

MINUTES  
Key Largo Wastewater Treatment District (KLWTD)  
Board of Commisisoners Meeting



July 20, 2005  
98880 Overseas Hwy, Key Largo, FL

The KLWTD Board of Commissioners met for a regular meeting on July 20, 2005 at 5:04 PM. Present were Chairman Charles Brooks, Commissioners, Glenn Patton, Gary Bauman, Andrew Tobin and Claude Bullock. Also present were General Manager Charles Fishburn, District Counsel Thomas Dillon, Board Clerk Carol Walker, and all other appropriate District staff.

Chairman Brooks led the Pledge of Allegiance.

**ADDITIONS/DELETIONS TO THE AGENDA.**

The following changes were made to the agenda: Commissioner Bullock requested an item concerning a letter to Haskell dealing with keeping the District informed on permitting matters be added to the agenda. Chairman Brooks requested that the CPH Work Authorization be moved to the front of the agenda. Commissioner Tobin requested that Rule Change Log 4 and 5 be moved to come after the CPH item. District Counsel Thomas Dillon requested that a proposal from Neighbors, Giblin and Nickerson and an item setting a public hearing for August 31 be add to the action items.

The Board approved the agenda as amended by consensus.

**PUBLIC COMMENT:** The following persons addressed the Commission: Pat Gessel, 99530 Overseas Hwy, #2, Key Largo requested that the agenda packages be placed on the website before the meetings.

**COMMISSIONER'S ROUNDTABLE**

No comments

**COMMISSIONER'S ITEMS**

No items

**ACTION ITEMS**

*CPH Work Authorization, Sexton Cove Transmission Lines*

General Manager Charles Fishburn reported that the Sexton Cove/Lake Surprise force main work authorization for CPH Engineers has been finalized between Staff & CPH Engineers. Staff recommends approval of this work authorization.

Terry Zaudtke, P.E. of CPH was present.

Commissioner Bullock wanted to know if the aerial issue was going to be separate from the current work authorization to CPH. Mr. Fishburn stated that it was a separate issue.

Commissioner Bullock requested that in the future he would like the District to require the contractor to submit at least three different quotes for the work that is to be done by subcontractors.

Commissioner Bauman asked who the project engineer will be. Mr. Zaudtke stated that he will be the project manager and David Miller will be the project engineer. They will be in Key Largo every month.

There was discussion on the pros and cons for having current aerials done. Commissioner Tobin suggested that CPH may want to check with the FKAA for aerials.

**Motion: Commissioner Tobin made a motion to approve the CPH Work Authorization for the Lake Surprise/Sexton Cove Transmission Lines. The motion was seconded by Commissioner Bullock.**

Vote on motion:

Board Member	Yes	No	Other
Commissioner Gary Bauman	X		
Commissioner Claude Bullock	X		
Commissioner Glenn Patton	X		
Commissioner Andrew Tobin	X		
Chairman Charles Brooks	X		

Motion passed 5 to 0

*Rule Change Log #4, Article IX Fees and Charges. Section 9.01 System Development Fee*  
 Chairman Brooks: Do I hear a motion to approve for discussion.

**Motion: Commissioner Bullock made a motion to approve Rule Change Log #4. The motion was seconded by Commissioner Patton.**

Commissioner Bauman: I got real concerned last week when we were talking about this in terms of contingency costs. I got the impression that we figure out what the cost is going to be and then add 15% to that. Is that about right?

General Manager Charles Fishburn: Yes

Commissioner Bauman: I got to thinking what if we don't need that 15%. What if we manage the project properly to budget and to cost. How much extra would that be to the homeowner of Key Largo. It takes the total cost of the project from \$140 million down to \$119 million. That is 85% of 140. All right. If you run that number then through PRMG's schedule the individual resident cost goes down by almost \$100. It goes down to \$3852 and you can check my arithmetic I am not sure if I got it exactly right. But certainly it is going to go down at least 15%. To me that is charging homeowner's an extra hundred dollars, I'm sorry a thousand dollars. Charging homeowners an extra \$1,000 because we either can't manage the project correctly or we do manage properly and we don't need their extra \$1,000. In fact we may even manage it better than a 15% contingency which would mean we would have even more money in our pockets and out of the pockets of homeowners. And I wanted to just bring that analysis to the Board a little bit just automatically adding 15% contingency to me does not seem like the prudent thing to do. We used the word prudent a lot last week. I don't think that it is prudent to charge an extra \$1,000 when what we need to do is manage the project to budget and to cost. That is my commit.

Commissioner Tobin: Can I follow up with that.

Yes sir. (Not identifiable)

Commissioner Tobin: I am not sure I understand what you are saying Gary. The guts of tonight's meeting is whether we are going to go along with the 4770 that has been recommended by PRMG. Ah you are basically saying that that's about 900 dollars, you have a calculator you ah

Chairman Brooks: You have one in front of you.

Commissioner Patton: It is \$715.00

Commissioner Tobin: \$715. So are you thinking that \$4,000 is the number it that what you are proposing. Is that something that you

Commissioner Bauman: A round number yes. I guess that I am not proposing a number per say. What I want to do is take that 15% out of the total project cost and put the burden on staff and contractors to meet the new, what I am calling the new cost of the project which would be \$119 million.

