

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, May 25, 2011 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 Curland (via telephone)	Vice 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
Tony Pires	District Counsel
Terry Cole	District Engineer
Aleida Martinez Molina (via telephone)	Weiss Serota, CDD #1 Special Counsel
Robert Demarco (via telephone)	Treiser Collins, CDD #2 Special Counsel
Joe Parisi	Gulf Bay
Ron Albeit	Fiddler's Creek Foundation

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mr. Adams called the meeting to order at 8:05 a.m., and noted, for the record, that, for CDD #1, Supervisors Brougham, Schutt, Bergmoser and Slater were present, in person.

Supervisor Curland was attending by telephone. Supervisors Robertson, Correia, DiNardo, Scott and Schmitt were present, in person, for CDD #2.

SECOND ORDER OF BUSINESS

**Discussion: Corrections/Additions to the
Agenda**

Mr. Brougham asked for any corrections or additions to the agenda. There being no changes, the next item followed.

FIDDLER'S CREEK CDD #1 ITEMS

THIRD ORDER OF BUSINESS

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

Ms. Martinez Molina noted the confirmation hearings were scheduled for the upcoming Thursday and Friday. She explained other motions will be considered this week, including motions related to the Districts' votes and the confirmation process. She briefly described the motions, to be heard on Thursday, that pertain to District #1. The first motion is the motion to designate, which is, basically, to disqualify CDD #1 and CDD #2's votes, as filed by the bondholders and indenture trustee. The debtors filed an opposition to the motion; however, the District has not filed but is prepared to respond, if needed. If the motion is granted, the following days would take a different turn. The second and similar motion pertains to the alleged, improper solicitation of votes and was filed by the bondholders and indenture trustee. Additional documents that were filed include objections to the confirmation, in general; three (3) were filed by the indenture trustee, Muni Mae and the golf club plaintiffs. The debtors responded and the motion will be heard. Ms. Martinez Molina explained the debtors filed their report as to the voting process and the debtors reported there were no "no" votes to the plan. Collier County abstained due to internal standard procedures. She stated a handful of unsecured creditors did not submit a ballot and there were no affirmative rejections.

Ms. Martinez Molina recalled the litigation that was filed in state court and subsequently in bankruptcy court. She stated the state court lawsuit was removed to the bankruptcy court and is in front of Judge May. Last Friday, a motion was filed to dismiss the original state court complaint and it is pending. Ms. Martinez Molina requested authority to file a motion to stay discovery. It would request that the court not require one to respond and put a hold on the

discovery process until the motion to dismiss is decided by the judge. She stated there is authority for such and explained, if the District already filed a motion that may end the case, public funds should not be expended for something that may not be necessary in the future.

On MOTION for CDD #1 by Mr. Brougham and seconded by Mr. Slater, with all in favor, authorization to file a motion to stay discovery, in the civil case, was approved.

Mr. Brougham asked what the process/timing is for the possibility to recover the legal fees for the civil suit.

Ms. Martinez Molina requested an executive session to discuss the recovery of legal fees and related litigation strategy. Discussion followed on a date for the executive session.

Ms. Martinez Molina requested an executive session for CDD #1 on June 9, 2011 at 8:00 a.m., with participants to include CDD #1 Board Members, District Management and Ms. Martinez Molina.

Mr. Brougham discussed the possibility of the District being able to recover uncompensated legal fees related to the bankruptcy proceeding. Ms. Martinez Molina stated it can be discussed in the executive session.

