



**PAL-MAR  
WATER CONTROL DISTRICT**

**REGULAR BOARD MEETING  
JANUARY 3, 2019  
9:30 A.M.**

**Special District Services, Inc.  
The Oaks Center  
2501A Burns Road  
Palm Beach Gardens, FL 33410**

**[www.palmarwcd.org](http://www.palmarwcd.org)  
561.630.4922 Telephone  
877.SDS.4922 Toll Free  
561.630.4923 Facsimile**

**AGENDA**  
**PAL MAR WATER CONTROL DISTRICT**  
Old Jupiter Town Hall  
1000 Town Hall Avenue  
Jupiter, FL 33458  
**REGULAR BOARD MEETING**  
January 3, 2019  
10:00 a.m.

- A. Call to Order
- B. Proof of Publication.....Page 1
- C. Establish Quorum
- D. Additions or Deletions to Agenda
- E. Approval of Minutes
  - 1. November 1, 2018 Regular Board Meeting.....Page 5
- F. Status Reports
  - 1. Legal – Status Report.....Page 11
  - 2. Engineer – Status Report
  - 3. District Manager Report
- G. Old Business
  - 1. Update Regarding Martin County Litigation.....Page 13
  - 2. Update Regarding Meeting with FWC
  - 3. Update Regarding Contacting DOT and SFWMD about Game Trail Under Beeline Highway
  - 4. Update Regarding Status of Unit of Development No. 1
  - 5. Discussion Regarding Permit for Culvert Improvements on Cory Beaton Property
- H. New Business
- I. Administrative Matters
  - 1. Financial Report.....Page 19
  - 2. Consider Invoices.....Page 20
- J. Comments from the Public for Items Not on the Agenda
- K. Board Member Comments
- L. Adjourn

Treasure Coast Newspapers

TCPALM

The Stuart News

1939 SE Federal Highway, Stuart, FL 34994

**AFFIDAVIT OF PUBLICATION**

STATE OF FLORIDA  
COUNTY OF MARTIN

Before the undersigned authority personally appeared, Natalie Zollar, who on oath says that she is Classified Inside Sales Manager of the Stuart News, a daily newspaper published at Stuart in Martin County, Florida: that the attached copy of advertisement was published in the Stuart News in the following issues below. Affiant further says that the said Stuart News is a newspaper published in Stuart in said Martin County, Florida, with offices and paid circulation in Martin County, Florida, and that said newspapers have heretofore been continuously published in said Martin County, Florida, daily and distributed in Martin, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid or promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper. The Stuart News has been entered as Periodical Matter at the Post Offices in Stuart, Martin County, Florida and has been for a period of one year next preceding the first publication of the attached copy of advertisement.

| Customer                                | Ad Number | Copyline                             | PO # |
|---|-----------|--------------------------------------|------|
| 432676 - SPECIAL DISTRICT SERVICES, INC | 2142789   | PAL MAR WATER CONTROL DISTRICT REVIS |      |

Pub Dates  
October 23, 2018

Sworn to and subscribed before me this day of, October 23, 2018, by

Natalie Zollar, who is  
Natalie Zollar

(X) personally known to me or  
( ) who has produced \_\_\_\_\_ as identification.

Karol E Kangas  
Karol Kangas Notary Public



PAL MAR WATER CONTROL  
DISTRICT  
REVISED FISCAL YEAR  
2018/2019 REGULAR MEETING  
SCHEDULE

Meetings may be cancelled  
from time to time without  
advertised notice.

PAL MAR WATER CONTROL  
DISTRICT

www.palmarwcd.org  
Pub October 23rd 2018  
TCN 2142789

NOTICE IS HEREBY GIVEN that  
the Board of Supervisors of the  
Pal Mar Water Control District  
will hold Regular Meetings  
at 9:30 a.m. (\*\*unless other-  
wise noted\*\*) in the Old Jupi-  
ter Town Hall, 1000 Town Hall  
Avenue, Jupiter, Florida 33458,  
(\*\*unless otherwise noted\*\*) on  
the following dates:

November 1, 2018  
December 6, 2018  
January 3, 2019  
February 7, 2019  
March 7, 2019  
April 4, 2019  
May 2, 2019  
\*\*June 6, 2019\*\*  
August 1, 2019  
September 5, 2019

\*\*The June 6, 2019, Regular  
Meeting will take place at  
10:00 a.m. in the Martin Coun-  
ty Commission Chambers,  
Administrative Center, locat-  
ed at 2401 SE Monterey Road,  
Stuart, Florida 34996 and will  
also include the Landowners'  
Meeting.\*\*

The purpose of the meetings  
is to conduct any all business  
coming before the Board.  
Copies of the Agenda for  
any of the meetings may be  
obtained from the District's  
website or by contacting the  
District Manager at (561) 630-  
4922 and/or toll free 1-877-  
737-4922.

From time to time one or more  
Supervisors may participate  
by telephone; therefore, a  
speaker telephone will be  
present at the meeting loca-  
tion so that Supervisors may  
be fully informed of the dis-  
cussions taking place. Meet-  
ings may be continued as  
found necessary to a time and  
place specified on the record.

