

**MINUTES OF MEETING  
FIDDLER'S CREEK COMMUNITY DEVELOPMENT DISTRICT #1 &  
FIDDLER'S CREEK COMMUNITY DEVELOPMENT DISTRICT #2**

A Joint Regular Meeting of the Boards of Supervisors of the Fiddler's Creek Community Development District #1 and Fiddler's Creek Community Development District #2 was held on **Wednesday, December 15, 2010 at 8:00 a.m.**, at the **Fiddler's Creek Club and Spa, 3470 Club Center Boulevard, Naples, Florida 34114.**

**Present at the meeting were:**

**For Fiddler's Creek CDD #1:**

Phillip Brougham	Chair
Jim Schutt	Assistant Secretary
Gerald Bergmoser	Assistant Secretary
Robert Slater	Assistant Secretary

**For Fiddler's Creek CDD #2:**

James Robertson	Chair
Manuel Correia	Vice Chair
Victoria DiNardo	Assistant Secretary
Gretchen Scott	Assistant Secretary
Peggy Schmitt	Assistant Secretary

**Also present were:**

Chuck Adams	District Manager
Cleo Crismond	Operations Manager
Terry Cole	District Engineer
Tony Pires (via telephone)	District Counsel
Aleida Martinez Molina (via telephone)	Weiss Serota, CDD #1 Special Counsel
Robert DeMarco (via telephone)	Treiser Collins, CDD #2 Special Counsel
Dan Carter	ITG Holdings, LLC
Andrew Sanford	ITG Holdings, LLC
Rolando Sanchez	MainGuy Landscape Services
Dr. Edward Banaszak	Resident
Mark Strain	Gulf Bay, Developer Consultant
Tony DiNardo	Gulf Bay, Developer
Eileen Robertson	Mulberry HOA

**FIRST ORDER OF BUSINESS**

**Call to Order/Roll Call**

Mr. Adams called the meeting to order at 8:00 a.m., and noted, for the record, that Supervisors Brougham, Schutt, Bergmoser and Slater were present for CDD #1; Supervisor Curland was not present. All Supervisors were present, in person, for CDD #2.

**FIDDLER'S CREEK CDD #1 ITEMS**

**SECOND ORDER OF BUSINESS**

**Update: Bankruptcy Proceedings - Aleida  
Martinez Molina**

***\*\*\*This item, previously the Third Order of Business, was presented out of order.\*\*\****

Ms. Martinez Molina indicated a joinder to U.S. Bank National Association at about 10:00 p.m., Colonnades motion to terminate exclusivity was filed last night, and she was trying to access it. Ms. Martinez Molina reported the orders were entered granting the fee applications of all of the professionals, including about \$1.5 million to Moelis, \$407,000 to the debtor's attorney for fees, \$20,000 for expenses, \$50,000 for the debtor's accountants and \$100,000<sup>+</sup> for the debtor's committee counsel. She indicated bankruptcy attorney, Tom Messana, filed a notice of appearance, on behalf of the trustee, with respect to special assessment bond series 2005 for CDD #1 and revenue bond 2006 for CDD #2. Ms. Martinez Molina noted it is of interest that, while the trustee already has competent attorneys representing them, they have chosen to add additional attorneys, with respect to those two (2) bonds, who are not bond specialist attorneys but are strictly bankruptcy attorneys.

Ms. Martinez Molina discussed continuation of the debtor in possession (DIP) financing; the fifth interim DIP financing order is being tweaked. The most significant issue is Colonnade's motion to terminate the exclusivity period, which will be heard tomorrow afternoon. She indicated it appears the indenture trustee is supporting Colonnade's motion. Ms. Martinez Molina explained what will be determined is whether Colonnade can prevail in its motion to terminate the exclusive rights of the debtor to have their plans proposed to the exclusion of Colonnade, or anyone else. She indicated it is a challenge because it is not based on the merits; it is whether Colonnade can succeed in terminating the significant power of the debtor to have the opportunity to hold court to the exclusion of any other plan proponent.

