

# MINUTES

## Key Largo Wastewater Treatment District Commission (KLWTD) Meeting



Dec. 10, 2013

98880 OVERSEAS HWY, KEY LARGO, FL 33037

The Key Largo Wastewater Treatment District Board of Commissioners met for a Commission Meeting at 4:00 PM. Present were Chairman Steve Gibbs, Commissioners, Andy Tobin (arrived at 5:15), Norman Higgins, David Asdourian, and Robbie Majeska. Also present were Chief Information Officer, Paul Christian, General Counsel, Ray Giglio, District Clerk Carol Walker, and other appropriate District Staff.

Marilyn Giglio led the Pledge of Allegiance.

### APPROVAL OF AGENDA

**Motion:** Commissioner Asdourian made a motion to approve the agenda. Commissioner Higgins seconded the motion.

### Vote on Motion

Member	Yes	No	Other
Commissioner Higgins	X		
Commissioner Majeska	X		
Commissioner Tobin			Absent
Commissioner Asdourian	X		
Chairman Gibbs	X		

Motion passed 4 to 0

### PUBLIC COMMENT

Name & Address	Subject
N/A	

### BULK ITEMS

*RESOLUTION NO. 40-12-13*

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

**Motion:** Commissioner Higgins made a motion to approve Bulk Items.  
Commissioner Majeska seconded the motion.

**Vote on Motion**

Member	Yes	No	Other
Commissioner Higgins	X		
Commissioner Majeska	X		
Commissioner Tobin			Absent
Commissioner Asdourian	X		
Chairman Gibbs	X		

**Motion passed 4 to 0**

**OPERATIONS REPORT**

*Fountain Change Order #3*

Dan Saus, Operations Manager explained the change order.

**Motion:** Commissioner Asdourian made a motion to approve the Fountain Change Order #3. Commissioner Higgins seconded the motion.

**Vote on Motion**

Member	Yes	No	Other
Commissioner Higgins	X		
Commissioner Majeska	X		
Commissioner Tobin			Absent
Commissioner Asdourian	X		
Chairman Gibbs	X		

**Motion passed 4 to 0**

*Subcontractor for Vactron*

Mr. Saus explained he signed a contract with BC for towing the Vactron when it is needed until the District has the proper truck and employees have their CDL.

**FINANCIAL REPORT**

Paul Christian reviewed the Key Largo Wastewater Treatment District Utility Revenue Refunding Bond, Series 2013 and Series 2014.

**Motion:** Commissioner Asdourian made a motion give direction to the Chairman to sign the loan documents on December 17, 2013 at a 2:30 PM closing meeting with the contingency that the Loan Resolutions 41-12-13 and 42-12-13 pass. Commissioner Majeska seconded the motion.

**Vote on Motion**

Member	Yes	No	Other
Commissioner Higgins	X		
Commissioner Majeska	X		
Commissioner Tobin			Absent

<b>Commissioner Asdourian</b>	<b>X</b>		
<b>Chairman Gibbs</b>	<b>X</b>		

**Motion passed 4 to 0**

4:45 P.M. Meeting in Recess

5:00 P.M. Meeting Reconvened

**5:00 PM PUBLIC HEARING**

*RESOLUTION NUMBER NO. 39-12-13*

*A RESOLUTION OF THE KEY LARGO WASTEWATER TREATMENT DISTRICT AMENDING RESOLUTION NO. 65-10-12, THE "2012 GRINDER PUMP RESOLUTION," WHICH RELATES TO THE PROVISION, INSTALLATION, AND MAINTENANCE OF LOW PRESSURE COLLECTION ("GRINDER PUMP") SYSTEMS ON UNIQUE RESIDENTIAL PARCELS; ESTABLISHING THE TERMS, CONDITIONS, AND RESPONSIBILITIES OF PARCEL OWNERS AND THE DISTRICT WITH RESPECT THERETO; AND PROVIDING AN EFFECTIVE DATE.*

**Public Comment Opened**

John Hammerstrom, 15 Coastal Drive

Asked for Public Notice for changes in Rules and Regulations. He commented on the changes that were made.

Christi Meder, 95525A O/S Hwy

Disappointed in communication with her mother's property that is having a grinder pump put in.

Betty McNerny, 95525 #A  
Dan Elverman, 5 Palm Drive

Unhappy with changes in site.  
Unhappy with having to have 2 Grinder Pumps and restoration in area.

Dwight "Ike" Beal, Key Largo

Would like on option for Binding Arbitration.

