SOUTH BROWARD DRAINAGE DISTRICT
BOARD OF COMMISSIONERS MEETING
AGENDA
THURSDAY, NOVEMBER 20, 2008

NOTE: BOARD MEMBERS, PLEASE TURN YOUR MICROPHONES ON

01. CALL TO ORDER/PLEDGE OF ALLEGIANCE

02. SWEARING IN OF COMMISSIONERS

03. ELECTION OF CHAIRPERSON, VICE-CHAIRPERSON, TREASURER AND SECRETARY

04. PUBLIC COMMENT

05. APPROVAL OF OCTOBER 30TH BOARD OF COMMISSIONERS MEETING MINUTES

06. DIRECTOR'S REPORT:

    A. BASINS S-9/S-10 FUNDING DISCUSSION AND POSSIBLE ACTION
    B. SUNSHINE LAW CONCERN
    C. $10K CULVERT IMPACT FEE/CRITERIA MANUAL FEE UPDATE
    D. TREE BID AWARD RECOMMENDATION
    E. OTHER

07. ATTORNEY'S REPORT:

    A. GRAND PALMS LAWSUIT UPDATE
    B. OTHER

08. APPROVAL OF LEGAL BILLS

09. BOARD MEMBERS QUESTIONS/COMMENTS

10. OTHER

11. MEETINGS:

    A. BOARD MEETING THURSDAY, DECEMBER 18, 2008
    B. MANAGEMENT COMMITTEE - SET DATE IF NEEDED

12. 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
GOVERNING BOARD MEETING MINUTES
NOVEMBER 20, 2008

Present:

Scott Hodges, Chairperson
Thomas Good, Vice Chairperson
James Ryan, Treasurer
Robert E. Goggin IV, Secretary
Vicki Minnaugh, Commissioner
Mercedes Santana-Woodall, Commissioner
Alanna Mersinger, Commissioner

Leo M. Schwartzberg, District Director
Douglas R. Bell, Legal Counsel
Joann Long, Recording Secretary
Lisa Alvarez, Paralegal
John Eastman, Outgoing Commissioner
Invited Guests & General Public: See Attached Sheet

---

01. **CALL TO ORDER/ROLL CALL/PLEDGE OF ALLEGIANCE**

Meeting called to order at 9:40 A.M. followed by roll call and the Pledge of Allegiance.

02. **OATH OF OFFICE FOR "NEW" & "UNOPPOSED" COMMISSIONERS**

The District's legal counsel, Mr. Douglas Bell, administered the oath of office to newly-elected Commissioner (and former Commissioner) Vicki Minnaugh and unopposed Commissioners Scott Hodges and Thomas Good. Congratulations followed.

03. **ELECTION OF OFFICERS**

As It has been the policy in the past for "election" years to have an Officers election, it was agreed to continue that policy. Accordingly, the following persons were elected to serve in Officer positions: Chairperson Scott Hodges, Vice Chairperson Thomas Good, Treasurer James Ryan, Secretary Robert E. Goggin IV. It was felt that each of these individuals are well qualified for their positions.

04. **PUBLIC COMMENT**

A. **Southwest Ranches C-11 Riding Trail** - On behalf of Southwest Ranches, Ms. December Laurentano-Haines invited everyone to attend Saturday's grand opening of the C-11 trail. There will be a brief on-site ceremony at 9:00 A.M.

B. **SWR Councilman Fred Fisikelli** - Former and re-elected SWR Councilman Fred Fisikelli noted that he plans to be very involved with drainage for SWR. He added that he will be accessible to anyone at any time.

05. **APPROVAL OF MINUTES**

Commissioner Goggin moved for approval of the minutes of the October 30th Board meeting with the following two corrections: (a) Correction on page 1, paragraph 5, line 6, to **delete the word "not"** in the sentence reading Commissioner Eastman does not feel ..... ". That sentence should now read, "Commissioner Eastman does feel the existing weirs should remain in place to be opened as needed". (b) Delete Commissioner Hodges from the "Present" category, as he was not at that meeting. Motion seconded by Commissioner Mersinger; carried unanimously.

06. **LEGAL-COUNSEL REPORT**

A. **Grand Palms Lawsuit** - Mr. Bell is in the process of preparing a response to the amended complaint, as the motion to dismiss was not approved. The District is seeking reimbursement for legal fees expended on this behalf.