Ms. Martinez Molina indicated the debtor has filed a number of plans and a disclosure statement and they are significant. The court will enter an order setting deadlines for the parties to do what they need to do. She noted Mr. DeMarco has identified a number of issues important to the CDDs that they have failed to properly explain. She expected it to be out sometime in February and indicated there is a different deadline to object to the plans. Ms. Martinez Molina felt it will be difficult for Colonnade to prevail. She indicated the various plans are very similar.

Ms. Martinez Molina noted, a few days ago, the debtor filed an expedited motion to increase borrowing. This is a request to borrow another \$250,000 from its DIP source, in order to pay the attorneys' fees for the proposed exit lender, who has already incurred \$100,000 in legal fees. She indicated there have been a few other miscellaneous motions filed regarding golf club membership.

## **FIDDLER'S CREEK CDD #2 ITEMS**

### **THIRD ORDER OF BUSINESS**

**Update: Bankruptcy Proceedings -  
Robert DeMarco**

***\*\*\*This item, previously the Second Order of Business, was presented out of order.\*\*\****

Mr. DeMarco indicated there are some motions and orders with respect to the sale of Lot 34 Bellagio, Unit #102 Building 6 Serena, and Chiasso Lots 2 and 3, which are pending.

Regarding the disclosure statement and plan, Mr. DeMarco indicated there are about eleven Chapter 11 plans, each about 100 pages. He reviewed it and relayed incongruities in the plans and disclosure statement. He indicated the disclosure statement lists all of the bonds that were issued and for which the various debtors are liable. They have split the bonds up as to CDD #1 and #2 and then they list the various debtors as to the nature of the plan. Mr. DeMarco stated the classification of the CDDs is in a lump sum, Class 3, and it is not readily apparent which CDD is affected on the face of the plans or disclosure statement. Mr. DeMarco plans to contact Mr. Paul Bautista and provide his initial comments on the plans and disclosure statements.

Mr. DeMarco commented that he is unsure whether Colonnade's motion is either good or bad for the CDDs. He suspected the treatment for the CDDs is important for the bondholder and,

to the extent a competing plan is filed; the bondholders will try to get their debts paid first or, at least, in the order of priority.

Mr. Brougham asked Mr. DeMarco and Ms. Martinez Molina if it may be necessary, in the future, to hold executive sessions to evaluate responses to terms and conditions within the plans. Mr. DeMarco and Ms. Martinez Molina replied affirmatively. Mr. DeMarco indicated they need to first ascertain which of the debtor's plans applies to which CDD. Mr. DeMarco briefly discussed issues that would need to be resolved in the plans.

Ms. Martinez Molina indicated the information Mr. DeMarco is seeking was set forth in the proofs of claim filed over the summer and she can direct him to the information. She stressed that, while things seem to be moving quickly, with regard to plans and disclosure statements, it is a very formal process with specific time frames so nothing will be done without sufficient time for the parties of interest to review it and object. She assured the Boards they will have sufficient time to review the plans and disclosure statement. Regarding the joinder the trustee filed with respect to Colonnade's motion to terminate exclusivity, Ms. Martinez Molina indicated it is like a mini condensed objection to the plan and disclosure statement for black letter bankruptcy reasons.

Regarding CDD #2, Mr. Robertson noted he spoke with Mr. DeMarco after the hearings and the interests of CDD #2 were met by what was presented by the debtor. Mr. Robertson indicated he told Mr. DeMarco to limit his involvement to try and save the CDD money.

Mr. Dan Carter, of ITG Holdings, LLC, indicated ITG Holdings recently acquired controlling interest in the CDD #2 2003 series bonds and have expressed their interest in working with the homeowners to make Fiddler's Creek as successful as possible. Mr. Brougham thanked Mr. Carter for ITG's refreshing approach to the situation.

