

**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, March 25, 2009 at 9:30 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
James Curland	Vice Chairman
Jim Schutt	Assistant Secretary
James Robertson	Assistant Secretary
Robert Slater	Assistant Secretary

**Also present were:**

Chuck Adams	District Manager
Craig Wrathell	District Treasurer
Cleo Crismond	Assistant Regional Manager
Terry Cole	District Engineer
Anthony Pires	District Counsel
Ron Albeit	Fiddler's Creek Foundation
Mike Charbonneau	Security
Bill Reagan	Raymond James
Ms. Brougham	Resident

**FIRST ORDER OF BUSINESS**

**Call to Order/Roll Call**

The meeting was called to order at 9:45 a.m. Mr. Adams announced that all Supervisors were present at Roll Call.

**SECOND ORDER OF BUSINESS**

**Staff Report: Engineer**

Mr. Cole presented Pay Draw # 32 for the 2005 Series Bond for approximately \$15,000. He explained that the majority of this consisted primarily of clearing of the preserve area, some landscaping and littoral plantings. Mr. Brougham said he understood that clearing work was completed. Mr. Cole explained that additional mechanical clearing work was necessary in the preserve areas.

Mr. Cole said Staff is waiting for natural plant material to regrow; he advised that money is budgeted for replanting, but Staff is waiting for the wet season.

A Board member asked about the status of the ramps. Mr. Cole said he was told the handicap mats would be started that day; however, he had not yet submitted the request for the cuts to the County.

Mr. Brougham recalled that Mr. Cole was going to check whether the CDD is required to maintain the school property to the north, on US-41. Mr. Cole said the agreement shows the District is obligated to maintain this area.

**THIRD ORDER OF BUSINESS****Discussion of Possible Refinancing of Series 2002 and 2005 Bond Issues**

Mr. Brougham welcomed Bill Reagan to speak on this matter. Mr. Reagan, of Raymond James & Associates, introduced himself. Mr. Reagan said his firm wished to restructure the 2005 Bond. He stressed that the restructuring will not affect any residents or homes, as it affects raw land owned by the developer. Mr. Cole indicated, on the map, where the Phase 3 (2002 Series Bonds) and the Phase 4 (2005 Series Bonds) are located. Mr. Reagan briefly outlined the reasons for the restructuring and advised that there are excess construction proceeds from the original \$18 million Bond. He stated that the developer will not use all of this under current absorption; therefore, his firm is calling these Bonds in. Also, as part of the restructuring, the firm would ask for Capital Appreciation Bonds for the next two (2) years. He stated that for this transaction, the interest rate will go from 6.5% to 8%. He stressed that this transaction had to occur before the May 1 deadline. Mr. Brougham asked about the bad effects, if the Board does not approve. Mr. Reagan said if the developer does not pay his debt service by May 1, these two (2) sections of land will go into default and that they will direct the District Manager to file foreclosure action against the land. He added that this may hurt the integrity of the community and the value of the remaining units. Mr. Reagan said his firm wants to have some type of guarantee from the developer that he will fund or borrow money to complete the project at some time when the market supports this. Mr. Brougham said if Gulf Bay signs a Guarantee of Completion Agreement, the term "at some time" will not be an adequate date. Mr. Reagan said the Completion Agreement ensures that someone will complete the project; however, he said that realistically, if there is never a need for this part of the development to be finished, no one will

put the money into developing it. He said the bondholders will still be fine, if this occurs. Mr. Brougham said if the Board approves this, it should mitigate some of the circumstances against the developer going into default on these bond payments, which could potentially occur. He said the District does not want to get into a foreclosure situation and added that the land does not mean anything to homeowners. He voiced concern about signing a Completion Agreement with no specified end date. Mr. Cole said the infrastructure sufficiently supports the units currently in place; however, this concerns new infrastructure for future units that are not needed. He said the District will not be adversely affected by not completing this infrastructure. Mr. Reagan said his firm could not go much further without the Board's agreement.

A question was raised as to whether the 2002 and 2005 Bonds have to be combined in one (1) package. Mr. Reagan said each approval has to be separate for the recapitalization. Mr. Pires said Staff can prepare a resolution that will propose the restructuring. Mr. Schutt said any default by the developer affects CDD #1 and #2 residents. Mr. Reagan explained that out of the 2002 Bond, the developer will make a contribution; in the restructuring of the 2005 Bond, there are excess Construction Funds, from where the fees will come. He said usage of these fees lowers the amount of bonds that can be called.

