

**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 27, 2008 at 10:30 a.m.**, at the **Fiddler's Creek Club and Spa, 3470 Club Center Boulevard, Naples, Florida 34114.**

Present at the meeting were:

Phillip Brougham	Chairman
Alexander Love	Vice Chairman
James Curland	Assistant Secretary
Peggy Schmitt	Assistant Secretary
James Robertson	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Crismond	Assistant Regional Manager
Terry Cole	District Engineer
Anthony Pires	District Counsel
Matt Morris	Client Services Manager
Jim Vajen	Gulf Bay
Ron Albeit	Fiddler's Creek Foundation
Mike Charbonneau	Security

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mr. Adams called the meeting to order at 10:30 a.m., and announced that all Supervisors were present and constituting a quorum.

SECOND ORDER OF BUSINESS

Staff Report: Engineer

Mr. Cole presented the following pay draw:

Draw #26, 2005 Series Bond, approximately \$35,000, primarily for clearing work discussed over the past several meetings.

Mr. Cole recalled a previous question regarding the ability to turn left at the pool building exit on Cherry Oaks. He explained that drivers had to keep right and go around the circle. Mr. Cole said that the yellow striping directs drivers around the circle; he suggested that this could be re-stripped to create a 12-foot wide lane so drivers would not cross a yellow line.

Mr. Cole recalled a previous question regarding installing handicap ramps at certain sidewalk intersections. He stated that staff was working with the developer to determine if construction funds would be available for these.

THIRD ORDER OF BUSINESS

Update on Irrigation Study

****This agenda item, formerly the seventh order of business, was discussed out of order.****

Mr. Cole requested to discuss the irrigation matter. Mr. Brougham advised that this concerned Item 7 on the Agenda.

Mr. Brougham briefly summarized the history of this item. He recalled that last month, the Board had discussed pursuing mechanical approaches such as using filters and blow off valves to flush out the system. He recalled that at last month's meeting, discussion was held as to whether the CDD could invest in capital improvements on irrigation facilities within the Villages; the answer to this was no. Mr. Brougham said Mr. Pires, the District Attorney, was not present at the last meeting; however, he was represented by his assistant who had no comment. He explained that since that meeting, he had asked Mr. Pires to investigate potential methods by which the District could invest in capital improvements within the Villages. He believed there were means by which the District could enter into agreements with condo associations and invest in capital improvements in the Villages. Mr. Brougham asked Mr. Cole to explain what the contractor proposed in order to flush out the system and asked Mr. Vajen to provide recommendations.

- a. **Consideration of Entrix Proposal**
- b. **Consideration of Wesco Turf, Inc. Proposal**
- c. **Consideration of Miller-Leaman Incorporated Proposal**
- d. **Consideration of Aqua-Matic Irrigation Systems, Inc. Proposal**

Mr. Cole advised that staff had met with representatives from Aqua-Matic to discuss locations where blow off valves could be installed to flush the lines and get rid of snails. He stated that this is being done in other communities. Mr. Cole deferred to Mr. Vajen.

Mr. Vajen advised that staff had recently done flush outs and found no snails. He suggested that the influx of fresh rain water may have made the environment unsuitable for snails, which tend to like more "salty" water.

It was recommended to consider reviewing and updating the systems operating parameters within the computer control system as proposed by Wesco Turf; it was also recommended to consider the Aqua-Matic proposal to do a year-long study of flows and pressure throughout the entire system.

On MOTION by Mr. Brougham and seconded by Mr. Love, all voted in favor of joining CDD #2 to approve the proposal from Wesco Turf, Inc., and Aqua-Matic Irrigation Systems Inc., for an amount not to exceed \$7,800 in aggregate.

Mr. Brougham requested that Mr. Pires update the Board on the potential for the District to make capital improvements in the Villages in terms of blow off valves and to address potential funding sources, such as bond funds or operation and maintenance budget dollars. Mr. Pires advised that under Chapter 190, the District owns, operates and maintains public improvements and community facilities such as water supply, reuse water and to operate facilities associated with this. He explained that if the District wished to make capital improvements to existing irrigation infrastructure within the Villages, it would need to own or control such facilities. This would require a fundamental policy decision by the Board. Mr. Pires stated that the installation of blow off valves at the end of lines in the Villages would benefit the main irrigation line. He advised that if the District wished to pursue such capital improvements, it would need to examine the documents of those associations willing to participate, to see what mechanisms are in place to get the necessary consent to convey facilities, such as irrigation lines and easements. He said it is feasible for the Board to utilize its borrowing authority or ability to borrow money from institutions for such improvements.