***\*\*\*Ms. Martinez Molina and Mr. DeMarco left the meeting.\*\*\****

## **JOINT MEETING ITEMS**

### **FOURTH ORDER OF BUSINESS**

### **Engineer's Report**

Mr. Cole recalled presenting numerous pay draws at the last meeting and indicated they have been waiting over three (3) weeks for Mr. Pires to approve his portion of the pay draws. They received checks for one (1) of the pay draws and those contractors were paid; however, the

outstanding pay draws amount to about \$420,000. Mr. Cole indicated \$345,000 is FPL deposits and about \$80,000 is past due to contractors, engineers and attorneys. Mr. Brougham questioned the reason for the holdup. Mr. Adams indicated multiple requests were made to Mr. Pires but no feedback has been received. Mr. Cole indicated once they receive payment and can pay all of the contractors, they will continue to work on completing the approved bondholders' remaining work items. Mr. Cole confirmed all work has ceased. Mr. Brougham asked if the Districts are at any risk or in jeopardy by halting the projects. Mr. Cole referred to required monthly monitoring reports related to the water use permitting; the reports ceased in August, so there is a risk, at some point, that the water management district will notice that the reports have not been filed. Mr. Cole discussed a risk related to the preserve. They had money in the budget to continue ongoing spraying and maintenance, up to the point of turning it over to the CDDs. The last treatments were in August and, if lack of treatment continues, the expense will be more to bring it back up to where it should be.

Mr. Strain stressed the importance of staying on the good side of the water management district and asked about ways to fund the reports. Mr. Adams indicated they could pay it out of the general fund, with due from construction funds; however, the caveat is that they still do not know the reaction to other construction fund draws already submitted, so the CDDs could end up holding the bag for those costs. Mr. Adams noted the alternative is to risk losing the permit. A suggestion was made to try only doing reports every two (2) months.

Mr. Cole recalled his discussions with Mr. Andrew Sanford and Ms. Amanda Barton, of ITG Holdings, LLC, regarding the lake erosion issue in the series 2003 bond area. He indicated they are reviewing the information provided. Mr. Cole indicated he asked them about the possibility of using capital funds to fund the lake erosion repairs of approximately \$400,000; this was the result of receiving a violation notice from the water management district. In response to a question, Mr. Adams indicated there is a little over \$1 million, still in the construction fund. Mr. Cole indicated they identified that there was an abundance of funds above what was needed to complete the punch list items, so he asked if those funds could be used for the lake erosion problems.

**FIFTH ORDER OF BUSINESS**

**Continued Discussion: Belle Meade  
Preserve Responsibilities**

This item was deferred to the January meeting.

**SIXTH ORDER OF BUSINESS**

**Approval of November 17, 2010 Joint  
Regular Meeting Minutes**

Mr. Brougham presented the November 17, 2010 Joint Regular Meeting Minutes and asked for any additions, corrections or deletions. The following changes were made:

Line 39: Delete entire line

Line 41: Change "Verandah" to "Verenna"

Line 99: Change "Road" to "Lane"

Lines 108, 113, 117, 118 and 122: Change "Banzak" to "Banaszak"

Line 127: Change "Mr. Crismond" to "Ms. Crismond"

Line 207: Change "Ms." to "Mr."

Line 278 and in all previous meeting minutes: Change "Portnot" to "Portnof"

Line 457: Change "Molina Martinez" to "Martinez Molina"

Lines 464, 466, 468 and 476: Change "Martinez" to "Martinez Molina"

Line 477: Delete "meaning they want to alert the automatic stay"

Lines 489, 490, 492, 493, 496, 503 and 504: Change "Martinez" to "Martinez Molina"

**On MOTION for Fiddler's Creek CDD #1 by Mr. Schutt and seconded by Mr. Bergmoser, with all in favor, the November 17, 2010 Joint Regular Meeting Minutes, as amended, were approved.**

**On MOTION for Fiddler's Creek CDD #2 by Ms. DiNardo and seconded by Ms. Scott, with all in favor, November 17, 2010 Joint Regular Meeting Minutes, as amended, were approved.**

**SEVENTH ORDER OF BUSINESS**

**Other Business**

There being on Other Business, the next item followed.

**EIGHTH ORDER OF BUSINESS**

**Staff Reports**

**a. Attorney**

There being no report, the next item followed.

**b. Manager**

**i. NEXT MEETING DATE: January 26, 2011 at 8:00 A.M.**

Mr. Adams indicated the next meeting will be held on January 26, 2011 at 8:00 a.m.

