SOUTH BROWARD DRAINAGE DISTRICT
BOARD OF SUPERVISORS MEETING
9:30 A.M.
AGENDA
THURSDAY, APRIL 28, 2005

01. CALL TO ORDER

02. PLEDGE OF ALLEGIANCE

03. DISCUSSION ON C-11 WEST - HENRY DEAN, EXECUTIVE DIRECTOR, SOUTH FLORIDA WATER MANAGEMENT DISTRICT

04. PUBLIC COMMENT

05. APPROVALS:

    A. MARCH 24, 2005, BOARD OF SUPERVISORS MEETING MINUTES
    B. APRIL 12, 2005, MANAGEMENT COMMITTEE MEETING MINUTES

06. BASINS S-9/S-10 PHASE II REQUEST FOR PROPOSAL RESPONSES FOR S-9/S-10 COST VS BENEFITS - DISCUSSION

07. INDEMNIFICATION AGREEMENT w/WALMART STORES, INC., EAST, AUTHORIZING LANDSCAPE ENCROACHMENT, SIDEWALK CONSTRUCTION AND PARKING LOT CONSTRUCTION INTO DRAINAGE EASEMENT AND LANDSCAPE ENCROACHMENT AND SIDEWALK CONSTRUCTION OVER LAKE-MAINTENANCE EASEMENT/RESOLUTION #2005-03

08. MAHENDRA MALAYALAM REQUEST FOR VARIANCE TO ALLOW POOL DECK AND WATERFALL DECORATIVE ENCROACHMENTS (LESS THAN 1 FOOT) INTO LAKE-MAINTENANCE EASEMENT (12812 N. W. 20 STREET, PEMBROKE PINES) - RESOLUTION #2005-04

09. LOCAL LEGISLATIVE BILL/AD VALOREM TAX - UPDATE

10. LEGAL SERVICES & GENERAL INFORMATION REVIEW - DISCUSSION

11. TAKE-HOME VEHICLE POLICY DRAFT - DISCUSSION

12. OTHER BUSINESS

13. APPROVAL OF LEGAL FEES

14. MEETING DATES:

    A. BOARD MEETING, THURSDAY, MAY 26, 2005
    B. SCHEDULE MANAGEMENT COMMITTEE MEETING

15. ADJOURNMENT

ANYONE WISHING TO APPEAL ANY DECISION MADE BY THE BOARD WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH HEARING/MEETING MAY NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSE MAY WISH TO INSURE THAT A VERBATIM RECORD IS MADE, WHICH RECORD IS TO BE USED FOR TESTIMONY AND EVIDENCE UPON WHICH AN APPEAL WOULD BE BASED.

IN ACCORDANCE W/THE AMERICANS W/DISABILITIES ACT AND FLORIDA STATUTE 286.26, PERSONS W/DISABILITIES NEEDING SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT THE DISTRICT AT (954) 680-3337 AT LEAST 48 HOURS PRIOR TO THE PROCEEDINGS FOR ASSISTANCE.

SOUTH BROWARD DRAINAGE DISTRICT
BOARD OF SUPERVISORS
THURSDAY, APRIL 28, 2005, 9:30 A.M.

Present:

Tom Gill	President/Supervisor
Vicki Minnaugh	Vice President/Supervisor
Howard J. Zimmerman	Treasurer/Supervisor
Jack McCluskey	Secretary/Supervisor
John Eastman	Supervisor
Scott Hodges	Supervisor
Neil Kalin	District Director
Leo Schwartzberg	SBDD Engineer/Asst. District Director
Douglas R. Bell	SBDD Legal Counsel
Joann Long	Recording Secretary
Shahin Hekmat	Calvin, Giordano & Associates, Inc.
Henry Dean	SFWMD Executive Director
Jose Lopez	SFWMD
Peg McPherson	SFWMD
Joseph Reynolds	Self
Janice Reynolds	Self
George Reynolds	Self
Jim Ryan	Self
Joel Goldfarb	SWR
Jim Laskey	SWR
Freddy Fisikelli	Self
Tommy Pinder	Self
Linda Burke	Self
John Pepper	SWR
Carolyn Griffith	Self
Douglas McKay	Self
Doug Peterson	SWR
Lesley Thiele	Self