Mr. Brougham clarified that the Board is not discussing installing blow off valves at this point; instead, the Board heard the attorney's opinion stating that if the Board(s) should decide to invest in blow off valves in the future, there are ways and means by which agreements could be reached to own the infrastructure within the Districts; this would not impose routine maintenance

of the irrigation systems within the Villages upon the District. Mr. Brougham said the relevant agreements could be structured specifically to clarify what the District would be responsible for.

Discussion ensued on this topic.

On MOTION by Mr. Brougham and seconded by Mr. Curland, all voted to take no action on proposals A and C.

FOURTH ORDER OF BUSINESS

Affidavit of Publication for August 27, 2008 Public Hearing and Regular Meeting

****This agenda item, formerly the third order of business, was discussed out of order.****

Mr. Adams indicated that proofs of publication of advertisement for today's Public Hearing and Meeting were provided in the agenda packet.

FIFTH ORDER OF BUSINESS

Public Hearing to Consider Resolution 2008-7, Adopting the Final Budget for Fiscal Year 2009; Pursuant to Florida Law

****This agenda item, formerly the fourth order of business, was discussed out of order.****

• Testimony from Interested Property Owners

Mr. Adams advised that previous adjustments requested by the Board have been incorporated in this final version of budget. He added that notices were mailed out to residents regarding assessments. Mr. Adams explained to residents that the notice was required by law to reflect the projected assessment for this year, and to advise residents of the public hearing. He advised that the actual assessment levels contemplated in this budget totaled \$1,466; this reflected a reduction in comparison to the previous year's assessment. Mr. Brougham added that this included the Hurricane Wilma assessment.

Mr. Adams briefly summarized revisions to the final version of the budget.

Mr. Adams opened the public hearing. There being no public comment, Mr. Adams closed the public hearing.

On MOTION by Mr. Robertson and seconded by Mr. Love, all voted in favor of adopting Resolution 2008-7, approving the Final Budget for Fiscal Year 2009.

SIXTH ORDER OF BUSINESS

Consideration of Resolution 2008-8, Levying a Non-Ad Valorem Maintenance Assessment for the General Funds and a Non-Ad Valorem Assessment for the Debt Service Funds for Fiscal Year 2009

****This agenda item, formerly the fifth order of business, was discussed out of order.****

Mr. Adams explained that this resolution identifies the levy amounts consistent with the amounts in the budget just adopted and authorizes staff to transmit the roll along with the budget to the Tax Collector.

On MOTION by Mr. Love and seconded by Mr. Brougham, all voted in favor of approving Resolution 2008-8, Levying a Non-Ad Valorem Maintenance Assessment for the General Funds and a Non-Ad Valorem Assessment for the Debt Service Funds for Fiscal Year 2009.

SEVENTH OF BUSINESS

Consideration of Resolution 2008-9, Regarding Amending the Post Orders of the District

****This agenda item, formerly the sixth order of business, was discussed out of order.****

Mr. Adams summarized amendments and revisions that were recently made to the post orders. He stated that this resolution will memorialize these previously approved amendments.

On MOTION by Mr. Brougham and seconded by Mr. Curland, all voted in favor of adopting Resolution 2008-9, Amending the Post Orders of the District.

Mr. Brougham stated that after the previous discussion regarding unimpeded access, he had contacted Chris Major, General Manager of The Rookery and provided him with the revised Post Orders. Mr. Brougham read aloud the following letter from Mr. Major:

[START OF VERBATIM RECORD]

Dear Mr. Brougham:

I have had the opportunity to review those pertinent portions of the proposed revised Post Orders for Fiddler's Creek CDD #1 pertaining to the unmanned operation of the gatehouse on

Championship Drive. A copy of the proposed revisions is attached as Attachment A. I am authorized to write this letter as an authorized agent and on behalf of City National Bank of Florida as Trustee under Land Trust Agreement dated April 27, 1979, known as Trust No. 5003950 for the benefit of Massachusetts Mutual Life Insurance Company, Massachusetts Corporation, a/k/a Mass Mutual. This letter may be relied upon by Fiddler's Creek CDD #1 in modifying or revising its Post Orders to provide for the language in Attachment A relating to the Championship Drive entrance gate. After review of the proposed revised Post Orders in Attachment A, as to the unmanned operation at Championship Drive entrance/Championship Gate, the proposed revised Post Orders qualify as and provide unimpeded access for Mass Mutual as described and defined in Section 8 of that certain Declaration of Restrictive Covenants for the Golf Club at Marco and Fiddler's Creek properties as recorded at the Official Records Book 2366, page 2244 of the Public Records of Collier County, Florida. We enjoy working in a cooperative nature with Fiddler's Creek CDD #1 and look forward to a continued good relationship. If you have any questions please do not hesitate to contact me.

Signed by Chris Major, General Manager of The Rookery.

[END OF VERBATIM RECORD.]