**c. Operations Manager**

**\*\*\*This item was presented during the Ninth Order of Business.\*\*\***

**FIDDLER'S CREEK CDD #2 ITEMS**

**NINTH ORDER OF BUSINESS**

**Unaudited Financial Statements as of  
November 30, 2010**

Mr. Robertson discussed CDD #2's continued lack of financial resources and the payment structure entertained in the debtor's motions, which would impact CDD #2. He indicated he obtained a promise for a bridge loan, if necessary. Mr. Robertson asked Mr. DeMarco to limit his hours, as most of his \$10,000 retainer was used up last month in responding to the case. Mr. Adams explained the items included the issue of moving the assessments off roll to on roll, and then back, and the bankruptcy case including review of closing documents and an overall audit of the documents related to the case.

**▪ Operations Manager's Report**

**\*\*\*This item, previously the Eighth Order of Business (Item 8c.), was presented out of order.\*\*\***

Ms. Crismond reported she obtained one (1) quote to make necessary repairs to the front entry fountains and will obtain additional quotes prior to providing to the Board for consideration. The next lake maintenance tour is scheduled for January. Installation of mulch and the palm trimming project were completed. She will tour on Friday to ensure the work is satisfactory. Ms. Crismond indicated the tree trimming project will be scheduled in the spring. Sod replacement was completed at the corner of Cotton Green and Championship. At Bent Creek and Pepper Tree, the turf was fertilized. Regarding the patrol stats, there were seven (7) stops, five (5) residents and two (2) guests. The breakdown was one (1) speeding and six (6)

stop sign violations; warnings were issued. Ms. Crismond indicated the main entry signs have not been cleaned but will be completed on Friday.

**\*\*\*Discussion returned to CDD #2's Unaudited Financial Statements as of November 30, 2010.\*\*\***

Mr. Adams indicated on-roll assessments are starting to flow in and the bulk are generally received in December. He referred to the legal foreclosure expense on Page 2, putting the CDD significantly over budget; however, Page 3 shows transfers in from their respective construction accounts so the net difference is only about \$8,000 that is truly the CDD's expense.

Acknowledging the discussion is about the CDD #2 financials, Mr. Brougham commented on a reminder sent to Management regarding his understanding that there is a procedure in the bankruptcy process whereby super secured creditors, such as the Districts, can petition the court for reimbursement of certain out-of-pocket legal expenses incurred. Mr. Adams indicated the CDDs will have an opportunity to go back and identify those expenses; this is one of the last steps in the process.

Mr. Adams confirmed the insurance expense is a once-per-year expense.

**TENTH ORDER OF BUSINESS**

**Audience  
Requests**

**Comments/Supervisors'**

There being no Audience Comments or Supervisors' Requests, the next item followed.

**FIDDLER'S CREEK CDD #1 ITEMS**

**ELEVENTH ORDER OF BUSINESS**

**Consideration of Award of Contract –  
Landscape Maintenance**

**\*\*\*This item, previously the Twelfth Order of Business, was presented out of order.\*\*\***

Ms. Crismond indicated Staff recently requested bids for the District's landscape maintenance program. Seven (7) companies requested packages and attended the mandatory pre-bid meeting. Five (5) companies submitted bids. The companies submitting bids were TruGreen Landcare (the current contractor), ValleyCrest, Vila & Sons, MainGuy and Superior. All of the companies are considered to be highly qualified and capable of meeting the scope of services, required under the contract, with one exception. MainGuy Landscape Services was deemed



nonresponsive, as their bid schedule is incomplete; their proposal of \$252,000 is significantly below the current contract prices and they have no known local presence. For these reasons, Management is concerned that they are not capable of fulfilling the contract specification requirements.

TruGreen, the current contractor, has held the contract for the past three (3) years and their service has been deemed to be very satisfactory. TruGreen's proposal is \$61,000 less than their current contract price of \$747,182, for the same services. Ms. Crismond indicated it is Management's recommendation to continue with TruGreen Landcare for the next two (2) years.

Mr. Adams further explained Management's concerns regarding MainGuy's proposal, including manipulation of the bid schedule, resulting in elimination of required areas and inclusion of items not requested. Mr. Adams concluded this manipulation resulted in an inability to make a side-by-side comparison of their proposal, with the others. Mr. Adams further discussed the concern about the extremely low proposal price, based on the work to be completed.

Mr. Brougham explained that the CDD is not required to select the lowest bidder. He noted the District's current fiscal year budget is \$745,000 for landscape maintenance and TruGreen has bid less than their current contract, meaning the CDD will still come in significantly under budget.