See Exhibit "A" for letter from John Hammerstrom  
See Exhibit "B" for letter from Daryl Swinney

Public Comment Closed

**EXTENSION OF TIME**

**Motion: Commissioner Tobin made a motion to extend the meeting 30 minutes. Commissioner Higgins seconded the motion.**

**Vote on Motion**

<b>Member</b>	<b>Yes</b>	<b>No</b>	<b>Other</b>
<b>Commissioner Higgins</b>	<b>X</b>		
<b>Commissioner Majeska</b>	<b>X</b>		
<b>Commissioner Tobin</b>	<b>X</b>		

<b>Commissioner Asdourian</b>	X		
<b>Chairman Gibbs</b>	X		

**Motion passed 5 to 0**

The Commissioners discussed the changes. Commissioner does not like the wording that the District “is responsible for house plumbing”. The Board directed that the wording be removed.

**EXTENSION OF TIME**

**Motion:** Commissioner Tobin made a motion to extend the meeting 30 minutes. Commissioner Higgins seconded the motion.

**Vote on Motion**

Member	Yes	No	Other
<b>Commissioner Higgins</b>	X		
<b>Commissioner Majeska</b>	X		
<b>Commissioner Tobin</b>	X		
<b>Commissioner Asdourian</b>	X		
<b>Chairman Gibbs</b>	X		

**Motion passed 5 to 0**

**Motion:** Commissioner Tobin made a motion approve Resolution No. 39-12-13 with the addition of changes in 13.01A, the removal of the phase “is responsible for house plumbing” and the renumbering. Commissioner Asdourian seconded the motion.

**Vote on Motion**

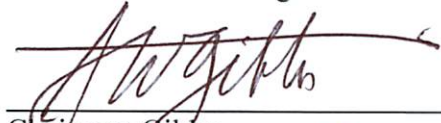
Member	Yes	No	Other
<b>Commissioner Higgins</b>	X		
<b>Commissioner Majeska</b>	X		
<b>Commissioner Tobin</b>	X		
<b>Commissioner Asdourian</b>	X		
<b>Chairman Gibbs</b>	X		

**Motion passed 5 to 0**

**ADJOURNMENT**

The KLWTD Board adjourned the Board Meeting at 6:12 PM.

The KLWTD meeting minutes of Dec. 10, 2013 were approved on Dec. 17, 2013.

  
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 Chairman Gibbs

  
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 Carol Walker, CMC District Clerk

# EXHIBIT "A"

**Carol Walker**

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**From:** John Hammerstrom <johnhammer@bellsouth.net>  
**Sent:** Monday, December 02, 2013 12:57 PM  
**To:** Margaret Blank  
**Cc:** Carol Walker; Ray Giglio  
**Subject:** Questions & Comments Res 65-10-12

Dear Margaret, Ray and Carol,

Please distribute these comments and questions to the Board.

- Thank you for the thorough public notice of the proposed changes.
- Thank you also for the "track change" version of the Resolution, which makes it easier to identify proposed changes.

Referring to proposed changes to KLWTD Resolution 65-10-12:

1) Since Florida Administrative Code 62-604.400 is the "rule," it seems inappropriate that the District's Resolution treats the Florida Administrative Code as the "exception" rather than the "rule."

Resolution Section 9.02 (and elsewhere) subordinates the Florida Administrative Code relative to the District's Resolution: "The District shall have no obligation to maintain, repair, and/or service Grinder Pump Systems installed on Residential Unique Parcels, **EXCEPT** [as required by the Florida Administrative Code] (emphasis added).

Revising the Resolution by simply inserting a phrase such as "except where required by Florida Administrative Code" or "consistent with applicable DEP rules and regulations" —particularly when those FAC rules reverse the intent of the UNrevised paragraph—results in a very confused statement. It's like saying one can make a U-Turn on a one-way street except where the law prohibits it.

It would seem appropriate to at least refer to the applicable FAC in the Resolution, as a convenience to readers if for no other reason.

2) What specifically is the intent of 4.01 G. - "The Participating Owner shall provide, at Participating Owner's own cost and expense, an Access Point for connecting the Grinder Pump System to the household . . ." ?

3) 7.03.C.2 doesn't seem fair (or clear): [within the permanent easement] The cost of repair or replacement of non-vegetative improvements and special vegetative improvement installed by the properly Owner which may become damaged in the course of such repairs or maintenance shall be at the expense of the property Owner." Additionally, what are "special" vegetative improvements?

4) 9.04.B.c) - Can you give an example of this? When you say the FULL cost, what do you mean, and how would you determine it?

5) 13.01.A - Why is the property Owner responsible for this component of the installed system (anti-backflow device)?