Item #01	Call To Order
Item #02	Pledge Of Allegiance
Item #03	Henry Dean, SFWMD/C-11 West
Item #04	Public Comment
Item #05	Approvals (A) March 24, 2005, Board Meeting Minutes (B) April 12, 2005, Management Committee Meeting Minutes
Item #06	Basins S-9/S-10 Phase II Cost Vs Benefits RFP
Item #07	Walmart Indemnification Agreement/ Encroachments
Item #08	Malayalam Variance Request/Encroachments
Item #09	Ad Valorem Tax Bill
Item #10	Legal Services Information
Item #11	Take-Home Vehicle Policy
Item #12	SWR Town Hall & Fire Station
Item #13	SWR Road Closure/Country Estates
Item #14	District Director/Absence
Item #15	SWR Drainage Issue
Item #16	SWR Canal/Easement Releases
Item #17	Leonard Miller Resignation/Replacement
Item #18	Broward County Access Badges

Item #19	District Map/Dedicated Areas
Item #20	Farmers/Stormwater Pumps
Item #21	Legal Fees
Item #22	Meeting Dates
Item #23	Adjournment

Item #01 - The Board of Supervisors meeting was called to order by Board President Gill at 9:35 A.M.

Item #02 - The Pledge of Allegiance was recited.

Item #03 - Mr. Henry Dean, Executive Director of South Florida Water Management District, who will be retiring in the near future, advised that he has enjoyed the working relationship and partnership that has existed for some time between SFWMD and SBDD, especially with Mr. Kalin and staff and others associated with SBDD that he has met over the years. SFWMD has a number of partnerships with drainage districts, counties and municipalities; and it was Mr. Dean's opinion that the relationship with this District has been one of the most successful. SFWMD is almost approaching the possibility of a 50/50 relationship to financial contributions with SBDD which has been a wonderful partnership. All are aware of the need to address water quality and water quantity issues which are two of the most serious issues in south Florida, particularly in this area; and the SFWMD/SBDD partnership addresses both quite well. We continue to deal with stormwater improvements and flood protection; and together, SFWMD and SBDD can make this area work via a partnership that is compatible. It's a wonderful opportunity to demonstrate to the public at large how partnerships work when we work together to solve common problems.

Mr. Dean reiterated that he will be retiring soon, and a very responsible and experienced individual (Carol Wehle) will be taking his place in approximately two weeks. He provided some background on Ms. Wehle who he feels will serve this District well and responsible and who is also looking forward to working with this District. Mr. Zimmerman stated that he believes that any organization is a reflection of the person at the top of the organization, and SFWMD has made great strides under the leadership of Mr. Dean. He also felt that much of the progress SBDD has made is because of Mr. Dean's attitude, commitment and personality. It is his hope that Mr. Dean's successor will be as open minded and aggressive as Mr. Dean has been. Mr. Dean expressed his appreciation for Mr. Zimmerman's sentiment and noted that Ms. Wehle is a former county commissioner and understands local government and constituents issues. She is also very dedicated and committed to local government partnership issues.

Mr. Fisikelli expressed appreciation to Mr. Dean for the SFWMD $1,000,000, grant towards the cost of SBDD's Basins S-9/S-10 stormwater-improvement project and asked whether or not the SFWMD impoundment areas would be used for water-treatment purposes. Ms. McPherson of SFWMD responded to Mr. Fisikelli's question noting that the impoundment areas will not be stormwater-treatment areas even though they will have diverse plants within the system which are designed to help remove nutrients which will assist in the improvement of the water quality. Ms. McPherson further explained that stormwater-treatment areas are similar to farms and have a vast variety of aggressive plants therein. The impoundment area plants will be non-aggressive.

All wished Mr. Dean well on his upcoming retirement, and Mr. Dean returned the wishes to this Board who is dealing with some important problems which can be resolved. Mr. Kalin expressed his appreciation to Mr. Dean for the great partnership/relationship Mr. Dean and his staff have with SBDD staff. Mr. Dean responded that it is his firm belief that SFWMD has a great staff and will continue to work well with SBDD.

Item #04 - Public Comment: (A) Ms. Griffith of Rolling Oaks asked about the possibility of using some of the rock rubble from the stockpile at the S-8 Pump Station for her personal use. Mr. Kalin explained that a lot of this rubble will be used on the 13-A Structure. Once that has been completed, any remaining rubble can be used by anyone wishing to do so.

(B) Ms. Thiele reported an algae bloom within her area in SWR that she felt was caused by the water not being "changed out enough". She would like the District to address this matter.

Item #05 - (A) Mr. McCluskey moved for approval of the March 24, 2005, Board meeting minutes as submitted. The motion was seconded by Mr. Zimmerman and carried by a unanimous vote.

