

**MINUTES OF MEETING  
FIDDLER'S CREEK  
COMMUNITY DEVELOPMENT DISTRICT #1**

The Public Hearing and Regular meeting of the Board of Supervisors of the Fiddler's Creek Community Development District #1 was held on Wednesday, August 22, 2007 at 10:00 a.m., at the Fiddler's Creek Club and Spa, 3470 Club Center Drive, Naples, Florida 34114.

Present and constituting a quorum were:

Phillip Brougham  
Alexander Love  
James Curland  
Peggy Schmitt  
James Robertson

Chairman  
Vice Chairman  
Assistant Secretary  
Assistant Secretary  
Assistant Secretary

Also present were:

Corinne Norton  
Chuck Adams  
Terry Cole  
Carlo F. Zampogna  
J. Gaines  
Ron Albeit  
Several Residents

Assistant Regional Manager  
District Manager  
Engineer  
District Counsel  
Berger, Toombs, Elam, Gaines & Frank  
Foundation Manager

**FIRST ORDER OF BUSINESS:**

**Roll Call.**

Ms. Norton called the meeting to order and called the roll.

**SECOND ORDER OF BUSINESS:**

**Discussion/Consideration of Letter from  
Berger, Toombs, Elam, Gaines & Frank.**

Mr. Brougham stated this item is in regard to a letter dated July 24, 2007 from Berger, Toombs, Elam, Gaines & Frank, our outside Auditor, pertaining to audit fees for the next year.

Mr. J. Gaines, Auditor, reviewed the new standards required for auditing services and the increase in fees due to additional time required to prepare the audit.

Mr. Brougham clarified, your firm is under contract with the District for a period of time, four or five years?

Mr. Gaines stated yes, five years.

Mr. Brougham asked could you please clarify what you mean by "the District systems"?

Mr. Gaines stated that is the procedures, internal control, and how the process goes through. You as District Supervisors won't even notice a difference, it will be more questions that we will ask the management company. We will have to do a "walk through", taking a couple of transactions and make sure the systems are followed.

Mr. Brougham questioned the procedure used for auditing the Bond funds.

Mr. Gaines confirmed that the Bond funds are thoroughly inspected.

A resident questioned the District's assets and whether a report is generated reflecting the assets.

Mr. Adams explained the process used by the Management company to calculate and update the District's assets; stating we have a detailed list of your assets with an assigned value to those and they are depreciated on an annual basis.

Mr. Love questioned whether the contract amount was stated in the contract with Berger, Toombs, Elam, Gaines & Frank.

Mr. Gaines replied no, it is presented on an annual basis. Because of the significant increase, we sent the letter informing Wrathell, Hart, Hunt & Associates. The increase is based on the necessary time involved and the size of the District.

**On MOTION by Mr. Brougham and seconded by Mr. Love with all in favor of accepting the new fee schedule with Berger, Toombs, Elam, Gaines & Frank for Auditing Services as presented.**

**THIRD ORDER OF BUSINESS:**

**Engineer's Report**

Mr. Cole stated we have three pay draws to present which we processed over the last month; the first one is for the 2002 Series Bond, the Phase 3 Bond. We had approximately \$312,000.00 remaining and a lot of the expenses are retainage items that are being drawn against what is remaining. We are trying to close this Bond out within the next couple of months. This draw, #51, is approximately \$48,000.00 reflects retainage monies that are due for work that was previously performed.

Mr. Cole continued, the second one is the 2005 Bond, Draw #15 for approximately \$87,000.00 consisting of clearing and excavation within the Phase 6, unit 1 area, including

additional sodding and grading related to stabilizing the banks of the lakes. We also had some turn lane improvements on the South Commercial Center at 951.

Several residents questioned Mr. Cole regarding the location of the improvements as demonstrated on the map.

Mr. Cole explained the locations and the color coding of the map.

Mr. Brougham explained the assessment process for the improvements for the benefit of the residents.

Mr. Adler, a resident, questioned the maintenance of Championship Drive in relation to the Bond with the Developer.

Mr. Cole responded that work was completed some time back and I believe there is an Agenda item pertaining to these repairs.

Mr. Adler stated my second question is related to the lakes, the fountain has been shut off because the lakes are low; we were told the Developer was responsible for maintaining the lake levels according to the State.

Mr. Adams responded that is true, it is subject to a surface water management permit, which is issued by SWFWMD. There is little to no control over the level of water in those lakes other than for the purposes of receiving, storing and conveying storm water.