Mr. Schutt voiced his concern over disqualifying a bidder, as being irresponsible, because the bid is lower than what the District is used to seeing. He asked if Management has any first hand knowledge of MainGuy Landscape Services work, whether Management has spoken to any references and whether the company was contacted regarding their errors in their bid package. Ms. Crismond replied no.

Mr. Brougham explained the bid process, indicating once sealed bids are received, the CDD does not go back and negotiate bid deficiencies with the bid submitters, in terms of form or content. Mr. Adams agreed with Mr. Brougham's explanation indicating that is why there is a mandatory pre-bid meeting to give everyone an opportunity to understand the ground rules.

Mr. Schutt asked if the CDD has the right to ask the bidder what something means. Mr. Adams replied affirmatively. Mr. Schutt stressed his level of concern in disqualifying bids

simply because they are lower than the present contractor, stating the Board's job is to get the job done at the lowest possible price, not to pay the most money.

Mr. Rolando Sanchez, Vice President of MainGuy Landscape Services, identified himself and offered to answer questions.

Mr. Slater indicated he used a NATO approach to evaluating bids whereby you eliminate the high and low bids. He indicated this approach yields the same result and with knowledge of TruGreen's work, he supported Management's recommendation of TruGreen.

Mr. Bergmoser agreed with Management's recommendation of TruGreen as the best choice. He further noted MainGuy did not submit any financials or credit references and does not hold a license in Collier County. He felt TruGreen's past work and the fact that they are giving the CDD a \$61,000 discount from the current contract price are all positives.

Mr. Sanchez acknowledged Mr. Adams' comments regarding their proposal. He indicated MainGuy does not currently have projects in Collier County but they have other work in the area. He noted MainGuy is big on the east coast, based in Davie, and has contracts with CDDs on the east coast. He assured the Board that MainGuy can complete the same work at the proposed price and they could open an office and have employees in Collier County within three (3) weeks. Mr. Brougham asked Mr. Sanchez if he was aware having a Collier County license was a requirement for bidding. Mr. Sanchez replied affirmatively but noted that if a company does not have an office in Collier County, it cannot obtain a license.

Mr. Brougham recalled a bad experience several years ago when the contract was awarded to the low bidder, OneSource, for a price savings of approximately \$25,000; however, it resulted in the CDD spending between \$150,000 to \$175,000 to make up for the deficiencies and the lawsuit by OneSource, once the contract was terminated for cause. Mr. Brougham voiced his opinion that TruGreen is the most qualified and experienced contractor.

**On MOTION for Fiddler's Creek CDD #1 by Mr. Brougham and seconded by Mr. Bergmoser, with Mr. Slater in favor and Mr. Schutt dissenting, awarding of the Landscape Maintenance Contract to TruGreen was approved. (Motion passed 3-1)**



Mr. Schutt referred to the CDD's fund balance and asked how the CDD looks, financially. Mr. Adams stated it is doing well, indicating the District tends to receive its on-roll assessments in November and December. He noted the District historically receives about \$700,000 to \$800,000, in that time frame.

Mr. Brougham referred to access control contractual services on Page 3 and asked if the \$29,229 was under the new contract. Mr. Adams replied affirmatively. A Board Member questioned the value of the access control services at Championship gate, as it is broken half the time. Ms. Crismond indicated the gate is working now; the delay was because a part was on backorder. It was noted that TEM has agreed to store certain equipment which has frequently gone out.

**FIFTEENTH ORDER OF BUSINESS**

**Audience  
Requests**

**Comments/Supervisors'**

Mr. Brougham reported on the Unsecured Creditors Committee indicating, since the plans were filed by the debtor, Fiddler's Creek, they now have substance for the committee and the attorneys to evaluate.

***\*\*\*Mr. Pires joined the meeting, by telephone.\*\*\****

Mr. Brougham referred to the previously discussed outstanding pay draws and asked Mr. Pires why they have not been approved. Mr. Pires indicated he has been backlogged but they are ready and he will finalize them today. Mr. Brougham informed Mr. Pires that the delay is unacceptable, as there are contractors who are due their money. Mr. Pires apologized for the delay.

