

MINUTES

Key Largo Wastewater Treatment District (KLWTD) Meeting



Nov 15, 2011
98880 OVERSEAS HWY, KEY LARGO, FL 33037

The Key Largo Wastewater Treatment District Board of Commissioners met for a regular meeting at 4:06 PM. Present were Chairman Robert Majeska, Commissioners Andrew Tobin, Susie Hammaker, Norman Higgins, and Charles Brooks. Also present were the General Manager Margaret Blank, District Counsel Thomas Dillon, District Clerk Carol Walker, and other appropriate District Staff.

Steve Gibbs led the Pledge of Allegiance.

ELECTIONS

Commissioner Brooks nominated Commissioner Majeska for Chairman. Commissioner Hammaker seconded the motion.

Motion: Commissioner Tobin made a motion to close the nomination for Chairman. Commissioner Hammaker seconded the motion.

Vote on Motion

Member	Yes	No	Other
Commissioner Higgins	X		
Chairman Majeska	X		
Commissioner Brooks	X		
Commissioner Hammaker	X		
Commissioner Tobin	X		

Motion passed 5 to 0

Chairman Majeska will remain as Chairman.

Chairman Majeska nominated Commissioner Tobin for Vice-Chairman. Chairman Majeska closed the nominations without objection.

Commissioner Tobin will remain as Vice Chairman.

Commissioner Brooks nominated Commissioner Hammaker for Secretary/Treasurer.

Commissioner Tobin moved to close the nominations. Commissioner Brooks seconded the motion to close the nominations.

Vote on Motion

Member	Yes	No	Other
Commissioner Higgins	X		
Chairman Majeska	X		
Commissioner Brooks	X		
Commissioner Hammaker	X		
Commissioner Tobin	X		

Motion passed 5 to 0

Commissioner Hammaker will remain as Secretary/Treasurer.

APPROVAL OF AGENDA

Commissioner Brooks added three items, Board Meetings by Email, Board Meetings by Email part 2, and the Manipulation of Staff. Commissioner Tobin added and an item on legal services. Commissioner Higgins moved the General Managers contract to discussion. Commissioner Hammaker moved the Employee Handbook to Bulk. General Manager Margaret Blank pulled the Unique Properties and added an action item for a new starter motor.

Motion: Commissioner Hammaker made a motion to approve the agenda as amended. Commissioner Brooks seconded the motion.

Vote on Motion

Member	Yes	No	Other
Commissioner Higgins	X		
Chairman Majeska	X		
Commissioner Brooks	X		
Commissioner Hammaker	X		
Commissioner Tobin	X		

Motion passed 5 to 0

PUBLIC COMMENT

The following persons address the Board:

Name: N/A

Subject

BULK ITEMS

Minutes of November 7, 2011

RESOLUTION NO. 18-11-11

A RESOLUTION OF THE BOARD OF COMMISSIONERS APPROVING DESIGNATION OF TWO TAX PARCELS AS PARCELS EXCLUDED FROM THE 2007 NON-AD VALOREM ASSESSMENT; AND PROVIDING FOR APPLICABILITY AND AN EFFECTIVE DATE.

RESOLUTION NO. 17-11-11

A RESOLUTION OF THE BOARD OF COMMISSIONERS APPROVING DESIGNATION OF ONE TAX PARCEL AS PARCEL EXCLUDED FROM THE 2009 NON-AD VALOREM ASSESSMENT; AND PROVIDING FOR APPLICABILITY AND AN EFFECTIVE DATE.

Employee Handbook

Motion: Commissioner Tobin made a motion to approve Bulk Items. Commission Hammaker seconded the motion

Vote on Motion

Member	Yes	No	Other
Commissioner Higgins	X		
Chairman Majeska	X		
Commissioner Brooks	X		
Commissioner Hammaker	X		
Commissioner Tobin	X		

Motion passed 5 to 0

FINANCIAL REPORT

Report of Cash, Revenues, and Expenditures

Motion: Commissioner Brooks made a motion to approve the Report of Cash, Revenues, and Expenditures contingent upon the availability of funds. Commissioner Hammaker seconded the motion.

Vote on Motion

Member	Yes	No	Other
Commissioner Higgins	X		
Chairman Majeska	X		
Commissioner Tobin	X		
Commissioner Brooks	X		
Commissioner Hammaker	X		

Motion passed 5 to 0

Report on RFP for Banking, Pay Roll, Health Insurance, & other Insurance Services

CFO reviewed the results of the RFP.

