

SOUTH BROWARD DRAINAGE DISTRICT

Management Committee

Meeting Minutes

April 11, 2006

4:15 P.M. MANAGEMENT COMMITTEE MEETING CALLED TO ORDER.

PRESENT

President Tom Gill, Secretary Jack McCluskey, Supervisors John Eastman & Scott Hodges, Director Leo Schwartzberg, District Legal Counsel Douglas Bell, Recording Secretary Joann Long. General Public: Anita & Harvey Bullock, Fernando Gutierrez/Riviera Isles, John Dawson/Riviera Isles, Carrie Ann & Goodarz Saketho/Riviera Isles, Raymond Pilar/Riviera Isles, Bob Busch/SWR, Ronnie Bergeron/Bergeron Land Development.

PRESENTATIONS

BROWARD COUNTY RESOLUTION RE: EVERGLADES CLEANUP EFFORT SUPPORT/SBDD RESOLUTION NO. 2006-16

The County has asked that the District provide a Resolution affirming its commitment to restoration of the Everglades, recognizing the importance of improving water quality and supporting the opportunity to participate in the Broward Everglades Working Group. After brief discussion, Mr. McCluskey moved to approve the County's request and SBDD Resolution No. 2006-16 as submitted, seconded by Mr. Hodges; carried by unanimous vote.

BULLOCK/LAKE-MAINTENANCE EASEMENT ENCROACHMENT (POOL/DECK)/SBDD RESOLUTION NO. 2006-17

Mr. & Mrs. Harvey Bullock have requested a maximum 8-foot variance for a portion of a pool/deck to be constructed within the District's lake-maintenance easement on their property within Grand Palms. There would still be 22 feet from the far edge (from the house) of the improvement to the water body and would not adversely impact the District's operations in any manner. Staff recommend approval of the request. Mr. McCluskey moved for approval of Resolution No. 2006-17 as requested, second by Mr. Eastman; carried unanimously.

DORIGO/CANAL-MAINTENANCE EASEMENT ENCROACHMENT (POOL-DECK)/SBDD RESOLUTION NO. 2006-18

Mr. & Mrs. Werner Dorigo, Jr., have requested a maximum 9-inches variance for a por-

tion of a pool deck/screen enclosure that was constructed in error within the canal-maintenance easement on their property located within Pasadena Lakes. Staff recommended approval as this would have no adverse impact on SBDD operations. Mr. McCluskey moved for approval of Resolution #2006-18 as submitted, seconded by Mr. Eastman; carried unanimously.

TREE & DEBRIS-REMOVAL CONTRACTS

Four bids were received for tree and debris-removal project #12 within the City of Miramar, with bids ranging from \$14,200 to \$22,500 (all qualified contractors). Mr. McCluskey moved that the low bid of \$14,200 (Advanced Tree Care) be accepted, second by Mr. Eastman; carried unanimously.

The same four contractors submitted bids for tree and debris-removal project #13 for miscellaneous locations within the Towns of Davie and Southwest Ranches. Bids ranged from \$13,700 to \$15,500. Mr. McCluskey moved for approval of the low bid of \$13,700 (Elan Lawn Service), second by Mr. Hodges; carried unanimously.

EROSION/HURRICANE WILMA

The surveyors are, or will be within the next few days, working within all applicable developments and are making progress. This work is being paid for out of emergency funds which will be reimbursed from the special-assessment monies. If the assessment never goes forward, these costs (as well as any other erosion costs) can be added to the applicable taxpayers property-tax bills.

Mr. Hodges expressed his concern about the District moving forward without knowing what developments wish to participate. Mr. Schwartzberg responded that he had moved forward to some extent due to the time frame, and he felt the risks of not doing so were greater than doing so. He added that no action is being requested today.

Mr. McCluskey moved that the District request the Cities of Miramar and Pembroke Pines and the Town of Southwest Ranches to ask their lobbyists to seek funding from the State and any other known revenue sources to help defray costs to be incurred as a result of Hurricane Wilma. Motion seconded by Mr. Eastman and carried unanimously. It was felt the letters should come from Mr. Gill as President of the SBDD Board.

In reference to a statement made at the March 28th public hearing that no SFWMD permit is required for the erosion project, Mr. McCluskey questioned if this releases that entity from any liability. Mr. Bell responded that if there is any liability, SFWMD would be included in any action taken. Even though SFWMD does not require a permit, the plans will be sent to them for a courtesy review. Mr. Bell added that if the District were to release SFWMD from any liability in this issue, SFWMD would then have no liability.

