

Key Largo Wastewater Treatment District Board of Commissioners Meeting Agenda Item Summary

Meeting Date:
December 15, 2015

Agenda Item Number: N-3

Agenda Item Type:
Information / Presentation

Agenda Item Scope:
Review / Discussion

Recommended Action:
Discussion

Department:
Legal

Sponsor:
Ray Giglio

Subject:
Monroe County v. State of Florida

Summary of Discussion:

Final judgment from Monroe County v. State of Florida Bond Validation hearing.

Reviewed / Approved

Financial Impact

Attachments

Operations: _____
Administration: _____
Finance: _____
District Counsel: RS
District Clerk: _____
Engineering: _____

\$ 0.00

Funding Source:

Budgeted:
N/A

1. Monroe County v. State of Florida
Case No. 15-CA-000590-P Final
Judgment

Approved By: 
General Manager

Date: 12/11/2015

IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT,
IN AND FOR MONROE COUNTY, FLORIDA

MONROE COUNTY, FLORIDA, a
political subdivision of the State of Florida,

CASE NO. 15-CA-000590-P

and

KEY LARGO WASTEWATER
TREATMENT DISTRICT, an independent
special district established under the Laws of
Florida,

Plaintiffs,

VALIDATION OF NOT EXCEEDING
\$43,000,000 LOAN IN AGGREGATE
PRINCIPAL AMOUNT

vs.

THE STATE OF FLORIDA, and the
Taxpayers, Property Owners and Citizens of
Monroe County, Florida, and within the Key
Largo Wastewater Treatment District,
including non-residents owning property or
subject to taxation therein, and all others
having or claiming any right, title or interest
in property to be affected by the loan herein
described, or to be affected thereby,

Defendants.

_____ /

2015 DEC 10 AM 10:37
MONROE COUNTY FLA

FINAL JUDGMENT

The above cause originally came for final hearing on the date and at the time and place set forth in the Order to Show Cause heretofore issued by this Court on September 21, 2015 and in the notice addressed to the State of Florida and the several property owners, taxpayers and citizens of Monroe County, Florida, and within Key Largo Wastewater Treatment District, including non-residents owning property or subject to taxation therein and all others having or claiming any right, title or interest in property to be affected by the debt obligations to be incurred by Monroe County, Florida (hereinafter called the "County") through a Not Exceeding

\$43,000,000 Loan in Aggregate Principal from the Key Largo Wastewater Treatment District (hereinafter called the “District”), or to be affected in any way thereby, as heretofore issued against the State of Florida on Complaint of the Plaintiffs. The State Attorney was duly served with the Complaint and Order to Show Cause as required by section 75.05, Florida Statutes. A hearing was held pursuant to the Order to Show Cause and the Court, having heard the testimony and considered the evidence submitted, along with the argument of counsel makes the following determinations:

Background

This is an action seeking the validation of certain indebtedness pursuant to Chapter 75, Florida Statutes. The Plaintiffs seek the validation of the County’s Not Exceeding \$43,000,000 Loan in Aggregate Principal Amount from the District (the “Loan”), the proceeds of which will be derived from the Everglades Restoration Bonds (hereinafter described as the “Mayfield Grant Funds”). The Loan was authorized pursuant to the State Wastewater Funding Distribution Agreement for “Year Two of Four”, as amended (the “Amended Agreement”). The County proposes to utilize the proceeds of the Loan to construct the wastewater collection, transmission, treatment, reuse and disposal facilities, including facilities that will serve the Cudjoe Regional Centralized Wastewater Service Area (the “Project”).

Scope of Validation Proceedings

The scope of judicial inquiry in bond validation proceedings is limited to three issues: “(1) whether the public body has the authority to issue bonds; (2) whether the purpose of the obligation is legal; and (3) whether the bond issuance complies with the requirements of the law.” City of Winter Springs v. State, 776 So. 2d 255, 257 (Fla. 2001).

Findings and Conclusions of Law

FIRST: The County is a political subdivision of the State of Florida, organized and existing under the laws of the State of Florida.

SECOND: The District is an independent special district organized and created by Chapter 2002-337, Laws of Florida, as subsequently amended, and operating under its District Charter.

THIRD: The County is authorized by the Constitution of the State of Florida and the laws of the State of Florida, including, but not limited to Chapters 75 and 125, Florida Statutes, to, among other things, borrow money pursuant to a loan for the purpose of (a) paying all or part of the costs of acquisition, construction, and equipping of a wastewater collection, transmission, treatment, and disposal facilities, (b) establishing a debt service reserve account, if necessary, and (c) paying costs associated with the Loan. Further, the District is authorized by Chapter 2002-337, Laws of Florida, as amended, Chapters 75 and 189, Florida Statutes, and its District Charter to (a) perform such acts as shall be necessary for the sound planning, acquisition, development, operation, and maintenance of a wastewater management system within the District, (b) make and enter into contracts and agreements necessary and incidental to the performance of the duties imposed, and (c) enter into contracts with governments of the United States or State of Florida, or any agency or instrumentality of either thereof, or with any county, municipality, district, corporation, public or private or individual providing for or relating to wastewater management system facilities. (Collectively the authority of the County and the District cited herein shall be referred to as the "Act".)