(B) The minutes of the April 12, 2005, Management Committee meeting have not been completed at this time. They will be submitted for approval at the next meeting. Mr. Zimmerman moved they be tabled until then. Mrs. Minnaugh seconded the motion which carried by a unanimous vote.

Item #06 - While eleven engineering firms picked up the RFP re: cost vs benefits for the balance of the Basins S-9/S-10 stormwater-improvement project, only three responses (Craven, Thompson, Ross Engineering and Sun Tech) were returned. All three submittals have been reviewed by Messrs. Schwartzberg, Hodges and Kalin who recommended they be authorized to do the interviews and ranking information within the next two weeks and then present their recommendation at the Management Committee meeting. Mr. Kalin explained that all three firms are well qualified. It was agreed that the three afore-named men will do the interviews and then provide a recommendation to the Board. Mr. Zimmerman requested copies of the three proposals.

Item #07 - Mr. Bell requested the Walmart Stores, Inc., indemnification agreement be tabled as additional information is needed before this can be submitted for a vote. Mrs. Minnaugh moved for approval of the "table". The motion was seconded by Mr. McCluskey and carried by a unanimous vote.

Item #08 - Ms. Malayalam is requesting a variance for a pool deck and waterfall decorative encroachment of less than one foot into the District's lake-maintenance easement on her property located at 12812 Northwest 20 Street, Pembroke Pines. Mr. Bell submitted Resolution #2005-04 pertaining to this request, and staff recommended approval. Mr. McCluskey moved for approval of Resolution #2005-04 as submitted. The motion was seconded by Mrs. Minnaugh and carried by a unanimous vote.

Item #09 - Mr. Bell reported that a meeting was to be held by the local delegation to approve the District's amended ad-valorem bill which the District had been advised was to include tangible personal property for taxation purposes. The local delegation failed to have a quorum at that meeting and was thus unable to address the District's bill. Therefore, the bill could not be presented at state level during this year's session. Senator Nan Rich and Representative Mike Davis have agreed to again sponsor the bill for approval at next year's session and will do their best to see that it is presented to the local and state delegations within a timely manner.

Mr. Bell explained that while there are 2,925 parcels of property that would be affected by approval of the District's ad-valorem tax bill, the vast majority will realize very little increase in their SBDD tax. If approved, the new taxing method will bring in very little extra income by taxing on real tangible properties which will be approximately 4% of the overall budget income which will reduce the cost to those not having such property.

Mr. Bell questioned if the Board wanted a more-detailed list of proposed taxes to all property owners within SBDD boundaries than presently available. Mr. Zimmerman noted that some time ago, such a comparison was made. It is his opinion that comparison need only to be updated by adding the information to those who would be affected by taxing on real tangible property. Others agreed. Mr. Eastman questioned if any additional work on this issue could be deferred until later in the year as it will not be submitted for approval until the next session. It was explained that even though it would not come up again for approval at state level until next year, the local delegation deadline for information submittal for its first session is October 1st (or sooner as this date can vary). Therefore, it is important to address this matter in a timely manner.

Mr. Gill questioned what value it would be to have additional information added regarding the tax roll. The response was that the delegation requires the additional information based on comments provided.

Item #10 - Per a request from the April 12th Management Committee meeting, information was obtained from three local drainage districts on legal fees. While it is apparent that a combination of billing methods for those districts is higher than those of SBDD, it was also agreed the overall information does not compare "apples with apples" as each district is different. In

reference to Mr. Bell's tenure with SBDD, Old Plantation Water Control District has had the same attorney for over thirty years.

Further discussion ensued on legal fees and services of other districts after which Mr. Eastman remained firm on his position that it would not hurt to shop around as there could be someone who could provide the same services as Mr. Bell at a lesser cost. Also, the possibility exists that some of the District's legal work could be put out for bid.

Mr. Kalin explained that current staff has undertaken a considerable amount of the mundane work, including engineering work, previously done by Mr. Bell and his staff. Actually, the savings in legal fees supports Mr. Schwartzberg's position which provides the benefit of having an in-house engineer. There are those who feel that the District has to have a qualified/capable attorney to handle all legal requirements and that Mr. Bell has fulfilled that responsibility very well. Mrs. Minnaugh felt that the District would be unable to find an attorney with Mr. Bell's engineering background as well as his legal expertise, muchless for what Mr. Bell charges. She does not at this time see the logic of "shopping" for this position.

Mr. Gill questioned what type of legal services are provided by the in-house attorney(s) for the Lake Worth Drainage District. Mr. Kalin was unable to provide that information at this time but will get it if the Board wishes to have that information.

