SOUTH BROWARD DRAINAGE DISTRICT
BOARD OF COMMISSIONERS MEETING

AGENDA

THURSDAY, DECEMBER 15, 2011 AT 8:00 A.M.

NOTE: BOARD MEMBERS, PLEASE TURN YOUR MICROPHONES ON

01. CALL TO ORDER/PLEDGE OF ALLEGIANCE

02. PUBLIC COMMENT

03. APPROVAL OF NOVEMBER 17, 2011 SOUTH BROWARD DRAINAGE DISTRICT (SBDD) BOARD OF COMMISSIONERS MEETING MINUTES

04. DIRECTOR'S REPORT

    A. DRAFT AGREEMENT WITH AD PEMBROKE LAND COMPANY, LLC (AKA: DUKE REALTY CORPORATION) FOR SBDD S-3 DRAINAGE BASIN IMPROVEMENTS
    B. UPDATE TO SBDD EMPLOYEE POLICY HANDBOOK
    C. RE-INVESTMENT OF DISTRICT FUNDS
    D. UPDATE ON EPA NUMERIC NUTRIENT CRITERIA
    E. UPDATE ON SPECIAL DISTRICT LEGISLATION
    F. OTHER

05. ATTORNEY'S REPORT:

    A. UPDATE ON GRAND PALMS LAWSUIT
    B. UPDATE ON REVISION TO DISTRICT ZONE BOUNDARIES BASED ON 2010 CENSUS

07. APPROVAL OF LEGAL BILLS

08. BOARD MEMBERS QUESTIONS/COMMENTS

09. OTHER

10. MEETINGS:

    A. NEXT REGULAR BOARD MEETING WILL BE HELD ON **THURSDAY, JANUARY 26TH AT 8:00 A.M.**

11. ADJOURNMENT

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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
DECEMBER 15, 2011

Present:

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

Kevin M. Hart, District Director
Douglas R. Bell, Legal Counsel
Reina Muniz, Recording Secretary
General Public: See Attached List

Absent:

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01. CALL TO ORDER/PLEDGE OF ALLEGIANCE

Meeting called to order at 8:07 A.M., followed by the Pledge of Allegiance.

02. PUBLIC COMMENT

None.

03. APPROVAL OF MINUTES

Commissioner Minnaugh moved for approval of the minutes of the November 17, 2011, South Broward Drainage District Board meeting. Motion was seconded by Commissioner Goggin and was carried unanimously.

04. DISTRICT DIRECTOR'S REPORT

A. DRAFT AGREEMENT WITH AD PEMBROKE LAND COMPANY, LLC (AKA: DUKE REALTY CORPORATION) FOR SBDD S-3 DRAINAGE BASIN IMPROVEMENTS

District Director Hart made a presentation to the Board on a proposed draft Agreement with AD Pembroke Land Company, LLC (a/k/a Duke Realty Corp.) for improvements to the SBDD S-3 Drainage Basin in lieu of providing the required 20% stormwater management area (SWMA) on their property.

District Director Hart explained the concept and framework of the draft Agreement. He said that if approved by the Board, Attorney Bell will move forward with Duke Realty Corp. to prepare the final Agreement.

He said that the Agreement is for a piece of property known as the "Nursery Site", located south

of Pines Boulevard and west of S.W. 145th Avenue, which is in the Pembroke Gardens development area; and that when the Pembroke Gardens property was originally developed, the Nursery Site property was excluded from their water management permit, and was not part of the water management system that was constructed within that area.

The concept is to incorporate this particular site into the overall water management system for Pembroke Gardens and not require the property to provide a minimum of 20% SWMA which is required under the Facilities Report; instead the developer would contribute to future improvements within the SBDD S-3 Basin. He said that the engineers have run calculations, which they will provide to the District, which demonstrate that there is adequate storage within the S-3 Basin and that there will be no adverse impacts by not providing the 20% SWMA. Furthermore, the improvement that would be part of the Agreement would have a benefit to the S-3 Basin.

District Director Hart said that the proposed S-3 Basin improvement is included in the Facilities Report, and is the placement of a second inter-connect from the south end of the Pembroke Garden's system, across S.W. 145th Avenue and then south into the Monarch Lakes Outfall Canal. He said that in reviewing the calculations, he felt that this would make a significant improvement to the S-3 basin by lowering stages in the NE quadrant of the basin (Century Village area) and reducing the duration of peak stages within the same quadrant.

The Draft Agreement stipulates that Duke Realty Corp. will pay the District a total of $150,650.00 toward the above mentioned drainage improvement, plus update the ICPR stormwater model for the District's S-3 Drainage Basin. This will allow the District to install a 60" RCP from the NE corner of the Pembroke Road and SW 145th Avenue intersection to the SW corner of the same intersection. The extension of the 60" RCP south to the Monarch Lakes outfall canal would be installed in the future by the developer(s) of the vacant parcel located west of SW 145th Avenue and south of Pembroke Road. District Director Hart said that the District previously received a payment of $86,000 toward the construction of these improvements.