Mr. Adams continued by explaining the dams that are used; the purpose of the lakes for the community and the effects of the drought on the lakes.

Mr. Brougham explained the maintenance being done on the fountains and stated they will be started back up as soon as they are repaired.

Mr. Cole stated I have one more draw, the 2006 Bond, for \$5,800.00 for the rest of the benches. This will close out this Bond, which was refinanced from 1996.

Mr. Brougham asked, have the invoices for the benches been received?

Mr. Cole stated we still need some; the future invoices will be draws against Bond 3.

**On MOTION by Mr. Brougham and seconded by Mr. Love with all in favor of approving the Engineer's Pay Draws as presented.**

**FOURTH ORDER OF BUSINESS:**

**Affidavit of Publication**

Mr. Brougham explained the Affidavit of Publication for the Public Hearing and Regular Meeting being held today, to discuss and adopt the Operating and Maintenance Budget for Fiddler's Creek C.D.D. #1; it is contained in the Agenda Packages and was published in the Naples Daily News.

Mr. Brougham commented on emails that were received from homeowners regarding the letter from the District Manager announcing a "special assessment" as well as this meeting. The State passed a new law that stated that the District must notify all homeowners of the Public Meeting and the maximum amount of what the Operating and Maintenance Budget is going to be. This letter served the same purpose as the TRIM notice from the tax collector. Mr. Brougham also clarified that the "special assessment" refers to the Operating and Maintenance Budget.

Mr. Adams discussed the noticing sent and the purpose for the increase in the proposed budget/special assessment amount reflected on the notice.

Mr. Adler stated I want to thank Chuck for talking to Ron and printing the budget and leaving it at the desk downstairs; rather than having the homeowner's association download the 28 pages.

Mr. Brougham clarified the special assessment notice for resident, Mrs. Klutz.

Mr. Brougham stated the current assessment being proposed today is \$1,153.00 for operating and maintenance per unit; you must add what the annual Bond amortization amount is; last year your O&M Assessment was \$1,002.00. The money goes to maintain the facilities and infrastructure of the District; the trees, the grass, the irrigation supply and pump house, the streetlights, the guard services at the front gate, the roving patrol services, lake maintenance services, management and staff fees; operating and maintenance costs.

Mr. Love stated if you refer to page 26 of the Budget, which is posted on the website, this information is exactly down to the penny of what the cost is per homeowner.

**FIFTH ORDER OF BUSINESS:**

**Public Hearing to Consider Resolution  
2007-11 Adopting the Final Budget for  
Fiscal Year 2008**

***\*\*\*The Public Hearing was Opened at this time.\*\*\****

Mr. Adler, a resident, discussed the maintenance issues along Championship Drive, including drainage problems and his dissatisfaction with the landscaping maintenance of this area.

Mr. Brougham I concur with you, but this is specifically an agenda for consideration of the Budget.

Mr. Adams stated I am going to be doing a drive through with the contractor tomorrow morning and that will be an area that we will focus on and ensure that everybody is aware of where the boundary is.

Mr. Brougham stated it is not only an issue with Deer Crossing, it is an issue for almost every other village that borders along Championship or a C.D.D. berm, this is an ongoing thing.

Mr. Brougham requested comments from the audience regarding the Budget.

Mr. Bergmoser asked, could you outline your five largest annual expenditures?

Mr. Brougham replied by far the largest expense is for landscaping services, that the proposed budget for 2008 is \$1,600,000.00; next is access control services, the guards, roving patrol, etc. and that is \$437,000.00; professional fees at \$193,000.00; water management is \$236,000.00.

Discussion followed regarding the controls for subcontractors in regard to compliance with federal and state laws; the security cost sharing program; the impact of growth on the community; budgeting for assessment discounts; and tax certificate sales for foreclosed units.

Mr. Brougham compared the budget for 2007 which was \$2,096,773.00 and the proposed budget for 2008 is \$2,272,603.00; an increase of \$175,830.00, noting that the District, in the upcoming year, will have a decrease in assessments due to a decrease in the number of planned units by the Developer, resulting in approximately a 50% increase in the homeowners assessment for Fiscal Year 2008.

Ms. Schmitt questioned which area caused the increase in the budgeted amount under water management for fountains; the increase is \$14,800.00.

Mr. Adams replied that is attributed to the electricity costs and the repair costs due to the age of the equipment.

Mr. Albeit, Foundation Manager, commented on the increase for the tree trimming/pruning program.