Mr. Gill understood Mr. Eastman's position regarding the possibility of there being someone who could provide legal services at a lesser cost. He questioned if staff had ever checked into having an in-house attorney. It was explained that such a possibility was investigated some years back, and it was determined that would not be feasible and/or cost effective. Mr. Kalin explained that SBDD regular legal fees have been reduced considerably over the last few years and should continue to do so to some degree. The only way any legal fees can be lowered is when the work load is reduced.

Mr. Zimmerman felt that anyone needing legal services usually looks at getting the best qualified person to meet that need. He provided information on the District's previous attorney. Mr. Zimmerman added that most attorneys who provide services to governmental agencies seem to become political. It is Mr. Zimmerman's firm belief that Mr. Bell has always served this District as best as possible and that just because someone doesn't like Mr. Bell's opinion(s) is no reason to try to replace him. Mr. Zimmerman felt it is a waste of time to continue with this effort.

Mr. Eastman agreed that Mr. Bell is competitive for rudimentary issue fees. It is the "out-of-the-ordinary" things about which he is concerned. Mr. Eastman felt the District is getting gouged on such work and that Mr. Bell is supplementing his income with these special items on which the District keeps losing. Mr. Zimmerman agreed costs for special work could be high. If so, staff could work with Mr. Bell to obtain a "not-to-exceed" cost for those certain items. Mr. Zimmerman felt the District could redefine the scope of services for legal matters. If Mr. Bell's costs were too high, staff could attempt to secure the services of outside special counsel for certain legal work. All agreed that would be acceptable. Mr. McCluskey added that if the District tries to limit "special" costs, that problem could be reduced.

Item #11 - Mr. Zimmerman asked that the take-home vehicle policy issue be tabled until the next management committee meeting. Mr. McCluskey put that in the form of a motion that was seconded by Mrs. Minnaugh.

Mr. Kalin suggested a committee be formed to review the entire employee policy manual so that everything can be reviewed/addressed in order that the entire document be updated where needed. Upon completion of the overall review, the committee would provide a draft document to the Board for discussion and approval. Mr. Kalin felt that perhaps Messrs. Schwartzberg and he could be on this committee, and he invited Mr. Eastman to work with them on this important issue. Mr. McCluskey asked to also be included. After brief discussion, Mr. Gill and Mrs. Minnaugh rescinded their original motion and second. Mrs. Minnaugh then moved that Mr. Kalin's recommendation to have a special committee (consisting of himself, Mr. Schwartzberg, Mr. Eastman and Mr. McCluskey) to review the entire employee manual for needed updating be approved. That committee would then bring back a completed draft document for submittal to the Board for review and final action. The motion was seconded by Mr. Zimmerman and carried by a unanimous vote.

Item #12 - At the request of Mrs. Minnaugh, Mr. Kalin has asked Mr. Canada for a detailed update on the Town's progress with its Town Hall for presentation to the Board at the May 26th Board meeting. Mrs. Minnaugh also asked how the Town is progressing on its plan for the 172nd Avenue fire-station property. Mr. Kalin will look into this and respond back to Mrs. Minnaugh.

Item #13 - Mr. Eastman reported that the Town had its first reading for certain road closures within the Country Estates community. There is a possibility that the District may not have to replace culverts in that area which would result in a cost savings. Mr. Kalin noted staff would keep a close watch on this.

Item #14 - For information purposes, Mr. Kalin noted that he will be away from the area tomorrow on FASD business.

Item #15 - In reference to a drainage issue within SWR that Mr. Fisikelli has spoken about on a number of occasions, Mr. Schwartzberg stated that while he has spoken with the Town's engineer on this issue, he has not as yet seen a final plan of resolution. Mr. Fisikelli added that the Town seems to be looking at resolving the problem with a ditch rather than a canal. Mr. Schwartzberg interjected that he had heard this also but cannot provide any additional information as he does not at this time know what is happening.

Item #16 - Mr. Kalin explained that in October 2004, the District entered into an agreement with SWR regarding Lateral Canal No. 3 in Rolling Oaks; and the District agreed to vacate easements on eight adjacent properties within a specified time frame as they were no longer needed. These properties have been or are being addressed at this time. In addition, Mr. Bell is requesting release of a portion of easements on the Valdez property and the Eisenberg-Carroll property. Mrs. Minnaugh moved for approval of Mr. Bell's request on the two afore-mentioned properties. The motion was seconded by Mr. McCluskey and carried by a unanimous vote.