Ms. Martinez Molina reported the indenture trustee filed an emergency motion to continue the confirmation hearing scheduled for Thursday and provided several grounds for the continuance, including the need for additional time to conduct more discovery, depositions etc., to determine if there has been improper conduct. Unlike the issues they raise, they believe there has been bond collateral gerrymandering; some of the properties have been moved in/out of the debtors' estates for purposes of promoting the debtors' bankruptcy agenda in an improper manner. For that reason, they would like to take the deposition of Ms. Carlson, Mr. Adams and Mr. Cole. In addition, the filed document provides for that. In the process of the depositions, they obtained testimony from Mr. DiNardo that one of the Board Members of one of the Districts is receiving \$25,000, biweekly, from a debtor-related entity. They would like to take the deposition of each Board Member to see if anyone else is receiving funds from any of the debtor entities. She anticipated the hearing to be scheduled for Thursday morning. Ms. Martinez Molina stated she will review it carefully and determine what appropriate response needs to be made. She stated there are a number of reports and documents filed to supplement the plan or

otherwise respond to discovery propounded by the indenture trustee and the District. Ms. Martinez Molina noted a number of depositions have been taken within the last few weeks, in anticipation of Thursday's hearing.

Mr. Brougham asked if a response will be needed for tomorrow. Ms. Martinez Molina stated the motion is to continue the confirmation for the purpose of conducting the discovery, among other reasons. In response to a question, she confirmed the mediation is over. Mr. Brougham stated there were no results and anticipated further work, on behalf of the debtor, to make a final offer. Ms. Martinez Molina stated, based on the filing from last night, nothing has been resolved through the mediation.

Mr. Brougham requested that Ms. Martinez Molina remain on the line during Mr. DeMarco's report.

FIDDLER'S CREEK CDD #2 ITEMS

FOURTH ORDER OF BUSINESS

**Update: Bankruptcy Proceedings -
Robert DeMarco**

Mr. DeMarco discussed the emergency motion to continue the confirmation hearing. It is a 32-page document alleging,

“among other things, the indenture trustee has discovered (1) improper, undisclosed transfers of collateral between and amongst the various debtor entities. (2) a secret fee sharing arrangement between debtors' investment banker, Moelis, and the entity with close ties to the debtors principal. (3) Payments from an entity controlled by debtors' management to a member of the Board of Supervisors of one of the involved community development districts (4) the existence of an undisclosed equity term sheet central to the proposed exit financing (5) communications by the debtors to its independent professionals, directing such professionals to refuse to answer certain deposition questions.”

Mr. DeMarco noted he has not had the opportunity to read the entire motion and the details of the motion are not disclosed in this part of the motion.

Mr. DeMarco noted the two (2) adversary proceedings brought about by the indenture trustee and stated he filed a motion to dismiss, motion for protective order and objections to the discovery. He noted the adversary proceeding, filed in the bankruptcy court, was a two (2)-count

complaint seeking the declaratory judgment relief similar to what was provided in the one (1)-count state court complaint but, in addition, seeking preliminary and permanent injunctive relief. Both of the lawsuits are directed to the voting process and the manner in which the Districts intended to vote. Mr. DeMarco recalled the complaints were filed prior to the voting and, prospectively, addressed the matters that the trustee believed the Districts could not handle properly. He reported he filed a motion to dismiss and abstain in the adversary proceeding and it will be heard tomorrow morning at 9:30 a.m. Mr. DeMarco noted some of the filed motions implicate the Districts and he will be present at the hearings.

Mr. Brougham requested Ms. Martinez Molina be present for the hearings.

Mr. DeMarco explained the motions are not addressed to the District and a response has not been filed. He stated he will wait to call an executive session until tomorrow's hearings are complete.

Mr. DeMarco discussed possible outcomes of the District's filing. He stated if the judge does not dismiss the case, an executive session will be needed. Discussion followed on providing the Board with information as to the outcome of the hearings.

Ms. Martinez Molina stated the allegation regarding business payments is not a CDD #1 Board Member but a CDD #2 Board Member. It is related to an entity titled HC Concepts, Hospitality Cleaning, as found on Page 39.

Mr. Curland asked if there is a chance that the June 9, 2011 Executive Session will not be necessary. Ms. Martinez Molina replied it is a possibility and she will reconsider, if it is not necessary. She confirmed the meeting can be cancelled, if needed.