***\*\*\*The Public Hearing was Closed at this time.\*\*\****



from Griffith Paving for asphalt repair and patching and then the Boardwalk inspection report for the Gazebo area.

The first proposal for repairs/re-paving is for \$115,600.00, to mill off the entire length of the street and re-pave/re-stripe the entire section. The second proposal is for \$3,500.00 to cut out and repair the areas that are damaged.

Mr. Brougham stated my concern is that the six or seven years of construction traffic has contributed to the deterioration of that roadway surface. In the past, Al, you had voiced an opinion that you feel and I would join you in that, that the Developer should have some participation in the repair. Also, could those expenses come out of Bond funds since it is a Capital repair?

Mr. Adams replied yes, you can do that; whether the Developer will participate, we can certainly ask the question. You budgeted \$50,000.00 for roadway improvement; you could also consider short term financing to spread the cost over four or five years.

Also discussed was the new micro-paving approach and whether it is an option. There has not been long term analysis to determine the longevity of this approach.

Mr. Love clarified it should be Championship Drive to Fiddler's Creek Parkway and shared his observance of the damage from construction traffic.

Ms. Schmitt stated I agree with Al, the heavy overweight vehicles and the speed of travel all heading into C.D.D. #2; I think we need to approach the Developer and ask him for a contribution. Also, all the areas on Championship are the same that we continue to fix; can we get a couple more estimates?

Mr. Adams stated I can go out and get you a couple more estimates if you decide to re-mill the roadway.

Mr. Robertson stated I would strongly argue against the "band-aid" fix; the only way to fix a road is to mill them down and prepare the surface correctly and resurface.

Mr. Brougham summarized, I would like to ask you to formerly approach our Developer to see if there is construction money that can be allocated for this purpose, given the circumstances of construction traffic on that road; in addition to that, subject to getting more bids, I would like a professional/engineer's assessment of the cause of the repeated failures in that section, to see if the subsurface has some issues that need to be addressed and then thirdly,

pending the answers and the input next month to those questions, we need to consider how we are going to finance this project.

Comment was made by a resident regarding the mis-use of the roadway by construction personnel/vehicles.

Mr. Albeit said he would address the issue and encouraged residents to notify him when they observe these circumstances.

The Board members are in agreement with construction traffic/personnel being directed to the US 41 construction gate.

A resident suggested a sign at the Championship gate stating "no construction traffic allowed".

Mr. Adams will proceed with having a sign made to advise that construction vehicles are not permitted at the Championship entrance.

Mr. Brougham stated, on the Boardwalk Inspection report, what exactly is being asked there?

Mr. Adams answered we had several leads, and we ended up with the proposal in your Agenda Package, to perform inspection of the Boardwalk and the Gazebo, the superstructure, the decking, the railing and the Gazebo structure itself, and providing a recommendation indicating whether there is a need for replacement or repairs. The proposal is in the amount of \$2,000.00 for the inspection report.

**On MOTION by Mr. Brougham and seconded by Mr. Love with all in favor of approving the proposal for Boardwalk & Gazebo inspection with Hans Wilson & Associates, Inc.**

**NINTH ORDER OF BUSINESS:**

**Approval of July 25, 2007 Meeting Minutes**

Mr. Love stated, I made a comment about the second Gate on Championship, that even though we approve it, if problems do not exist after people get back, we should close it down earlier. I didn't see my comment about possibly unmanning the gate at an earlier time.

Mr. Adams stated we will add this to the record and to those minutes.



**On MOTION by Mr. Brougham and seconded by Mr. Love with all in favor of approving the July 25, 2007 Meeting Minutes as amended.**

**TENTH ORDER OF BUSINESS: Other Business**

Mr. Adams stated I distributed to you a draft of the Interlocal Agreement as provided by your attorney; I would like to insert the methodology of cost sharing for the access control program and the irrigation supply system to include the overall cost of the programs. I would also recommend in paragraph 6, to append to that adding the language “unless a party has been found in violation” of any part of Sections 2, 3 and 4 regarding the dual interest is being represented and agreed upon. One other recommendation was to add some language with regard to the possibility of a “stale mate” and have Staff act as a mediator to find a consensus on how to proceed. You do need to have joint approval. We will ask your attorney to add that specific language and add it as an additional section. With those changes, I believe that the Committee is comfortable recommending the approval of this agreement; it is for one year and binds you to the Budget that now both Boards have approved.