If any person decides to  
appeal any decision made  
with respect to any matter  
considered at these meetings,  
such person will need a record  
of the proceedings and such  
person may need to insure  
that a verbatim record of the  
proceedings is made at his or  
her own expense and which  
record includes the testimo-  
ny and evidence on which the  
appeal is based.

In accordance with the provi-  
sions of the Americans with  
Disabilities Act, any person  
requiring special accommo-  
dations or an interpreter to  
participate at any of these  
meetings should contact the  
District Manager at (561) 630-  
4922 and/or toll-free 1-877-  
737-4922 at least seven (7)  
days prior to the date of the  
particular meeting.

## PROOF OF PUBLICATION

STATE OF FLORIDA

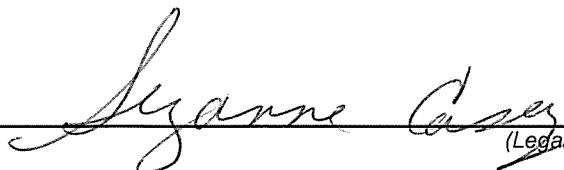
## PUBLIC NOTICE

Before the undersigned authority, personally appeared Suzanne Casey, who on oath, says that he/she is a Legal Advertising Representative of The Palm Beach Post, a daily and Sunday newspaper, published in West Palm Beach and distributed in Palm Beach County, Martin County, and St. Lucie County, Florida; that the attached copy of advertising for a Legal - PublicNotice was published in said newspaper on: first date of Publication 10/23/2018 and last date of Publication 10/23/2018. Affiant further says that the said The Palm Beach Post is a newspaper published in West Palm Beach, in said Palm Beach County, Florida and that the said newspaper has heretofore been continuously published in said Palm Beach County, Florida, daily and Sunday and has been entered as second class mail matter at the post office in West Palm Beach, in said Palm Beach County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he/she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

PAL MAR WATER CONTROL DISTRICT  
2501 BURNS RD  
STE A  
PALM BEACH GARDENS, FL 33410-5207


|                       |            |
|-----------------------|------------|
| Invoice/Order Number: | 0000430710 |
| Ad Cost:              | \$271.76   |
| Paid:                 | \$0.00     |
| Balance Due:          | \$271.76   |

Signed

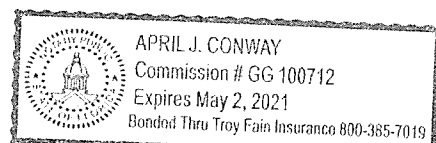
  
\_\_\_\_\_  
(Legal Advertising Agent)

Sworn or affirmed to, and subscribed before me, this 23rd day of October, 2018 in Testimony whereof, I have hereunto set my hand and affixed my official seal, the day and year aforesaid.

Signed

  
\_\_\_\_\_  
(Notary)

Please see Ad on following page(s).



Invoice/Order Number: 0000430710  
Ad Cost: \$271.76  
Paid: \$0.00  
Balance Due: \$271.76

**PAL MAR WATER CONTROL DISTRICT  
REVISED FISCAL YEAR 2018/2019  
REGULAR MEETING SCHEDULE**

NOTICE IS HEREBY GIVEN that the Board of Supervisors of the Pal Mar Water Control District will hold Regular Meetings at 9:30 a.m. (\*\*unless otherwise noted\*\*) in the Old Jupiter Town Hall, 1000 Town Hall Avenue, Jupiter, Florida 33458, (\*\*unless otherwise noted\*\*) on the following dates:

November 1, 2018  
December 6, 2018  
January 3, 2019  
February 7, 2019  
March 7, 2019  
April 4, 2019  
May 2, 2019  
\*\*June 6, 2019\*\*  
August 1, 2019  
September 5, 2019

\*\*The June 6, 2019, Regular Meeting will take place at 10:00 a.m. in the Martin County Commission Chambers, Administrative Center, located at 2401 SE Monterey Road, Stuart, Florida 34996 and will also include the Landowners' Meeting.\*\*

The purpose of the meetings is to conduct any all business coming before the Board. Copies of the Agenda for any of the meetings may be obtained from the District's website or by contacting the District Manager at (561) 630-4922 and/or toll free 1-877-737-4922.

From time to time one or more Supervisors may participate by telephone; therefore, a speaker telephone will be present at the meeting location so that Supervisors may be fully informed of the discussions taking place. Meetings may be continued as found necessary to a time and place specified on the record.

If any person decides to appeal any decision made with respect to any matter considered at these meetings, such person will need a record of the proceedings and such person may need to insure that a verbatim record of the proceedings is made at his or her own expense and which record includes the testimony and evidence on which the appeal is based.

In accordance with the provisions of the Americans with Disabilities Act, any person requiring special accommodations or an interpreter to participate at any of these meetings should contact the District Manager at (561) 630-4922 and/or toll-free 1-877-737-4922 at least seven (7) days prior to the date of the particular meeting.