Commissioner Tobin: I have just a point of order. Is there anyone from the public here on rates before we get into this or how are we going to manage this.

Chairman Brooks: We had public comment and I don't

Commissioner Tobin: But in terms of a particular agenda item are we going to have public comment on this particular item.

Chairman Brooks: I thought we had a whole public meeting on this the last time.

Board Clerk Carol Walker: I did not receive any speaking cards on it.

Commissioner Tobin: I have been sort of a proponent to try and get this number down as well. And every time I have tried to do it whether it was with Tony or Chuck or Marty there was resistance because staff is trying to forecast what is going to happen a year from now or 2 years or 3 years and then the next project and this being a precedence for setting rates. Tony told us last week that this number 4770 represents that we are getting outside funding of 60% that is 40% that this 4770 is roughly the 40% that is not funded by outside grants. So depending whether you are looking at it from the top or the bottom or the side it is a moving target and all estimates. I want to do everything possible to bring this number down with out putting an impossible burden on staff that they don't have the ability to defend our plan when they go to the State of Florida to borrow money. In other words we have to have a not prudent but a financially realistic plan that has to pass muster with the accountants, and the bureaucrats, and everybody else. So I would personally be interested in getting staffs defense of your comment that this 15% contingency ought to come out. That is what I would like to see a defense of that.

Commissioner Bauman: I would like to hear that myself.

Commissioner Tobin: With the permission of the Chair could we get staff to defend that one point.

Chairman Brooks: Well, if you are asking, we discussed that at the last meeting, in quite detail but before we get something from staff lets get more input from fellow Commissioners. Mr. Patton

Commissioner Andrew Tobin: Can I respond to that Charlie? We are on a particular item that Gary has brought up and

Chairman Brooks: And I want to hear what Mr. Patton has to say on that particular item. And Mr. Bullock.

Commissioner Andrew Tobin: Ok, Ok so we ok good. So we are just limiting the debate at this point to Gary's one point.

Chairman Brooks: That is correct.

Commissioner Andrew Tobin: OK, I'm sorry I did not understand your ruling.

Commissioner Patton: Basically to me there is no doubt that the long-range goal of this Board should be to build a sewer system for the entire island. And in doing so if you take the cost that has been estimated, which I think is a reasonable cost of \$12,000 or around that area per EDU I think that is still a major bargain for the citizens of Key Largo, I mean, it is I think a major goal that is an important, important issue especially when Marathon is getting bids of \$18,000 and this is what I am talking about over the next ten years. I don't think that there is a 15% maybe theoretically a 15% contingency in \$4700 I don't, don't see it. I see that that is a reasonable cost for the individual homeowner with in Key Largo to expend because basically they are getting an improvement to of \$10, 000 to \$12,000 per dwelling unit, per home in Key Largo. And I think it is a very important to look long range it is just like in the Herald the other day I mean the Lake Okeechobee and Saint Lucie River was completely inundated by lack of management of the water recourses and the guy bought water front property and by the time he finally got it, it was not worth anything because the river was no longer what he thought that it was going to be. So I think that we have to really look at this in long-term issue and I think that we cannot afford to not go ahead and look at this in a long-term situation. Basically for \$4770 I think that, that is very reasonable, when it is financed over on a non ad-valorem tax assessment it is still very reasonable at \$248 a year, \$29 a month. Well you pay that for to take your garbage out and dispose of your garbage, well I thing that we can do that for our poop as well and deal with it in a reasonable manner and take care of it appropriately. And \$4700 I do not think is to much and I think the other issue that has major important for us is to look forward to were we are going to get the next 50 million dollars that is going to compose the 60% grant money for the rest of the island.

Commissioner Bauman: Can I respond to that.

Chairman Brooks: No

Commissioner Bauman: Yes I can.

Chairman Brooks: No you can't.

Commissioner Bauman: I'm going to.

Chairman Brooks: No

Commissioner Bauman: If it is 119 million dollars Glenn then we only need 39 million dollars of grant money to hit the 60%.

Commissioner Patton: From everything that I have been looking at construction cost have been going up not down.

Commissioner Bauman: I believe that was taken into consideration.

Chairman Brooks: Gentlemen if I can I am trying to go across the table and if we want we can come back with rebuttal time. But I would like, Glenn had the floor, I would like for him to complete.

Commissioner Patton: I am basically finished. I would approve the \$4770, I don't have, the only issue that I had in there was there was a slight change in the residential wastewater service consisting of 6 units or fewer units. I think Tom. I am done other than that question.

Commissioner Bullock: I think that I expressed this at one of the last meetings One of the things that

Commissioner Andrew Tobin: Mr. Chairman could I have a point of order.

Chairman Brooks: I am trying to get around the table here.

Commissioner Tobin: I do not understand why Glenn can't, wouldn't allow, me to ask a question, now you will not allow Commissioner Patton to ask a question. I don't understand why we can't ask questions of

Chairman Brooks: Commissioner Patton has given his opinion on the subject of contingency fees. Now I am trying to get

Commission Tobin: So discussion is one way we get to speak but we don't get to give any answers.

