensus of the Board to consider the issuance of the notice to proceed at the August 4, 2004 meeting.

#### GM 6 – Discussion of the Sante Building

Mr. Fishburn noted that there is flexibility on the layout of the building. KLWTD has been requested to pay for floor coverings. The cost per square foot would not include utilities other than water, electric and telephone. Mr. Fishburn asked for direction from the Board and requested authority to negotiate with Mr. Sante. Discussion ensued on the layout, the need for ADA compliant restrooms and the lease terms. It was suggested that Mr. Fishburn present a recommendation at the next meeting. Mr. Dillon stated that he had reviewed the lease and that it is very basic but needs work to protect the District. The lease is for a 10-year term with nine annual options to renew. Discussion continued. Chairman Bauman suggested the Board would consider a contract at \$12 dollars per square foot per year with a one-year cancellation option after three years.

Mr. Fishburn stated that the September, October, and November meeting schedule would be presented at the next meeting.

Commissioner Beaty excused himself from the meeting at 8:00 pm.

Mr. Fishburn noted that five boxes of records had been received from GSG in Tallahassee.

Televised meetings were discussed and it was suggested that the schools be approached to do it for donations or if the County wants to televise the meetings they would need to provide the services.

Mr. Fishburn stated that his vacation was scheduled between the August 4 and August 18 Board meetings and that he would accept the time off to be considered unpaid leave if it was the pleasure of the Board.

Mr. Dillon informed the Board that he would be on vacation from August 19 until August 30, 2004, but would be available by telephone.

## XI - Engineer's Report

### PE 1 - Report on the Design Review

Mr. Castle stated that the meeting went well and the odor control issue was favorably resolved, with Haskell agreeing to install biological odor control. No other major issues are outstanding. All information is being received as requested. All comments from staff were received and are awaiting a written response. There is one more set of drawings to be received on the collection system.

Mr. Kinsley stated that the information on the redesign of the treatment plant to include a second floor was premature and the costs are being worked out and the re-submittal will be more comprehensive.

### PE 2 - Status of Sexton Cove RFP

Mr. Castle stated that the information from appraisers office is being gathered and CAD work is being done that will superimpose the information on the aerial maps that were previously presented. All costs and estimates would be updated. Mr. Castle stated that FKAA would be contacted concerning using abandoned lines to reduce costs. Information is being gathering on the layout of the forcemain. Commissioner Brooks asked how many EDUs would result form the RFP. Mr. Castle estimates 3,000 EDU's or more if commercials are considered. Mr. Castle noted that the layout would include stubs for future expansion.

Mr. Castle informed the Board that he would be attending training on August 2, 3 and 4 and that either Jeff Weiler or Mike Hatfield would be in attendance at the August 4, 2004 meeting.

### PE 3 – Report from Haskell Project Manager

Mr. Kinsley informed the Board that all collection system permits were in hand except for the FDEP, which should be in hand shortly. The Plant permits have more work to be done because Monroe County and the FDEP permits are being held because geotechnical information is required to be reviewed. The geotechnical work cannot commence until the site is cleared.

Mr. Kinsley stated that the design review meeting went well and the written response would follow, the odor control issue is being resolved and mobilization would take approximately 30 days from the notice to proceed.

## XII - Public Comment

Mr. Robert Burt, President of the KLTV homeowners association addressed the Board. Mr. Burt hopes that Mark Bell would have low-income forms available at the July 22 community meeting. Mr. Burt expressed concerned with the consumption/edu issue. He expressed concern about

KLTV residents being guinea pigs for the \$2,700 start up costs being used for future expansions. He believes residents don't want to subsidize future expansion and that grant money should be sought in addition to hook up fees for future expansion. He also is concerned with the demolition of septic tanks prior to knowing if the sewer system works. He questioned the hook up dates and the process required and suggested plumbers. Mr. Burt questioned if someone would be visiting the property owners to determine where lines will run.

Discussion ensued on staff stating \$35/mo and \$2700 fees. Chairman Bauman suggests not stating certainties only that the Board hopes to adhere to a \$35/mo rate. Mr. Fishburn stated that he doesn't believe the rate can be supported with the information he has seen.

Chairman Bauman stated that if the Board has made no policy decision it should be stated as such by the general manager.

Mr. Dillon suggested keeping track of the questions asked and the responses given so that the information could be distributed to those unable to attend.

The screening of plumbing contractors was discussed. Ms. Simpkins stated that CDBG might have plumbers pre-approved that must be used.

The decommissioning of septic tanks was discussed.

### XIII - Commissioner's Item

#### CI 1 – Report on the Florida Keys Water Quality Improvement Program Meeting – Commissioner Brooks

Commissioner Brooks presented the information provided. Chairman Bauman suggested it be reviewed for discussion at the next meeting.

Commissioner Brooks stated that the July 9 meeting was for liaisons and was to discuss the potential \$100 million to be allocated by Congress via SWFWMD. The KLWTD is eligible for \$368,000 less overhead or a net amount of \$330,000 that is ready to be disbursed this coming fiscal year. If the KLWTD is not ready this year with a project plan the KLWTD could lose the \$330,000 grant money. An additional \$4.5 million in the next fiscal year that is in Congressional Committee to be appropriated. The criteria were included for review. Commissioner Brooks invited Mr. Fishburn as manager because he will need to put the submittal documents together for funding. Commissioner Brooks stated that the KLWTD should amend the PMP to update the sewer system needs for Key Largo. There may only be a few weeks to prepare the information for the next PMP, which is the guideline for appropriating the money. KLWTD must have a project ready to proceed for the \$330,000. Discussion ensued on the documentations necessary to submit a project for consideration. It was noted that the Sexton Cove project is too far out for the \$330,000 and that the KLP build out project should be considered.

It was recommended the KLWTD ASAP make amendments to the PMP that more accurately portrays the economical and engineering factors involved and necessary to provide a sanitary sewer system for Key Largo. Consensus was expressed that Commissioner Brooks would prepare the amendments and submit to the Army Corps in time for August 2004 printing schedule.

It was also discussed and recommended that KLWTD staff prepare documents regarding the Key Largo Park Project build out that is ready to proceed and may require Federal funding. Staff was given direction to prepare the necessary required documents to apply for the Federal funding using the Key Largo Park build out project. Emphasis was given to staff to make timely preparations in order to capture these Federal funds. Staff projected documents and applications would be done by mid September, 2004.

CI 2 - Update on past agenda items:

- A. FEMA FONSI Status
- B. Water Quality Testing
- C. Resolution of \$100K Loan repayment issue
- D. Site mitigation
- E. KLP vacant lot resolution
- F. Project request for FEMA deadline extension
- G. CDBG Grants and/or funds for private connections
- H. Procedures
- I. Web Site Development
- J. Elections at Large versus Seats

There was no action or discussion on this item.

XIV – Meeting Adjournment