Motion: Commissioner Tobin made a motion to accept the B B & T proposal for Banking, which includes cash management, group insurance, and payroll services with the amount of money being between 2 and 3 million dollars and the balance of monies between 8 and 9 million dollars being put into First State Bank. Commissioner Higgins seconded the motion.

Vote on Motion

Member	Yes	No	Other
Commissioner Higgins	X		

Chairman Majeska	X		
Commissioner Tobin	X		
Commissioner Brooks	X		
Commissioner Hammaker	X		

Motion passed 5 to 0

Motion: Commissioner Hammaker made a motion to pay \$644 a month per employee for medical insurance. Commissioner Higgins seconded the motion.

Vote on Motion

Member	Yes	No	Other
Commissioner Higgins	X		
Chairman Majeska	X		
Commissioner Tobin		X	
Commissioner Brooks	X		
Commissioner Hammaker	X		

Motion passed 4 to 1

COMMISSIONER'S ITEMS

General Manager's Contract.

Motion: Commissioner Brooks made a motion to approve the General Managers Contract with the amendment of Attachment "B" and "C" which shows the changes in blue. Commissioner Tobin seconded the motion.

Vote on Motion

Member	Yes	No	Other
Commissioner Higgins		X	
Chairman Majeska	X		
Commissioner Tobin	X		
Commissioner Brooks	X		
Commissioner Hammaker		X	

Motion passed 3 to 2

Commissioner Hammaker stated that she is for everything in the General Manager's contract and supports the General Manager but she feels that the General Manager should supervise the CFO.

CFO's Contract Evaluation

Motion: Commissioner Brooks made a motion to leave the CFO position independent, full time, and reporting to the Board. Commissioner Higgins seconded the motion.

Vote on Motion

Member	Yes	No	Other
Commissioner Higgins	X		

Chairman Majeska	X		
Commissioner Tobin		X	
Commissioner Brooks	X		
Commissioner Hammaker		X	

Motion passed 3 to 2

Commissioner Hammaker and Commissioner Tobin stated that they are voting against the motion because the motion is out of order.

Board Meetings by E-Mail

Commissioner Brooks explained why he is concerned that the emails sent out to all of the Board Members gives the sender one upmanship and it is distributed void of public notification.

Commissioner Higgins sees nothing wrong with sending out the emails. Commissioner Hammaker does not think it is breaking the law. Chairman Majeska thinks that the issue should be presented to the Board for the agenda.

Thomas Dillon, District Counsel does not think that the email breaks the Sunshine Law.

Commissioner Tobin stated he has nothing to say.

Meeting by Email Item 2 (Exhibit "A")

Commissioner Brooks brought up the email about changing the District Counsel. He recommended that the Board first decides to make a change.

Commissioner Tobin stated that Commissioner Brooks is out of order and he has an item coming up under Commissioner's Roundtable.

Inappropriate Subjective Manipulation of Staff

Commissioner Brooks stated that it undermines the efficiency of the District for one Board Member to communicate independently with a staff person in respect to their duties.

Commissioner Tobin thinks that it is misleading to the public who may think that they are sending an email to a Board Member but it is going to Senior Staff also.

Motion: Commissioner made a motion to re-establish the distribution process of Board emails.

Motion died due to a lack of a second.

GENERAL MANAGER REPORT

LaRocco Collection System Change Order No. 16

Motion: Commissioner Brooks made a motion to approve the LaRocco Change Order No. 16. Commissioner Higgins seconded the motion.

Vote on Motion

Member	Yes	No	Other
Commissioner Higgins	X		
Chairman Majeska	X		
Commissioner Tobin	X		
Commissioner Brooks	X		
Commissioner Hammaker	X		

Motion passed 5 to 0

Island Dolphin Care Settlement

Margaret Blank reported that the settlement figure now looks like \$33,000.

Commissioner Tobin said that there should be three quotes for the landscaping and sign and the District should put in the landscaping.

Motion: Commissioner Tobin made a motion to authorize the General Manager to settle with Island Dolphin Care for \$33,000 with the District getting three quotes for the sign and landscaping. Commissioner Higgins seconded the motion.

Vote on Motion

Member	Yes	No	Other
Commissioner Higgins	X		
Chairman Majeska	X		
Commissioner Tobin	X		
Commissioner Brooks	X		
Commissioner Hammaker			Abstained

Motion passed 4 to 0

Order Control Update

Margaret Blank gave a verbal update on what the District is doing.