Discussion followed on the length of the possible continuance. Ms. Martinez Molina anticipated it to be a brief extension. Mr. DeMarco believed that if the judge does continue the hearing, it will be for the expressed purpose to allow continuing discovery efforts on the part of the trustee. He explained if the depositions of the Board Members are requested, there are two (2) ways to move forward; agree to a date/time or notice a deposition, with a reasonable amount of time. Mr. DeMarco recalled the Board Members, individually, are not parties to the bankruptcy and believed a subpoena would be necessary. If the trustee wants to compel testimony of a Board Member, in the absence of a voluntary appearance at a deposition, a subpoena will be needed. He believed that, at that point, an emergency meeting may be needed to discuss the items that the trustee may request.

Mr. DeMarco read the emergency motion:

"According to the recent testimony of Anthony DiNardo, the debtors' CFO, Hospitality Cleaning Concepts, Inc, an entity affiliated with the debtors and controlled by the debtors' management has transferred biweekly payments of \$25,000 to one of the members of District #2's Board of Supervisors."

The footnote at the bottom of the page reads:

"upon information and belief, Hospitality Cleaning Concepts, Inc., was renamed H&C Concepts, Inc on August 7, 2009 and is sometimes referred to as HC Concepts. The officers and directors of HC Concepts are Anthony DiNardo as President and Director, Mark Woodward as Director and Joseph Parisi as Vice President. HC Concepts principal place of business is 8156 Fiddlers Creek Parkway, Naples, Florida."

Ms. Martinez Molina did not believe the actual Board Member was named. Mr. DeMarco read,

"...prior to the discovery, based primarily on suspicions of nonindependence and conflict, indenture trustee sought to restrain the supervisors of the CDDs from casting ballots in favors of the plan..." He continued *"...as to District #2, which identified a familial relationship between member of District #2 supervisors and the management of the debtors and an employment relationship between a member of District #2 Board of Supervisors and the debtors or affiliates of the debtors."*

Mr. DeMarco stated the Board Member is not identified.

Mr. DeMarco noted that, prior to issuing a discovery on a particular member, the trustee will have to disclose the actual member and stated he will ask for a factual basis to attempt to seek additional discovery. He noted it is not unusual for the hearings to go beyond 5:00 p.m. Ms. Scott asked if the judge is made aware of the components of the District's votes, such as four (4) in favor and one (1) against. Mr. DeMarco replied the judge does not know the components, only that the plan was accepted. Ms. Martinez Molina stated the ballot report does state CDD #1 voted 3-2 and CDD #2 voted 5-0.

JOINT MEETING ITEMS

FIFTH ORDER OF BUSINESS

Developer's Report/Update

There being no report, the next item followed.

SIXTH ORDER OF BUSINESS

Engineer's Report

Mr. Cole presented Draw 57 for CDD #1. Mr. Brougham asked for the status of the additional lighting by Highway 951. Mr. Cole stated the contractor is waiting for the poles to come in and work should be completed in the next couple of weeks.

Mr. Cole presented Pay Draws 69 and 65, for CDD #2. He provided a handout regarding the bond renewal for phase 4, unit 2, in Veneta. He noted the bond amount is for the remaining punch list items and anticipated the majority of the items to be completed in six (6) months. He reviewed the summary list and bond calculations for the project and requested the Board approve placing the performance bond in the District's name.

Mr. Pires stated, if the Board is inclined to proceed with the engineer's recommendation, it is appropriate to authorize the Chair to execute the bond. He stated he reviewed the form of the performance bond and that appropriate edits were made.

On MOTION for CDD #2 by Mr. Robertson and seconded by Ms. Scott, with all in favor, authorization to proceed with placing the proposed performance bond for phase 4, unit 2, in Veneta, in the name of the District and authorizing the Chair to execute the final document, was approved.

