

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

The Regular Meeting of the Board of Supervisors of the Fiddler's Creek Community Development District #1 was held on **Wednesday, January 28, 2009 at 9:30 a.m.**, immediately following the Fiddler's Creek Community Development District #2 meeting, at the **Fiddler's Creek Club and Spa, 3470 Club Center Boulevard, Naples, Florida 34114.**

Present at the meeting were:

Phillip Brougham	Chairman
Jim Schutt	Assistant Secretary
James Robertson	Assistant Secretary
Robert Slater	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Crismond	Assistant Regional Manager
Terry Cole	District Engineer
Anthony Pires	District Counsel
Ron Albeit	Fiddler's Creek Foundation
Mike Charbonneau	Security
Glen Fulker	Cardinal Management
John Stack	Architectural Fountains
Al Love	Resident
David Westbrook	Resident

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

The meeting was called to order at 9:34 a.m., and Mr. Adams announced that all Supervisors were present at Roll Call, with the exception of Supervisor Curland.

SECOND ORDER OF BUSINESS

Staff Report: Engineer

Mr. Cole presented Pay Draw #30 for the 2005 Series Bond for approximately \$10,000. He explained that this consisted of landscape plantings and professional fees for ongoing clearing and removal of exotic vegetation. He stated that the exotic vegetation grew back very quickly after being cleared. Mr. Brougham asked whether these efforts will eventually conclude

or if they will continue to cost the District money. Mr. Cole said there will be a conclusion to the first effort of mechanical removal of vegetation; following this, ongoing maintenance will be paid for out of the operating funds.

It was stated that mechanical clearing seldom solves this problem, unless the roots of exotic plants are entirely removed. Mr. Cole stated that the County requires annual exotic plant removal into perpetuity. He said this stipulation is included in every project, up front. Mr. Adams explained that chemical treatment can be used to kill tree stumps; however, existing seed source, or seed source from other properties, propagate these plants very rapidly. Mr. Adams advised that when these efforts are completed, the District should take on maintenance immediately.

Mr. Brougham stated that the Board will discuss the potential acquisition of additional lake aerators during the meeting. He asked Mr. Cole if construction bond funds are still in place for aerators, in the event the Board votes in favor of acquiring these aerators. Mr. Cole said, based on the information provided about the \$58,800, there were adequate funds for this.

A Board member asked Mr. Cole to take an aerial photograph that illustrates the boundaries of Districts #1 and #2, as several residents were unaware of the boundaries of each District. Mr. Cole said he will take a detailed map of the Districts' plats and label the boundaries, along with development tract areas.

A question was raised about the status of the sidewalk ramps along Championship Drive. Mr. Cole said Staff is preparing to submit these plans to the County. He said the contractor will begin striping for the pool building area within two (2) weeks; also, the contractor will begin installing the handicap mats at that time.

THIRD ORDER OF BUSINESS

**Consideration of Resolution 2009-5,
Amending the Post Order of the District**

Mr. Brougham advised that some additional amendments to the Post Orders were discussed at the Fiddler's Creek CDD #2 meeting earlier today. Mr. Adams referred to Page 9 and stated that language regarding "redirecting traffic coming into the 41 construction gate" will be stricken.

A Board member referred to language concerning home prices on Page 3 and said these prices were incorrect. Mr. Brougham suggested deleting this entire paragraph. Additional revisions to the Post Orders were made as follows:

- Page 4: Add the Sandpiper Gate address.
- Page 6: Add Platinum Property Management to contact list.
- Page 7: Final paragraph: Delete "main gate and/or construction".
- Page 7: Final paragraph: Change gate to "gates".
- Page 9: Delete paragraph in capitals.
- Page 10: Use "gates" instead of specific locations.
- Page 10: Resident Guests registered: Strike first sentence.
- Page 1: Show history of document revision dates.

A Board member said he frequently observed open garage doors early in the mornings. Mr. Brougham asked Ms. Crismond to check with Mike about the statistics of open garage doors observed in the District.

On MOTION by Mr. Slater and seconded by Mr. Robertson, with all in favor of adopting Resolution 2009-5, Amending the Post Orders of the District, as revised.

FOURTH ORDER OF BUSINESS

Consideration of Final Proposal and Financing Options for Entry Floating Fountain Project

Mr. Brougham indicated that a representative from Architectural Fountains was present. John Stack, owner of Architectural Fountains, introduced himself to the Board. Mr. Brougham said he wished to entertain questions and answers, followed by a vote on the proposal to acquire the two (2) fountains. He stated that if the acquisition of aerators is approved, the second vote will concern financing options.