Plant Electrical Control Device-Starter Motor for Blower No. 1 Motor Starter GE Soft Start – Parts & Service

Motion: Commissioner Tobin made a motion to approve the purchase of the Replacement Blower for up to \$31,024.00. Commissioner Brooks seconded the motion.

Vote on Motion

Member	Yes	No	Other
Commissioner Higgins	X		
Chairman Majeska	X		
Commissioner Tobin	X		
Commissioner Brooks	X		
Commissioner Hammaker	X		

Motion passed 5 to 0

COMMISSIONER'S ROUND TABLE

Legal Counsel

Commissioner Tobin stated that good government does not rely on one person. He stated that Mr. Dillon should be kept on as the construction counsel and assessment counsel and the District should hire a new counsel for labor.

The Board discussed hiring another attorney. Mr. Dillon suggested that it would be advisable to obtain the services of a labor attorney, especially to deal with drug-test issues.

ADJOURNMENT

The KLWTD Board adjourned the Board Meeting at 8:06 PM.

The KLWTD meeting minutes of Nov. 15, 2011 were approved on December 6, 2011.

A handwritten signature in blue ink, appearing to read "J. Majeska", written over a horizontal line.

Chairman Majeska

A handwritten signature in blue ink, appearing to read "Carol Walker", written over a horizontal line.

Carol Walker, CMC District Clerk

EXHIBIT "A"

To all commissioners and senior staff

Reference: **Board Meetings by E-Mail**

November 15, 2011

Fellow commissioners I have been concerned about board meetings by e-mail. This has gone on for too long. During the past few weeks we have had a succession of e-mail directions by one particular board member. These e-mails have covered the gamut of issues that by law and establish procedures should be handled in the normal process of bringing the issue to the board of directors. We have had as many as four or five e-mail incidents spelling out simple procedure changes to staff and major senior personnel changes

These kinds of requests really are required to be part of the open board meetings process and not instigated through the e-mail process. The sunshine law allows one Commissioner to communicate with others on issues as long as the recipient commissioners do not reply.

I believe the intent of the sunshine law is to allow minimal exceptional communications between elected officials governed by the sunshine law. I do not believe the intention is for to one elected official within a elected board to predominantly, historically and continuously use this stipulation as a means to circumvent the sunshine law protections and/or manipulate the established procedures of the district. The continued use of this provision by historically the same elected official gives one upmanship to the originator of the e-mail. It is distributed void of public notification, review as well as not allowing fellow board members to review the issue at origination (regular board meetings) to determine whether the issue has merit or not.

I would like to reemphasize to my fellow commissioners the originator of these e-mails is alone. I cannot remember any other board member besides the originator of these e-mails having continually excessively employed this sunshine law stipulation.

This one e-mail may be the first time for me. I'm using this e-mail to communications with my fellow commissioners premised on: this e-mail is not debating the issues specified in the commissioners' e-mails published during the past weeks . Therefore this e-mail is not a reply to the commissioners previous e-mails.

This e-mail is distributed on the premise "the practice of continuously using e-mails to communicate between elected officials is contrary to the spirit of the sunshine law. This practice is also contrary to well-established practices and procedures of the KLWTD."

I will be preparing an ARF and placing this on the agenda for November 15, 2011

Respectfully Submitted
Charles Brooks
Commissioner KLWTD

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From Commissioner Charles Brooks

Key Largo Wastewater Treatment District

Subject: Board Meetings by E-Mail >Item II

Subtitle: Senior Staff Realignment without Board Consensus

November 15, 2011

This is just another example of one upmanship created by using e-mails to initiate board discussion with the use of preemptive e-mails.

In this case the individual has started the process of selecting a new legal counsel for the district prior to the board having the opportunity to weigh in on the merits or demerits of such an action.

Our previous practice has been for the board to ascertain first whether they want to make a change or not. Then to start the process through proper public notice as to the board's desire to seek such a change. Further the board member in question has already begun the selection process by interviewing a prospective candidate. Absence of the board having expressed its desire to consider a change of this magnitude. It is improper to say the least for an individual board member to begin interviewing prospective candidates.

Therefore I suggest the board first give direction whether or not they are ready to seek a change that is suggested in the attached e-mail. This is the first step and of course requires a majority vote from the board.

In all due consideration and courtesy for our existing personnel, not just the position in question, but for all personnel that may view one individual board member can topple our senior management positions. It can be viewed as a insecure employment positions, thus affecting morale.

I now therefore recommend the board determined if they are ready to make a change in how we are represented by legal counsel.