Chairman Brooks: We are going to go around again and you can have a rebuttal.

Commissioner Tobin: I don't want a rebuttal, I want answers. You just asked a question, why can't his question be answered. Why can't my question be answered. I don't understand your ruling.

Chairman Brooks: I don't understand why you keep giving me such a hard time when I'm trying to maintain some kind of order.

Commissioner Tobin: Order is you know, that's your definition of order that we can't ask questions I can't live with that.

Chairman Brooks: Well neither can I.

Commissioner Bauman: And neither can I. We got to have discussion.

Chairman Brooks: Alright Board, what do you want to do? We have a motion on the floor now we are bring up a procedural on the Chair. So does the Board wish to bring about debate between Board members without the Chair involvement? Let me hear a vote.

Commissioner Tobin: Yes

Commissioner Patton: I think that every body is suppose the address the Chair and go through the Chair as I understand it.

Commissioner Bullock: I think that they should go through the Chair.

Commissioner Bauman: That is not the way we ever, ever, have done it in the past.

Chairman Brooks: So your position is defeated because I am the Chair and I agree with Mr. Patton and Claude. So your point of order is not in order. Claude would you like to give me an opinion and give the Board an opinion on how you feel about the issue.

Commissioner Bullock: My feeling on contingencies is that I had 34 years of experience working with contractors and every time we put together a project we used nothing less than 10% and in some cases we were required when we were dealing with federal funds federal funding, to ad a 20% contingency and even though we thought that the project would come in at a 100,000 we had to make it 120,000 in order to get the bonding or the monies because the federal government says that we just know that if a project runs 1 year, 2 year, 3 year term the cost are going to go up nothing is cheaper tomorrow than it is today. And with that philosophy if you stick your head in the sand and say that you are not going to wind up spending that money just doesn't make sense to me. What you wind up doing is you are going to sit here at the end and you are going to need that 10 or 15 percent and where are you going to pull it from? If you don't have a federal grant what are you going to do, walk back to the community and say hey community we goofed up and didn't properly plan this because we didn't put a contingency in here when we should have. And so it is incumbent upon us to let the community know that yes there is a contingency in there but it is for your protection as well as ours. Because other wise we are going to be back here hitting you for another rate increase to cover it in the future. I am strongly opposed to deleting contingencies out of a program that you are developing. So that's my comment on it.

Chairman Brooks: So now we will go one more round on a rebuttal unless the Board feels that we need to do an additional round on the issue, and the motion is to accept the \$4770 here as specified in Rule Change Log #4. And I will start with you Mr. Tobin.

Commissioner Tobin: An addition round of rebuttal.

Chairman Brooks: Yes you wanted to rebut what Mr. Patton said.

Commissioner Tobin: No, I didn't want to rebut what they said I was just hoping that we could get some staff input on Gary's question and then there was a second question which is the, way that this is structured for residential wastewater for a facility consisting of six or fewer dwelling units and then we have sub 2 which is residential waste service to a facility consisting of seven or more dwelling units. I tell you what I was looking for

in tonight's resolution was a little, bit really clarification on a vote that would define a residential unit. I don't think that it is helpful to say six or more residential units when we haven't defined a residential unit. I would like to have a definition of a residential unit to be a single family home is one unit, a duplex is two units, a RV and then define first for purposes of tonight's resolution so that the Board can go forward with whether we decide at 4770 or 4500 or what ever that number is I would be looking for and I have already drafted that is what is was doing inside Carol's office is trying to come up with a resolution and I'm I'll just read this now so you guys can see were I'm heading. And it is not at all conclusive resolution. But this is really what I was looking for. WHEREAS, the Board of Commissioners of the Key Largo Wastewater Treatment District are required to set rates;

Whereas the Board employed PRMG to study and put in what PRMG has studied.

Whereas PRMG has recommended the following rates; I would like to get that broken down, the 1700 the treatment plant capacity charge, the force main charge, and the connection charge depending on what those ultimate numbers are.

Whereas the recommended rates are predicated on outside grants and funding from sources other than the District, in the approximate amount of 32 million dollars which is approximately 60% of the capital costs needed to develop a waste water facility, distribution line, and collection system from Mile Marker x to Mile Marker y (we would define the scope);

Whereas the District Manager has carefully and thoroughly reviewed the PRMG rate study, and recommends approval;

Whereas the District Financial Officer has carefully and thoroughly reviewed the PRMG rate study and recommends approval;

Whereas the District finds that the recommended rates are fair and equitable considering a) the actual construction cost is in excess of \$10,000 per home, b) homeowners will have the option to pay the fee (whatever we decide to call it) over 20 years at a minimum interest rate; and c) that the agencies of the Federal and State government will pay the fee for those who qualify as low and very low income residents;

Whereas the District considered the testimony of interested persons at three public hearings held on July x, x, and x, 2005, \*

I also think that the six or more six or fewer six or fewer or seven or more doesn't really fit with what we are doing right now so I would looking for a modified resolution that defines that we are setting a rate for a residential unit defined as what we decide to do tonight. So we have a comprehensive resolution that is addresses the lynch pin the most important piece of our project. That is personally what I would to see this resolution be formulated.