Mr. Robertson commented that the District water is quite brackish. Mr. Stack agreed, but said it is not at the extreme level. He explained that the pumps and motors proposed are designed and approved for saltwater use. He added that the fountain/aerator will be coated with an anti-fouling paint; however, this paint will not prevent a barnacle from growing onto the fountain. He stated that as part of the regular maintenance proposal, barnacles will be removed every two (2) months.

Mr. Brougham asked if Mr. Stack had enough experience to know the life of this pump. Mr. Stack stated that the life rate of the motor is four (4) years, while the life rate of the pump is approximately 12 years. He added that the parts were under warranty for three (3) years.

Mr. Slater asked about the operating cycles of the fountains. Mr. Stack said he could not comment on this because he is unfamiliar with them. It was stated that the aerators ran year-round, from 9:00 a.m. to 9:00 p.m. He asked whether the maintenance contract will remain as is, with the \$12,000 fee, if the contractor discovers that barnacles are not an ongoing problem. Mr. Stack commented that, based on past history, the District has a major problem with barnacles. He explained that the paint coating will not prevent the growth of barnacles, but will prevent them from sticking hard to the fountains.

Mr. Schutt commented that, when lake levels are reduced, there is a possibility that the pumps will be shut down at some time. He asked whether the maintenance contract will be adjusted if it is necessary to shut down the fountains for a given period of time. Mr. Stack said if his firm has to pull the fountains out and store them, the District will not be paying for a maintenance contract. The District will simply be charged a fee for pulling the fountains and then reinstalling them. He pointed out that if the fountains are shut down and left on site, maintenance will still be required, because barnacles will continue to grow.

Mr. Brougham asked whether significant damage will occur if the fountains are not operational, but remain in the water. Mr. Stack said if the fountains are dormant for one (1) year or more, the stainless steel shaft will stick to the rubber bearing and jam the pump. Mr. Brougham asked Mr. Adams about the process of selling the existing fountains and pumps as surplus property. Mr. Adams said the District will have to do a surplus sale advertisement; if there are no interested parties, Staff can be authorized to dispose of the pumps properly, which will be incorporated into this proposal. Mr. Brougham suggested that when these pumps and parts are offered for sale, the successful bidder should be responsible for all costs associated with removal. Mr. Adams said he wished to advertise the sale in such a way that interested parties can come and see the pumps in operation. He asked whether Mr. Stack could pull these to shore, in the event an interested buyer wished to purchase and haul away the fountains. Mr. Stack advised that the copper and brass nozzles will not be worth anything of value.

On MOTION by Mr. Robertson and seconded by Mr. Brougham, with all in favor of deeming this asset to be of no sound value.

Mr. Pires referred to the maintenance contract and requested that language stipulate or specifically state that cleaning “will include removal of zebra mussels and oysters, along with trash, algae and barnacles”. He also requested that language stipulate that “maintenance activity will not be done from the boat, but will be conducted on shore”. Mr. Brougham agreed that the maintenance contract needs to stipulate what activities will be performed on shore and which will be performed by boat, on the lake.

A Board member commented that since most problems are electrical in nature, the contract should stipulate what preventive electrical maintenance will be done.

On MOTION by Mr. Robertson and seconded by Mr. Slater, with majority in favor of accepting the final proposal to acquire the fountains, with Mr. Schutt dissenting. (MOTION PASSED 3-1)

Mr. Brougham thanked Mr. Stack for attending. He advised that there are three (3) options for financing, including: 1) a lease purchase; 2) an outright purchase for \$58,800, using monies from the Operating Budget and Reserves and 3) usage of Construction Bond monies. He commented that the fountains will be viewed as a device that maintains good water quality of the front lakes. He said if the third option is chosen, there will be no impact on the Operating Budget or on residents.

Mr. Robertson recommended using Construction Bond revenues for financing. Mr. Albeit asked whether this is a budgeted amount in the District's Construction Bonds. Mr. Brougham said he verified with Mr. Cole that bond monies can be used for this type of capital acquisition. Mr. Adams said the Board can look to Mr. Cole for this information. Mr. Brougham added that there are unallocated interest monies in all bond funds. Mr. Adams said the remaining 2005 Bond has over \$8 million, which is tied into a construction program. Mr. Brougham recalled that when the 1996 Bond was refinanced, there were monies left over and not spent. He added that Mr. Cole specifically referred to these unspent funds in a conversation that morning.

Mr. Robertson said he wished to fund this purchase out of current Operating Funds, pending resolution of construction funds availability. A Board member spoke in favor of funding with construction funds first.

Mr. Schutt commented that this is a feature for Fiddler's Creek and felt the cost should be shared with CDD #2. He said the entire community should pay for the ongoing cost, as everyone uses the main entrance. It was commented that the CDD #1's area of responsibility extended from the front gate past the Spa. Mr. Schutt said some people believed the fountains add to the value of the entire community and, in this regard, the community should share the costs equally. Mr. Brougham asked whether there are restrictions on imposing taxes on other Districts, with regard to physical property. Mr. Pires advised that the District had no authority to impose assessments outside the boundaries of the District. Mr. Schutt commented that Safety and Security is paid for by both Districts. He continued to voice concern that CDD #2 might not pay for this feature, even though it benefits both Districts; he added that CDD #2 simply needs to agree to share this cost.