FOURTH: Pursuant to the laws of the State of Florida, both the County and the District, have the authority to incur indebtedness, issue bonds and other obligations of indebtedness, provide wastewater services, and enter into agreements with other governmental entities for the performance of their functions (see sections 125.01(1)(k)1., (p) and (r), Fla. Stat., and Chapter 2002-337, Laws of Florida, as amended).

FIFTH: The County proposes to utilize the proceeds of the Loan to construct the Project. The Project will serve the citizens of the Plaintiffs and provide centralized wastewater collection transmission and treatment services to those areas and will help protect the environment. The Project will improve water quality as required under Florida Statutes. The Project will allow the elimination of existing on-site wastewater disposal systems which have been determined by the Florida Department of Environmental Protection to be a threat to the Florida Keys' ecosystem. Further, the Project will also allow the County to comply with the legislative mandate to provide advanced waste water treatment for the properties located in the areas to be serviced by the wastewater system. The Project was previously the subject of a prior validation in the case of Monroe County v. State of Florida, Case Number 2013-CA-000521 (Circuit Court of the Sixteenth Judicial Circuit) which found that it served a public purpose. This Court also determines that the Project will serve a public purpose.

SIXTH: In 2008, the Legislature amended section 215.619, Fla. Stat., which authorized the issuance of up to \$200 million of the Mayfield Grant Funds to help defray the cost of mandated, but unfunded, sewer projects in the Florida Keys. The concept was that the Mayfield Grant Funds would be provided to the participating entities over a four-year period with a projected annual amount of approximately \$50 million.

SEVENTH: In 2012, the Legislature appropriated and the Governor approved the “Year One of Four” \$50 million allocation of the \$200 million of the anticipated Mayfield Grant Funds. Those funds were distributed to the participating entities for their use in accordance with the requirements of the grant. Under the Mayfield Grant Funds, the Legislature shall appropriate three additional allocations of \$50 million which shall be termed the “Year Two of Four”, “Year Three of Four” and “Year Four of Four” distributions.

EIGHTH: The County proposes to fund the construction and equipping of the Project in Year Two of Four by a combination of cash on hand, grants, other loans from the State Revolving Fund, and approximately \$17,000,000 of the Loan from the District’s Year Two of Four allocation of the Mayfield Grant Funds. The Loan would be for a term not to exceed ten (10) years and would not bear any interest. The Loan is not a general obligation bond or indebtedness and no referendum approval is required by the Constitution and laws of the State of Florida.

NINTH: Allowing the District to re-sequence the use of its share of the Mayfield Grant Funds allows it to extend the period for the required use of the funds and this extension permits the District to provide for the orderly construction of needed projects. Further, the assignment and loan of the Year Two of Four Distribution Proceeds to the County will allow it to generate a savings on debt service for the County anticipated to be in excess of \$5.5 million, all of which serves a public purpose.

TENTH: In addition to the Year Two of Four Distribution Proceeds, the Parties contemplate that the District’s grant distributions from the Year Three and Year Four of the Mayfield Grant Funds (“Year Three of Four Distribution Proceeds” and “Year Four of Four

Distribution Proceeds”) will be assigned to and accepted by the County, provided there are County projects still needing to be constructed. Each assignment and loan will have a ten (10) year term from the date of receipt of the Mayfield Grant Funds, will be assigned without interest, and may be prepaid in whole or in part at any time without penalty or premium. The maximum amount available for assignment to the County cumulatively, from the District’s Year Two of Four Distribution Proceeds, Year Three of Four Distribution Proceeds, and Year Four of Four Distribution Proceeds, is \$43 million.

ELEVENTH: To facilitate the construction and equipping of the Project, on May 20, 2015, the County and the District entered into an Interlocal Agreement (“Interlocal Agreement”) to re-sequence the distribution of Mayfield Grant Funding, which authorized the District to assign and loan its \$17 million distribution proceeds from the Year Two of Four Distribution Proceeds to the County in exchange for the County repaying those funds over ten (10) years using Infrastructure Sales Surtax Revenues. Similar Interlocal Agreements will be entered into to re-sequence the distribution of the Mayfield Grant Funding for the Year Three and Year Four distribution.