Chairman Brooks: OK are you done.

Commissioner Tobin: Yes

Chairman Brooks: Gary

Commissioner Bauman: Yes a couple of points, Glenn I agree that 4770 is fair I just think that 3852 is fairer. And if that is what the numbers say it is, that is what it is. Ah,

and to me just adding contingencies on top of what is already a planned document, especially when you are getting the monies from the homeowners of Key Largo who we represent is not fair. We should figure out what the numbers are to the best of our ability we charge Key Largo their share and then we manage that project to meet those cost and meet those dates in our plan. And to say I am going to add and extra \$800 on everyone's bill I don't think is the way to go about this. So I would like every body to really consider, I need some staff input where the SRF in front of me in fact contingency on 15% being in there. But I would like the Board to just consider that you are taking money out of people's pockets. The numbers don't show that, I sorry they don't show that.

Chairman Brooks: Glenn would you like another round.

Commissioner Patton: The only comment that I have at this point is that I would like to amend, we have a motion on they floor, and I would like to motion to consider scratch on line I under fifteen consisting of 6 or fewer dwelling units.

Chairman Brooks: Where is that?

Commissioner Patton: In the rule.

Chairman Brooks: I have the rule here.

Commissioner Patton: Right.

Chairman Brooks: OK

Commissioner Patton: Basically in my point of view it should read for residential wastewater service to a facility. Residential wastewater service period. The sum of. On number 2 rather ii down below, for residential wastewater service to a facility consisting for seven or more units, scratch all of that begin the sentence at non-residential water service the sum of. Because you have basically residential service if there are 6 or more units and all those 6 are on 1 connection they are still going to get a break on the connection fee because they are only connecting 1 making 1 connection so they only pay potentially \$2070. If there is a 6 plex. Understand what I am saying.

Chairman Brooks: OK

Commissioner Patton: They would pay the 1700 and the 1000 for the pipe and the treatment plant as far as the capacity but if they were a 6 plex they would pay one connection fee. OK. The same would go, then we get into non-residential wastewater treatment any they would pay capacity for both the force main, and the waste plant, and also if it was the Marriot they pay the one connection fee or the actual cost. They have to build a lift station there or whatever they have to do. What ever that cost would be. So I thing that it is equitable on the connection but to lump residential back into commercial and then start computing residential how many EDU's there are I think that it would

become very confusing. So that is my recommendation. Do you understand where I am going.

Commissioner Tobin: I do not see the difference between i and ii. You are saying that if you go above x number of dwelling units then you are changing them to a non-residential.

Commissioner Patton: A residential unit. A hotel is not a residential unit. It is commercial.

Commissioner Tobin: I understand that but it seems like ii is a residential wastewater service of seven or more units you now have shifted to a commercial rate.

Commissioner Patton: No I did not. What I suggested was that we scratch all of this up to this point a non-residential is based upon EDU's.

Commissioner Tobin: OK so you are scratching

Commissioner Patton: All that up to this point. OK all to here, non-residential is based upon EDU, residential is based upon dwelling unit.

Commissioner Tobin: OK so 6 or more

Commissioner Patton: It doesn't matter. It is residential.

Commissioner Tobin: OK I understand. Thank you.

Chairman Brooks: Claude do you understand? It got confusing didn't it. Gary.

Commissioner Bauman: I have no clue to what they are talking about. Can you cross out on my page the same way you did his?

Commissioner Patton: Sure.

Chairman Brooks: How about let's give him five or six copies of this change.

General Manager Charles Fishburn: Just mark up one copy Glenn and she can run copies.

Commissioner Patton: OK

Chairman Brooks: Glenn has the copy.

Commissioner Patton: Because the point being is residential is based upon a dwelling unit and non-residential would be based strictly upon EDU's and the calculation of what an EDU is and I do not want to confuse the two. Whether you are 6 or more units.

Chairman Brooks: OK, I am trying to figure out how to handle this. We have two issues we are dealing with. One is contingency and the other one is an amendment to Log 4 and I have with held some comments that I am going to try to recall. Some of the comments that Mr. Tobin made about the defining an EDU. I would like to remind the Board the way I see this if I am correct. We are making one change on only one section within the Rules and Regulations period. And the definitions of the EDU is further in the Rules and Regulations. And I correct in my interpretation of this?

Commissioner Patton: Correct yes.

Chairman Brooks: Do you agree with me Gary?

Commissioner Bauman: Do I agree with what?

Chairman Brooks: That the definition of an EDU is in another section of which we are not addressing tonight. Claude. OK.

Commissioner Tobin: You have misquoted me, my question; my statement was that I wanted a definition of residential units.

Chairman Brooks: Well first of all I have the floor.

Commissioner Tobin: No I understand, may I just make a correction to your misquote of me.

Chairman Brooks: I don't know I thought that I had the floor. If I could finish my point I was not quoting you.