Mr. Brougham said he felt this was a legitimate move on the part of the developer and pointed out that no one has identified any downside to CDD #1 residents. Mr. Pires advised that two (2) resolutions have been prepared.

**On MOTION by Mr. Brougham and seconded by Mr. Curland, with all in favor of adopting a resolution to authorize the issuance of the CDD #1 Special Assessment Revenue Refunding Bond 2002, in a form approved by the Consultant and District Counsel.**

**On MOTION by Mr. Curland and seconded by Mr. Slater, with all in favor of adopting a resolution to authorize modifications to be financed with the proceeds from the District's Special Assessment Revenue Bond 2005 and approving various modifications in the Resolution.**

Mr. Brougham thanked Mr. Reagan for attending.

**FOURTH ORDER OF BUSINESS****Continued Discussion: Adopt-A-Road**

Mr. Brougham recalled that the Board previously asked whether the CDD is covered by insurance in case volunteers get hurt. Mr. Adams said, after discussion with the current insurance provider, he learned that the current General Liability policy does not cover volunteers doing work on any property that is not part of the District's responsibility. He said the volunteers could literally only pick up trash along the front of Fiddler's Creek, along 951. He said he also questioned whether the District could purchase additional coverage, but learned there is no opportunity to do this. Mr. Adams said the only other mechanism he could think of is asking volunteers to sign some type of a waiver, which may diminish some of the good feelings about the program. Mr. Brougham said the County or State prisoners would still continue to do road work no matter who adopted the road. A Board member said, if people choose to volunteer, they assume some of the risk involved. Mr. Brougham said the County supports this program and provides the equipment. He added that Mr. Albeit suggested having the Foundation provide storage for some of the equipment.

A suggestion was made to contact the Keep America Beautiful organization to learn whether they could provide donations of trash bags, refreshments and prizes. Mr. Brougham said this is a good idea and this may be supplemented by the County's provisions. He advised that if the Board goes forward, the application has to be filled out and forwarded to the Board of County Commissioners; once this is approved, the next step is to consider advertising for volunteers and figuring out what supplies to get.

**On MOTION by Mr. Schutt and seconded by Mr. Slater, with  
all in favor of having Fiddler's Creek CDD #1 adopt the road.  
(Motion passed 5-0)**

**FIFTH ORDER OF BUSINESS****Discussion: Patrol Vehicle "Decoy"**

Mr. Slater recalled that he had raised this topic because he did not think the decoy vehicle was effective and gave the impression that the District is a high crime area. He advised that he had reviewed two (2) studies which supported his position. He summarized the results of two (2) traffic studies done in other communities and towns, which revealed a tremendous drop in speed after a ten (10)-day period using a decoy car; however, after this period, the speeding rate soon

increased once residents became familiar with the location of the decoy vehicle. He stated that from his observation, drivers continue to speed past the District's decoy vehicle, as residents are now aware of where it will be located. He said he did not believe it was beneficial and wanted it eliminated.

Mr. Adams suggested having Mr. Charbonneau speak on this subject, as a prior conversation he had with Mr. Charbonneau revealed a somewhat successful strategy. Mr. Charbonneau said several months ago, before the decoy vehicle, an LD sign was posted throughout the community and about 90% of the vehicles stayed within five (5) mph over the posted speed limit. He said that as far as the report Mr. Slater consulted, the Sheriff's Department moves the car on a weekly basis. Their strategy is to communicate with the Special Services Division and move the car the day before the Deputies will be on site; however, when the Deputy arrives, he goes to the same site where the decoy vehicle was. He pointed out that about 50% of the citations or warnings for the past month were given to residents. He said that, based on this, it appears the decoy vehicle was working. Mr. Slater said the decoy vehicle gives a negative impression of the community.

A resident suggested sending someone to Staples to buy two (2) reams of paper, then print a pledge and give this to everyone who drives through the gate, including residents and vendors. He said the pledge should be used to get drivers to understand what the limits are. He said everyone thinks the limits are 55 mph or more, even though signs are posted. He suggested that printing up the pledge will educate drivers. He further suggested posting the speed limits in the Boardwalk Magazine and other community notices. Mr. Brougham said the visitors' passes indicate the speed limit is 35 mph. He pointed out that speeding tickets will ultimately get drivers' attention.

Ms. Brougham said she observed two (2) vehicles slowing down, after seeing the decoy vehicle, earlier that day. She commented that, since word gets around fast in the community, it would be helpful to give out tickets, as this will get residents' attention, quickly. Mr. Brougham voiced concern that the District cannot stipulate that deputies write tickets. He commented that if the highest percentage of enforcement is done with written warnings, then the District's money is being wasted. He asked Mr. Pires to have a talk with the Sheriff's Department. Mr. Slater suggested including a notice in the Boardwalk, advising how many warnings or tickets are given out monthly.