Item #17 - In reference to the minutes of the March 24, 2005, Board meeting and as a point of clarification, Mr. Bell called attention to Item #16 (Attorney General Opinion Letter) where it says that if there is to be an election held at a meeting, that meeting is to be advertised as such. Mr. Bell briefly explained that at the meeting in question, there was no election -- it was an appointment of Mr. Zimmerman to replace Mr. Miller who resigned. Therefore, that comment did not apply to the referenced matter. Also, regarding the State Statute (#244) cited by Mr. Eastman referencing this issue, Mr. Bell has been unable to locate any such statute.

While this information was discussed at the March 24th meeting, Mr. Bell requested an editor's note on that information, which was incorrect, be included herein. Mr. McCluskey moved that be done. Mrs. Minnaugh seconded the motion which carried by a unanimous vote.

Item #18 - Mr. Bell advised that Broward County has identification badges for elected officials that eliminate those persons from having to stand in line to access government facilities. Any Board member interested can check in Room 408 at the Governmental Center in downtown Fort Lauderdale.

Item #19 - In reference to previous comments by Mr. Bell on easements, Mr. Zimmerman explained that some years ago, the Board had approved putting together a map denoting all SBDD dedications, rights-of-way, etc., on property within SBDD Boundaries. He questioned where this project stood. Mr. Schwartzberg responded this information is now available on the GIS system, and Mr. Zimmerman requested a copy of same. Mr. Schwartzberg noted that this will be provided by sections.

Item #20 - Mr. Zimmerman questioned the purpose of including old minutes on the S-7 Pump Station in the Board packages. Mr. Eastman explained that he had reviewed information on this issue to see what happened regarding Farmers and the stored pumps and found the District did realize a considerable financial loss on the pumps. Staff responded that there was a settlement between the District and Farmers which was fulfilled in total even though it did involve legal fees on the part of the District. Re: a purported motion to discontinue doing business with that company as a result of that issue, minutes were reviewed; and there was no such motion. In addition, one Board cannot bind any ensuing Board by such action.

Item #21 - Mr. McCluskey moved for approval of the legal bills as submitted. The motion

was seconded by Mr. Hodges. Mr. Eastman, in reference to item #9 on the regular legal-fee invoice, asked Mr. Bell who had sent him to the State Attorney's office to interfere with an employee subpoena. Mr. Bell responded he felt it was not appropriate to respond until the ongoing investigation is resolved. Mr. Eastman again asked Mr. Bell who had sent him to the State Attorney's office, and Mr. Bell's response was the same. Mr. Eastman noted that Mr. Bell works for the Board, and the Board has the right to know about activities for which charges are being billed to the District. Mr. Bell responded that his invoice item specifies that activity. Mr. Eastman explained that a District employee was subpoenaed to appear before the State Attorney in Fort Lauderdale; and about an hour before that scheduled appearance, Mr. Bell showed up at that office and advised the SBDD employee would not be available. Mr. Bell responded very adamantly that Mr. Eastman's statement was an absolute lie and that if Mr. Eastman wanted to slander him, he would be glad to take him to court. Mr. Eastman explained that he wasn't trying to slander Mr. Bell and that he was just questioning the charge. Mr. Bell again advised that when the investigation is completed, he will provide all required information/answers on any charges made by him for legal services.

Mr. Eastman felt the Board should be advised when there is any more time expended and/or expenses incurred on behalf of the ongoing investigation. It was noted the charge included on the legal bill under discussion was a special situation. Mr. Eastman noted that after the February Board meeting, it was his understanding that Mr. Bell could not represent any SBDD employee in connection with the State investigation. Mr. Bell responded that Mr. Eastman was not an attorney and his understanding was a matter of personal opinion. Mr. Eastman interjected he was just going on what he had been told by other attorneys.

With reference to any further interviews with District employees, Mr. Zimmerman agreed that Mr. Bell should not be involved (unless required by the Board or the State) even though the staff members have to be there and under the command of the subpoena(s).

The vote on the motion and second to pay the legal bills as submitted by Mr. Bell carried by a unanimous vote.

Item #22 - The May Board of Supervisors meeting will be held on Thursday, May 26th, at 9:30 A.M.

The next Management Committee meeting will be held on Monday, May 16th, at 4:00 P.M.

Item #23 - There being no further business to come before those present at this time, the meeting was adjourned at 10:45 A.M.

Respectfully submitted,

Jack McCluskey, Secretary
Board of Supervisors

/jl