Re: a remark made at the March 28th meeting that Mrs. Minnaugh should excuse herself from any voting on the erosion issue as she owns property on an affected water body , Mr. Bell agreed as her participation could be construed as being a conflict of interest.

Re: the mention of a Citizens Committee made at the same meeting, Mr. McCluskey felt this should only be an advisory committee with SBDD to make all decisions.

Re: discussion by the residents at the March 28th meeting on various payment options and who should pay, Mr. McCluskey does not feel that the suggestion that Broward County should pay has any credence as he strongly feels the County will not participate in any costs involved for work within any Special District, City or Town.

Mr. McCluskey asked Mr. Bell's legal opinion on financing options, i.e., a 3-tier assessment with lake-front property owners paying the highest amount, neighborhoods benefitted in a secondary manner the second-highest amount and the balance of the property owners within the basin who do benefit to some small degree paying the lowest amount. Mr. Bell explained that the District has to go through the bond-validation process which includes proving that those who will be assessed would benefit. Mr. McCluskey does not feel that an overall assessment to all property owners within the District could be justified as it would be very difficult, if not impossible, to prove a benefit to everyone within SBDD.

Mr. McCluskey also questioned if a District-wide assessment were to be considered, would that be opening the District to a District-wide easement-maintenance program for all water bodies within its boundaries? Mr. Bell felt that would be a definite potential problem if the District tried to assess people who are not benefitted in any manner. While perhaps a single-Basin assessment could be possible, an overall District-wide assessment undoubtedly would be unreasonable and probably not be allowed by the Courts. Mr. Bell reiterated that the District's engineer(s) would have to testify in court and prove that those being assessed will be receiving a benefit from the work to be done.

The question of a possible conflict-of-interest on the part of Mr. Eastman was raised, as he owns property within one of the basins that could face a basin-wide assessment. Mr. Bell responded that as Mr. Eastman does not own property adjacent to any of the problem areas, he could participate in voting but should file a conflict-of-interest form.

The earliest that any new special assessment could be added to the tax roll would be for the 2006 billing which goes out in early November if the project moves forward in a very timely manner. In preparation for that possibility, Mr. Bell has prepared, for each affected area, figures for an assessment split into three tiers with special splits for some of the other affected areas.

In reference to Mr. Hodges remarks whereby Mr. Hodges sounded cautions and seemed

to feel that perhaps the District should “slow down” until full information is available re: the developments who wish to participate (and those who do not), Mr. McCluskey questioned whether or not the District has the right to enter onto the applicable properties and use the lake-maintenance easements. Mr. Bell responded that while neither the District nor any of its contractors/workers can go on private property without permission of the owners, all District-involved parties can make use of the lake-maintenance easements which will provide sufficient access for the purpose(s) needed.

Mr. McCluskey noted that this District is the only one who has stepped up to the plate on the erosion issue and that it should move forward with the needed work as quickly as possible. The District’s sole purpose in becoming involved is to assist the property owners in getting funding which would not be available to them as private-property owners and to get quality work at the best possible price which is to do the work by volume.

Mr. Gill questioned if there was any case law on something similar to this. Mr. Bell has done some research on special assessments and that obtaining Court approval for an assessment for the purpose of erosion repair to overall water bodies within District boundaries should be no problem from what he has read.

Mr. Eastman questioned if Mr. Schwartzberg had spoken with Senator Nan Rich and/or Ms. Lottie Brown of Broward County on the issue of financial assistance. Mr. Schwartzberg responded that he had spoken with both and has contacted others in an effort to secure whatever financial assistance possible. He was advised that Senator Rich was going directly to those in Tallahassee on this important issue.

A draft application has been submitted to Ms. Brown re: grant monies. Her role has been solely as a coordinator. Due to the vast size of the project, those with which Ms. Brown usually deals with cannot help.

The District has also gone back to FEMA to formally apply for assistance, and there is perhaps a 50/50 chance of getting up to 2-million dollars; but they cannot participate in many areas of the work to be done.

Representative Debbie Wasserman Schultz is also working to obtain federal financial assistance for the erosion project.