Mr. Cole reported the contractor, for CDD #1, should be completing work within the phase 3, unit 1 area around Club Center Drive. He provided the performance bond, as approved at the last Board meeting, and stated it needs to be executed.

Mr. Pires stated it is a subdivision improvement bond for remaining activities, as outlined by Mr. Cole. He stated the original form that the county had was in the developer's name and presupposed a plat being recorded and approved. Mr. Pires reported the plat was approved and recorded and the performance bond is for the remaining improvements outlined in the exhibit. Mr. Pires stated the amount is for \$118,833.10, which is a reduction of the original bond. Mr. Adams explained it is a 12-month bond that is prorated to the extent that, when the bond is terminated, a credit for the outstanding amount is received.

On MOTION for CDD #1 by Mr. Schutt and seconded by Mr. Bergmoser, with all in favor, authorization to proceed with placing the proposed performance bond in the name of the District and authorizing the Chair to execute the final document, was approved.

Mr. Cole reported he received a draft copy of the updated preserve monitoring report. Due to bankruptcy and funding issues, the last treatment of the preserve area was August, 2010. He noted the areas need to be treated and requested a proposal for treatment through the remaining fiscal year. The bondholder approved the work item, budgeted \$60,000 for the remainder of the year and the estimate for the initial and continual treatment was \$40,000. Mr. Cole recommended completing the initial treatment, prior to the wet season, and explained the need for continual maintenance. He stated the removal of the Brazilian pepper was successful and the native plants are growing back. Mr. Brougham recalled the spraying was paid for from bond funds. Mr. Cole confirmed and that the remaining treatment, after this fiscal year, will be completed under operations. He stated the current vendor is Aquagenix and recommended using the current company until the end of the fiscal year, at which time, the project can go out to bid. Mr. Adams stated he can get a competing proposal to the extent that a contract is not due to come as a part of a scheduled sealed bidding process. Mr. Brougham asked if the project was included in the proposed budget. Mr. Adams stated it is in the proposed budget, currently at \$60,000, and would increase to \$75,000, based upon Mr. Cole's recommendation.

Mr. Slater asked how much of the \$75,000 is to do the work that should have been completed between August and now. Mr. Cole anticipated a savings of about \$10,000 to \$15,000, if the work was completed earlier. Mr. Slater recommended going to the bondholders for some payment, as it was their cease and desist order that created the re-growth.

Mr. Cole explained that if the treatments had continued, there would be less to treat; however, funds would have been expended for the treatment. The initial treatment, for \$22,500, is coming out of the bonds.

- **Lake Bank Erosion Report**

Mr. Cole presented and reviewed the lake erosion report, prepared for District #1. The lakes in the District, including lakes adjacent to the golf course, were inspected in March and April of 2011 to determine the severity of the erosion, the location, extent and estimated cost of

repairing the eroded areas. Mr. Cole stated he did not find any imminent danger to any structures or infrastructure. In minor cases, landscaping may be compromised. Generally, the erosion is 1-1½ feet deep (1A) for 60% of the repair areas and 1½-2½ feet deep (1B) for 40% of the repair areas. Mr. Cole reported the majority of the lakes were excavated ten (10) to 15 years ago and the lakes further east were excavated several years ago. He discussed the water levels, and typically, there is a 2½ foot fluctuation. Mr. Cole noted the main cause of erosion is wave action caused by the wind.

Mr. Robertson noted Lake 1 is listed as repair 1A but is a priority. Mr. Cole explained that the majority of the lake needs repair, as opposed to some of the interior lakes, where only portions of the lake need repair. Mr. Cole continued reviewing the report and discussed repair methods. He recommended using geotube, as it is more cost efficient and aesthetically pleasing. Mr. Cole explained how geotube is used to repair erosion and the different methods for different depths. Mr. Pires presented photos of other repairs using the same methods, from other communities. Mr. Cole stated the repair is permanent and the contractor may offer a ten (10)-year warranty. He noted erosion may occur after the installation of the geotube. Mr. Pires noted the size and scope of the project will determine whether the bid process is needed; however, if the threshold is exceeded, and the bidding process is necessary, the specifications can be outlined in the request for bids.