Meetings may be cancelled from time to time without advertised notice.

PAL MAR WATER CONTROL DISTRICT

www.palmarwcd.org  
10-23/018

0000430710-01

PAL MAR WATER CONTROL DISTRICT  
REGULAR BOARD MEETING  
NOVEMBER 1, 2018

**A. CALL TO ORDER**

Chair Commissioner Hal Valeche called the November 1, 2018 Regular Board Meeting of the Pal Mar Water Control District to order at 9:35 a.m. at the Old Jupiter Town Hall, 1000 Town Hall Avenue, Jupiter, Florida 33458.

**B. PROOF OF PUBLICATION**

Proof of publication was presented to show that notice of the Regular Board Meeting and Public Hearing was published in the *Palm Beach Post* and in the *Stuart News* on September 26, 2018, as legally required.

**C. ESTABLISH QUORUM**

A quorum was established:

|                          |                    |
|--------------------------|--------------------|
| <b>Supervisor</b>        |                    |
| Commissioner Hal Valeche | Present at 10:00am |
| Commissioner Sarah Heard | Present            |
| H. Gearl Gore            | Present            |
| Bob Berman               | Present            |
| Frank Sardinha           | Present            |

Staff members in attendance:

|                   |                    |                                |
|-------------------|--------------------|--------------------------------|
| District Manager  | Michael McElligott | Special District Services, Inc |
| District Manager  | Andrew Karmeris    | Special District Services, Inc |
| General Counsel   | Mary Viator        | Caldwell & Pacetti, P.A        |
| District Engineer | Bob Higgins        | Higgins Engineering, Inc       |

**D. ADDITIONS OR DELETIONS TO THE AGENDA**

There were no Additions or Deletions to the Agenda.

**E. APPROVAL OF MINUTES**

**1. October 4, 2018 Regular Board Meeting**

PAL MAR WATER CONTROL DISTRICT  
REGULAR BOARD MEETING  
NOVEMBER 1, 2018

The minutes of the October 4, 2018 Regular Board Meeting were presented in the meeting book. Mr. McElligott pointed out some areas where there were some typos that had been corrected from the original online posting to today's meeting book.

There being no other corrections needed, the Minutes of the October 4, 2018, Regular Meeting were approved, on a **motion** made by Mr. Gore, seconded by Mr. Sardinha. The **motion** carried 4-0.

**F. STATUS REPORTS**

**1. Legal – Status Report**

Mrs. Viator stated that the general legal status report was in the meeting book and that most items she is going to discuss have their own agenda item later in the agenda and she will wait until then to discuss them. She had nothing further.

**2. Engineer – Status Report**

Mr. Higgins stated that most items he is going to discuss have their own agenda item later in the agenda and he will wait until then to discuss them. The only additional item was related to the DEP BMAP. Mr. Higgins stated that hear back from DEP after telling them that there was nothing for Pal-Mar to do related to the original BMAP report. DEP said they would review and get back to Mr. Higgins with any other suggestions they have. Mr. Sardinha asked if Mr. Higgins thought the new suggestions would be more simplified. Mr. Higgins said he's not sure what the suggestions could be. Mr. Higgins also restated that this BMAP process has no regulatory teeth so anything DEP comes back with will be a suggestion. Mr. Berman asked if there is any time frame with this. Mr. Higgins stated that these is no strict timeline.

**3. District Manager Report**

Mr. McElligott informed that per the Board's direction at a prior meeting, Mr. McElligott, Mr. Higgins, and Mr. Sardinha have a meeting with FWC later today, 11-1-2018. We will report on that meeting at the next Pal-Mar Board meeting.

**G. OLD BUSINESS**

**1. Update Regarding Martin County Litigation**

Mrs. Viator presented a summary provided in the meeting books. She informed the Board of SFWMD's Motion to Intervene was granted. Pal-Mar then filed a motion to dismiss SFWMD's complaint. Also, Pal-Mar's counsel is now working on discovery item.



PAL MAR WATER CONTROL DISTRICT  
REGULAR BOARD MEETING  
NOVEMBER 1, 2018

Ms. Viator explained to the Board that she did bring Pal-Mar's issue up at the last FASD Board meeting to make the FASD Board aware. She did not ask FASD to take any action at this point, but that we may come back to them in the future. Commissioner Heard asked if FASD ever joins in on lawsuits. Ms. Viator said yes, but that would not be an option until we got into the appeals process. At that point Pal-Mar could go back and ask FASD to join. Mr. Berman asked if Pal-Mar should join FASD as a member. Mrs. Viator indicated that her firm is a long standing member, one of the founding members, so Pal-Mar is represented by her firm. Mr. Higgins also stated that Pal-Mar is well represented in FASD by Ms. Viator's firm. Ms. Viator did say that if she hears from FASD that they would prefer Pal-Mar to be a member if FASD were to help in the lawsuit. She will bring that request back to the Pal-mar Board along with cost information.