▪ **Continued Discussion: Sidewalk/Driveway Issue at the Banaszak Residence on Mulberry Lane**

Mr. Brougham referred to Mr. Pires' November 23, 2010 letter to Dr. Banaszak and asked if the letter was ever sent. Mr. Pires indicated it should have been sent and he was not aware it was not sent. Mr. Brougham indicated Dr. Banaszak maintains that he never received the letter and asked Mr. Pires if he has evidence that it was sent. Mr. Pires indicated he will check with his office. Mr. Brougham indicated the Board will accept that it was not received but noted Dr. Banaszak now has a copy of the letter.

Dr. Banaszak, a resident, distributed and presented his analysis and photographs of the side walk problems at his residence. He voiced his opinion that the stress fracture and the related elevated sidewalk problem could not be caused by the "sinking of the driveway". Mr. Brougham indicated that position had not even been alleged. Dr. Banaszak acknowledged that but stated he wanted to point it out. Dr. Banaszak concluded he feels the sidewalk is surreptitiously elevated. He referred to the CDD regulations stating that "any repairs that occur to the roadway or the sidewalk are to be done by the CDD". Mr. Brougham acknowledged the work is to be completed by the CDD; however, the question is who pays the expense of doing so.

Dr. Banaszak suggested to the Board that if this goes any further and attorneys are brought in, they will spend more than the repair would cost. Mr. Brougham agreed but stated, as the issue of liability was raised, the District's attorney and engineer must be involved to protect the District and residents from any liability claims. Mr. Brougham indicated the Board must also ensure that any repairs made to a District right-of-way are in conformance with engineering standards.

Mr. Bergmoser indicated he viewed the area and reported his findings that this slab is approximately 25 feet long and probably was not installed to code. His opinion, based on his review, was that the driveway has not sunk; the sidewalk slab has lifted slightly, probably due to the roots of the trees.

Mr. Schutt disclosed that both he and Mr. Bergmoser viewed the area, at the same time, but they did not speak to each other, they only listened. Mr. Schutt indicated he reviewed the area the next day and took pictures. He reported his finding that the sidewalk does not appear to have lifted 1.25 inches. He discussed a swale in the driveway and looking at the area in different ways, which can give various appearances. His perception is that the driveway bricks settled.

Mr. Cole indicated he is a registered professional engineer in the State of Florida. Mr. Cole discussed positioning of control joints in sidewalks and acknowledged that the contractor may have replaced that portion of the sidewalk, when the house was built, and did not put in control joints. Mr. Cole discussed his inspector's findings. Discussion ensued regarding the various evaluation representations and measurements of the area. Mr. Cole indicated his measurement was a string line across the length and there was a drop of between 3/8 to 1.5 inches.

Mr. Brougham asked for confirmation that, as this issue was raised as a trip hazard, the Board was obligated to address the issue both legally and in a Board meeting. Mr. Pires replied affirmatively. Mr. Pires indicated that the Board must take action by either advising individuals of the hazard or remedy the hazard. Mr. Pires acknowledged that the remedy could include requiring the individual causing the issue or the responsible party to remedy the situation. Mr. Pires indicated, based on Mr. Cole's evaluation, it appears the causation is the settling of the driveway, which is within the District's right-of-way and for which the property owner has a license to have such a driveway subject to it being in compliance with all applicable codes and ordinances.

Mr. Brougham indicated there is a trip hazard that needs to be repaired and the only question is who performs the work, whether the work is on the sidewalk or the driveway and who is responsible for the expense. Mr. Brougham indicated Mr. Cole estimated an expense of about \$1,000 to bring the driveway up to the sidewalk's level. Mr. Cole replied affirmatively and explained he spoke to a contractor working on other repairs. The cost to remove and replace the sidewalk would be approximately \$500, if the contractor is already on site doing other work. Mr. Cole indicated the cost to fix the driveway would be about \$1,000.