B. **Academic Village & Stoneridge Estates** - There is a canal between Academic Village and Stoneridge Estates that runs north and south, with there being a SBDD right-of-way

in fee simple on the west side. The existing agreement provides liability for the District but does not provide liability for the City of Pembroke Pines and its Police Department personnel where they to enter onto the property to deal with trespassers. Thus, the police will not enter onto the right-of-way to cite persons who trespass onto the right-of-way; and the adjacent property owners on the east side of the canal are unhappy with that situation. They have requested the District enter into a new agreement whereby the police would be allowed on the right-of-way but be exempt from any liability whatsoever. This would add additional liability for the District as it would then be responsible for anything that were to happen as a result of police involvement. Commissioner Good felt that the police have the right to enter onto any property within their jurisdiction to make an arrest if someone is in violation of a law.

Mr. Schwartzberg felt that if the District can help its neighbors without putting the District at any risk, it should do so.

Commissioner Goggin asked that this be tabled until a determination can be made on whether or not the District can do anything to assist in this situation while still fully protecting the rest of the District from any added liability.

Commissioner Good questioned the fact that the City has requested full exemption from any liability whatsoever while expecting the District to undertake additional liability. He suggested that the City be notified in writing that the District is desirous of certain language being removed regarding the District in the proposed agreement. Commissioner Minnaugh felt that involving the City and others would just result in this being an ongoing issue for a long time.

Commissioner Hodges suggested that Mr. Bell move forward with attempting to work this out with no added risk to SBDD. Others agreed. Commissioner Good still felt that something in writing should be provided to the City as a courtesy.

07. **DISTRICT DIRECTOR'S REPORT**

A. **Sunshine Law** - Mr. Schwartzberg discussed an e-mail he received from Mr. Eastman regarding a conversation Mr. Eastman observed after the last meeting in the Board room between Mr. Bell and some of the Commissioners which Mr. Eastman felt was in serious violation of the Sunshine Law. Mr. Bell responded that he was explaining to Commissioner Santana-Woodall how the drainage worked in a particular development. After further discussion, while Mr. Eastman was satisfied with the explanation, he still felt everyone must be very watchful about anything that could be misconstrued as a Sunshine Law violation as there could be serious consequences for such a violation. (Mr. Bell was excused from the meeting at this time due to another obligation; Ms. Lisa Alvarez, his paralegal, took his place at the dais.)

B. **Army Corps of Engineers SFWMD C-11 & C-9 Impound Update** - A power-point presentation was made by Army Corps of Engineers Personnel Alan Bruns/Project Manager, and Gerald DeLoach/Engineering Technical Lead., for SFWMD's C-11 and C-9 Broward County Water Preserve Area project. This included information on scheduling, the planning phase, vicinity maps and the design phase.

The C-9 impoundment area will be approximately 50% larger than the C-11 area. These water-storage areas will be above ground surrounded by berms. There is a group working together to come up with a way to protect the banks, which are much less costly than levees, from erosion. While other options are being investigated for these impoundment areas, blasting is still an option. With the ground material being what it is, there may be no alternative to blasting. The impoundment project will divert pollutants from entering into the Everglades, and the banks will be maintained by SFWMD. Mr. Needle advised that the main purpose of the project is to decrease pumping at the SFWMD S-9 pump station. This will divert storm water to above-ground storage. As needed, SFWMD's S-9 pump station would be placed in operation to do whatever is necessary to relieve any overage. The impoundment areas will also replenish ground water.

In response to a question from Commissioner Good, Mr. Schwartzberg replied that the demand now on the C-9 is much better than it was in the past. He does not feel that the development in western Miramar has created any problems. Mr. Needle added that he started with this project in 1995. It is his belief that the control today is better than it ever was in the past. Commissioner Good noted that the C-9 will receive additional storm water from CBWCD and Weston. He questioned if a true water recharge can be built into the project. Mr. Needle explained how they will be handling that issue.

Commissioner Good highlighted the manner in which FEMA is handling flood protection in that it is providing property owners the opportunity to sign documents which exempt them from having to obtain flood insurance if their properties do not exceed a certain elevation. Mr. Schwartzberg noted that the flood maps are in the process of being revised. As they are completed, this information will be taken into account regarding the need for flood insurance.

Commissioner Good questioned will there be any risks as a result of the impoundment areas? Mr. Schwartzberg replied that with proper berms, there should be no risks. Mr. Bruns, Project Manager/Army Corps of Engineers, interjected that risks are being rediscussed regarding waters that would normally go over the banks.

Commissioner Good asked who are the stake holders for the project? The response was that the stake holders are SFWMD, the Army Corps of Engineers and also South Broward Drainage and all property owners within the area. Commissioner Good questioned if the stake holders will have the opportunity for input. Mr. Needle explained that approximately one year ago, SFWMD staff attended 44 Homeowner Association meetings for that purpose. As the design goes forward, governmental entities will be provided with information for their review and input.

Commissioner Good raised the question of the sugar deal. Mr. Bruns noted that he was unable to provide any information on that as it is a federal-government project. The money for the C-11/C-9 impoundment project hopefully will come from the Congress by incremental funding. All needed land for the C-11 project have already been purchased.