Mr. Robertson stated next year we will probably use the same agreement next year at the same time with a new Budget sharing methodology defined at that point and time.

Ms. Schmitt asked, are there other communities in Naples that have more than one C.D.D.?

Mr. Adams stated yes, Mediterra and The Brooks.

**On MOTION by Mr. Brougham and seconded by Mr. Curland with all in favor of approving the Interlocal Agreement as amended.**

**ELEVENTH ORDER OF BUSINESS: Staff Reports.**

**A. Attorney**

Mr. Zampogna stated there were only three things that we were requested to take care of this month; one being the Interlocal Agreement which was just discussed.

The other was the amended license agreement for the Gazebo and Boardwalk which was reported on this morning and then the last one was the memo on conveyances and interests in land and I have that for you. I outlined three interests in land that were brought up; a fee interest and easement and also a dedication. We can briefly go through those unless you would like to review them and then if you have questions.

Mr. Brougham stated we wanted it for the record and our understanding. I do have a question about the items that needed to be cleaned up; they weren't conveyed appropriately, has that been done?

Mr. Zampogna stated I will follow-up with Mr. Pires for you.

Mr. Brougham also requested a current status/update on the Severn Trent issue; and if another follow-up letter to their attorney hasn't been sent, I would request that he do so. We still want our money, \$20,000.00.

**B. Manager Unaudited Financials**

Mr. Brougham thanked Mr. Adams and his Staff for including the change to the reconciliation. Mr. Brougham stated under Access Control Services, repairs and maintenance parts, we had a charge of \$19,399.00 in one month; we could buy a whole new car for that amount of money; I am sure that it is a mis-coding.

Mr. Adams stated I am sure that it is; I think the majority is that we had to buy additional transmitters for the 300 that were not working appropriately with the new system; that ended up in here.

Mr. Brougham asked with respect to Access Control Parts; what is the control on expenses? Who makes that decision?

Mr. Adams commented routine repairs are allowed; transmission, engine, etc. are reviewed.

Mr. Brougham requested that Mr. Adams email the details to all Board members.

**TWELFTH ORDER OF BUSINESS: Supervisors Request and Audience Comments**

*Audience Comments:*

Mr. Adler, a resident of Deer Crossing Court, commented on the condition of the berm in his area and requested that improved maintenance be performed on the berm.

Mr. Brougham shared this is a constant issue and we need to keep on the crews to do the maintenance properly.

Mr. Adams stated I will address that with them when we meet tomorrow; we do have an on-site supervisor who happens to actually lives here. I will make sure he understands the boundaries of the various villages and the District.

Mr. Brougham requested that Mr. Adams report back his feedback to Mr. Adler or himself.

Mr. Adler discussed the Ficus trees and the problem with the roots cracking lanais.

Comment was made that a root barrier was placed in this area.

Mr. Adams stated I will handle this with the contractor.

Mr. Adler also discussed the trimming of the canopy along Championship Drive and the tree trimming.

A resident commented on the poor quality of the tree trimming and the bands on the trees.

Mr. Brougham replied we have employed a contractor, Anchor Tree Service, a professional arborist; they are bound by contract and county code, to prune those trees in an approved fashion that conforms to certain industry standards. If not, code enforcement will and has gotten after them. In respect to the bands, it has to do with stabilizing the tree and is the responsibility of the District and One Source.

Mr. Adams stated generally the bands are kept on for one year, but due to the tropical storm season, we decided to leave them on a little longer through the tropical storm season. They will probably come off in November.

Mr. Adams explained the trimming process used for the canopies; code enforcement has been monitoring the trimming.

A resident commented on a property on Isla del Sol and asked who is responsible for the maintenance of this property? The resident expressed an interest in possibly using it for a dog park.

Mr. Brougham stated I do not know who could answer your question.

Mr. Albeit suggested contacting the Developer for more information.

A resident expressed a concern regarding algae in certain lakes.

Mr. Adams stated we are aware of this growing problem.

Mr. Adler asked if the District is permitted to charge for access to the community.

Mr. Adams stated yes, you can.

Mr. Brougham stated it has not come before the Board.

*There being no Supervisors Requests, the next item followed.*

**THIRTEENTH ORDER OF BUSINESS:           Adjournment**

There being no further business, all were in agreement with adjournment.

**On MOTION by Ms. Schmitt and seconded by Mr. Love with all in favor, the meeting was adjourned.**

  
Secretary/Assistant Secretary

  
Chairman/Vice Chairman