In discussion by the Board, there were concerns on how this would impact the Pembroke Gardens development and the Monarch Lakes area. District Director Hart mentioned that he was not aware of problems with flooding in the Pembroke Gardens area and that he will look into that. He commented that the proposed project should not adversely affect either of these areas. He opined that the second connection should improve matters.

Commissioner Mersinger asked what the chances were that this would not create a worse situation? She said that she would hate to see a domino effect. Chair Hodges said that as it is now, they take advantage of the undeveloped outparcels that fill up with water. He asked what will those stages become in the future; and will that adversely impact the Nursery Site?

District Director Hart opined that the second connection will benefit the basin more than if the Nursery Site provides a 20% SWMA, and the second connection is not made. Chair Hodges stated that the developer will still need to get a SFWMD permit and will have to meet all their criteria. District Director Hart agreed with Chair Hodges and added that the permit the developer will get from SFWMD will include the S-3 Basin improvement. He said that they have met with SFWMD to discuss the concept, and that SFWMD is in agreement, but that SFWMD indicated that the engineer will have to demonstrate the improvement in order to waive the 20% SWMA.

Commissioner Goggin commented that he has witnessed flooding in that area where there is some standing water and cars running through, and it's a concern. Commissioner Minnaugh

agreed and said that she would not like to get involved with this until that situation has been resolved; that it may just be something as simple as cleaning the street drains and outfalls.

Commissioner Minnaugh wanted to know if there are any other sites that Duke Realty is potentially looking at that were not included in the permit and that might come back to the Board in the future with this same type of proposal.

Mr. Bob Close from Duke Realty Corp. said that they own all of the land west of S.W. 145th Avenue between Pembroke Road and Pines Boulevard; approximately 100 acres. He said that everything else, with exception of AT&T and Keiser University, is theirs; and that there will not be another agreement like this at all. He said that the Nursery Site was always under separate ownership; and that is why it was never part of the master drainage permit, and that it is the only site that was not tied into the original Drainage Agreement. That is the reason why they are looking into this possible Agreement with the District now.

Commissioner Minnaugh commented that it's a great deal to trade off 20% of storage for $150,000. She said her biggest concern is if the calculations are not accurate, because there are definitely drainage problems in Pembroke Gardens. She said that she would like that corrected or some proof that it's been corrected, before the District gets involved with anything else. Her other concern is that she knows that the Federal Government is looking at the south parcel (south of Pembroke Road); and even though they were told that they will have to install the inter-connect, she has concerns that they might come back and say that they don't want to pay for it and the ramifications are that the District gets stuck with it.

District Director Hart replied that he does not believe that will be the case because they are aware that in order to get a permit from the District, their drainage plan has to include that outfall. Even if they were to say that they are now exempt, SBDD will not give them a permit. He further believes that when this gets incorporated in the SFWMD permit, that SFWMD will also require that the improvements be placed in the plans.

Commissioner Minnaugh asked if it would be a better improvement for the Basin, if the connection was made directly to the canal right now, rather than in the future? District Director Hart said that the sooner it's connected, the sooner the benefits will be achieved. The initial improvements will not have a benefit until the future improvements are done. The benefit is achieved when the whole system is in place. Commissioner Minnaugh asked what the cost would be to continue that inter-connect all the way down to the canal, instead of dead-ending it. Mr. Close replied that he believes the total footage is about 1,700 feet. District Director Hart said the estimated cost to extend further south would be between $240,000 to $300,000 dollars.

Chair Hodges asked if this amount includes the Pembroke Road over-path going through. District Director Hart said yes, that he has seen the plans and that it includes the cross culvert under the road. He commented that the latest status for Pembroke Road is that the project is scheduled to go out to bid early next year and the start of construction will be some time next year.

Commissioner Goggin commented that the finished part of the inter-connect could take a year, five years, or whenever it is decided that it will be built in the future. Chair Hodges said that if this improvement to the basin is being proposed as an off-set to 20% SWMA requirement, and the Nursery Parcel gets built first, and that this improvement does not go in for 10 years or so, then the District has not gained anything and that the property is now developed and the impact could actually be a negative one. He asked if this connection can be made before the development of that property.

District Director Hart answered that he thinks the most that can be done, is to require it as part of a future development. He said if the GSA Parcel (Federal Government site) was developed, and there was a gap, the District could move forward with the missing section as a CIP project.

Commissioner Mersinger commented that if these improvements have to be made, why can't all this be accomplished prior to developing? Mr. Close' replied, "because Duke Realty Corp. does not own the parcel of land south of Pembroke Road".

Commissioner Minnaugh feels Duke Realty should complete the inter-connect project down to the Monarch Lakes canal. She said that there are several reasons why she feels this way. For one thing, all the water will still be draining south. Secondly, there are concerns on how long it will take to develop this property (south of Pembroke Road). She said that it is a better trade-off for the District, and the people living in the District, to grant this Agreement for Duke Realty Corp. and to have this connection done and not have to worry that the land will sit there if funds are not available for Broward College or the Federal Government to build. She said that she understands that Duke Realty Corp. does not own it. However, more drainage and more water is being created and it seems to be dead-ending, and it can't just dead-end. She said that she knows that they are already experiencing drainage problems at Pembroke Gardens.