Mr. Adams discussed the financing options available. He noted the project can be completed in phases or obtain financing to complete the project in its entirety.

Mr. Cole noted South Florida Water Management District (SFWMD) allows a phased approach to remedy erosion issues. SFWMD considers erosion deeper than a nine (9)-inch drop a hazard.

Mr. Cole reviewed the pictures included in the report. He explained he reviewed each lake, individually, and the work needed for a given area of the lake. The depth of the repair may vary throughout the lake. Mr. Cole explained that, for every lake, he determined the extent of the erosion, the location and the priority. He reviewed the Lake Repair Summary and that about 25% of the overall lake banks that will need repair. Mr. Cole anticipated repair type 1A to cost about \$40 per foot, including the replacement sod; repair type 1B is estimated to cost \$50 per foot. He recalled previous projects and pricing. Mr. Cole confirmed the price includes the replacement of the turf.

A Board Member asked if the remainder of the lakes will need to be addressed in the future. Mr. Cole explained a lot of the erosion occurred a while ago and anticipated repairs in the future but not to the same degree.

Discussion followed on the possibility of pumping sand around the lake bank without the use of the tubes. A Board Member noted the work may be needed again in ten (10) years. Mr. Schutt noted the pumping of sand, without the tubes, will not last as long but a cost comparison can be done.

Mr. Cole reviewed the cost of each repair method and the way to address the repairs. He reported the SFWMD considers the work as maintenance activity and a permit is not necessary. Mr. Cole stated Anchor Marine stated they would have to review the lakes but the sand from the lakes could be used. He noted a pilot program could be tried, using the geotube and riprap. Mr. Cole discussed appropriate access to the lakes.

Mr. Brougham asked if the design review committee (DRC) would have any input as to the use of riprap. Mr. Joe Parisi, with Gulf Bay, anticipated the DRC would want to review it but in the same context as the District's Board. Mr. Brougham noted the appearance of the riprap after ten (10) years and that mold and mildew grows on it. A Board Member asked if there is a community that has had the tubes installed for longer than ten (10) years. Mr. Pires recalled a community in Pelican Marsh that was installed by Anchor Marine.

A Board Member asked if SFWMD was allowing the District time. Mr. Cole replied the SFWMD has not reviewed the lakes in CDD #1; they only looked at the lakes in CDD #2. He recalled advising SFWMD that CDD #2 is not able to move forward due to the bankruptcy. Mr. Cole confirmed the Districts are not under any time constraints by SFWMD. Mr. Pires explained SFWMD does not have any compliance or performance issues with CDD #1. For District #2, SFWMD was aware of the lakes from the perspective of the transfer of the certifications. Mr. Pires stated as long as the District is having a good dialogue and proceeding forward, SFWMD will be patient. Mr. Cole recalled that SFWMD is open to spreading the work out over years.

Mr. Brougham requested a report for next month and a recommendation for the next step. He noted the cost of the work and the need to ensure the work is correct and appropriate. Mr. Adams discussed possible financing options for CDD #1 and that CDD #2 may not be able to secure financing. He stated a five (5)-year note, at 5% interest, is conservative, would result in an annual payment of about \$384,000; the total payments of principal and interest would equal

\$1,925,000. If the Board addressed a portion of the work, on a pay as you go basis, at \$250,000 per year, over a period of six (6) years, the work would be completed and interest would not have to be paid. Mr. Adams recommended addressing the existing issues and considering ways to maintain the remaining lake banks, such as the use of aquatic plantings.

Mr. Slater recalled the Rookery using riprap and aquatic plantings and asked if the cost was more than \$50 per foot. Mr. Cole stated one (1) contractor stated the riprap would cost more than \$50 per foot and one (1) contractor stated it would not. Mr. Adams noted the use of riprap drastically changes the aesthetics and has a high cost. He noted the geotube is more natural to the current aesthetics, so sectional repairs can be completed on the same lake without presenting aesthetic issues, and can be followed up with the use of littoral plantings.