EIGHTH ORDER OF BUSINESS

**Notice of General Election - November 4,
2008 – All Seats 4 Years**

a. Unopposed Candidate

i. Philip Brougham (Seat 5) *incumbent*

Mr. Adams advised that Mr. Brougham ran unopposed and will start a new four-year term in November.

b. Qualified Candidates

i. George Ohye (Seat 3)

ii. Jim Schutt (Seat 3)

iii. Peggy Schmitt (Seat 4) *incumbent*

iv. Robert Slater (Seat 4)

Mr. Adams advised that both Seats 3 and 4 would be on the ballot for Fiddler's Creek CDD #1 residents, during the November 4 General Election.

NINTH ORDER OF BUSINESS

Approval of July 23, 2008 Public Hearing and Regular Meeting Minutes

Corrections to the minutes were provided as follows:

Line 23: Insert Carlo Zampogna, District Counsel under Attendance.

Line 27: Change "10:00" to "10:45".

Lines 57, 59, 63 and 69: Change "Robertson" to "Vajen".

Line 80: Strike "Love".

Line 92: Change "these" to "they"; Change "roads" to "property."

Line 175: Add "in an annual amount not to exceed \$900."

Line 235: Change "rebuilt" to "rebuild".

Line 235: After "developer" add "as far back as October 2007 in regards to General Fund 001."

Line 273: Insert "the wrong way" after "drive".

On MOTION by Mr. Brougham and seconded by Mr. Love, all were in favor of approving the July 23, 2008 minutes as amended.

TENTH ORDER OF BUSINESS

Other Business

No Other Business was discussed.

ELEVENTH ORDER OF BUSINESS

Staff Reports

a. Attorney

Mr. Brougham advised that a section of Montreux abutting Fiddler's Creek Parkway and going up to the north entrance was is in questionable ownership and therefore, there was question about its maintenance. He explained that when the Village was turned over the Tax Appraiser reflected that Montreux owned this section; the Board and the Village made a joint decision to maintain this section.

Mr. Pires advised that upon review of past requisitions reflected that the District had paid for landscaping; this information was provided to Mr. Cole. He explained that this was a temporary access easement for installation of landscaping that remains in place until such time as

the current easement took its place; this gives the District the ability and right to install and maintain landscaping. He added that the District needs to convert the temporary easement to a permanent easement. Mr. Pires said his office is working on the necessary documents.

Mr. Brougham recalled a previous question about who is responsible to power wash sidewalks on Mahogany. He advised that the sidewalks on Mahogany, Mulberry and on the Cherry Oaks side of Cherry Oaks Trail are in District right-of-way. He stated that per Mr. Pires' opinion, the CDD has the obligation and right to maintain these sidewalks inclusive of power washing.

Mr. Pires advised that it is the District's obligation to maintain facilities and landscaping within its rights-of-way. He stated that individual HOA documents may stipulate boundaries that the HOA has to contractually maintain. He added that to the extent that the District has the liability, it is always prudent that the District embark upon a routine maintenance program for areas it owns. Mr. Brougham spoke of the background on this matter and stressed the need for all to respect the legal opinion rendered by Mr. Pires. Mr. Brougham said a consistent and definite policy needs to be adopted by this Board as to what sidewalks would be maintained and added that Mr. Pires needs to do further research on this matter. Mr. Brougham stressed his goal is to solve problems.

Discussion ensued on this topic.

b. Manager

i. Unaudited Financials as of July 31, 2008

Mr. Adams presented the Unaudited Financials as of July 31, 2008.

Mr. Brougham commented that the combined balance sheet total did not reflect the balance from General Fund 001 and 002.

Mr. Brougham commented that the Liabilities total on page two (2) did not appear under Liabilities in General Fund 002. Mr. Adams noted these comments.

Mr. Brougham recalled previous discussion about expenditures related to the installation of a telephone line. Mr. Adams stated he had not yet followed up on this item.

Mr. Brougham referred to page 33 and asked that the reconciliation be updated every month.

Mr. Brougham commented that included in the agenda packet was a letter of protest from Mr. Goldberg about a lack of notice about assessments. Mr. Brougham advised that he had

looked up Mr. Goldberg's property and learned it was purchased in March, 2008; therefore, Mr. Goldberg has probably not received a County tax bill or the District's assessment in the past.

Mr. Brougham requested that Mr. Adams respond to Mr. Goldberg and clarify that he is part of a CDD and that his assessment has decreased for this year. Mr. Adams agreed to this request.

ii. Proposed Meeting Schedule for Fiscal Year 2009

Mr. Adams advised that the proposed meeting schedule identifies the fourth Wednesday of each month at 9 a.m., except for November and December. He explained that staff is recommending re-scheduling these meetings to November 19 and December 17 to avoid conflicts with holidays.

On MOTION by Ms. Schmitt and seconded by Mr. Love, all voted in favor of approving the proposed meeting schedule for Fiscal Year 2009 as presented and authorizing staff to advertise this accordingly.