Commissioner Good asked how long this proposed inter-connect has been planned for? District Director Hart replied that it's been planned since the culvert was placed across the Pembroke Gardens property and the tie-in was made to the C-4 Canal. He said it was included in the District's 2005 Facilities Report as a basin improvement. Commissioner Good asked how Century Village was draining. District Director Hart explained how Century Village drains (west under I-75 and into the C-4 Canal). Commissioner Good commented that the existing culvert connection was all part of the master permit that the District gave to Duke Realty Corp. many years ago. He said in the initial permit there was not a requirement for anyone to place this proposed second inter-connect. District Director Hart said that there was always a connection to the west, and as part of the Pembroke Gardens plans, a culvert was installed in place of an open channel. He said that is what was on their permit, but a second connection was not included. Commissioner Good questioned if there was a thought process in having set it that way for the initial development.

Attorney Bell commented that about 7 or 8 years ago, as part of the proposed agreement for the I-75 Commerce Park, they were going to have a Mitigation Agreement prepared, before S.W. 145th Avenue was built; and what was proposed back then, was for the drainage to go across to the west and run along I-75. He said that project went under and was never finalized.

District Director Hart said that this was a wetland mitigation area (pointing to the map) and he did speak to SFWMD because he still feels that it would be beneficial to tie into that mitigation area, but that SFWMD is very protective of the wetlands. That is why the District decided to take the pipe all the way south, in the direction that is being proposed.

Commissioner Good said that in the Agreement and the presentation that District Director Hart made, he made reference to calculations that were made that gives the District comfort. He asked District Director Hart what type of calculations they were? District Director Hart explained what the calculations were and said that Duke Realty's engineers have updated the District's entire S-3 Basin model (ICPR model) and have performed a series of model runs; and that they have run a simulation of what the stages would be for a 10-year/3-day storm and 100-year/3-day storm, excluding the 20% of the lake area from the basin. The results show the impacts are negligible because the basin is large, and there are no impacts on the stages at all. He said that before everything is finalized, Duke Realty Corp. must present the District with reports and electronic files to update the District's basin model; and then the District can break

out this system, if needed, and look at it independently.

Commissioner Good understood that the District is operating off a model that is provided to the District by the requesting party of this permit. District Director Hart clarified and said that the original model is actually the District's model. Commissioner Good asked District Director Hart what was meant when he said that they ran it. District Director Hart explained that Duke Realty Corp. took the background of the District's model, which he coordinated with them, and then placed the improvements discussed into the model to analyze the stages. Commissioner Good wanted to know why the District has to contract outside of the District to do the modeling work, instead of doing it themselves. He said that it sounds initially, as if the District is going to mitigate the area of the Duke Realty Corp. property, but that is not the case. What is being done is that the District is opening up the flood gates for that entire area including Century Village, and possibly creating an impact to the Monarch Lakes Community and anything upstream to that. He said he does not have a comfort level because he does not know what the impact will be to that area. He asked if that community gets impacted adversely because of an assumption that the District did themselves, who bares that liability?

District Director Hart said that the District's model that is currently in place, assumes an 84" pipe inter-connect, and in reviewing this, he wanted to revisit the size of that 84" pipe. After running through various scenarios, he recommended that the pipe size be reduced to a 60" as opposed to the larger pipe, because it has a lesser impact to Monarch Lakes. He believes that the District achieves a proper balance by re-diverting a portion of the flow at this point; and a good benefit is achieved at Century Village and the northern quadrant of the S-3, with a negligible impact to Monarch Lakes.

Commissioner Good reiterated that he would feel more comfortable if the District ran the model and updated the S-3 Basin models, etc., themselves. He said that his concern is that the District has clarity and confidence that the Monarch Lakes Community and anything else upstream of that, is not impacted once that floodgate is opened. He said the District just went through all of that with the Town of SWR; and that the Monarch Lakes Community is a much more active community than the Town of SWR. Commissioner Mersinger agreed with Commissioner Good.

District Director Hart said that in fairness to the developer(s) he told them that he wanted to bring this before the Board and see what direction the Board would like to go. He said whatever the Board decides is the way they will proceed. He said that he did look at this closely before it came forward; and in all the previous models that the District did, an 84" pipe was included, and he believes that a 60" pipe would give the District a better balance; it gives the District a two-tenths reduction in stages in Century Village with neglible impacts to Monarch Lakes.

Commissioner Minnaugh asked what is the approximate cost in getting a model, calculations and a time frame? District Director answered approximately $2,500 - $5,000. Commissioner Mersinger asked if Duke Realty Corp. would cover the cost? District Director Hart said he believes that they will, and that it can be written into the Agreement. District Director Hart asked if the modeling results come back and addresses the Board's concerns, is this a concept that is agreeable to the Board? Chair Hodges said he has confidence in the District Director's abilities.