Commissioner Tobin: If you want to quote me incorrectly go right ahead.

Chairman Brooks: Ok ah, so my interpretation was that we were talking about this EDU definition here that it was mentioned along with this resolution, put to us at the last minute and if we are going to consider it I think we need to have it duly put on the agenda and that would break our rule to make a decision on the rates tonight by changing the structure totally. And this includes what I believe what I heard here, and I am not quoting anybody. But it brings up other issues within the Rules and Regulations. I would like to see us conclude this resolution that we have before us now. Either accept it, delete it, amend it, but get some sort of conclusion tonight. We have other issues that are coming up that are related to this. Ah, so my question would be the, what is the word I am looking for, the contingency out of the way. Do you wish to make an amendment to the motion which I think is not related here on contingency?

Commissioner Bauman: Do I want to make a

Chairman Brooks: Ya, your are very strong on contingency and I don't see where that is involved in this number but you seem to have some mathematics that you can reduce

the number by reducing the contingency. So you're I'm assuming what you're suggesting is that you would amend the amount of 4770 to some figure.

Commissioner Bauman: Right, 3852.

Chairman Brooks: Do you wish to make an amendment to the motion?

Commissioner Bauman: AHHH, yes absolutely why wouldn't I?

Chairman Brooks: Is there a second.

Board Clerk Carol Walker: Mr. Chairman he did not make the motion. I have Commissioner Bullock making the motion.

Chairman Brooks: First of all we got into a discussion on contingencies; the we got into a discussion of changing the EDU's.

Board Clerk Walker: The only motion I have is to approve Rule Change Log #4 and only the maker of the motion can amend his motion which is Commissioner Bullock and you are asking Commissioner Bauman to amend his motion.

District Counsel Thomas Dillon: Mr. Chairman Commissioner Bauman can make a motion with a second to amend the resolution.

Chairman Brooks: That is what I though. Do you care to make that motion?

Commissioner Bauman: I certainly do care.

Chairman Brooks: What is your motion?

Commissioner Bauman: To amend the previous motion by changing the capacity charge and extension charge for residential users to be \$3852.00.

Commissioner Tobin: I will second for discussion.

Chairman Brooks: All right let's have discussion. Go ahead Mr. Tobin you have the floor.

Commissioner Tobin: Thank you. First of all I want to clarify your misquote.

Chairman Brooks: Now wait a minute this is, this is on the contingency, ok.

Commissioner Tobin: So I cannot correct your I just want to make sure I understand your ruling Charlie because it is fascinating to sit here and watch you be the Chairman. Your ruling is I cannot point out a misquote that you made earlier in your speech.

Chairman Brooks: The quote was not on the contingency and we are discussing the contingency and you wish to support Mr. Bauman's motion to change the I'm sorry not contingency any more to change to 4770 to 3852.

Commissioner Tobin: Charlie what I wanted to do is remind you that there was a time that you were a minority, you had a minority position that you wanted to have USBF and I was the Chairman at that point

Chairman Brooks: Now you are out of order. I'm sorry you are out of order.

Commissioner Tobin: and I deferred so you could speak your mind for a good hour because you felt very strongly about something. There was no pre-conditions or anything else. And I think what you are doing here is you're button holing I'm hoping that this Board is

Chairman Brooks: Ok I'm gong to take rule you out of order. I am going to ask the Board are we on the subject of amending the 4770 to 3700 and I want a vote now.

(Some one in the audience made a statement about wanting to speak if possible.) (Not very audible.)

Chairman Brooks: We are not having public comment this is the Board.

(Person in audience said that something about having public discussion at a public meeting.)

Chairman Brooks: We have Board members that made a motion to amend the 4770 to 3700.

Commissioner Tobin: I guess my comment is, what are they voting on now Charlie? What is your ruling?

Chairman Brooks: I have asked the Board for support that we maintain the conversation to the ah motion to amend 4770 or 3770 period.

Commissioner Tobin: Well part of the discussion is

Chairman Brooks: It has nothing to do with whether I quoted you something or whether I misstated anything.

Commissioner Tobin: I am not on that anymore. It's just my comment was that I'm hoping the Board can have a discussion and come to a consensus and it is very difficult to do that with these strict parliamentary button holes of you can't do this because you didn't get this. Why can't we just have a debate, try, and come up with a number that we are all comfortable with.

Chairman Brooks: Does the Board want to take a vote on this issue?

Commissioner Patton: The motion is on the floor.

Chairman Brooks: The motion is on the floor for 3700 dollars.

Commissioner Bauman: I would like to hear the public comment.

Chairman Brooks: Would the Board like to hear comment from public comment? Do I hear a motion?

Commissioner Bullock: A motion on a motion.

Chairman Brooks: No this is not a motion on a motion, I know it is somewhat out of order we have a motion while we have a motion in place and we are not allowed to do that.

Commissioner Patton: I think at this time it is the Boards issue is to at the last meeting we held extensive public input and I think we need to go forward to resolve and finalize this role.

Chairman Brooks: Claude

Commissioner Bullock: I concur.