Mr. Gill requested that Messrs. Schwartzberg and Bell put together the different scenarios for a special assessment for this erosion project. Mr. Schwartzberg questioned the scenarios which Mr. Gill would prefer. Mr. Hodges again mentioned those areas that may not want the District’s help. Mr. Schwartzberg felt this issue should be addressed in total as something must be done, and all work must be done in conformance with District criteria.

Mr. Eastman favored a 3-tier assessment with the third tier being for a small amount. Mr. McCluskey agreed with Mr. Eastman but added that perhaps the third tier could have some sub-tiers.

Mr. Gill felt Messrs. Schwartzberg and Bell should come up with the options, and the Board could go from there and select the preferable one.

Mr. Bergeron felt the District is getting into something that is going to be very difficult to defend as it is repairing private properties. Mr. Bell interjected that only the easements would be repaired/replaced and nothing beyond that.

Mr. Bergeron felt also that SBDD is getting into something that is much bigger than may be realized. He opined such work is the responsibility of the individual property owners. Mr. Bell responded that the District can do a better job at a lesser cost.

Mr. Guitterez felt that if it is the District's lakes involved, the District should be responsible in total for any and all repairs. He does not feel that anything done to the lakes would be of any benefit to him. Mr. Guitterez also felt that the EPA will provide money to help with this project as will DNRP. In addition, Mr. Guitterez felt that any assessment(s) should be imposed on everyone within an affected development which includes anyone whose water eventually makes its way into the lake(s).

Mrs. Saketho agreed with Mr. Guitterez and that the Board should look at the damage to the water bodies. (For information purposes, it was noted that all Supervisors have physically inspected all affected water bodies.) It is her opinion that the depth of the lakes is the problem and that someone somewhere is responsible for this and that those who allowed this type of construction are at fault. The Board has to consider all the drainage goes into these water bodies and should consider those property owners who are willing to help and allow them to do so. It is Mrs. Saketho's opinion that SBDD should have a Citizens Committee and allow that committee access to all information and input on the project.

It was agreed that Mr. Schwartzberg will provide calculations for 2 and 3 tier assessments to the Board at the April 27th meeting.

BASINS S-9/S-10 DRAINAGE-IMPROVEMENT PROJECT

Mr. Eastman submitted a draft Resolution titled "Resolution Of The SBDD Recognizing The Need For Significant Financial Participation From The State Of Florida And The Federal Government w/Respect To Changes Needed To Accommodate Goals Of The South Florida Water Management District Everglades Forever And Comprehensive Everglades Restoration Program With Respect To Water Quality Within The C-11 Basin" which he wants to discuss at the April 27th Board meeting.

Mr. Gill suggested that perhaps the District should hire Mr. MacVicar to see if he can procure any of the Federal monies mentioned by Mr. Eastman in his Resolution (and Mr. Bergeron in the past). After brief discussion, it was agreed that Mr. Schwartzberg will contact Mr. MacVicar for a proposal re: a fund-raising effort by Mr. MacVicar. If the cost is under \$10,000, the District can move forward without having to advertise for proposals. Mr. Eastman noted that SFWMD has made it known they will participate in additional funding. Mr. Eastman agreed that other avenues should be further investigated by Mr. MacVicar.

Mr. Gill felt that perhaps the District should wait for more outside funding before doing anything else on this project. Mr. Schwartzberg noted that the Board has already approved getting the design for the first step of Phase II, and permitting is in process. Mr. McCluskey noted that the second phase of the S-9/S-10 project is a "go" mode.

EEOC COMPLAINTS

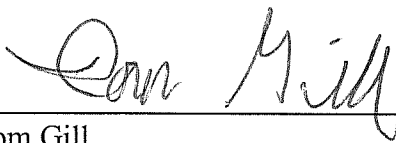
The two EEOC discrimination complaints filed by a former SBDD employee has been dismissed barring any appeal.

DISTRICT LEGISLATIVE BILL/TAXING METHOD

Lewis, Longman & Walker, SBDD lobbyists, have been are working on the District's Ad-Valorem Bill.

There was some discussion between Representative Susan Goldstein and Ron Bergeron on his properties. Also, a SWR representative discussed this issue with Representative Goldstein. Both Senator Rich and Representative Goldstein have made it known that they will not support the District's Ad-Valorem Bill for the current session. Barring any further change, their non-support would effectively put off the Bill until the 2008 ballot. Also, former Congressman and now lobbyist Larry Smith has been talking against the Bill.

ADJOURNMENT 5:15 P.M.



Tom Gill
Meeting Chairperson

/jl