**2. Discussion Regarding Adding Additional Gates and Access Policy**

Mr. McElligott restated that a meeting is set up for later today with FWC to discuss this. Mr. Higgins asked if the Board wants him to bring up people accessing Pal-Mar from FWC. Mr. Berman stated that he had previously attended a FWC management review meeting where some of these issues were addressed. He left the meeting feeling good with the discussion but nothing actually changed. He asked that we inquire about the next such management review meeting so that we might attend. Ms., Viator brought up that she did review the lease FWC has with SFWMD regarding that land and it does state that FWC would pay the assessments. She also reminded the board that we have sent many letters to FWC and SFWMD related to this fact and have gotten no response.

**3. Update Regarding Permit for Culvert Improvements on Corey Beaton Property**

Mr. Higgins had communication with Corey. He explained that while the water may flow 50% onto Pal-Mar and 50% onto Corey's land so there is no ecological damage from the culverts, but Corey really should have a permit, which Cory would have to pay the cost associated for that permit. Also, Cory should pay some kind of assessment seeing as he does drain into Pal-Mar part of the time. Mr. Higgins said that since Corey is in the audience he would let him speak for himself.

Corey stated that he is not interest in paying any fees because he feels that these are just equalizing culverts that flow both ways to help keep the land natural. He's not pumping and he doesn't have any kind of flash board risers so he feels it's not drainage, just equalization.

Mrs. Viator restate the 298 statue language that states clearly that if any structure from outside of the district is connected to the works of the district the outside owner has to get permission from the Board.

PAL MAR WATER CONTROL DISTRICT  
REGULAR BOARD MEETING  
NOVEMBER 1, 2018

A long discussion ensued with many different points both for and against Corey having to pay annual assessments of some kind to Pal-Mar. However all but Corey agreed that Corey should have a permit from Pal-Mar and that Cory should pay the cost of issuing that permit.

Mr. Berman made a **motion** that Pal-Mar issue a permit to Mr. Beaton subject to review by engineering and legal, that the permit be issued for 1 year at which time the permit will come back to the Board for review, and that Mr. Beaton should pay the cost of the issuing of the permit and an annual permit fee of \$1 for this 1 year permit. There was a second by Mr. Sardinha.

The **motion** was opened up for discussion and Commissioner Valeche asked Mr. Higgins his experience with these situations. Mr. Higgins indicated that in his dealings it is customary that the outside landowner always pays the same per acre rate as the inside landowners pay.

Commissioner Heard then made a substitute **motion** to amend the original motion that the annual fee be the same per acre fee as the rest of the Pal-Mar landowners pay. Mr. Core seconded the substitute **motion**.

Discussion was opened up on the substitute **motion**. Mr. Berman did point out another district he was involved with where they used a different method, specifically in that case a charge based on flow. Commissioner Valeche appreciated the idea he said that may be too difficult to generate that data and to attach a cost to the flow.

With no further discussion, Commissioner Valeche called for a vote on the substitute **motion**. That **motion** passed 3-2 with Mr. Berman and Mr. Sardinha opposed.

#### **4. Update Regarding Game Trail Under Beeline Highway**

Mr. Higgins did review the plans of the Beeline Highway improvements over a year ago and there was not a box culvert describe by Mr. Sardinha in those plans. At the request of the board, Mr. Higgins went out to physically view the work that has been done, including the box culver that Mr. Sardinha had brought to the Boards attention. Mr. Higgins did confirm the 6'x8' box culvert for animal crossing under the Beeline Highway. Mr. Higgins said these type of animal crossings are not unheard of, but these culverts will allow water to move into Pal-mar. Mr. Higgins said while this should not have a large effect on Pal-Mar, just like the Corey Beaton, there is some drainage into Pal-Mar from outside of Pal-Mar. The Board as a consensus asked Mr. Higgins to follow up with DOT and SFWMD about this matter, with the understanding that Pal-Mar may need to follow up with formal letters. Mr. Higgins said he would follow up and let the Board know.

PAL MAR WATER CONTROL DISTRICT  
REGULAR BOARD MEETING  
NOVEMBER 1, 2018

**H. NEW BUSINESS**

**1. Consider Approval of Funding Agreement for Unit of Development No. 1**

Ms. Viator explained the changes the Board requested at the last meeting have been made and she had forwarded it back to Mr. Berman for review. Mr. Berman stated that he was not at a point to approve the Agreement at this time and that he would be putting all Unit No. 1 matters on hold for the moment. Mr. Berman said he would be contracting separately with Mr. Higgins to further review potential plans for Unit No. 1 and would come back to the Board at a later date. Because of this, there is no action required for this item.

**2. Consider Approval of Engineering Proposal Regarding Unit of Development No. 1**

For the same reason as stated under the above item # 1, there is no action needed on this item at this time.

**3. Consider Resolution No. 2018-05 – Adopting a Fiscal Year 2017/2018 Amended Budget**

Mr. McElligott presented the Amended Fiscal Year 2017/2018 Budget that is in the meeting book.

After a brief discussion, a **motion** was made by Commissioner Heard, seconded by Mr. Gore to approve Resolution No. 2018-05 – Adopting a Fiscal Year 2017/2018 Amended Budget. That **motion** carried 5-0.