Chairman Brooks: And I concur. So keep the comments to whether or not we are going to do the 3700.

Commission Tobin: I have a comment.

Chairman Brooks: If that is what you are going to comment on.

Commissioner Tobin: No I wanted to comment on public discussion. You let Claude and Glenn comment on it how come I can't comment on it?

Chairman Brooks: Go ahead.

Commissioner Tobin: I think that we should have allowed public comment on this rule at the time we were going to have it and then we should have public comment at some point before we take a final vote. I don't think it is appropriate to have public comment in the middle of a motion. But I do think that we should allow public comment before we take a final vote. That is my comment.

Chairman Brooks: All right we have a motion on the floor to change the amount of money from 4770 to 3700 on, I'm sorry 3852 on rule change log 4. Let's have a vote.

Board Member	Yes	No	Other
Commissioner Gary Bauman	X		
Commissioner Claude Bullock		X	
Commissioner Glenn Patton		X	
Commissioner Andrew Tobin		X	
Chairman Charles Brooks		X	

Motion did not pass 1 to 4

Chairman Brooks: All right so the motion on the floor still stands for accepting rule change log 4 at 4700 as specified in our agenda item number 7.

Commissioner Patton: Mr. Chairman, as I said earlier I lined out what I thought this rule should be amended to and I would like to proffer that to the man who made the motion. And if he would amend his motion and I would like to call for a vote on this.

District Counsel Thomas Dillon: Mr. Chairman I would really like to help you with this if I could be heard.

Chairman Brooks: You have the floor Tom.

District Counsel Thomas Dillon: On this issue I am not going to discuss whether is should be 6 or fewer or 7 or more. But in order to make this work the change should be in that first line it should say for residential service to a facility the sum of and in each of the 1 and 2 the words per dwelling unit should be taken out otherwise your charge would get greater because it is based on dwelling units other that facilities. So my recommendation if

Commissioner Patton: Repeat that now

District Counsel Thomas Dillon: In line i reinsert the words "to a facility" so it says for residential wastewater service to a facility, the sum of and then in line number one under that strike the words "per dwelling unit" and in line number two strike the words "per dwelling unit". I believe that is what your intent is. So for any residential building you'll come out with 4770.

Commissioner Patton: Wrong, as far if it was a 4 plex each one of the units in the 4 plex would pay the 1700 and the 1000 per dwelling unit.

District Counsel Thomas Dillon: Then I am mistaken I misunderstood what you were trying to do, ok.

Commissioner Patton: So I don't need "to a facility" in there then.

District Counsel Thomas Dillon: I think you still do because other wise it is not clear what it is for.

Commissioner Patton: For a residential wastewater service to a facility the sum of 1700 per dwelling unit.

District Counsel Thomas Dillon: OK I understand what you are saying.

Commissioner Patton: If it was a 6 plex or a 4 plex and one pipe came out to the street we would charge them 2070 to connect up if it was one pipe and the pit could handle the facility.

District Counsel Thomas Dillon: I misunderstood your discussion. I though that you were saying that it would be 4770 whether it was a 4 plex or that not being the case you still need "to a facility".

Commissioner Patton: Then I amend my motion to put the in "to a facility" in there.

Commissioner Tobin: Where would that go?

Commissioner Patton: It just stays in there instead of crossing it out.

District Counsel Thomas Dillon: It would say for residential wastewater service to a facility, strike "consisting of 6 or fewer dwelling units". I guess you are making that a friendly amendment with the consent of the motion maker.

Commissioner Patton: Correct.

Board Clerk, Carol Walker: Could I have verification, are you changing line ii at all.

Commissioner Patton: Yes, line ii is to strike all the way up to and through and four. It would begin ii with a non-residential wastewater service the sum.

Commissioner Tobin: I would like to offer a friendly amendment if I may. I would like to see whatever rate that we pass tonight I would like it supported in a formal resolution similar to the resolution that I read out so that it is clear, the history, the pains that we have gone through to come up with that rate.

Chairman Brooks: Go ahead Mr. Patton

Commissioner Patton: May I make a suggestion. The appropriate format would be for at the next meeting Commissioner Tobin to finalize his resolution and bring it to the Board as a commissioner's item for discussion. And if every body reviews it and has time to do their homework in it can make the appropriate recommendations and we can discuss it as a discussion item and then approve it at the next meeting. I don't see anything wrong

with having a resolution that clarifies why we make a rule. That supports our rates. But the procedure would be to finalize it as good as you could do it with Council's input.

Commissioner Tobin: Just so you know I had asked Chuck to come up with it and he had run out of time. So I just put together a brief format because I know that setting a rate is the most important thing that we do and it ought to be by separate resolution.

Commissioner Patton: I agree but as, and this item tonight I think is kind of premature to discuss or identify a full blown resolution and we can come back as an commissioner's item and support our rates with a resolution.

Commissioner Tobin: I am not going to spend any more time on this. I am going to give this if the Board thinks that a resolution similar to what I read is appropriate I'd like to give staff direction to just come back with something that is in a good format.

Chairman Brooks: I am getting tired of this people. We're in the middle of a motion and you are suggesting we direct staff in an informal manner in the middle of a motion to do something different to the motion that we are working on.