Mr. Schwartzberg explained that there would be another benefit to SBDD as a result of the project, that being the seepage canal as seepage that comes into Chapel Trails and Southwest Ranches would be reduced. Actual elevations of surface water in these areas would be lowered according to the models.

Mr. Eastman, representing Country Ranches Homeowners Association, noted that when construction was done on Griffin Road, several properties received damage from blasting. As a result, the Country Ranches HOA is very concerned about blasting and the pumps. He is hopeful the involved parties will address this when making the decision of how the impoundment area will be constructed.

Mr. Busch stated that he understands that the proposed embankment areas are for temporary water storage after heavy rains and will reduce SFWMD pumping. He would like to know exactly what the benefits will be as well as the number of days the waters will be held, how many cubic inches can be held and how many will be released, etc.

Mr. Fisikelli explained that the Everglades has always been one of his main concerns and that environmentalists are concerned about insufficient water making its way to the Everglades. It is his belief that this project is not being done to protect the Everglades but rather to keep water from going into that area.

C. **Basins S-9/S-10 Project Funding** - Three options were provided for funding the third and final portion of this storm-water improvement project (#1 - End the assessment now and pay for the remainder of the project, $1,346,500, with revenue from the $7-per unit Emergency Fund monies for two years. #2 - Continue the assessment for the remaining two years as originally proposed. Pay for the remainder of the project, $709,399, with revenue from the Emergency Fund for the coming year. $3 - Extend the assessment for two more years. One year will be at the current rate. The second year, the District will

only collect enough to cover the cost of the remainder of the project.). Commissioners Ryan and Mersinger favored Option #1.

Commissioner Good voiced his concern about moving forward with the final phase of the project at this time due to the current economy. He felt the District must first look at its needs/obligations as well as the property owners before making any decision and that this is not the right time to move forward with the project knowing the instabilities of all areas within these two basins as well as the overall District boundaries.

Commissioner Ryan felt the project should move forward because of all areas within the District which must be protected. He moved for approval of Option #1; motion seconded by Commissioner Mersinger. Commissioner Hodges recalled that the Emergency Fund was established to take care of emergencies at such time the District would be unable to immediately obtain needed monies which would be procured from a lender and require repayment. Commissioner Ryan responded that the Emergency Fund will remain at the $2,600,000 amount for the next two years as the $7 amount will continue to be charged each year. Commissioner Santana-Woodall has always felt the S-9/S-10 special assessment should be removed and the loan balance repaid out of the $7 collected from all properties within the District.

Commissioner Good remained adamant in his belief that the final phase of the project should be delayed until additional information is available. He did agree that it is permissable to remove the S-9/S-10 special assessment but continued to firmly believe it to be unwise to use emergency funds towards the S-9/S-10 project which would then result in another special assessment to pay back the amount originally diverted.

Commissioner Good also felt that deferring the final phase could prove to be beneficial to the District, as it could aid in obtaining additional grant monies. He continued to be very concerned about going forward, again due to the economics which exist today, as the foreclosure situation could have an adverse affect on the District's incoming funds.

Commissioner Minnaugh was pleased to hear suggestions of how this District can assist some of its property owners. She felt that SFWMD had provided a considerable amount of funding for this project based on the expectation that all three phases would be completed. It was also Commissioner Minnaugh's belief that delaying the final phase will only result in increased costs for same. She favored Option #1 with the clarification that the $7 annual charge is already in place and will remain so.

Commissioner Good reminded all that when the Board was discussing this item for the 2008-09 operating budget, there was concern about the $7 charge and discussion of possibly sunsetting that amount. In reference to a time line, he doesn't feel there is any necessity to rush into a decision as waiting for additional information will not affect anything. He stressed his belief that the Board should not be approving any large amount of money until it is better aware of what will be happening with the property owners within SBDD boundaries due to the current economics. Commissioner Minnaugh felt that since there would be no additional impact to the taxpayers, the District should move forward as quickly as possible.

Mr. Eastman recalled that about five years ago, the District divided the project into two phases. The SFWMD $1,000,000, grant was provided to complete phase 1 which has long been completed. Mr. Schwartzberg responded the $1,000,000, was not tied into any specific phase.

Mr. Eastman felt that the S-9/S-10 project is benefitting those areas and that it is unfair to use monies collected from other basins that receive no benefit. He felt it would be wrong to set a new precedent by changing how benefits to a specific area(s) are recovered and that the Basins S-9/S-10 property owners should be the ones responsible for the balance of the loan for that project. Mr. Eastman also felt it is good to have an emergency fund in the event of a shortfall in income.