**I. ADMINISTRATIVE MATTERS**

**1. Financial Report**

Mr. McElligott presented the current financials in the meeting book. There was no action needed.

**2. Consider Invoices**

The invoices were approved, as presented, on a **motion** by Mr. Gore, seconded by Commissioner Heard. The **motion** carried 5-0.

**J. COMMENTS FROM THE PUBLIC FOR ITEMS NOT ON THE AGENDA**

PAL MAR WATER CONTROL DISTRICT  
REGULAR BOARD MEETING  
NOVEMBER 1, 2018

Mr. Lolmaugh brought up that there seem to be 2 new gates erected on a berm that are the works of the district. One of the gates is in the location of a prior dilapidated gate that appears to be reconstructed and locked. Also, he stated that the gate that Corey erected also restricts Pal-Mar access. Mr. Lolmaugh asked if anyone with the district knows whose new gates those are since they are preventing him from driving the berm to a friend's property.

Mr. Berman brought up the fact that there is supposed to be no vehicular traffic anywhere in Pal-Mar. Mr. Berman asked if these gates restrict pedestrian access and Mr. Lolmaugh said no, he does not believe so.

Mr. Lolmaugh said if no one at Pal-Mar has any knowledge of these gates, he will ask the game commission if they put these gates up. The Board said Mr. Lolmaugh has their permission to go ask the game commission about those gates.

T.J. Mansell asked if there is any update on the weirs that were put in at the Culpepper Ranch. Mr. Higgins gave a brief recap of the history of the weirs, but there have been no recent changes. Mr. Higgins did reiterate that the revised Loxahatchee River Restoration plan does call for those weirs to become adjustable weirs, but that might not happen anytime in the near future. After some further discussion and clarifications from Mr. Higgins, it was the consensus of the Board to keep monitoring the situation to make sure the extra water on landowners property is a result higher rainfall and not the weir.

**K. BOARD MEMBER COMMENTS**

Mr. Berman asked if there was anything pressing for the December meeting, and if not would the Board be okay with cancelling the December meeting, to which the Board agreed. Mr. McElligott said there is nothing at this time so he will send out cancelation notices for the December 2018 meeting.

**L. ADJOURN**

There being no further business to come before the Board, at 11:24 am a **motion** to adjourn the meeting was made by Mr. Gore with a second by Commissioner Valeche. The **motion** carried unanimously.

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Secretary/Assistant Secretary

---

Chair/Vice-Chair

CALDWELL PACETTI  
EDWARDS SCHOECH & VIATOR LLP

ATTORNEYS AT LAW

MANLEY P. CALDWELL, JR.  
KENNETH W. EDWARDS  
CHARLES F. SCHOECH  
MARY M. VIATOR  
WILLIAM P. DONEY  
FRANK S. PALEN  
JOHN A. WEIG

ONE CLEARLAKE CENTRE  
1555 PALM BEACH LAKES BLVD.  
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WEST PALM BEACH, FLORIDA 33401

PARALEGAL  
EMILIE PEARSON, CP

www.caldwellpacetti.com

OF COUNSEL  
BETSY S. BURDEN  
RUTH P. CLEMENTS

TELEPHONE: (561) 655-0620  
TELECOPIER: (561) 655-3775

**MEMORANDUM**

TO: Board of Supervisors of the Pal-Mar Water Control District

FROM: Caldwell Pacetti Edwards Schoech & Viator

DATE: December 19, 2018

RE: Legal Status Report for the January 3, 2019 Board of Supervisors' Meeting

The following is a summary of the work in progress and status thereof for the Pal-Mar Water Control District:

- (1) Coordinated with the District re: Administrative Issues
- (2) SFWMD Budget Issues
  - (a) Follow Up Coordination Regarding Collection of SFWMD's Non-Ad Valorem Assessments
  - (b) Coordinated with Martin County Regarding SFWMD's Non-Ad Valorem Assessments
- (3) Martin County/Coordinated, Researched and Followed Up Regarding Defense of Martin County's Lawsuit Relating to Non Payment of District Assessments
  - (a) Use by Martin County of Chapter 194 to Challenge District Assessments
  - (b) Request for Declaratory Judgment/Waiver of Chapter 164 Procedures
  - (c) Pal-Mar Water Control District and Hobe-St. Lucie Conservancy District filed a Notice of Special Set Hearing on June 29, 2018 regarding their Motion to Dismiss Complaint, Motion to Abate Complaint under 164.1041, or in the Alternative, Motion for More Definite Statement. The hearing was held on August 16, 2018. The Judge rendered an Order on August 23, 2018, denying the Districts' Motions. The Districts' insurance counsel filed an Answer and

Defenses to the Complaint. SFWMD filed a Motion for Leave to Intervene, which matter was held on October 5, 2018. The Motion was granted. The Districts have filed a Motion to Dismiss SFWMD's complaint, which is scheduled for hearing on February 19, 2019, before a new judge.