Commissioners Minnaugh and Commissioner Good had some concerns about what is written in the Agreement. Commissioner Minnaugh said that Duke Realty Corp. will pay $150,000 and the District is going to do everything else. She wanted to know what the compensation for all that is? Commissioner Good stated, "If you don't know what the improvement is, how do you know what you're agreeing to?" District Director Hart said that they had to start somewhere, so they started with a 60" pipe. He said that this is a policy decision for the Board to make, and

that this is what the staff has presented as a draft. The total cost to get the culvert across S.W. 145th Avenue and to the south side of Pembroke Road is estimated at $236,000. He said that $23,000 of that amount is for the design and the construction administration, which will be done in-house.

Commissioner Minnaugh said that until the model is presented to the Board, she does not feel comfortable entering into any type of agreement; and is still in favor of the whole thing going in now, as opposed to after-the-fact. Chair Hodges agreed and asked, "What is the benefit of this improvement, and if there is a way to connect it now, rather than later?" District Director Hart answered, "That it would be difficult and that the District would have to ask permission from the other property owners". Chair Hodges said he agrees with Commissioner Minnaugh that they would be much more agreeable to granting an easement to install a pipe, than they would be to putting in an open channel. Chair Hodges asked if a more direct connection through Duke Realty Corp's. Property can be done, so as not to impact Monarch Lakes? District Director Hart said he would like to review if they can go to a smaller pipe size. He said there are different things that can be looked at as options. One of the options discussed was the installation of a control structure or a weir prior to the Monarch Lakes Canal.

District Director Hart proposed that the District contract with an outside firm to review the model on the District's behalf, and have this cost reimbursed under the Agreement.

Commissioner Goggin replied that the Board comprehends that problems could possibly come into place that were not previously considered; and that sometimes, an item is put in place to solve a development issue; where the District moves forward thinking there will be no impact; and then realizes that they were wrong. He said that he does not want something that isn't a problem now, to become a problem in the future.

Vice Chair Ryan asked what would be the option if the proposal were to fail? District Director Hart replied that they would have to provide 20% of SWMA to their property. He said that, in any case, they will have to do some storage; it's just less than the 20% under the Agreement. Vice Chair Ryan commented that he feels that the proposal that is before the Board seems to need a bit more tweeking and review on Duke Realty's part. He asked who would pay for the improvements? District Director Hart said the developer would pay for it, but that the District would do the design in-house and would oversee the construction.

Finally, Chair Hodges suggested that he and District Director Hart meet and generate several options where everyone can feel more comfortable.

Mr. Close commented that on the engineer's estimate there is a 20% contingency placed just to cover any risk associated with anything that might come up; and that they would reimburse the District for the outside modeling work. They just want to move forward.

In closing, Commissioner Good said that if Duke Realty Corp. does not place a lake on the site because of the fact that the District is reducing the retention requirement, and that the District is still dealing with the nutrient requirements under the state laws, that this Agreement does not make reference to Duke Realty Corp. having to address any additional requirements that may develop regarding any pollutant run-offs. Commissioner Good suggested that the District have the ability to recognize the loss of that retention, which would mitigate any pollutant run-off, and have it be mitigated in some other BMP format. District Director Hart agreed with Commissioner Good's suggestion and replied that it will be added in the Agreement. He said that Duke Realty Corp. will have to treat their water, meet NPDES requirements, and meet any additional water quality requirements as well, before discharging off-site.

Chair Hodges said that he, District Director Hart and Duke Realty Corp. will look into alternatives for moving forward and present these options to the Board at the next meeting.

B. UPDATE TO SBDD EMPLOYEE POLICY HANDBOOK

District Director Hart said that there were some outdated statutes and references in the SBDD Employee Policy Handbook that no longer apply, and the suggestion was made by the District Attorney to look over the Employee Policy Handbook and do a complete update. District Director Hart presented the proposed updates to the Board and asked for direction.

Attorney Bell suggested that a Resolution be done for the next meeting in January. Chair Hodges agreed with Attorney Bell and said that any changes can be done between now and the next Board meeting, and that a Resolution in this regard will be on the agenda for January.

District Director Hart mentioned that there are no changes or reduction to employee benefits. He said that the update was done to protect the District and to address some of the outdated statutes.

C. RE-INVESTMENT OF DISTRICT FUNDS

The District has two investment accounts that are maturing in this month: 1) A Federal Home Loan Bank in the amount of $400,000, which matured on the 9th of December, and which funds are already deposited in the District's bank account; and 2) A CD in the amount of $238,000 that will mature December 16th, 2011. The Finance and Investment Committee met to discuss the options for re-investing these funds. The recommendation was to purchase two CDs: A 12-month CD in the amount of $238,000 and an 18-month CD in the amount of $100,000; and to transfer the remaining $300,000 into the CIP reserve account. District Director Hart said that none of the totals would change, just the cash-on-hand; and that this would allow the District to fund the CIP projects moving forward. District Director Hart commented that from a cash flow standpoint, the District is in good standing.

Commissioner Minnaugh moved for approval of the re-investment of District funds as recommended by the Finance and Investment Committee. Motion was seconded by Commissioner Goggin.

