

**SOUTH BROWARD DRAINAGE DISTRICT
MANAGEMENT COMMITTEE MEETING MINUTES
AUGUST 14, 2008**

Present:

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

Leo M. Schwartzberg, District Director
Douglas R. Bell, Legal Counsel
Joann Long, Recording Secretary
General Public: Robert Busch, Vicki
Minnaugh

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

Meeting called to order at 3:25 P.M. followed by the Pledge of Allegiance and roll call showing all Commissioners present except Commissioner Good (who arrived five minutes later).

02. FEIGENBLATT EASEMENT VACATION

The District has been asked to vacate a portion of a drainage easement which shows on the Feigenblatt property located at 129 Northwest 161 Avenue, Pembroke Pines, as there is a pool located within this area; and the lending institution for the proposed purchaser of the property will not provide the funding for an improvement in an area over which another party has jurisdiction. It was felt the easement has already been released and that the surveyor made an error including this easement on the last survey for this property. Due to the time element (the sale is to close tomorrow), that has not been confirmed. As approval of the request would not affect any District operations, Commissioner Goggin moved to approve the vacation request as presented. Motion seconded by Commissioner Mersinger and carried unanimously.

03. FEMA FINAL REIMBURSEMENT/2008-2009 BUDGET

The final reimbursement monies for Hurricane Wilma damages have now been received. The main purpose of today's meeting is to decide whether or not to reimburse any monies to those who paid a special assessment to reimburse a portion of District funds spent on the repair of catastrophic lake-erosion damage within the western portion of SBDD.

Commissioner Ryan had felt strongly that a portion of the funds should be used to reimburse those persons who had paid the special assessment. After further consideration, he realized it would be very difficult to do that as it would defeat the purpose of reimbursements due to the exorbitant cost to do so. He noted that reimbursement would also be a very time-consuming project due to changes in property ownership, foreclosures, moves, etc., thus the exorbitant costs that would result.

Commissioner Ryan added that the logical thing to do would be to place these monies in what would be deemed as a catastrophic-emergency fund, and he questioned Mr. Bell if the Board would be on sound grounds to do so. Mr. Bell responded that any problem with FEMA would be very remote possibility.

Commissioner Ryan agreed the District should change the erosion fund to an overall emergency fund as discussed at a previous meeting; all agreed. These monies would then be used for whatever the Board were to declare an emergency, and Commissioner

Ryan felt such decisions should be made by a super-majority vote.

All things considered, Commissioner Ryan would be willing to accept the "Summary Of The FEMA Reimbursement For The Hurricane Wilma Interim-Erosion Projects 8/14/08" report (copy attached) as prepared by Mr. Schwartzberg.

Per a question by Commissioner Eastman, Mr. Schwartzberg responded that all SBDD large equipment and facilities are covered by insurance, each with a \$10,000 each deductible. Even so, unexpected things can occur at any time that are not covered, one being a large sinkhole which would require immediate assistance and immediate funding. Commissioner Eastman opposed having such a large emergency fund that may never be used. If the Board does go with such a fund, he wanted to make sure it would never be used for work on private properties. Commissioner Eastman felt the Board should immediately cease with any taxes for emergencies.

If the Board does plan to continue with assistance to private-property owners, Commissioner Eastman felt that should be made known up front. He is opposed to any financial assistance and opined that the HOAs should be made aware that the District will not provide financial assistance for private properties as a result of future damage to those properties. He does not object to technical assistance; but, again, if the Board is going to continue with financial assistance, a mechanism should be put in place "up front" to insure reimbursement to SBDD by the property owner(s) or the HOA(s). Commissioner Eastman reiterated his belief that there is no true need for a large emergency fund.

Commissioner Mersinger agreed with a super-majority vote when determining true catastrophic emergencies. She is in favor of a sizeable emergency fund as it is impossible to know what is going to happen at any given time when it comes to an unexpected catastrophic event. As such, there should be a sizeable fund available to address such an event immediately rather than having to borrow funds and then have to pay interest on same. Commissioner Mersinger noted that even with insurance, most times the contractor has to be paid up front.

Commissioner Good agreed that the Board is the custodian of the people's trust and that it must do what best serves its constituents.

Commissioner Goggin voiced his agreement that no portion of the special erosion assessment be refunded.