Mr. Robertson stated CDD #2 lakes are not as old as CDD #1 lakes and erosion occurs slowly, over a long time. He noted early action is better than later action and CDD #2 could complete remedial action to prevent further action.

SEVENTH ORDER OF BUSINESS

Approval of Minutes

- **April 18, 2011 Joint Special Purpose Meeting**

Mr. Adams presented the April 18, 2011 Joint Special Purpose Meeting Minutes for the Boards' consideration and asked for any additions, deletions or corrections. The following changes were made:

Line 51 and throughout: Change "Blitcher" to "Blicher"

Line 53 and throughout: Change "Torbin Christianson" to "Torben Christensen"

Line 60 and throughout: Change "Channy" to "Chaney"

Line 62 and throughout: Change "Tool" to "Toole"

Line 161 and throughout: Change "Ferrar" to "Ferrao"

Line 232: Add "club" before "house"

Line 420: Change "Mr." to "Ms."

Line 467: Change "Mr." to "Ms."

Line 500: Change "Keller" to "Kellett"

On MOTION for CDD #1 by Mr. Brougham and seconded by Mr. Slater, with all in favor, the April 18, 2011 Joint Special Purpose Meeting Minutes, as amended, were approved.

On MOTION for CDD #2 by Mr. Robertson and seconded by Ms. Schmitt, with all in favor, the April 18, 2011 Joint Special Purpose Meeting Minutes, as amended, were approved.

- **April 27, 2011 Joint Regular Meeting**

Mr. Adams presented the April 27, 2011 Joint Regular Meeting Minutes for the Boards' consideration and asked for any additions, deletions or corrections. The following change was made:

Line 88: Change "balance" to "ballots"

On MOTION for CDD #1 by Mr. Brougham and seconded by Mr. Bergmoser, with all in favor, the April 27, 2011 Joint Regular Meeting Minutes, as amended, were approved.

On MOTION for CDD #2 by Mr. Robertson and seconded by Mr. Correia, with all in favor, the April 27, 2011 Joint Regular Meeting Minutes, as amended, were approved.

EIGHTH ORDER OF BUSINESS

Other Business

There being no other business, the next item followed.

NINTH ORDER OF BUSINESS

Staff Reports

a. Attorney

Mr. Tony Pires stated he worked on the performance bond issue. He noted District #2 has more than 250 registered voters.

b. Manager

i. NEXT MEETING DATE: June 22, 2011 at 8:00 A.M.

Mr. Adams reported the next Board meeting for CDD #2 is June 22, 2011 and the next meeting for CDD #1 is June 9, 2011.

c. Operations Manager

Ms. Crismond provided the monthly status report. She recalled the Board's approval of the bull rush removal on lakes 35 and 37 and provided a quote for replacement plantings, in the amount of \$975.

On MOTION for CDD #1 by Mr. Slater and seconded by Mr. Bergmoser, with all in favor, the replacement of bull rush on Lakes 35 and 37 with Spike Rush and Pickerelweed, for \$975, was approved.

Mr. Bergmoser asked if there were additional areas where the bull rush needed to be removed. Ms. Crismond did not believe additional work would be necessary and that certain lakes were targeted due to the issue with the snakes. She explained the bull rush is being replanted with other littoral shelf plants to help prevent erosion.

Ms. Crismond recalled discussion regarding trees that were in poor condition and not flowering. She stated TruGreen is fertilizing, starting this week, and is targeting all ornamental trees. She also requested additional fertilizer for Royal Palms located on Fiddler's Creek Parkway.

Ms. Crismond recalled an inquiry about trimming the Hong Kong Orchid trees. She stated she discussed hard cutting with the arborist, who suggested minimal tipping but hard cutting could be detrimental.