Vice Chair Ryan said that he spoke to District Director Hart regarding the CIP Reserve Program and that in most cases, if a municipality has a facility that is owned and operated by them, that there should be funds budgeted on a yearly basis for repair and replacement in order to upkeep the facility; and to operate in a more modern way. He said that he would like to see a repair/replacement item for every facility in the budget. Commissioner Good commented that this is leaning more towards what the District was looking to achieve in the 5-year Capital Program.

The question was called and it was carried unanimously.

D. UPDATE ON EPA NUMERIC NUTRIENT CRITERIA

District Director Hart said that last week the Florida Environmental Regulation Commission (ERC) approved the draft rule changes to the State Statutes that will include Nutrient Numeric Criteria; and that it got approved unanimously. He clarified that the draft rules, as proposed and approved, do not place new Numeric Nutrient Standards on South Florida water bodies, and what is currently in place in the rules, which is a Narrative Criteria, will remain in the rules. The

state will still look at water quality for South Florida's waters. He said that if, for whatever reason, a South Florida water body gets classified as an impaired water body, then at that point, the State will impose numerics. It is not to say, that the District will be exempt from numerics, it will just be on a case-by-case basis depending on the water quality testing results. The good news is that the standards that were previously proposed by EPA for South Florida's waters will not be imposed. The next step would be ratification by the State Legislature, and then the EPA would need to sign off on it, and rescind their previous orders. Most of this will take effect towards March 2012.

E. UPDATE ON SPECIAL DISTRICT LEGISLATION

On the update on Special District Legislation, District Director Hart reported that Governor Scott has indicated that he will issue an executive order to do a study on Special Taxing Districts. Last year it was Hospital Districts; the focus this time, is said to be on Community Development Districts and Districts that do not have public input on budgets, assessments and the like. The report on the Hospital Districts is due out in January.

F. OTHER

District Director Hart gave the Board an update on the District's checking account. He said that someone had counterfeited a number of checks. The District has been working very closely with the bank's fraud department and that the District has already been credited 100% for the checks that have been cashed; and a report has been filed with BSO. If someone tries to cash a check at an institution outside of Suntrust Bank, the District is protected from any liability, and a stop payment has been made on a number of checks that have not been written yet. He said that if anyone tries to cash any of those checks they will be stopped. The last thing that will be done is that a higher fraud protection plan called "Positive Pay" will be considered, at a cost to the District. District Director Hart said that in this way, it will be that much harder for someone to write a counterfeit check against the District's account.

District Director Hart recognized Susan Iratzoqui on the excellent job she has done on this incident. She has taken the lead on this and possibly may have found the check that the signature had been lifted from. She has done a really good job in representing the District with the bank.

Commissioner Minnaugh commended Susan also and said that Susan takes her job very seriously and is very good at what she does. Commissioner Minnaugh suggested that something be done on the checks that might say, "Only negotiate or deposit if there are original signatures on the check." That way, if anyone tried to duplicate it, it will show that it is a copy. She also suggested that perhaps a hologram can be placed on the checks. District Director Hart agreed and said that the District will look into it.

Commissioner Mersinger also commended Susan for the great job she did on this matter.

District Director Hart gave an update on the CIP Projects. He said that the Culvert Replacement project in SWR is about 85% complete. The new culvert is in place and the headwalls as well. He said that there are very few issues and the road will be paved within the next couple of days. The Culvert Slip-lining Project is also moving forward. The Palm Avenue lining went in and is complete and working very well. On the Taft Street slip-lining project, there were some issues and the Contractor is performing corrective work. It should be done by the end of the week.

Looking ahead to January, District Director Hart said that the District's Accountant has completed the audit and everything is looking good. He said that Susan did a good job working

with the Accountant, and the Board will see a draft in January.

As to the Town of SWR, they have moved to their new location and are conducting their daily business there. They are still using the SBDD Board Room because they have issues with their CO and ADA access. As soon as they get their final CO, they plan to hire a company to either remove or demolish the trailer. This will probably be done by the end of January.

Finally, District Director Hart mentioned that once the Town of SWR removes the trailer from their old location, the District is preparing to do some improvements within the District's property.

05. ATTORNEY'S REPORT:

UPDATE ON GRAND PALMS LAWSUIT

District Director Hart updated the Board on the Grand Palms lawsuit. He said that he and Attorney Bell have run some preliminary drainage analyses and calculations, and have prepared interrogatory questions, etc; and that they were sent out to Grand Palms; and as they were doing all of this, Attorney Bell did a follow-up phone call to Mr. Wyn Gyer, the attorney for 15500 Pines Boulevard, who had been doing the same thing on his client's behalf. Mr. Gyer indicated to Attorney Bell that his client had a renewed interest in trying to settle the case. He further indicated that in his discussions with the Grand Palms attorney, that they were also open to discussing a settlement.

Last Friday, December 9th, 2011, a meeting was held at the SBDD Conference Room. It was the first time all three parties were present to discuss how this issue could be settled and to focus on the issue at hand (just the drainage connection); and a settlement proposal was discussed. District Director Hart met again yesterday, December 14th, with Grand Palms and he told them that he was not comfortable moving anything before the Board unless it was agreeable to the other two parties involved. He was told by Grand Palms that they were agreeable to the proposal that was discussed on 12/9/11.