Mr. Brougham asked Mr. Pires to explain the homeowner's and District's responsibilities regarding the repairs. Mr. Pires indicated the District has either explicitly or implicitly authorized the owner to construct a driveway through a portion of the District's right-of-way to connect to the street to provide access and, in doing so, that activity is the responsibility of the property owner to maintain the driveway in a safe and sound condition. Mr. Brougham asked for an opinion on the sidewalk. Mr. Pires indicated it would be the District's responsibility. Mr. Schutt asked Mr. Pires to comment regarding who would be responsible if the issue is caused by the homeowner's tree. Mr. Schutt asked Mr. Pires if it is the District's responsibility to correct a problem that was caused to the District's sidewalk by the homeowner's tree. Mr. Pires indicated he has not researched that specifically; however, the District would have the right to cut the tree roots off and remove it, to the extent it is raising the sidewalk and erect a barrier. Mr. Pires indicated he can check into it further. Mr. Brougham told him not to check as the District has spent too much money already. Mr. Brougham indicated he would not be paying for Mr. Pires to drive down to the meeting.

Dr. Banaszak reiterated his position on the matter. Mr. Slater asked Dr. Banaszak when the issue occurred. Dr. Banaszak felt it started about two (2) years ago, around the time the District began power washing the sidewalks. Mr. Slater asked Mr. Cole if something simpler, such as grinding, could be done. Mr. Cole felt the elevation is too great to do that. Mr. Slater referred to the pavers and asked if the adjacent pavers could be sloped. Mr. Cole opined that the easiest fix is to replace the sidewalk.

Discussion ensued regarding when the issue was identified and by whom.

**On MOTION for Fiddler's Creek CDD #1 by Mr. Brougham and seconded by Mr. Bergmoser, with Mr. Slater in favor and Mr. Schutt dissenting, repair of the sidewalk/driveway issue at the Banaszak residence on Mulberry Lane, by the CDD, in an amount not to exceed \$500 and in conjunction with other concrete work, bringing the sidewalk down to a level to meet the existing pavers in the driveway, remedying whatever caused the crack in the sidewalk and with the concrete being poured with control joints, was approved. (Motion passed 3-1)**

**\*\*\*Mr. Pires arrived at the meeting.\*\*\***

Dr. Banaszak asked what he should do to prevent injury. Ms. Crismond will locate cones to place in the area.

Mr. Brougham referred to Mr. Slater's question at the last meeting regarding the legality of a Collier County patrol car sitting on private roads. Regarding the sheriff's authority and whether they can issue citations, Mr. Pires indicated the question needs to be addressed with the sheriff's legal advisor. Mr. Pires advised that, if the District is bothered by officers parking on the private roads and subsequently issuing tickets, the District should notify the sheriff's office that they do not like the techniques, tactics or procedures that are being used.

Mr. Brougham reported that the Unsecured Creditor's Committee continues to meet once per week, plans were filed and there is a key hearing tomorrow where the court will rule on termination of exclusivity.

Regarding the Belle Meade Preserve discussion, Mr. Brougham informed Mr. Pires that this item is being deferred to the next meeting. Mr. Pires asked if the Boards received the memorandum he had received from the developer's firm. Mr. Brougham summarized the

developer's attorney takes the position that it is the District's responsibility and Mr. Pires' position is that it is only partly the District's responsibility.

Mr. Pires referred to the disclosure that two (2) Board Members were at Dr. Banaszak's, at the same time. Mr. Pires advised that, regardless of whether they have communication, there is an issue that could arise, under Sunshine Law, for fact-finding trips by Board Members. He noted this is the basis of a lawsuit against two (2) county commissioners, because they are part of a decision making body.

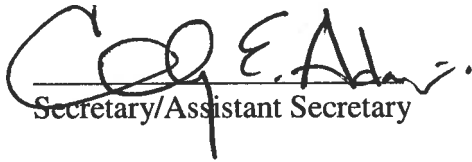
**SIXTEENTH ORDER OF BUSINESS**

**Adjournment: Fiddler's Creek CDD #1**

**On MOTION for Fiddler's Creek CDD #1 by Mr. Bergmoser and seconded by Mr. Slater, with all in favor, the Fiddler's Creek CDD #1 meeting adjourned at 10:12 a.m.**



**Fiddler's Creek CDD #1**

  
Secretary/Assistant Secretary

  
Chair/Vice Chair

**Fiddler's Creek CDD #2**

  
Secretary/Assistant Secretary

  
Chair/Vice Chair