Commissioner Tobin: I am offering a friendly amendment.

Chairman Brooks: OK you have offered an amendment, I have not heard a second, or I haven't heard the amendment accepted, who made the amendment. Who made the amendment? Glenn you made the amendment, and he is trying to change your amendment.

Commissioner Patton: I don't think that this is part of that.

Chairman Brooks: This is not part of the amendment so this is out of order period. Let's move on. So we have a motion on the floor to accept with an amendment rule change log #4. Will somebody call the question?

Commissioner Patton: I would like to call the question.

Chairman Brooks: Let's have a roll call vote.

Board Member	Yes	No	Other
Commissioner Gary Bauman		X	
Commissioner Claude Bullock	X		
Commissioner Glenn Patton	X		
Commissioner Andrew Tobin		X	

Chairman Charles Brooks	X		
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Motion passed 3 to 2

Commissioner Tobin asked to be excused at 6:30 PM. Chairman Brooks excused Commissioner Tobin.

*Rule Change Log #5, Article IX Fees and Charges, Section 9.04 Monthly Customer Fee*

**Motion: Commissioner Patton made a motion to approve Rule Change Log #5. The motion was seconded by Commissioner Bullock.**

Commissioner Bullock stated that the rate structure is based on \$4770 and the base charge \$33.60 and the two have to go together; if not the District will have a short fall in the future. If down the road there has been a savings of the 15% contingency then the Board could vote to decrease the rate schedule to give back the compensation if it is appropriate.

Commissioner Patton would like to amend his motion by adding "per dwelling unit" on page 2 line (3) (i) after EDU and before per month.

Commissioner Bauman stated that the connection fee is to be used to do the construction. Rule Change Log #5 is to pay for the daily running of the plant. They are absolutely separate and should be calculated separately and kept separate.

Chairman Brooks explained that one of the first charges of the Board was to establish Rules and Regulations. Commissioner Patton has taken the task and has made the first steps to establish the R &R. He commends Commissioner Patton for the work that he is doing on the Rules and Regulations.

Vote on motion to approve Rule Change Log #5 as amended at Commissioners Patton's request.

Board Member	Yes	No	Other
Commissioner Gary Bauman	X		
Commissioner Claude Bullock	X		
Commissioner Glenn Patton	X		
Commissioner Andrew Tobin			Absent
Chairman Charles Brooks	X		

Motion passed 4 to 0

*Approval of the Nabors, Giblin, and Nickerson contract for Financial Advisor.*  
 District Counsel Thomas Dillon explained the contract that would allow review of the Non Ad valorem Assessment Resolution by Nabors, Giblin, & Nickerson.

**Motion:** Commissioner Bullock made a motion to retain Nabor, Giblin & Nickerson, PA for the purpose of providing services to review our assessment resolution. This motion is also to approve Nabors, Giblin and Nickerson’s proposal for the services dated July 18, 2005 and received via electronic Email. Their services rendered are specified in the proposal and as specified in the proposal will not incur more that \$3,500 in fees without first notifying the District in writing.

Vote on motion:

Board Member	Yes	No	Other
Commissioner Gary Bauman	X		
Commissioner Claude Bullock	X		
Commissioner Glenn Patton	X		
Commissioner Andrew Tobin			Absent
Chairman Charles Brooks	X		

Motion passed 4 to 0

*Setting a meeting date for a Public Hearing*

District Counsel Thomas Dillon requested that the date be set for August 31, 2005.

**Motion:** Commissioner Patton made a motion to set a public hearing date for August 31, 2005 and have the resolution on the August 3, 2005 agenda and the Clerk is directed to advertise the hearing no later than August 10, 2005. The motion was seconded by Commissioner Bullock.

Vote on motion

Board Member	Yes	No	Other
Commissioner Gary Bauman	X		
Commissioner Claude Bullock	X		
Commissioner Glenn Patton	X		
Commissioner Andrew Tobin			Absent

Chairman Charles Brooks	X		
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Motion passed 4 to 0

*Haskell Letter*

Ed Castle explained that he is not getting information on permitting from the Haskell Company. He needs them to be more responsive to his request for information.

**Motion:** Commissioner Patton made a motion to send the letter to the Richard McManus, Director of Construction, The Haskell Company and to have only the Chairman sign the letter. The motion was seconded by Commissioner Bullock.

Vote on motion

Board Member	Yes	No	Other
Commissioner Gary Bauman	X		
Commissioner Claude Bullock	X		
Commissioner Glenn Patton	X		
Commissioner Andrew Tobin			Absent
Chairman Charles Brooks	X		

Motion passed 4 to 0

*Approval of Minutes of July 6, 2005*

**Motion:** Commissioner Patton made a motion to approve the minutes of the July 6, 2005 meeting. The motion was seconded by Commissioner Bullock.

Commissioner Bauman requested that the minutes specifically show on page 6 that Mr. Fishburn stated that 15% of the project cost is in contingency.