Regarding a previous comment to the effect that the S-9/S-10 loan is open ended and that additional funds could be borrowed from that source, Mr. Schwartzberg noted that is not

correct. The District had a specified time to take additional funds from that source, and that time frame passed a long time ago.

Mr. Bert Raines, the new Southwest Ranches Town Administrator, extended an invitation to the Board members to attend the Town's meeting tonight. He noted that he can see new developments paying their share for improvements to the basin in which those properties lie. In this case, most of the Town's property owners have been here a long time and have non-development single-family homes. Mr. Raines also advised that the engineer for the Town has not completed any study on the Basins 9/10 project. That engineer and SWR Councilman and Drainage Committee Chairman Steve Breitkruez will work together on this matter. Mr. Raines added that the Town needs drainage relief as soon as possible.

Mr. Busch blamed the District for the Town's recent drainage problems and felt that there should be no assessment to the Basins S-9/S-10 property owners to cover the costs of that storm-water improvement project. He agreed with Commissioner Good that more study is needed before moving forward with the third phase of that improvement project.

Mr. Fisikelli explained that the SFWMD Structure 381 was put in to stop seepage. It was a CERP project and paid with CERP funds. He agreed with not moving forward with the final phase (#3) until the problems with phases 1 and 2 have been resolved in full.

After further discussion, it was agreed that the motion be amended to include that the vote will be only on the methodology of the funds recovery and the removal of the remaining two years of the Basins S-9/S-10 special assessment. It was also agreed that moving forward with phase 3 will also be subject to Board approval of the contractors. Commissioner Good preferred having the contractors come before the Board at which time the commitment to move forward with the project or not move forward could be made, with the money issues to be determined later.

After additional discussion, the original motion and second were withdrawn; and Commissioner Ryan moved to waive the final two special S-9/S-10 special assessment installments and pay for the remainder of the project with revenue from the $7-per unit emergency fund for two years. It was understood that no dollar amount is included and that contract approvals will be by vote of the Board. Motion seconded by Commissioner Minnaugh and carried by unanimous vote.

Commissioner Good continued to feel that the economic situation must be considered and asked if there will be any consideration for trying to use local bidders. It was agreed that will be taken into consideration.

D. **Criteria Manual Section 2.16: Crossing Primary Canals** - Mr. Schwartzberg noted that he had found no evidence that the $10,000 primary canal crossing impact fee was based on cost analysis; it was just an arbitrary fee imposed to discourage this type of crossing. Commissioner Minnaugh moved to leave this section unchanged. Motion seconded by Commissioner Ryan.

Commissioner Good stated that per Mr. Schwartzberg, there is no way to know for certain what it might cost if the District ever had to do anything to these types of improvements. He questioned if perhaps it would be better to charge a percentage of the overall project cost for such crossings. A vote on the original motion showed it defeated by a vote of 3 for, 4 opposed. After further discussion, the suggestion was that the fee be determined by the Board based on the impacts of the crossing. This was put into the form of a motion by Commissioner Minnaugh, seconded by Commissioner Goggin and carried by unanimous vote.

E. **Tree Removal Bid Award** - Seven bids were received in response to the S-1 tree-removal bid request ranging from $14,500, to $38,200, from six bidders and $249,000, from a seventh bidder. Mr. Schwartzberg recommended approval of the low bid, noting this company is a qualified bidder. Commissioner Minnaugh moved for approval of Mr. Schwartzberg's request; motion seconded by Commissioner Santana-Woodall and carried unanimously.

08. **APPROVAL OF LEGAL FEES**

Commissioner Goggin moved for approval of the legal bills as submitted, seconded by Commissioner Mersinger and carried by unanimous vote.

09. **OUTGOING COMMISSIONER JOHN EASTMAN/INCOMING COMMISSIONER VICKI MINNAUGH/FORMER CHAIRPERSON (NOW TREASURER) JIM RYAN**

Commissioner Hodges expressed his appreciation for the time and effort expended by Mr. Eastman during his tenure on the Board. While there were disagreements on certain issues, Mr. Eastman was always very passionate on behalf of those property owners in his zone.

Commissioner Hodges next welcomed Commissioner Minnaugh back on the Board noting she had always done an excellent job in the past and undoubtedly will do so again.

Lastly, but not least, Commissioner Hodges expressed his thanks to Commissioner Ryan for his leadership as former Chairperson. There is no doubt but that he will do his usual great job in his new position as Treasurer.

09. **MEETING DATE**

Board of Commissioners Meeting - Thursday, December 18th, 9:30 A.M. At this time, it was felt there is no need for a Management Committee meeting this month. If that were to change, all would be notified.

Adjournment at 12:45 P.M.

Respectfully submitted,

Robert E. Goggin IV, Secretary
South Broward Drainage District

/J1