- (4) Coordination regarding the requirements for creation of a Unit of Development, including preparation of Resolution Designating Unit of Development No.1, Preparation of Landowner Funding Agreement and Follow Up Coordination with Landowner(s).
- (5) Culvert Installation Request.
- (6) Public Records Request.
- (7) Followed up from Board of Supervisors Meeting regarding Florida Fish and Wildlife Commission Leases with SFWMD.

CALDWELL PACETTI  
EDWARDS SCHOECH & VIATOR LLP

MANLEY P. CALDWELL, JR.  
KENNETH W. EDWARDS  
CHARLES F. SCHOECH  
MARY M. VIATOR  
WILLIAM P. DONEY  
FRANK S. PALEN  
JOHN A. WEIG

ATTORNEYS AT LAW

1555 PALM BEACH LAKES BLVD.  
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PARALEGAL  
EMILIE PEARSON, CP

www.caldwellpacetti.com

OF COUNSEL  
BETSY S. BURDEN  
RUTH P. CLEMENTS

TELEPHONE: (561) 655-0620  
TELECOPIER: (561) 655-3775

**MEMORANDUM**

**TO: Board of Supervisors, Pal-Mar Water Control District**  
**FROM: Caldwell Pacetti Edwards Schoech & Viator, LLP**  
**DATE: December 19, 2018**  
**RE: Update Regarding Martin County Lawsuit**

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A hearing was held on the Districts' Motions to Dismiss, Abate, and for More Definite Statement on August 16, 2018. It was held before Judge Bronis at the Martin County Courthouse. In attendance were Lyman Reynolds, Districts' insurance counsel, Mary Viator, and Betsy Burden (representing the Districts), and David Arthur and Elizabeth Lenihan (representing Martin County). Also in attendance was James Sherman of the South Florida Water Management District.

The hearing was scheduled for 30 minutes but lasted approximately one (1) hour, with the judge asking several questions of the attorneys. The County stated its main argument was that Chapter 298 is inapplicable to political subdivisions of the State such as the County, since Section 298.36 only says it applies to the "state" and does not expressly state "political subdivisions" like the sovereign immunity statute. The Districts cited cases specifically stating that counties comprise the "state" and constitute "part of machinery of state government" and are thus subject to the Districts' assessments, under both Chapter 298 and the Districts' special acts.

The County also argued that the Districts are levying "taxes", not just "non-ad valorem assessments," since Section 298.54 specifically says "maintenance tax." The Districts responded that Section 298.54 defines "maintenance tax" as a non-ad valorem assessment and not an "ad valorem tax." The Districts also cited authorities for the well-settled proposition that "ad valorem taxes" and "non-ad valorem assessments" are entirely different.

An Order was rendered by Judge Bronis on August 23, 2018, denying the Districts' Motions on the basis that she believes Section 298.36 only refers to "the state" and not "political subdivisions." The Districts' insurance counsel timely filed an Answer and Defenses to the County's Complaint.

SFWMD also filed a Motion for Leave to Intervene, which matter was held on October 5, 2018. This Motion was granted despite the Districts' opposition to same. The Districts filed a Motion to Dismiss SFWMD's Complaint, which is scheduled for hearing on February 19, 2019, before a new judge.

On November 9, 2018, Hobe-St. Lucie Conservancy District filed a Request for Admissions to Plaintiff Martin County, and both Districts filed a Request for Production of certain specified documents. The deadline for the County's response was December 14, 2018, but Martin County has requested a 60-day extension, until approximately February 14, 2019, to which the Districts have agreed. See attached from Litigation Counsel.





ROBERTS, REYNOLDS,  
BEDARD & TUZZIO, PLLC

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GEMMA TORCIVIA  
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PLEASE REPLY TO:  
WEST PALM BEACH

December 10, 2018

*Confidential matter exempt from disclosure or inspection per FS 119.07, 768.28 & 768.301*

**VIA EMAIL: [ajimenez@egisadvisors.com](mailto:ajimenez@egisadvisors.com) VIA EMAIL: [anegretti@networkadjusters.com](mailto:anegretti@networkadjusters.com)**

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Ashley Negretti  
Network Adjusters, Inc.  
Stanford Place I  
8055 E. Tufts Ave., Ste. 600  
Denver, CO 80237

Re: Martin County v. Hobe-St. Lucie Conservancy District, et al.  
Claim No.: FDC000153 Pal-Mar  
Claim No.: FDC000152 Hobe  
Our File No.: 18-307

Dear Mr. Jimenez & Ms. Negretti:

Please be advised that my associate Gemma Torcivia and I conducted a telephone conference with counsel for Plaintiff Martin County, Mr. David Arthur and Ms. Elizabeth Lenihan, at their request due to the voluminous number of documents necessary for Martin County to comply with the Districts' Request for Production to Martin County which was served on November 9, 2018. The due date for Martin County's discovery response is December 14, 2018; however, during the conference call Mr. Arthur requested an initial sixty (60) day extension and advised that Plaintiffs may need an additional thirty (30) days for a total extension of ninety (90) days. Mr. Arthur also advised that Plaintiff would provide their responsive documents as they come in, as opposed to producing everything at the end of the extended discovery period, so that we will be able to review the records as received piecemeal from Plaintiff's counsel. We advised of our agreement to the requested initial sixty (60) day extension

and intended strategy for production of records to our office as they are received by Mr. Arthur's office from Martin County.