Commissioner Santana-Woodall explained that from the inception of discussion on the possibility of returning monies to certain property owners, she has had difficulty with that concept. It is also her opinion that the type of fund under discussion is needed. If sufficient monies are not available to move forward with needed work prior to receiving insurance proceeds, she is very much opposed to having to borrow money which would result in additional costs for interest on that loan.

Commissioner Eastman felt there are sufficient monies in other reserve funds that could be used if needed. He felt the District's work now is mostly maintenance, and there is no need for a large emergency fund. Commissioner Eastman also believes that performing work on private properties does not fall within the scope of the District's Charter. While he too agreed that no refunds should be made, it is his firm position that the District should not take any money from people in these adverse economic times that would just "sit" and not be used.

Commissioner Mersinger felt SBDD should operate as one overall district, and she would like to see the Board do away with addressing issues on an individual-basin basis rather than an overall basis. She is very much in favor of a one-for-all and all-for one approach to whatever happens within SBDD boundaries.

Mr. Schwartzberg advised, philosophy aside, if the Board wanted to use the \$7 erosion charge for the ensuing fiscal year towards the Basins S-9/S-10 special assessment, he

had checked with Mr. Bell and found that could be done. This would reduce the loan amount and pay-back time. He has had contact from several property owners in other areas and found two main objections to doing that, one being that those in part of Zone 1 would not be paying for their own improvements and the other that everyone in all other Zones paid in full for all similar improvements to their areas as they were developed. It is not a money issue with those objecting; it is a matter of principal.

Mr. Schwartzberg would like to see the \$7 charge collected for the upcoming fiscal year. The lobbyist for the Florida Association of Special Districts has advised that there is an excellent possibility that the State Legislature will not permit non ad-valorem districts to increase their rates for at least the next few years no matter the need. Were that to happen, it would create a problem with SBDD operations; and the \$7 additional income would prove very important. This also applies in the event of an unexpected emergency.

Commissioner Mersinger agreed there could be an issue with using the \$7 towards the Basins S-9/S-10 special assessment due to all other basin property owners paying for similar improvements as each basin was developed. She did not feel that the \$7 amount would be a problem for anyone, nor does she feel that the ability to assess should be taken away from the Board. Commissioner Mersinger remained firm in her position that the philosophy should change whereby SBDD would be one large District. Mr. Busch of Southwest Ranches interjected that the only way the Board could go from individual districts to one overall district would be to change the Charter. He has studied the Charter, and it calls for operating by individual districts.

Commissioner Good wanted to make it clear that his decisions in the event of catastrophic emergencies are made based on his experience in such situations. His vote will be for keeping the emergency fund for only the District's use and asked how the Charter could be changed. Mr. Bell explained the necessary process.

Mr. Bell noted there are several large property owners who have paid the Basins S-9/S-10 in full. The Town of Southwest Ranches is another large property owner as through a resolution, it took a number of road right-of-ways which removed the special assessment from those properties. As they did not check with the District on the assessment which calls for the property owner to pay the assessment in full for properties purchased or dedicated to a non-taxable entity, the Town became responsible for those assessments on the properties that they "took". It was agreed that in the event any change were to be made in the Basins S-9/S-10 special assessment, any prepaid monies would be refunded.

Commissioner Ryan noted the Board must now decide if it wants to accept line 11 (Erosion) of the proposed 2008-2009 budget Option 2 which is the \$7 per unit/acre fee. Commissioner Good moved for approval of budget Option 2 as submitted with that line item. Motion seconded by Commissioner Mersinger.

Commissioner Eastman reiterated his position whereby he believed the Board should do away with the \$7 charge as it is not needed. He noted that he could easily cut the budget in half and still provide the same services as now being provided. Commissioner Eastman moved to amend the motion to include eliminating proposed budget Line item 11. Mr. Bell advised that dispensing with the \$7 fee as of the start of the new fiscal year would have to be submitted for approval at the final budget hearing. There was no second to Commissioner Eastman's proposed motion amendment. The original motion to approve the budget as prepared by Mr. Schwartzberg which includes the \$7 erosion charge carried by a roll-call vote of 6 to 1, with Commissioner Eastman dissenting.

Commissioner Eastman would like to see something in writing whereby if the emergency fund were used for private properties, those owners would be responsible for repaying in full the amount of funds used.