TWELFTH: The County is duly authorized by the Act, the Amended Agreement and the Interlocal Agreement to (a) obtain the Loan for the purposes described herein; (b) apply a portion of the proceeds of the Loan to construct, acquire and equip the Project; (c) secure and repay the Loan from the hereinafter defined Pledged Funds; and (d) pay costs associated with obtaining the Loan.

THIRTEENTH: Pursuant to the terms of the Interlocal Agreement, the Loan shall be a limited obligation of the County, the payment of which shall be from a portion of the

County's Infrastructure Sales Surtax Revenues (the "Pledged Funds"). Additionally, the County will agree to covenant and budget from lawfully available non-ad valorem revenues in the event the Pledged Funds are insufficient.

FOURTEENTH: The Loan and all other payments provided for in the Interlocal Agreement will be paid solely from the Pledged Funds, and the Loan shall constitute neither a general indebtedness of the County nor a pledge of its full faith and credit and taxing power within the meaning of any constitutional or statutory provision or limitation. No holder of the Loan shall have the right or power to require or compel the exercise of the ad valorem taxing power of the County to repay such Loan or to make any other payment provided in the Interlocal Agreement; and the Loan shall not constitute a lien upon the Project or on any other property of the County.

FIFTEENTH: The Mayfield Grant Funds are lawfully used in the construction and equipping of the Project and the District and the County are authorized to enter into an Interlocal Agreement providing for their use and distribution.

SIXTEENTH: The Plaintiffs are authorized under Chapter 75, Florida Statutes, to file this Complaint in this Court in order that the power of the County to receive the Loan from the District for the purposes stated herein may be determined and in order that said Loan may be validated and confirmed.

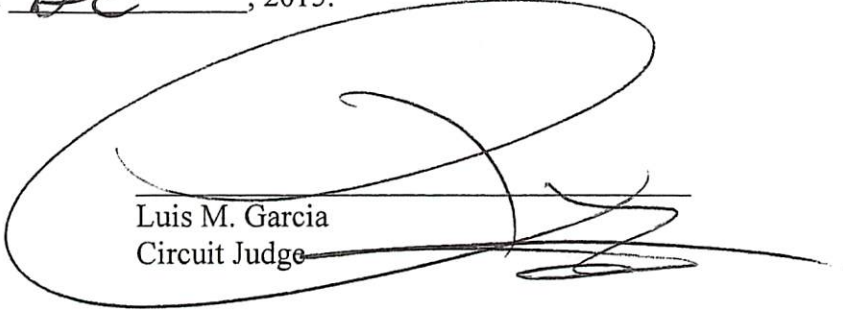
SEVENTEENTH: All the requirements of law incident to the authorization of the acquisition, construction and equipping of the Project, the use of the Pledged Funds to secure and repay the Loan and the incurrence of the Loan have been duly and legally met and complied with.

EIGHTEENTH: Due and proper notice addressed to the State of Florida, and the several property owners, taxpayers and citizens of Monroe County, Florida, and within the Key Largo Wastewater Treatment District, including nonresidents owning property or subject to taxation therein, and all others having or claiming any right, title or interest in the property to be affected by the debt obligations to be incurred by the County through the Loan hereinbefore described, was duly published in newspapers of general circulation in Monroe County, Florida, once each week for at least two consecutive weeks, with the first publication being at least twenty days prior to the date of said hearing, as required by law.

NINETEENTH: The State Attorney, for and on behalf of the State of Florida, has not shown cause as to why the prayer of the Plaintiffs should not be granted and have disclosed no irregularity or illegality in the proceedings set forth in said Complaint.

NOW, THEREFORE, IT IS ORDERED AND ADJUDGED that the County's not exceeding \$43,000,000 Loan in Aggregate Principal Amount from the District, including such additional loan proceeds which are made available, is for proper, legal and valid purposes and is fully authorized by law, and that such Loan, as well as the use of Pledged Funds to secure and repay the Loan, and all proceedings incident thereto are hereby validated and confirmed. The provisions made in the proceedings authorizing the Project and the financing thereof by the Loan and the payment of such Loan from the Pledged Funds and the pledge of and lien on the Pledged Funds are hereby validated and confirmed. All parties shall each bear their own attorney's fees and costs incurred in connection with this proceeding.

ORDERED, ADJUDGED and DECREED at the Plantation Key Courthouse in
Tavernier, Florida, this 10th day of Dec, 2015.


Luis M. Garcia
Circuit Judge

cc: Counsel of Record

STATE OF FLORIDA
COUNTY OF MONROE

This Copy is a True Copy of the
Original on File in this Office. Witness
my hand and Official Seal.

This 10th day of December

A.D. 20 15

AMY HEAVILIN
Clerk Circuit Court

Deborah
By D.C.