He then deferred to Attorney Bell for any additional discussion. Attorney Bell stated that if this is agreeable by the Board, an Agreement will need to be prepared. He said that a closed door meeting should be scheduled sometime in January, as close to the next Board meeting as possible. He said the Board could also discuss the proposed settlement now as part of the public meeting, if they desired. The Board was agreeable.

Attorney Bell said that what's being proposed is that the existing 48" culvert would be closed-off and a new 48" culvert, or lesser size, be placed at the west end of the 15500 Pines Boulevard property (Homeland Security site). This was discussed last week; and Mr. Gyer said he needed to run this by his client and have their engineers do some calculations. Grand Palms indicated that they will not contribute any money towards this. This is mainly to try to put it to bed and settle it. The cost is estimated at $60,000 plus $9,000 for engineering fees and contract management. After discussing further with Mr. Gyer, the proposal is to divide the cost in half between 15500 Pines Boulevard and SBDD which would be approximately $34,500 each. SBDD would get a credit for $9,000 for engineering and construction management, and the District would be responsible for approximately $25,500. The only thing is that the lawsuit would have to be dismissed with prejudice. The easement itself would not have a resolution as far as an interpretation of who's right or who's wrong.

The bottom line is if the District is willing to pay for half the cost (less the credit for engineering), 15500 Pines Boulevard will pay for the other half, and Grand Palms would pay nothing, and the lawsuit will go away.

Chair Hodges commented that what needs to be determined is if the District would want to move forward and have a closed door meeting to discuss the final Agreement. Attorney Bell said that he would like to have the final Agreement in front of him, make sure that it is acceptable to everyone, and then meet at a closed door session to discuss if there are any other questions. Then come back at a regular meeting and have a motion to approve that Agreement and finally approve it, if agreeable to all parties, by Resolution at the meeting in January or February.

Commissioner Minnaugh asked what was meant by the statement that they did not want to be tied into maintenance. Attorney Bell explained that part of what the settlement discussions covered, was that Grand Palms had previously wanted to tie the maintenance issue into the Agreement; and that they've made statements that the District is responsible for maintaining the culverts and everything else in there, but that is not the case, and is not an issue in the lawsuit. Commissioner Minnaugh's concern is that this culvert is installed, and everyone signs off on the Agreement; and then Grand Palms still believes that they have drainage problems. Attorney Bell said that the District has told them that they are responsible for repairing everything, and that's been the District's position through the 5-year re-certification process.

District Director Hart said that Grand Palms has already made some repairs. He said that they have indicated to the District that they will be doing other corrective work. He said the District has followed-up with Grand Palms periodically on scheduling a final inspection to verify all of their repairs. He said his intent is to continue along that course regardless of what happens with the settlement proposal. So far, they are indicating that they are moving forward in this direction and District Director Hart said that he will continue to work with the Golf Course on their issues. He said that in yesterday's meeting, he made it clear to Mr. Segall that when they get a lot of rain, the golf course will still have standing water because it's low.

Vice Chair Ryan commented that he will not vote in favor of any funds coming out of this District to settle this. He said if need be, it should be taken to the court system and let them handle it.

Attorney Bell said that one item that Grand Palms was insistent on from the beginning, was that the District guarantee that whatever repair is made will work; and that they will not settle until such time the system is in place and they have had an opportunity to observe it. They have withdrawn that requirement. They had also requested that the District place a pump system so they can pump the system down. The District rejected that request and they have acknowledged that. They have backed-off on some of their demands in order to get this resolved. Attorney Bell said that 15500 Pines Boulevard property (Homeland Security site) was sold last month to a company in Virginia. They are still on the hook to get this case resolved. Attorney Bell asked the Board for some direction as to whether to proceed with preparing the Agreement and presenting it to the Board for further discussion at a closed door session.

Commissioner Minnaugh moved for approval to move forward with preparing the Agreement and scheduling a closed door session for January 19th, 2012 at 8:15 a.m. Motion was seconded by Commissioner Goggin and it was carried unanimously.

Commissioner Minnaugh moved for approval to reschedule the regular SBDD Board Meeting of January 26th, 2012 to January 19th, 2012 at 8:00 a.m. Motion was seconded by Mersinger and was

carried unanimously.

06. UPDATE ON REVISION TO DISTRICT ZONE BOUNDARIES BASED ON 2010 CENSUS

Attorney Bell said that every ten years when the census is totaled, the District needs to review the Commission zone boundaries and make changes to the zones so that the population is within the guidelines of 13.58% to 15%. Based on the latest census information from Tallahassee, the District comes up with a population of approximately 255,000, which means that our range should be 34,633 to 38,254 for each zone. Zone 3 is one person less than required; Zone 4 is 5,600 more than allowed; Zone 5 is about 2,078 less than required; and the percent increase goes from 11% up to 46% in Zone 2. There is a significant increase in every zone. Attorney Bell asked the Board for some direction as to how to go about changing this. He said that since it's in the District's Charter, it does not have to go through the State Legislature.