Respectfully Submitted
Charles Brooks
Commissioner KLWTD

Charles Brooks

From: tobinlaw@terranova.net
Sent: Saturday, November 12, 2011 9:29 AM
To: commissioners@klwtd.com
Subject: Legal Counsel

Categories: Purple Category

Commissioners,

I would like to discuss hiring Ray Giglio as our General Counsel, with Tom remaining as our attorney for construction and assessment related issues.

I have discussed this with Ray. He is flexible and willing to serve us on a probationary basis or on such other terms as we want. Feel free to call him this weekend at 451-4301. I have also discussed this with Margaret.

Andrew Tobin

From Commissioner Charles Brooks

Key Largo Wastewater Treatment District

Subject: Inappropriate Subjective Manipulation of Staff

November 15, 2011

The attached e-mails are examples of perhaps situations that should not have happened. It reeks of possible or implied misuse of authority. It also undermines the efficiency of the district to work within the confines of the existing staff. I cannot imagine a district with five individual bosses acting separately independently in communicating with staff in respect to their duties .

It has been requested by one elected board official that staff modify the districts e-mail addressing system and list. Staff has provided in this incident why staff has elected to establish a group category in the districts e-mail address listing. Grouping e-mail addresses is a efficient way of regularly distributing e-mails to a group of individuals for the purpose of communications. It saves time and is designed to meet the purpose of the e-mail communication.

Apparently the board members has instructed staff members to change the established grouping to meet his individual needs or desires. As indicated in his e-mail of 11/12/11 2:04 PM. Unfortunately the individual has displayed his wish to impregnate the sunshine with dark clouds of censored public notice

What the individual apparently is not aware of is that the grouping by staff is for staff purposes and not that of the individual board members. If a board member wishes to segregate out senior staff members he may to do so by setting his own group within his own e-mail account. Thus not interfering with the efficiency of the districts Communications Systems.

The individual staff member who was apparently required to make the changes did so under pressure. Staff rightfully so informed via e-mail all affected parties. Which was the right thing to do. My reasoning for bringing this before the board is so that we may discontinue this type of practice.

Therefore: I move that we reinstate staffs previous grouping of e-mail addresses for the purpose for which it was designed.

In the future if I receive KLWTD business-related singularly address e-mails from fellow KLWTD board members I will most assuredly forward those e-mails to our clerk for proper distribution.

See attached copies of two e-mails in question :

Respectfully Submitted
Charles Brooks
Commissioner KLWTD

Charles Brooks

From: tobinlaw@terranova.net
ent: Saturday, November 12, 2011 2:04 PM
To: commissioners@klwtd.com
Subject: emails

Categories: Purple Category

Commissioners,

I just learned that emails addressed to "commissioners" is automatically sent to our senior staff as well. Under the sunshine law I can send one-way communications to commissioners and I prefer that my emails to commissioners be sent only to commissioners. Paul assures me he will reconfigure our system to change this.

Happy weekend everyone (senior staff too!)

Andy

Charles Brooks

From: Paul Christian [Paul.Christian@klwtd.com]
Sent: Saturday, November 12, 2011 4:27 PM
To: commissioners@klwtd.com
Cc: srstaff@klwtd.com
Subject: RE: emails

Per the request of Commissioner Tobin, the following change has been made to our e-mail system:

commissioners@klwtd.com now ONLY goes to the following e-mail addresses:

cbrooks442@aol.com
nhkeylargo@gmail.com
susanh@klwtd.com
cbrooks442@gmail.com
tobinlaw@terranova.net
keyskitters@bellsouth.net

Anyone wishing to include Sr Staff can now add the srstaff@klwtd.com to the distribution.

It should be noted that this was originally set-up so that if a customer sent an e-mail to commissioners@klwtd.com with a service related issue, staff would be able to proactively address the issue. If a commissioner gets an e-mail from a customer addressed to commissioners@klwtd.com, and you feel that staff should be involved, you will have to manually forward to staff.

Thank you!

Paul

Paul Christian
Technology Manager
Key Largo Wastewater Treatment District
305-394-4826

-----Original message-----

To: commissioners@klwtd.com;
From: tobinlaw@terranova.net
Sent: Sat 11-12-2011 02:04 pm
Subject: emails

Commissioners,

I just learned that emails addressed to "commissioners" is automatically sent to our senior staff as well. Under the sunshine law I can send one-way communications to commissioners and I prefer that my emails to commissioners be sent only to commissioners. Paul assures me he will reconfigure our system to change this.

Happy weekend everyone (senior staff too!)

Andy