If you have any questions or need any additional information, please contact me or my associate, Gemma Torcivia. Thank you so much for your assistance and consideration in this matter.

With best regards,



LYMAN H. REYNOLDS, JR.  
For the Firm

LHR, jr./rls

cc: Jason Pierman, Hobe-St. Lucie, via email: [jpierman@sdsinc.org](mailto:jpierman@sdsinc.org)  
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December 12, 2018

*Confidential matter exempt from disclosure or inspection per FS 119.07, 768.28 & 768.301*

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Re: Martin County v. Hobe-St. Lucie Conservancy District, et al.  
Claim No.: FDC000153 Pal Mar  
Claim No.: FDC000152 Hobe  
Our File No.: 18-307

Dear Counsels:

Our office has recently set Defendants, Hobe-St. Lucie Conservancy District and Palm-Mar Water Control District's, Motion to Dismiss Plaintiff, South Florida Water Management District for a special set hearing on February 19, 2019 at 10:00 a.m. before Judge Steven J. Levin. Per Judge Bronis' judicial assistant, Judge Levin will be rotating in for Judge Bronis beginning next year.

We will continue to keep you advised of any and all developments.

With best regards,



*for* LYMAN H. REYNOLDS, JR.  
For the Firm

LHR, jr./abe/mdf

cc: Jason Pierman, via email: [jpierman@sdsinc.org](mailto:jpierman@sdsinc.org)  
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**Pal Mar Water Control District**  
**Budget vs. Actual**  
**October through November 2018**

|   | <u>Oct - Nov 18</u>     | <u>Budget</u>      | <u>\$ Over Budget</u>   | <u>% of Budget</u>   |
|---|-------------------------|--------------------|-------------------------|----------------------|
| <b>Ordinary Income/Expense</b>          |                         |                    |                         |                      |
| <b>Income</b>                           |                         |                    |                         |                      |
| 363.100 · O & M Assessments             | 20,851.18               | 478,165.00         | -457,313.82             | 4.36%                |
| 363.830 · Assessment Fees               | -410.16                 | -9,563.00          | 9,152.84                | 4.29%                |
| 363.831 · Assessment Discounts          | -834.00                 | -19,127.00         | 18,293.00               | 4.36%                |
| 369.400 · Other Revenue - Unit 1        | 4,883.25                | 0.00               | 4,883.25                | 100.0%               |
| 369.401 · Interest Income               | 85.41                   | 420.00             | -334.59                 | 20.34%               |
| <b>Total Income</b>                     | <u>24,575.68</u>        | <u>449,895.00</u>  | <u>-425,319.32</u>      | <u>5.46%</u>         |
| <b>Gross Profit</b>                     | 24,575.68               | 449,895.00         | -425,319.32             | 5.46%                |
| <b>Expense</b>                          |                         |                    |                         |                      |
| 511.122 · Payroll Taxes (Admin)         | 22.95                   | 100.00             | -77.05                  | 22.95%               |
| 511.131 · Supervisors Fees              | 300.00                  | 1,200.00           | -900.00                 | 25.0%                |
| 511.310 · Engineering                   | 3,577.10                | 17,000.00          | -13,422.90              | 21.04%               |
| 511.311 · Management Fees               | 4,000.00                | 24,000.00          | -20,000.00              | 16.67%               |
| 511.315 · Legal Fees                    | 3,727.26                | 27,000.00          | -23,272.74              | 13.81%               |
| 511.318 · Assessment/Tax Roll           | 0.00                    | 5,000.00           | -5,000.00               | 0.0%                 |
| 511.320 · Audit Fees                    | 0.00                    | 5,200.00           | -5,200.00               | 0.0%                 |
| 511.450 · Insurance                     | 5,000.00                | 6,350.00           | -1,350.00               | 78.74%               |
| 511.480 · Legal Advertisements          | 433.46                  | 1,700.00           | -1,266.54               | 25.5%                |
| 511.512 · Miscellaneous                 | 198.64                  | 3,000.00           | -2,801.36               | 6.62%                |
| 511.513 · Postage and Delivery          | 48.27                   | 2,300.00           | -2,251.73               | 2.1%                 |
| 511.514 · Office Supplies               | 317.55                  | 2,500.00           | -2,182.45               | 12.7%                |
| 511.515 · Website Management Fee        | 250.00                  | 1,500.00           | -1,250.00               | 16.67%               |
| 511.540 · Dues, License & Subscriptions | 175.00                  | 175.00             | 0.00                    | 100.0%               |
| 511.901 · Engineering - Unit 1          | 2,298.25                | 0.00               | 2,298.25                | 100.0%               |
| 511.902 · Legal - Unit 1                | 2,585.00                | 0.00               | 2,585.00                | 100.0%               |
| 511.999 · Contingency                   | 3,822.55                | 914.00             | 2,908.55                | 418.22%              |
| 512.999 · Uncollectable Assessments     | 0.00                    | 351,956.00         | -351,956.00             | 0.0%                 |
| <b>Total Expense</b>                    | <u>26,756.03</u>        | <u>449,895.00</u>  | <u>-423,138.97</u>      | <u>5.95%</u>         |
| <b>Net Ordinary Income</b>              | <u>-2,180.35</u>        | <u>0.00</u>        | <u>-2,180.35</u>        | <u>100.0%</u>        |
| <b>Net Income</b>                       | <u><b>-2,180.35</b></u> | <u><b>0.00</b></u> | <u><b>-2,180.35</b></u> | <u><b>100.0%</b></u> |