Mr. Brougham asked if there was an estimate of costs for Hurricane Fay cleanup. Mr. Adams advised that cleanup work cost a little over \$1,000 for the clean up of branches, palm fronds etc. which was achieved with the use/help of Golf Course labor. There were several trees blown down that needed to be re-stood and a small hand full of those are ficus, which will need to be replaced based upon previous Board policy. I will let Ms. Crismond provide more details on that as a part of her report.

c. Operations Manager

Lake Fountains: Ms. Crismond reported that one lake fountain was not operable and needed parts replaced. She stated that Aqua-Matic is trying to locate the parts.

Littorals: Staff would be reviewing additional littoral plantings on the golf course.

Landscaping: Ms. Crismond indicated that a copy of the Defective Work Notice issued to One Source was provided. All deficient items were reviewed and addressed except for sea grape trimming which was expected to be finished by Monday. She advised that the firm had apologized for these deficiencies and assured her this would not happen again.

Tropical Storm Fay: Ms. Crismond advised that 100-plus trees were down and that clean up would be finished that day.

Tree Replacement: Mr. Brougham said the consensus was to replace ficus trees with live oak trees and shady ladies for a cost of about \$1,500. He commented that this was a better investment as it was more expensive to re-brace ficus trees.

Mr. Adams said staff was considering using oaks with minor blemishes that could be obtained at a significantly reduced price. He said this would cost about \$5,000 per tree, for supply and install, and that staff is considering purchasing 5-10 trees maximum. He commented that oaks are slow growers; therefore it was preferable to use larger trees to replace ficuses.

Ms. Crismond added that a large ficus at Bellaggio needed to be replaced. Mr. Adams asked the Board to authorize staff to proceed with tree replacements for an amount not to exceed \$45,000. Mr. Adams advised that there is money in the fund balance to cover this expense.

On MOTION by Mr. Curland and seconded by Mr. Love, all voted in favor of approving the change order request for \$45,000 for total tree replacement work.

Mr. Brougham spoke of ongoing problems with shady lady trees that dropped black olives along medians and sidewalks. He advised that Ms. Crismond had obtained some quotes to remove these trees. Mr. Brougham stressed that this discussion was restricted to the inventory of shady ladies located on Fiddlers Creek Parkway. He said in his view, these trees and the stains were an eyesore. Mr. Love agreed that these have been an eyesore for years. Ms. Schmitt suggested waiting until after the hurricane season. Mr. Robertson said he was opposed to removing and replacing live trees. Mr. Brougham requested that Ms. Crismond locate pricing for replacing trees that are standing for further discussion in the fall.

Sheriff Patrol: Ms. Crismond advised that it was recently brought to her attention that the Sheriff's Department was not patrolling the community; she said she had contacted them twice but had not yet spoken to the department on this matter.

Roadway Cleaning: Roadway curbing was underway and the only area left to complete was Club Center Drive; also the curbing on Cherry Oaks needed to be cleaned.

Roadway Striping: Roadway striping was completed.

Gatehouse Procedures: Ms. Crismond said she had retained services for quarterly testing as requested and would provide a written report to the Board upon completion of testing.

It was commented that behind Deer Crossing, ficus trees were touching the building. It was requested that staff address trimming of these trees because in a major storm this would create a liability issue. Ms. Crismond said she would have these looked at.

Ms. Crismond advised Mr. Curland that during a recent drive through, it appeared that some residents were trimming arboicola facing Championship Drive. Mr. Curland asked that Ms. Crismond send him a note which he would forward to the Association.

TWELFTH ORDER OF BUSINESS

**Audience
Requests**

Comments/Supervisors'

Ms. Schmitt advised that she would not be at the September meeting.

Ms. Schmitt commented that one week earlier, upon entering the Championship Drive gate, a driver followed very closely and tailgated her into the complex.

Ms. Schmitt voiced concern that the gates were recently raised and the gates abandoned during storm preparation and that no one was available as emergency security. Mr. Adams advised that security personnel were not asked to work when sustained winds were over 35 mph; he added that this was a standard procedure during tropical events.

Ms. Schmitt voiced concern about trees overhanging the sidewalks throughout the community and along Mulberry.

A question was raised about why the gate access number was higher in July than January through March. Mr. Adams said he could not answer why there might be any discrepancy. He indicated he would look into this.


Marge, a resident, requested that someone trim the palm tree hanging over her property. Mr. Brougham advised that this was not the District's responsibility.

THIRTEENTH ORDER OF BUSINESS

Adjournment

On MOTION by Mr. Love and seconded by Mr. Curland, all were in favor of adjourning.

There being no further business to discuss, the meeting was adjourned at 12:15 p.m.



Secretary/Assistant Secretary



Chairman/Vice Chairman