Commissioner Minnaugh suggested that Attorney Bell do the necessary tweeks and then present it to the Board.

07. OTHER

On the Lenis Agreement, Attorney Bell said that the Lenis' attorney will be revising their Agreement so that this can finally be settled.

Attorney Bell said that at the CBWCD meeting, the District Attorney, who is also the Attorney for the Town of Davie, passed out a copy of Broward County Ordinance No. 2011-19; this having to do with the Broward County Inspector General. He opined that the Inspector General has no authority over the District and cannot pass anything that has any validity over the District, but there are several provisions in the County's Ordinance that seem to be including the District. There is a definition of "covered individual" that is not clear. He proceeded to read portions of the Ordinance and said that it implies that what is written applies to the District. Commissioner Mersinger said that as far as she knows, the State is over the County.

Attorney Bell had concerns that after-the-fact, this can apply to the District, and he's afraid that if opposed, this can come back to become a problem because of the way it is written. He said that he would like to see where this came from, so that he could send a letter stating that the District should be excluded; and if not, then it should be removed. Commissioner Goggin asked what their interpretation of "local government" is. Attorney Bell said he feels this should be clarified.

Commissioner Mersinger commented that she is not sure if this should be followed through on by the District. Commissioner Minnaugh told Attorney Bell to go ahead and do the research, but that she does not feel it necessary to call attention to this issue. Commissioner Good and Chair Hodges agreed with Commissioner Minnaugh and Commissioner Mersinger. It was agreed that Attorney Bell should not spend a lot of time on this matter and not to draw attention to these issues at this time.

08. APPROVAL OF LEGAL FEES

Commissioner Minnaugh moved for approval of the legal bills, motion was seconded by Commissioner Goggin, and it was carried unanimously.

09. BOARD MEMBER'S QUESTIONS/COMMENTS

Commissioner Mersinger wished everyone a happy and a healthy year. Chair Hodges commented that it's been a good year.

10. MEETING DATE

A. Next Regular Board Meeting will be held on **Thursday, January 19th at 8:00 A.M.** with a **Closed Session at 8:15 A.M.**

Adjournment at 10:50 A.M.

Respectfully submitted,

Robert E. Goggin IV, Secretary
South Broward Drainage District

/rim

South Broward Drainage District
Comparative Statement of Revenues and Expenses
General Fund (Budgetary Basis)

	Oct - Dec 11			Annual Budget
Income				
1402 · Maintenance	2,572,461.97			3,053,733.50
1404 · Permit Fees	5,500.00			27,000.00
1405 · 5 Year Recertification Program	13,361.00			10,000.00
1406 · Residential and Lot Permit Fees	4,411.50			15,000.00
1408 · Appropriation of Fund Balance	0.00			127,325.00
1410 · Interest Income	32,727.70			47,500.00
1416 · Miscellaneous Income	8,818.35			1,000.00
Total Income	2,637,280.52			3,281,558.50
Expense				
1412 · South Broward Collection Fee	49,410.34			61,074.67
1414 · Discounts and Penalties	101,975.24			106,880.67
1501 · Administrative - Office	67,583.44			298,422.05
1503 · Board of Supervisors	9,450.00			37,800.00
1505 · Field Operations	104,068.88			464,607.24
1506 · Inspectors/Project Coord.	50,758.68			222,503.15
1507 · Payroll Taxes - FICA	19,639.86			85,340.43
1509 · Pension	12,793.57			53,789.00
1513 · Payroll Other	54,633.44			75,000.00
1520 · Accounting Fees	12,500.00			26,000.00
1535 · Engineer/Consult Fees/Spec Proj	105.00			45,000.00
1540 · Legal Fees	17,667.50			70,200.00
1543 · Legal Fees Special Proj.	14,917.50			60,000.00
1544 · Other Expense	0.00			1,000.00
1550 · Commercial Property Package	31,952.70			36,500.00
1555 · General/Hazard Liability	38,151.30			42,000.00
1560 · Group Health, Life & Dental	56,758.57			388,010.00
1570 · Workers Compensation	9,541.49			21,275.00
1575 · Advertising	476.00			8,000.00
1585 · Computer Supplies - Upgrades	278.09			10,100.00
1590 · Dues & Subscriptions	3,000.00			5,400.00
1595 · Flight Service	0.00			2,500.00
1600 · FPL - Electric	3,305.03			16,456.00
1603 · Gas (LP) Auxiliary Power	0.00			5,000.00
1605 · Janitorial Service	447.00			2,200.00
1610 · Licenses & Fees	175.00			700.00
1615 · Maintenance Contracts	1,352.59			9,200.00
1620 · Miscellaneous/Uniforms	274.83			3,000.00
1625 · Office Supplies - Postage	847.88			4,300.00
1630 · Payroll Service	625.82			2,400.00
1635 · Printing - Stationary	0.00			2,327.50
1640 · Public Records Storage/Filing	(122.50)			2,500.00
1645 · Telephone - Misc. Communication	2,962.69			15,000.00

South Broward Drainage District
Comparative Statement of Revenues and Expenses
General Fund (Budgetary Basis)