Ms. Crismond reported the tree trimming is underway. She recalled Mr. Curland's concern at Deer Crossing and reported a buffer section abutting Mallards Landing. She provided a quote to trim the additional areas in the amount of \$5,823.75.

On MOTION for CDD #1 by Mr. Brougham and seconded by Mr. Bergmoser, with all in favor, additional tree trimming for areas including Deer Crossing and Mallards Landing, in the amount of \$5,823.74, was approved.

Mr. Brougham asked if TruGreen looked at the overhang of the median trees along Fiddler's Creek Parkway. Ms. Crismond reported TruGreen was advised to bring it up to a 14-foot clearance and the work is part of the contract.

Ms. Crismond recalled the Board approving the refurbishment of light poles and signs in which Championship Drive and Fiddler's Creek Parkway were completed first, with the remaining District roadways to be completed in 2010. She stated the work was not completed in 2010 and will be completed this year. Ms. Crismond reported the total cost is \$18,245. Mr. Adams stated \$40,000 is budgeted for roadway maintenance repairs and \$15,700 has been spent to date, so excess funds are available within that account.

Ms. Crismond reported the Marsh Point Boardwalk needs refurbishment and estimated it to cost \$5,000. Mr. Albeit confirmed the boardwalk was restained in 2009 and it has been pressure cleaned since. Ms. Crismond stated the entire boardwalk would be pressure cleaned and restained. A few minor repairs will be completed in the next few weeks.

FIDDLER'S CREEK CDD #1 ITEMS

TENTH ORDER OF BUSINESS

**Consideration of Resolution 2011-4,
Approving the District's Proposed Budget
for Fiscal Year 2012 and Setting a Public
Hearing Thereon Pursuant to Florida
Law**

Mr. Adams presented Resolution 2011-4 for the Board's consideration.

On MOTION for CDD #1 by Mr. Curland and seconded by Mr. Schutt, with all in favor, Resolution 2011-4, Approving the District's Proposed Budget for Fiscal Year 2012 and Setting a Public Hearing for August 24, 2011, at 8:00 a.m., was adopted.

Mr. Adams explained, the District Manager, in accordance with the Florida Statutes, is required to provide a proposed budget prior to June 15 of each year. The Board approves the budget for the purpose of setting the public hearing and the budget is adopted at the public hearing.

ELEVENTH ORDER OF BUSINESS

Approval of May 10, 2011 Emergency Meeting Minutes

Mr. Adams presented the May 10, 2011 Emergency Meeting Minutes for the Board's consideration and asked for any additions, deletions or corrections. The following changes were made:

Line 49: Change "Mayes" to "May's"

Line 50: Change "District" to "state"

On MOTION for CDD #1 by Mr. Brougham and seconded by Mr. Slater, with all in favor, the May 10, 2011 Emergency Meeting Minutes, as amended, were approved.

TWELFTH ORDER OF BUSINESS

Unaudited Financial Statements as of April 30, 2011

Mr. Adams presented the Unaudited Financial Statements as of April 30, 2011.

THIRTEENTH ORDER OF BUSINESS

742 Registered Voters in District as of April 15, 2011

Mr. Adams noted there were 742 registered voters, residing within the District, as of April 15, 2011, and indicated the District had 757 registered voters last year.

FOURTEENTH ORDER OF BUSINESS

Audience Requests

Comments/Supervisors

Mr. Ron Albeit reported that the District will have a precinct, #159, for the next election.

FIFTEENTH ORDER OF BUSINESS

Adjournment: Fiddler's Creek CDD #1

The meeting was continued to June 9, 2011, at 8:00 a.m.

On MOTION for CDD #1 by Mr. Bergmoser and seconded by Mr. Schutt, with all in favor, the meeting was continued to June 9, 2011, at 8:00 a.m., at the same location.