6) Additionally - there are two potential typos:

There are two Sections 9.04

Under the second Section 9.04 "Owner's Right . . ." I believe the formatting may be incorrect. After B . . . should come 1., 2., 3., etc., not a), b), c).

Sincerely,  
John Hammerstrom

# EXHIBIT "B"

**Carol Walker**

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**From:** Daryl Swinney <daryl@pioneeronehddp.com>  
**Sent:** Monday, December 02, 2013 12:50 PM  
**To:** carol.walker@klwtd.com  
**Subject:** Grinder Pump Resolution

Good morning Carol,

My name is Daryl Swinney and I own a house at 201-203 North Ocean Dr. (Gulfstream Shores) that is in the Grinder Pump Resolution area. I was hoping to attend the meeting on December 10 but I am forced to return to Indiana due to a family death.

I was a sewer contractor in Indiana and I am very familiar with the Grinder Pumps, as I have installed several hundred in my 40 years as a sewer contractor. They are very reliable, as well as, requiring very little maintenance.

I have some comments I would like addressed by the sewer board. My comments and or questions are as follows:

## Sec 7.01

B.

1. It says "In the event the Grinder Pump System or any part thereof requires repairs or service as a result of normal wear and tear, the District will repair such damage at no cost or expense to the Participating Owner." It does not state how long the District is responsible. Our original Agreement stated the District would forever maintain the systems as we, the owners, understood it. Has this changed? How long is the District responsible for the Grinder Systems? The gravity line from the house is spelled out to be covered for one year as it was in the original agreement.

## Sec 9.02

A. Any and all maintenance, repair and/or service by the District shall be performed ONLY for such a time, and in such manner, as is required by applicable DEP rules and regulations...." What is that time period? Shouldn't you write out the Regulations so we can see them? You are asking us to sign a document that is bound by DEP rules but you don't tell us what the rules are!

C. "In the event this Resolution shall be amended, superseded, or rescinded by lawful action of the Board of Commissioners of the District, such that the District's maintenance, repair and/or service of Grinder Pump Systems installed on Residential Unique Parcels shall terminate..." It may not be your intent but this appears to me as an owner that you are simply trying to get everyone to sign up and then you will change things to suit the District's needs. You are asking us to sign a resolution that you can change at your discretion.

## Sec. 11.01

C. "Prior to the adoption of any amendment to, or replacement or rescission of, this 2013 Grinder Pump Resolution, the District shall provide at least 30 days notice of such proposed action in a notice published in a newspaper...." Why will the Resolution need amended? Wouldn't it make more sense to get it right the first time? I do not think a notice in the local newspaper is sufficient notification to change a legal and binding resolution agreement you have with owners. I would think it would require a personal notification to each owner.

D. "Before any action to rescind, terminate, or materially alter the District's maintenance, repair and/or service of Grinder Pump Systems shall become effective, the District shall, in accordance with Section

9.02.C.2., give Participating Owners 180 days notice thereof." It, again, may not be your intent but it sounds like you are not sure the Resolution is correct or something and you are giving the District a "Get out of jail free" card.

Sec. 12.02

B. "The provisions of this Grinder Pump Resolution as same may from time to time be amended...." Why would the provisions have to be amended? Again, try to get the Resolution right and complete the first time.

Sec. 13.01

C. "The Owner shall assume full responsibility for ...." The part that I am concerned about is "the failure of the Grinder Pump System to adequately service the Parcel." If the plumbing in the house is functioning properly and is adequate and the electrical service connection is as specified and the Grinder Pump System does not function properly it is NOT the Owner's responsibility. The only reason it would not function properly would be defective components or an engineering problem. An Owner cannot be held responsible for design and engineering. If for some reason the forced lines are not adequate, or the pumps not sufficiently strong enough to push the sewage through the lines, as Owners we cannot be responsible.

It just seems to me that the District is trying to create loopholes in the Resolution in order to protect themselves of any future problems. We, as Owners, signed what we thought was an agreement and there seems to be numerous changes in the latest revisions. Because of all of the ambiguity that is in the resolution, it seems the District is trying to hide something and has created escape clauses. I know the District does not want this any more than we, as Owners, do, but we have to live with it and move forward. Please understand you are asking us to sign a Resolution that contains several opportunities for the District to change the terms without consent from us as the signees. I would ask that you present my comments to the District Board since I will be unable to attend the meeting in person. Thank you so much for your time and understanding in this matter.

Daryl L Swinney  
201/203 N. Ocean Dr.  
Key Largo, FL 33037  
317-410-5545