		Oct - Dec 11			Annual Budget
	1650 · Water & Sewer	750.48			3,000.00
	1655 · Buildings & Grounds	522.39			53,723.00
	1660 · Equipment Rental/Outside Svcs.	0.00			10,000.00
	1665 · Equip/Vehic/Boats/Hvy Equip	5,757.56			23,100.00
	1670 · Fuel/Oil/Lubric. (Pump Stat)	26,482.57			50,000.00
	1675 · Fuel/Oil/Lubric. (Vehic/Equip)	8,854.61			43,500.00
	1677 · Hazardous Mat./Spill Cont.	0.00			7,500.00
	1680 · Janitorial Supplies - Carp. Clg	164.21			1,000.00
	1683 · Hurricane Preparedness Supp.	0.00			1,500.00
	1685 · Landscaping & Mowing	4,502.07			26,000.00
	1690 · Photography - VCR Equip. & Phot	0.00			350.00
	1695 · Pump Stations - Flood Gates	17,426.57			48,800.00
	1700 · Safety/SCUBA - Inspect Equip.	412.02			2,500.00
	1705 · Sanitat. - Exterminating Serv.	12.50			500.00
	1710 · Small Tools - Shop Supplies	1,129.42			9,000.00
	1715 · Water Rcorder/Elev Gge/Telemtry	0.00			10,000.00
	1720 · CanaL/Swale Cleaning/Renovation	0.00			30,000.00
	1725 · Culvert Cleaning/Inspection	(3,540.00)			70,000.00
	1730 · Culvert Repair - Flapper Gates	0.00			25,000.00
	1735 · Endwall Repair - Replace./Upgrd	0.00			5,000.00
	1740 · Erosion Control	0.00			60,000.00
	1745 · Gates/Barrier/Fence/Ramp/Sign	450.00			3,000.00
	1747 · Outfall Structures	0.00			2,000.00
	1750 · Trash Rack/Piling/Tank Upgr.	0.00			20,000.00
	1755 · Tree Removal	2,200.00			56,700.00
	1765 · Herbicides	70,224.46			384,000.00
	1770 · Triploid Carp/Fsh Guards/Maint	10,500.00			40,000.00
	1775 · Water Testing	1,456.00			8,000.00
	1780 · Seminars/Meetings/Conferences	1,417.63			16,900.00
	1785 · Equip./Vehicle Replace./Upgrd	0.00			76,000.00
	1797 · Contingency	0.00			10,000.00
Total Expense		814,252.43			3,281,558.71

SOUTH BROWARD DRAINAGE DISTRICT
PROPOSED SUMMARY OF DISTRICT FUNDS
1/11/12

SBDD ASSET ACCOUNTS

FUND	Bank and LGIP Accounts			Investment Accounts		Fund Totals
	Cash on Hand	Subtotals	Institution			
RESTRICTED						
S-9/10	$49,330	$49,330	LGIP			$49,330
UNASSIGNED						
General	$2,320,485	$2,663,848	Suntrust Muni Now	$247,500	CD-TriState	$2,767,663
		$34,242	LGIP	$45,970	FREDMAC	
				$92,090	FHLB	
				$153,708	CD-Regent Bank	
COMMITTED						
Capital Improvements	$794,111	$794,017	Suntrust Reserve	$429,030	Agency	$1,718,141
		$94	LGIP	$495,000	Israel Bond	
Emergency	$3,239,501	$3,239,417	Suntrust Reserve			$3,239,501
		$84	LGIP			
Separation	$160,230	$160,139	Suntrust Reserve	$50,000	CD-Bank United	$273,603
		$91	LGIP	$63,373	FHLB	
Totals	**$6,563,657**	**$6,941,262**		**$1,576,671**		**$8,048,238**

SBDD LIABILITY ACCOUNT

Fund	Bank and LGIP Accounts			Investment Accounts		Fund Totals
	Cash on Hand	Subtotals	Institution			
As-Built	$51,846	$51,828	Suntrust Paying	$84,292	CD-Regent Bank	$681,138
				$50,000	CD-Bank United	
		$18	LGIP	$495,000	Israel Bond	
Total	**$51,846**	**$51,846**		**$629,292**		**$681,138**

FUND TOTALS	**$51,846**		**$2,205,963**		**$8,729,376**

SBDD INVESTMENT SUMMARY

Investment	Recommended Action	Investment Amount	Interest Rate	Issue Date	Maturity Date
Tristate Capital Bank CD		$247,500	1.00%	8/4/2011	8/4/2012
Bank United		$100,000	1.00%	*Pending*	Jul-13
Regents Bank		$238,000	0.85%	*Pending*	Jan-13
Freddie Mac		$475,000	1.75%	7/27/2009	6/15/2012
Federal Home Loan Bank		$155,463	1.875%	7/27/2009	6/20/2012
Israel Bonds		$990,000	2.53%	8/8/2009	8/1/2012
	Total	**$2,205,963**			

Jun-12	Aug-12	Aug-12	Jan-13	Jul-13
$630,463	$247,500	$990,000	$238,000	$100,000