Mr. Schutt requested that the Deputies patrol between 5:00 a.m., and 6:30 a.m., because drivers fly down Championship Drive when he walks at that time. He said he has never seen a patrol car issuing tickets at that time.

**On MOTION by Mr. Brougham and seconded by Mr. Curland, with Mr. Schutt and Mr. Robertson in favor of continuing to use the Sheriff's Patrol Decoy Program, with Mr. Slater dissenting. (Motion passed 4-1)**

#### SIXTH ORDER OF BUSINESS

#### Continued Discussion: Operating Parameters for the District Treasurer

Mr. Brougham referred to a resolution drafted by Mr. Pires. Mr. Brougham briefly read the items outlined in the resolution. There was no objection to Clause 1, 2, and 3. Regarding Clause 4, Mr. Brougham requested some discussion. He asked Mr. Adams what the maximum check amount was, as far as budgeted amounts. Mr. Adams advised that there is a contract for landscaping that will fluctuate during the year. He said that checks might be written for \$75,000/\$80,000 range, which is typical for fall and spring landscaping. Mr. Wrathell said the only caveat he would throw out is the way the District is set up with the Tax Collector - to have a specific account designated to transmit the funds as collections occur. He said the Tax Collector just wants one (1) single account to deposit the money into. From there, Management has to wire Debt Service funds into other funds. He said this presents a limitation that he would be concerned about. He said he would not wish to have a restriction, in case money comes in from the Tax Collector and Staff cannot pay bills. Other than this, he said Management had no issue with this. Discussion ensued with regard to setting appropriate limitations. Mr. Brougham suggested continuing this item to next month. He asked Mr. Adams, Mr. Wrathell and Mr. Pires to provide all the necessary input to arrive at an answer next month.

Mr. Wrathell asked whether the Board wished to extend this to investment guidelines. Mr. Adams said, "We may want to amend to include some sort of authority to the extent that there is a crisis, the Board authorizes communication with a member of the Board, preferably the Chairman, working in tandem with the Treasurer, if we have to react in an emergency fashion, as we did last fall." Mr. Brougham said he was not in favor of Management working with any one (1) Board member, in the event of an emergency. Mr. Brougham said the Board's intent is to

“cover its bases and protect residents’ assets from “any potential monkey business on the part of any person who has signatory authority over District funds, as stranger things have happened.” Mr. Slater said he saw no reason why an emergency Board meeting could not be called in the event of an emergency; he added that he had no idea what the appropriate amount is for the general expenditures dealt with. He stressed that appropriate controls need to be in place for some things that are paid out all at once. He stressed that this discussion is intended to ensure the protection of the asset. Mr. Adams suggested setting the maximum check limit to \$100,000.

Mr. Brougham requested to “strike the 4A and 4B” entirely from Clause 4. There were no objections to Clause 5. Mr. Brougham suggested revising Clause 6. Mr. Wrathell suggested that the Board “not provide authority to wire funds outside of District-held accounts or Trust Accounts, which only allows Management the authority to wire funds between District Operating Accounts and Trust Accounts.” Mr. Brougham asked whether there is a resolution stipulating a limitation on spending in excess of \$25,000 on any non-budgeted item. Mr. Adams said, to his recollection, this was approved only through a motion. Mr. Brougham asked if this limitation could be memorialized in this resolution. Mr. Wrathell said he was hopeful that recent economic instability will not be repeated again in the near future. He said he would hate to be in a position where funds would be locked up, in an emergency event. Mr. Brougham asked Mr. Pires to check on this by next month.

**On MOTION by Mr. Brougham and seconded by Mr. Curland, with all in favor of approving Resolution 2009-9, as amended. (Motion passed 5-0)**

Mr. Adams said he would fill out the appropriate resolution number.

Mr. Brougham requested that Mr. Wrathell, Mr. Adams and Mr. Pires come back next month with the emergency authority issue worded appropriately. Mr. Brougham summarized the amendments as follows: Strike 4A, Insert \$100,000 in the blank; Strike 4B entirely; Number 8 was added, which is the prohibition against the Management company expending more than \$25,000 for a non-budgeted expense. Mr. Adams added that the Board also amended Clause 6 to include “allowing for interfund transfers within District funds and accounts only, no transfers outside of District funds or accounts”.