Mr. Robertson commented that the current agreement for Safety and Security between both Districts took two (2) months to be established. He said if both Boards wished to share the cost, they should start the agreement process soon. Mr. Adams said this type of agreement generally began during budget considerations.

Mr. Brougham said the agreement stipulates that any shared cost must be supported by an approved budget adopted by both Districts. Mr. Schutt suggested holding off further action until some discussion or agreement is agreed upon.

On MOTION by Mr. Brougham and seconded by Mr. Robertson, with majority in favor of financing the acquisition of the proposed lake aerators by first, accessing any available accrued or unallocated bond interest and/or bond construction monies, if available; and if not available, that these be purchased from the Operating General Fund of CDD #1, with no financing considerations, with Mr. Schutt dissenting. (MOTION PASSED 3-1)

Mr. Brougham said the Board should have some dialog about the Interlocal Agreement between both Districts with regard to cost sharing on any other services. Mr. Robertson

recognized that District #2 has considerable costs associated with its fountains and if costs are shared, this becomes a two (2)-way street.

Mr. Schutt commented that Mr. Robertson should represent CDD #1's interests when sitting at this meeting, and if unable to do so, he should resign from one (1) of the two (2) Boards.

FIFTH ORDER OF BUSINESS

Approval of December 17, 2008 Regular Meeting Minutes

Corrections were provided to the minutes as follows:

Page 1: Add Glen Fulker of Cardinal Management Company to attendance.

Lines 53, 96 and 102: Replace "Shutt" with "Schutt" here and throughout document.

Line 61: Insert "Fulker" after "Glen".

Line 69: Insert "Fulker" after "Glen".

Line 69: Change "Ron's" to "Mr. Albeit's".

Line 206: Insert "Albeit" after "Ron".

Line 220: Replace "close to \$100,000" with "significant money".

On MOTION by Mr. Brougham and seconded by Mr. Schutt, with all in favor of approving the December 17, 2008 Regular Meeting Minutes, as corrected.

SIXTH ORDER OF BUSINESS

Other Business

There being no Other Business, the next item followed.

SEVENTH ORDER OF BUSINESS

Staff Reports

a. Attorney

There being no report, the next item followed.

b. Manager

i. Unaudited Financial Statements as of December 31, 2008

Mr. Adams presented the Unaudited Financial Statements as of December 31, 2008.

Mr. Schutt asked whether CDD #2 had paid monies owed to CDD #1. Mr. Adams said these monies will be cleared before the end of this month and that CDD #2 has the funds in place for these repayments.

Mr. Brougham raised the issue of CDD #1's responsibility to finance shortfalls within CDD #2. He suggested that appropriate lines of credit should be explored for both Districts, to take care of interim shortfalls that might occur in operating funds, so that CDD #1 should not be in the position of advancing monies to CDD #2. He asked what appropriate action the Board could take with regard to restricting such activity in the future. Mr. Pires advised that the Boards need to set a policy with regard to establishing inter-District or intra-District funds. Mr. Brougham said he had less concern about the movement of money between General Funds 1 and 2; however, he voiced concern about the "formal way to instruct the District Manager/Treasurer with respect to restricting the loaning of money between Districts".

Mr. Adams explained that monies are not being loaned. He stated that programs are in place which are CDD #1's responsibility; there is also a Joint Budget stipulating that both Districts will share costs; however, these programs are housed with one (1) particular District's responsibility. When the dollars are not available, the District will carry past due accruals until the monies become available. He pointed out that this happened recently, as CDD #1 has received significant property tax receipts for CDD #2. He added that the financing atmosphere has changed significantly and that he has looked into lines of credit for both Districts. Mr. Adams said he might be able to obtain a line of credit for CDD #1, but was not sure he could obtain a line of credit for CDD #2.

Mr. Brougham said he had ongoing concerns that CDD #1 should mitigate its risk to ensure that it is self-contained and does not extend liabilities and reliance to any other entity. He asked what process the District needs to follow if defaults are made by the developer or by residents.

Mr. Brougham asked Mr. Adams to provide solid recommendations and analysis on this matter at the next meeting.

Mr. Adams explained that the Debt Service Reserve Fund requires the District to bank one (1) year's interest and principal payment, in the event the District should have difficulty collecting its tax revenues. Mr. Brougham asked if the CDD has sufficient reserves to pay Gulf Bay Assessment obligations. Mr. Adams responded affirmatively and said the District is

budgeted to make these payments through assessment receipts. Mr. Adams added that, as property owners, residents of the District will not be responsible for any neighbors' delinquency on their Debt Service Assessment.