Vote on motion as amended:

Board Member	Yes	No	Other
Commissioner Gary Bauman	X		
Commissioner Claude Bullock	X		
Commissioner Glenn Patton	X		
Commissioner Andrew Tobin			Absent

Chairman Charles Brooks	X		
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Motion passed 4 to 0

*Pending Payments List*

**Motion:** Commissioner Patton made a motion to approve the pending payments list for July 20, 2005 contingent upon availability of funds. The motion was seconded by Commissioner Bullock.

Vote on motion:

Board Member	Yes	No	Other
Commissioner Gary Bauman	X		
Commissioner Claude Bullock	X		
Commissioner Glenn Patton	X		
Commissioner Andrew Tobin			Absent
Chairman Charles Brooks	X		

Motion passed 4 to 0

*Auditor Request For Proposals*

Financial Officer Martin Waits reported that the District received two responses to its RFP, Grau & Company is being recommended by staff based upon a technical evaluation of the two respondents. However, this firm's all-inclusive dollar cost bid was substantially higher than the other respondent, Harvey, Branker & Associates. Authorization is therefore requested to negotiate a lower fee with Grau before considering Harvey, Branker,

**Motion:** Commissioner Patton made a motion to authorization the Finance Officer to initiate contract negotiations with Grau & Company to provide professional auditing services to the District for FY 2005, with four annual renewal options at the District's sole discretion. Motion was seconded by Commissioner Bauman.

Vote on motion:

Board Member	Yes	No	Other
Commissioner Gary Bauman	X		
Commissioner Claude Bullock	X		
Commissioner Glenn Patton	X		

Commissioner Andrew Tobin			Absent
Chairman Charles Brooks	X		

Motion passed 4 to 0

*Financial Advisor Contract with RBC Dain Rauscher*

District Counsel Thomas Dillon reported that the Financial Advisor Contract has been negotiated and revised to meet the requirements of Staff and Board direction. Staff recommended approval of the contract.

**Motion: Commissioner Bullock made a motion to approve the RBC Dain Rauscher as the District's Financial Advisor. The motion was seconded by Commissioner Patton.**

Vote on motion:

Board Member	Yes	No	Other
Commissioner Gary Bauman	X		
Commissioner Claude Bullock	X		
Commissioner Glenn Patton	X		
Commissioner Andrew Tobin			Absent
Chairman Charles Brooks	X		

Motion passed 4 to 0

*Haskell deductive Change Order No. 7 (Fluidyne direct purchase)*

General Manager Charles Fishburn reported that the change order corrects the Schedule of Values, reducing the total Haskell contract amount to reflect direct purchase of the Fluidyne secondary treatment plant by the District.

**Motion: Commissioner Patton made a motion to approve the Haskell Change Order No. 7. The motion was seconded by Commissioner Bullock.**

Vote on motion:

Board Member	Yes	No	Other
Commissioner Gary Bauman	X		
Commissioner Claude Bullock	X		
Commissioner Glenn Patton	X		

Commissioner Andrew Tobin			Absent
Chairman Charles Brooks	X		

Motion passed 4 to 0

*Haskell deductive Change Order No. 8 (Airvac direct purchase)*

General Manager Charles Fishburn reported that the Change Order corrects the Schedule of Values, reducing the total Haskell contract amount to reflect direct purchase of Airvac equipment and materials by the District.

**Motion: Commissioner Patton made a motion to approve Change Order No. 8. Motion was seconded by Commissioner Bauman.**

Vote on motion:

Board Member	Yes	No	Other
Commissioner Gary Bauman	X		
Commissioner Claude Bullock	X		
Commissioner Glenn Patton	X		
Commissioner Andrew Tobin			Absent
Chairman Charles Brooks	X		

Motion passed 4 to 0

**STATUS REPORTS**

*Verbal Status Report from Ed Castle*

Mr. Castle reported that the construction work is going well. Everything is much tidier. The pressure testing for the Plant will be starting soon. The Vacuum Station is due for delivery the first week in September.

Commissioner Patton told the Board that the Key Largo Trailer Village Association will be having a meeting on Saturday and he thinks that it is very important that the District has a presence at the meeting.

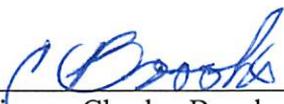
Commissioner Bullock wanted to know if it would be prudent to allow the public to make a comment if they want to on a item that has not had anyone previously make a comment on and it is a critical issue. He does not like to tell someone that they cannot make a comment.

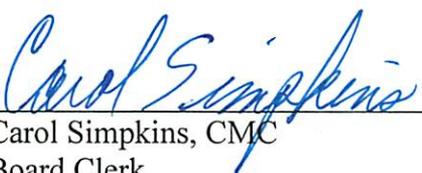
Commissioner Patton suggested revising the process to make it similar to the BOCC.

Chairman Brooks stated that he did not see a problem with that.

**ADJOURNMENT:** After a motion to adjourn, Chairman Brooks adjourned the meeting at 7:50 PM.

The KLWTD meeting minutes of July 20, 2005 were approved on August 31, 2005.

  
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Chairman Charles Brooks

  
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Carol Simpkins, CMC  
Board Clerk