**SEVENTH ORDER OF BUSINESS**

**Consideration of Resolution 2009-6, Re-Designating the Registered Agent, Designating the Offices or Location of the Registered Office, and Re-Designating the Offices or Location of the Office of Record**

Mr. Adams advised that this resolution is a housekeeping matter and will reflect address changes of the Management firm.

**On MOTION by Mr. Curland and seconded by Mr. Slater, with all in favor of adopting Resolution 2009-6, Re-Designating the Registered Agent, Designating the Offices or Location of the Registered Office and Re-Designating the Offices or Location of the Office of Record.**

**EIGHTH ORDER OF BUSINESS**

**Approval of February 25, 2009 Regular Meeting Minutes**

Corrections were provided to the minutes as follows:

Line 53, 59, 61: Replace "A Board member" with "Mr. Slater".

Line 70: Replace "permit fees" with "permits".

Line 113: Insert "Charbonneau" after "Mike" and "Albeit" after "Ron".

Line 121: Insert "Albeit" after "Ron".

Line 213: Replace "Board member with "Mr. Schutt".

Line 219: Strike "unintelligible".

Line 220: Replace "is" with "was".

Line 221: Strike "any".

Line 231: Replace "unintelligible" with "unless".

Line 232: Replace "unintelligible" with "agent".

Line 234: Strike "unintelligible".

Line 235: Replace "unintelligible" with "Board".

Line 246: Strike "unintelligible".

Line 248: Replace "Board member" with "Mr. Schutt".

Line 250: Replace "194" with "190".

Line 251: Strike "unintelligible".



- Line 254: Replace "unintelligible" with "mosquito".
- Line 264: Replace "unintelligible" with "The District".
- Line 268: Strike "unintelligible".
- Line 331: Replace "Properties" with "Group".
- Line 341: Replace "Unidentified Speaker" with "Mr. Love".
- Line 414: Replace "Elise" with "Elysee".
- Line 462: Replace "Robertson" with "Curland".
- Line 503: Replace "inaudible" with "hogging".

**On MOTION by Mr. Schutt and seconded by Mr. Slater, with all in favor of approving the February 25, 2009 Regular Meeting Minutes, as corrected.**

**NINTH ORDER OF BUSINESS**

**Other Business**

There being no Other Business, the next item followed.

**TENTH ORDER OF BUSINESS**

**Staff Reports**

**a. Attorney**

**▪ Restated Interlocal Agreement with Fiddlers Creek #2**

Mr. Pires briefly outlined amendments made to the Interlocal Agreement between the two (2) Districts. He indicated that Paragraph 1 has additional language reflecting each District's cost sharing responsibilities.

A Board member commented that this appears to be a lot of time and effort and asked why Management could not simply write two (2) checks. Mr. Brougham explained that District #2's tax revenues are not all collected at the same time as CDD #1; therefore, depending on the level of reserves, CDD #2 may not have the funds available to write certain checks for shared expenses, such as Security and Irrigation.

A Board member said it should be Mr. Albeit's problem to collect from CDD #2 for payment of invoices. Mr. Adams pointed out that CDD #2 is a new district and the first 25% of the year, any assessments on the tax rolls, are not immediately received. Mr. Brougham advised that CDD #2 had voted to refer this matter to the Safety Committee. He commented that this

Agreement did not change the level of security and irrigation services, but concerned CDD #1 getting reimbursed. He said, in his opinion, it was not within the Safety Committee's purview to make recommendations concerning CDD #1's financial responsibilities. He suggested leaving this amendment in place; however, if this becomes tangled in the Safety Committee, he recommended a separate Interlocal Agreement that only addressed the advancement of funds from CDD #1 to #2. Mr. Adams pointed out that this is a seasonal issue and that the District will not continue to be out-of-pocket.

**On MOTION by Mr. Slater and seconded by Mr. Brougham, with all in favor of approving the Amended Interlocal Agreement, with Mr. Schutt and Mr. Curland dissenting. (Motion passed 3-2)**

Mr. Brougham presented Mr. Albeit with invoices from Collier County Utilities for the Golf Course for the last five (5) years. Mr. Albeit said he would have to investigate this.

Mr. Brougham said he had asked Ms. Crismond to present a ledger sheet on the Fountains Account. He said all the invoices that the District has been paying on behalf of the Golf Course total \$13,000.

Mr. Pires said he will bring back a resolution concerning the amended Treasurer's duties at the next meeting.