FIDDLER'S CREEK CDD #2 ITEMS

SIXTEENTH ORDER OF BUSINESS

**Consideration of Resolution 2011-2,
Approving the District's Proposed Budget
for Fiscal Year 2012 and Setting a Public
Hearing Thereon Pursuant to Florida
Law**

Mr. Adams presented Resolution 2011-2 for the Board's consideration.

On MOTION for CDD #2 by Mr. Robertson and seconded by Ms. DiNardo, with all in favor, Resolution 2011-2, Approving the District's Proposed Budget for Fiscal Year 2012 and Setting a Public Hearing for August 24, 2011 at 8:00 a.m., was adopted.

SEVENTEENTH ORDER OF BUSINESS

Approval of Minutes

• **April 5, 2011 Emergency Meeting**

Mr. Adams presented the April 5, 2011 Emergency Meeting Minutes for the Board's consideration. There were no additions, deletions or corrections.

On MOTION for CDD #2 by Mr. Robertson and seconded by Mr. Correia, with all in favor, the April 5, 2011 Emergency Meeting Minutes, as presented, were approved.

EIGHTEENTH ORDER OF BUSINESS

**Unaudited Financial Statements as of
April 30, 2011**

Mr. Adams presented the Unaudited Financial Statements as of April 30, 2011. Ms. Schmitt noted transfer is spelled incorrectly on Page 4. Mr. Correia noted the high fund balance for District #1 and discussed the fund balance for District #2. He inquired as to the possibility of being more aggressive to develop a more beneficial reserve for District #2. Mr. Adams noted when the bankruptcy is completed, hopefully the District will collect past due O&M assessments and funds to offset legal fees. He anticipated the remaining fund balance to be low and recommended the District pursue obtaining a fund balance that is at least 25% of the annual budget; however, it may take a couple of years to get there. Mr. Robertson discussed the high

amount of foreclosures in the District and did not recommend passing on a higher assessment. He noted, given the circumstances, the District has done a great job. Mr. Adams noted the high concentration of unit ownership by the developer or developer entity. Discussion followed on the approach to increase the fund balance. Mr. Robertson recommended adding a line item that, over a four (4)-year period, will build a ¼ per year reserve and spread it over four (4) years. Mr. Adams stated that would be 5% of the annual assessment, of about \$1,500, going towards fund balance. Discussion followed on the potential increase of units and the amount of funds that may be received after the bankruptcy is finalized.

Mr. Correia noted the District is not in a good position in the event of a hurricane.

Mr. Albeit confirmed the cleaning crew is on the Foundation's payroll.

NINETEENTH ORDER OF BUSINESS

**296 Registered Voters in District as of
April 15, 2011**

Mr. Adams noted there were 296 registered voters, residing within the District, as of April 15, 2011 and the District qualifies for the general election. Mr. Pires explained, when the number of registered voters reaches 250, three (3) seats will be filled by qualified electors during the general election in November. The statute provides, if necessary to implement the statute, the terms can be shortened or lengthened in order to achieve an election in the general election time frame. Mr. Pires noted Seats 1, 3 and 4 expire in 2011 and recommended extending the terms to meet the general election cycle. Mr. Adams recommended extending all terms of all seats to allow all seats to remain on the same, even year cycle. Mr. Pires stated he will provide a resolution at a future meeting.

TWENTIETH ORDER OF BUSINESS

**Audience
Requests**

Comments/Supervisors'

There being no audience comments or Supervisors' requests, the next item followed.


There being no further business, the meeting adjourned.

**On MOTION by Mr. Robertson and seconded by Mr. Correia,
with all in favor, the meeting adjourned at 10:40 a.m.**

**FIDDLER'S CREEK CDD #1 &
FIDDLER'S CREEK CDD #2**


May 25, 2011

Fiddler's Creek CDD #1


Secretary/Assistant Secretary


Chair/Vice Chair

Fiddler's Creek CDD #2


Secretary/Assistant Secretary


Chair/Vice Chair