|  |                     |
|--|---------------------|
| Bank Balance As Of 11/30/18              | \$ 39,170.43        |
| Investment Acct Balance As Of 11/30/18   | \$ 40,108.35        |
| Accounts Payable As Of 11/30/18          | \$ 9,924.85         |
| Accounts Receivable As Of 11/30/18       | \$ 4,883.25         |
| <b>Total Fund Balance As Of 11/30/18</b> | <b>\$ 74,237.18</b> |

**Pal Mar Water Control District**  
**Custom Transaction Detail Report**  
 October 2 through November 1, 2018

|  | Type            | Date       | Name  | Memo  | Paid            | Due              | Balance         |
|--|-----------------|------------|---|---|-----------------|------------------|-----------------|
| <b>Legal Fees</b>                                    |                 |            |   |   |                 |                  |                 |
| <b>Caldwell Pacetti Edwards Schoech &amp; Viator</b> |                 |            |   |   |                 |                  |                 |
|  | Bill            | 10/22/2018 | Caldwell Pacetti Edwards Schoech & Viato Invoice #126722 Unit of Development No.1           |   |                 | 1,260.00         |                 |
|  | Bill            | 10/31/2018 | Caldwell Pacetti Edwards Schoech & Viato Invoice #126754 Legal Services Oct 2018            |   |                 | 2,573.94         |                 |
|  | Bill            | 10/31/2018 | Caldwell Pacetti Edwards Schoech & Viato Invoice #126755 Litigation Oct 2018                |   |                 | 3,237.55         |                 |
|  | Bill            | 10/31/2018 | Caldwell Pacetti Edwards Schoech & Viato Invoice #126752 Unit of Development No. 1 Oct 2018 |   |                 | 1,325.00         |                 |
|  | Bill Pmt -Check | 10/11/2018 | Caldwell Pacetti Edwards Schoech & Viator   |   | 5,304.88        |                  |                 |
|  | Bill Pmt -Check | 11/01/2018 | Caldwell Pacetti Edwards Schoech & Viato Invoice #126722 Unit of Development No.1           |   | 1,260.00        |                  |                 |
| Total Caldwell Pacetti Edwards Schoech & Viator      |                 |            |   |   | 6,564.88        | 8,396.49         | 7,136.49        |
| <b>Management Fees</b>                               |                 |            |   |   |                 |                  |                 |
| <b>Special District Services, Inc.</b>               |                 |            |   |   |                 |                  |                 |
|  | Bill            | 10/31/2018 | Special District Services, Inc.   | Management Fees for October 2018                          |                 | 2,399.98         |                 |
|  | Bill Pmt -Check | 11/01/2018 | Special District Services, Inc.   | Management Fees for October 2018                          | 2,399.98        |                  |                 |
| Total Special District Services, Inc.                |                 |            |   |   | 2,399.98        | 2,399.98         | 0.00            |
| <b>Miscellaneous</b>                                 |                 |            |   |   |                 |                  |                 |
| <b>PBN (Newspaper)</b>                               |                 |            |   |   |                 |                  |                 |
|  | Bill            | 10/23/2018 | PBN (Newspaper)   | Invoice #I00430710-10232018 REVISED FY 18/19 Mtg Schedule |                 | 271.76           |                 |
|  | Bill Pmt -Check | 11/01/2018 | PBN (Newspaper)   | Invoice #I00430710-10232018 REVISED FY 18/19 Mtg Schedule | 271.76          |                  |                 |
| Total PBN (Newspaper)                                |                 |            |   |   | 271.76          | 271.76           | 0.00            |
| <b>Treasure Coast Newspapers</b>                     |                 |            |   |   |                 |                  |                 |
|  | Bill            | 10/23/2018 | Treasure Coast Newspapers   | Invoice # 2142789 REVISED FY 18/19 Mtg Schedule           |                 | 161.70           |                 |
|  | Bill Pmt -Check | 10/11/2018 | Treasure Coast Newspapers   | 432676  | 160.05          |                  |                 |
| Total Treasure Coast Newspapers                      |                 |            |   |   | 160.05          | 161.70           | 161.70          |
| <b>TOTAL</b>   |                 |            |   |   | <b>9,396.67</b> | <b>11,229.93</b> | <b>7,298.19</b> |