**On MOTION by Mr. Slater and seconded by Mr. Brougham, with Mr. Robertson in favor of approving the restated Interlocal Agreement with CDD #2, with Mr. Schutt and Mr. Curland dissenting. (Motion passed 3-2)**

**b. Manager**

**i. Unaudited Financial Statements as of February 28, 2009**

Mr. Adams presented the Unaudited Financial Statements as of February 28, 2009. Mr. Brougham commented that, historically, the CDD is behind on assessment collections. He advised that Staff will get a better picture of this in late April, as some homeowners choose to pay late. Mr. Adams said the \$14,000 discussed is on the books as a "Due From" item.

**ii. Update: Pursuit of Revolving Line of Credit**

Mr. Adams indicated that Municipal Capital Corp had withdrawn themselves from consideration; however, he recently held some positive discussions with a representative of Orion Bank and expected to receive documents in the next few days. He had also requested that Raymond James Banking Division take a look at our request. He will report back at the next meeting.

**iii. NEXT MEETING DATE: April 22, 2009, 9:30 A.M., or immediately following the Fiddler's Creek Community Development District# 2 meeting**

The next meeting is scheduled for April 22, 2009.

**c. Operations Manager**

**Fountains:** Ms. Crismond reported that the equipment was installed on Tuesday, March 24<sup>th</sup>, further indicating that they hoped to have it in full operation by the end of the week.

**Lakes:** Ms. Crismond reported that a tour of the lakes was completed on Monday, March 9<sup>th</sup>, with Lake Masters and Supervisor DiNardo. There were minimal signs of algae and the water quality was in good condition.

**Landscaping:** Ms. Crismond reported that a meeting has been scheduled with Collier County Code Enforcement, Chairman Phil Brougham, John Ribes of JRL Design, Jim Vajen, as well as several Tree Contractors, to discuss the 30% Canopy Tree Reduction Program. This meeting will be held on Monday, March 30<sup>th</sup>. Management will update the Board on progress at our next scheduled meeting.

**Irrigation:** Ms. Crismond reported that the Irrigation Study was completed and a Report was submitted by Wesco Turf. Their findings indicated that the system is supplying sufficient pressure and it is getting flow to each tap. It was also suggested that each neighborhood village supply an inventory of their irrigation heads so the community will operate at capacity. Mr. Brougham said, if these were accurately inventoried, the problem will be doubled, as several inefficiencies currently exist with irrigation heads. Mr. Adams agreed that the system is inefficient and that some villages may be using more water than necessary. Ms. Crismond said in order to arrive at absolute accuracy, each Association needs to provide this inventory. Mr. Brougham said this Board cannot legislate the Villages to do anything of this nature and has made many recommendations in the past. He said this is as far as the Board can go. He said this matter will be discussed at The Villages Council, the following week. He said he wished to see this Board out of this issue. Mr. Adams advised that the snail variety in the system was identified

and that representatives from the University of Florida are investigating solutions to this issue. He said Staff will report on this at the next meeting.

**Access Controls:** Ms. Crismond reported that the Gate Testing Report is enclosed and indicates that the guards followed orders appropriately. Mr. Schutt said the Board has no legal right to stop vehicles from entering and pointed out that the guard recently sent a contractor in through another gate. He commented that this system is "farcical", as there is no procedure in place to determine whether a contractor is legitimately a contractor. Mr. Adams said the controls are not designed for stringent scrutiny because the road systems are not private. He agreed that this program involves perception and the success of the program is indicated by the fact that the guards follow procedure.

**On MOTION by Mr. Robertson and seconded by Mr. Schutt, with all in favor of discontinuing the use of Marcone Investigations to test the Gate guards, with Mr. Brougham dissenting. (Motion passed 4-1)**

**Sheriff Patrol:** Ms. Crismond reported the stats for February/March are as follows: total of 12 stops, with one (1) citation and 11 warnings issued.

**Street Lights:** Ms. Crismond reported that she is in the process of obtaining a quote to clean the bulbs throughout areas of the community.

**ELEVENTH ORDER OF BUSINESS**

**Audience Requests**

**Comments/Supervisors'**

Mr. Brougham advised that the sodded section west of 9154 Cherry Oaks Trail was determined to be CDD responsibility.

Mr. Brougham said he and Ms. Crismond are communicating with Mrs. Senter, whose ferns have died again. He said a soil test is being run to determine why growth is not being supported.

A resident voiced concern about who will pay bills with regard to special assessments that may not be collected for units that are not built. Mr. Brougham said the Board shares this concern and understands the risks to residents. He added that the Board is taking steps to pursue a line of credit and other back-up plans.

TWELFTH ORDER OF BUSINESS

Adjournment

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

The meeting was adjourned at 12:10 p.m.

  
Secretary/Assistant Secretary

  
Chairman/Vice Chairman