Mr. Brougham asked Mr. Adams to provide a report on where the District stands with regard to Off Roll Assessments and foreclosures at the next meeting.

Mr. Brougham asked Mr. Adams to do some preliminary investigation into establishing a line of credit for the District.

A Board member asked what is involved in the \$25,000 fee charged for Assessment Roll Services. Mr. Adams explained that this service is provided through a separate contract with AJC Associates. He stated that this firm updates the ownership of all folios through the Property Appraiser each year; then as assessments per unit become adopted, the firm implements the amounts for each fund that each folio is responsible for; the roll is then certified and transferred to the Property Appraiser for placement on the property tax bill. Mr. Adams advised that there is a link to AJC Associates' website provided on the CDD's website.

- ii. **NEXT MEETING DATE: February 25, 2009 at 9:30 A.M., or immediately following the Fiddler's Creek Community Development District #2 meeting**

The next meeting is scheduled for February 25, 2009.

c. Operations Manager

******This item was presented out of sequence, at the conclusion of the Eighth Order of Business.******

Ms. Crismond reported that the decorative entry monument fountains were acid washed on January 12th.

Ms. Crismond reported that a lake tour was completed on January 15th and the littoral plantings and water quality were in good condition.

Ms. Crismond reported that she continues to tour the property with the landscape contractor on a weekly basis.

Mr. Brougham requested an opinion on how Tru Green is doing with respect to maintenance of CDD #1. Ms. Crismond said there were some deficiencies observed in CDD #1 and Tru Green was going through the entire District to complete palm trimming and pine strawing. Also, irrigation repairs and sod replacement were being done. She stated that these deficiencies were left over from the previous contractor.

Mr. Albeit advised that Mr. Vajen’s comments were very positive with regard to Tru Green’s work. Mr. Adams advised that Staff held back payment to the prior contractor until these deficiencies are addressed; also, this work will be deducted from the final payment.

Mr. Slater asked who was responsible for maintaining all the greenery along The Rookery. Ms. Crismond advised that CDD #1 is responsible for this area. Mr. Slater commented that the hedges at this area are straggling. Mr. Brougham advised that the bougainvillea hedge on Fiddler’s Creek Parkway, going down toward The Rookery, is to be maintained the same as any other hedge in other area; however, about 150 yards away from The Rookery, there are guava trees, which the Board previously discussed removing. He advised that an estimate for \$15,000 was submitted to tear these out and replace them with bougainvillea plantings. He stated that when Chris Major, manager of The Rookery, is ready to move forward, this will be done.

Ms. Crismond reported that Wesco Turf is currently reviewing the as-built plans, along with Aquamatic, and will report on their audit, upon completion. Mr. Robertson said the study results should be given to the Village Association Boards. Mr. Brougham said Mr. Fulker was responsible for gathering the as-built plans, along with Mr. Vajen, for all the Villages. Mr. Fulker advised that he had located 13 plans and was still searching for more.

Mr. Brougham advised that he emailed Aqua-matic’s report to all Village Association presidents, within the last few days.

Ms. Crismond reported that, as of December, there were 13 stops with seven (7) citations issued for speeding and one (1) citation issued for a stop sign violation. She advised that this patrol is now in place, weekly. Mr. Brougham suggested that patrol service between 5:00 a.m. and 6:00 a.m., may yield different results.

Ms. Crismond reported that pressure cleaning at the Gatehouses was completed.

Mr. Brougham asked about the area along Championship Drive, adjacent to Mahogany Bend Lake, where landscaping is very sparse. Ms. Crismond said she is working with Doria’s to locate some denser landscaping for this area. She expected this to be completed within one (1) week.

EIGHTH ORDER OF BUSINESS

**Audience
Requests**

Comments/Supervisors’

Al Love, a resident of the District, recommended finding out how many remaining units may potentially be built within the boundaries. It was stated that roughly 600 units remain to be built within CDD #1.

David Westbrook, a resident of Deer Crossing, asked who is responsible for the power washing of sidewalks on Sandpiper. Mr. Brougham said this was completed last summer or fall, but can be scheduled again if a specific area is identified.

Mr. Albeit stated that the developer has the money available to pay monies owed by CDD #2 and requested that these monies be posted. Mr. Adams said these funds have been received.

A resident asked whether the back gate is open. Mr. Brougham responded affirmatively and said the gate is now automated.

NINTH ORDER OF BUSINESS

Adjournment

**On MOTION by Mr. Brougham and seconded by Mr. Schutt,
with all in favor of adjourning.**

The meeting was adjourned at 11:17 a.m.


Secretary/Assistant Secretary


Chairman/Vice Chairman