Mr. Bell explained that easements dedicated to the District are not considered private properties. Commissioner Eastman responded that the property owners are paying taxes on those easements which, to him, means they are private properties. Mr. Schwartzberg interjected that the District has a vested interest in easements as without them, the Dis-

trict could not operate. He added that the vast majority of the members of the Hurricane-Erosion Committee had felt District monies could be used on private-property easements. Commissioner Ryan noted those Committees were advisory committees only and that the Board is the “decision maker”

With reference to Hurricane Wilma erosion repairs, Commissioner Mersinger recalled that part of the reason the District fronted monies and Pembroke Pines and Miramar provided loans was for health and safety purposes. In studying the District’s Charter, health and safety are included therein as a part of the District’s responsibilities. Commissioner Mersinger again stated that she does not feel that any of the Board’s authority should be taken away.

Commissioner Eastman reiterated that the HOA documents for the five affected developments clearly provide that the property owners are responsible for any work needed on their entire properties. While the District could do the work if the home owners failed to do so, the property owners would then be back-charged for all costs.

In response to a question from Commissioner Eastman, Mr. Schwartzberg responded that were a second event such as “Wilma” occurred in the same areas, house foundations would have been compromised. Mr. Busch interjected that is why lake-front property owners should have flood insurance, as with that coverage, FEMA would pay for the type of damaged that was realized with “Wilma”.

Commissioner Good stated that in pure content, he agreed with Commissioner Eastman. The problem is with the “gray” areas; and those do exist, one being with easements. Commissioner Eastman remained firm in his position that lake-maintenance easements are private properties.

Regarding Mr. Busch’s statement that lake-front property owners should have flood insurance in order that FEMA would pay for damages to their land, Mrs. Minnaugh explained that is not correct. She had tried to obtain lake-bank coverage and was advised it was not available through any insurance coverage. Mrs. Minnaugh added that in reference to statements that continue to be made that lake-front property owners should pay for their own damages, they are doing just that as most had damages beyond the District’s upland-easement line. Mrs. Minnaugh noted that without the District’s financial aid, many would have been unable to do the type of work that was one with the easements due to the high cost, as there was no outside funding available for individual property owners such as was available to the District. This would have resulted in many not being repaired; and for those that would have been repaired, numerous repair methods would have been used which could have been insufficient/unsuccessful as well as very unsightly. She felt the District did the right thing.

Mr. Busch further explained that FEMA does not protect pools as a result of waves – only buildings. Mr. Schwartzberg added this is correct only if there is a declared flood, and it is questionable whether or not waves would be considered as a flood source.

Mr. Bell will prepare the resolution for the final budget hearing for fiscal year 2008-2009. After further discussion on a super majority, it was agreed that the Board will stay with that position that a super majority of the overall Board will be required re: “declared emergencies”. This will be incorporated into the Resolution. A decision on the \$7 charge will be made at the final budget hearing.

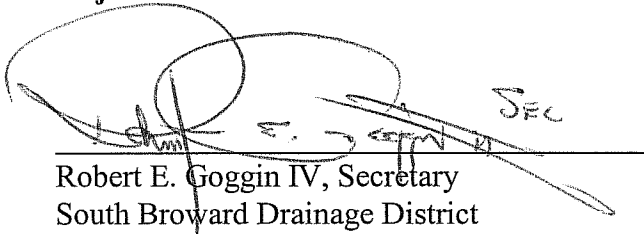
Commissioner Eastman asked that the final budget hearing be held in the evening in order that any interested party who works during the day could attend. Mr. Bell noted that the Broward County TRIM notices have already gone out with a 10 A.M. budget-hearing time on Thursday, September 25th. After brief discussion, it was agreed to hold a public workshop on the proposed budget on Monday, September 22nd, at 7 P.M., with the final approval to be made at the September 25th final budget meeting.

04. MEETING DATES

- A. Budget Workshop Meeting - Monday, September 22, 2008, 7:00 P.M.
- B. Final Budget Meeting - Thursday, September 25, 10:00 A.M.

For information purposes, Mr. Goggin advised that he will not be at these meetings due to health issues of a family member.

Adjournment at 4:50 P.M.



Robert E. Goggin IV, Secretary
South Broward Drainage District

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