

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

A Regular Meeting of the Board of Supervisors of the Fiddler's Creek Community Development District #1 was held on **Wednesday, April 25, 2012, 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:

Phil Brougham	Chair
James Curland (via telephone)	Vice Chair
Gerald Bergmoser (via telephone)	Assistant Secretary
Jim Schutt	Assistant Secretary
Robert Slater	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Crismond	Assistant Regional Manager
Tony Pires	District Counsel
Terry Cole	District Engineer
Aleida Martinez Molina (via telephone)	Weiss Serota, Special Counsel CDD #1
Ron Albeit	Fiddlers Creek Foundation
Amanda Barton	ITG Counsel
Tony DiNardo	Developer
Eileen Robertson	Resident
Jesse Fritz	Resident
Peter Blitcher	Resident
Frank Weinberg	Resident

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 and Slater were present, in person. Supervisors Curland and Bergmoser were attending via telephone.

On MOTION by Mr. Brougham and seconded by Mr. Slater, with all in favor, authorizing Mr. Curland and Mr. Bergmoser's attendance and full participation, via telephone, due to exceptional circumstances, was approved.

SECOND ORDER OF BUSINESS**Special Counsel Update: Bankruptcy Proceedings [Aleida Martinez Molina]**

Ms. Martinez Molina reported that the appeal was resolved about 30 days ago; however, the judge has not issued a formal order. She explained that the parties have 30 days, after the issuance of the formal order, to appeal; however, there is no indication that an appeal will take place. Ms. Martinez Molina acknowledged a pending public records request and expressed her understanding that Mr. Pires' office made the documents available. Her office is doing so, as well. Ms. Martinez Molina noted that there are no other motions, sales motions, etc., that concern the CDD, with regard to the reorganized debtors.

Mr. Brougham asked Ms. Martinez Molina to confirm information he received from Mr. Adams, following the last meeting, that, for prior motions to the bankruptcy court for sales of land, the District paid for legal counsel to review the sales orders, to protect the District's interests. Ms. Martinez Molina responded affirmatively and explained that this was due to concerns expressed by the parties who issued the title that they were not getting an appropriate clear title due to the pending appeal. Her understanding was that they insisted on receiving the blessing of the bankruptcy court. Through that process, bankruptcy counsel became involved to ensure that CDD #1's interests were being appropriately served. Ms. Martinez Molina advised that the parties who were most active were the indenture trustees, U.S. Bank.

Mr. Brougham clarified that his direction to Mr. Adams, after the last meeting and subject to ratification at this meeting, was that, for any future land sales by the developer, part of the terms of settlement will be that CDD #1's legal costs will be reimbursed by either party and not borne by the District. Mr. Brougham asked Ms. Martinez Molina to confirm that, since the appeal was settled, the District will not be required to have oversight on future land sale agreements or motions before the court. Ms. Martinez Molina replied that is her understanding and stated, for all intents and purposes, the appeal is over and the catalyst for having to go through the exercise was the pending appeal.

For future direction, Mr. Brougham asked the Board to take the position that, if bankruptcy counsel is required to have oversight on any future land sales by the developer, the legal costs incurred must be borne by the buyer or the seller but not the District.

On MOTION by Mr. Brougham and seconded by Mr. Schutt, with all in favor, requiring that all legal costs incurred for bankruptcy counsel to oversee any future land sales by the developer be borne by the buyer or the seller, and not the CDD, was approved.

****Ms. Martinez Molina left the meeting.****

THIRD ORDER OF BUSINESS

Developer's Report/Update

There being no developer's report or update, the next item followed.

FOURTH ORDER OF BUSINESS

Engineer's Report

Mr. Cole indicated that no draws would be presented this month; efforts were focused on lake erosion repairs. He reported that the work on Lake #6 was completed, except for the section next to the roadway, which will be deferred to a future year. The high priority areas, next to the homes, were finished; Lake #5 was completed, as well. Mr. Cole noted that work commenced on Lake #7-1A; sod will be installed on the completed repairs shortly and sand is being raked from the sacrificial bag.

Mr. Slater inquired about the sod installed yesterday on the bank of Lake #7A, on the Pepper Tree side. He was informed by the crew that the work was completed; however, there are four (4) individual tubes of plastic and only the top two (2) were covered. Mr. Slater felt that the sod should be brought down to the water level. Mr. Cole advised there should only be two (2) permanent bags and the top one should be covered. He indicated that he will look at the lake bank.

Mr. Schutt indicated that part of the area being discussed is behind his house. He noted that, when the water level reaches its maximum, it will cover the two (2) exposed bags and, if there is sod over them, it will kill the sod. Mr. Schutt recalled Mr. Cole stating that, at low water level, the black bags will be seen. Mr. Brougham asked Mr. Cole to email the Supervisors with an update once he has had an opportunity to review the area.

In response to a question from Mr. Slater, Mr. Adams explained that the sod will only die to the high water mark; in some cases, they may sod a little below that because the water level is

low. He stated that when the water rises, it will kill the sod; as it is killed, the very nutrient rich soil that the sod is grown in will create algae blooms.

Mr. Slater asked what will stop the alligators from ripping the bags open with their claws when they go up the lake bank, on the east side.

******Mr. Curland joined the meeting in person.******

Mr. Cole reported that the tube was installed in the high priority area of Lake #4. He identified, in a photo, where a medium priority repair was added along the bank. Mr. Cole advised the project about \$10,000 under budget. He noted that the phased work, for next year's budget, was identified. Mr. Cole is planning on a \$200,000 budget and certain priority areas were identified. The areas next to homes, which are medium to high priorities, are being handled first. Next year, some of the areas on the golf course will be completed, as well, from a safety standpoint.

Mr. Cole discussed some of the recommendations he plans to make for next year.

Mr. Schutt asked Mr. Cole to look at the pathway where the tractor that carried the sod entered, when assessing the area discussed previously by Mr. Slater. He noted that multiple loads of sod were delivered and there may be lawn damage along the side of the house.

Mr. Cole reported that Aquamatic was called to repair an irrigation leak on Marsh Drive. The road repair on Mahogany Bend is also planned.

Mr. Jesse Fritz, a resident, asked if the lakes are connected with pumps to control the water level. Mr. Cole replied they are connected with drainage pipes.

Mr. Brougham inquired about the status of the South Florida Water Management District (SFWMD) permits. Mr. Cole advised that he has been working extensively with the developer's attorneys and he will follow up with them. Mr. Pires indicated that SFWMD has 2,000 permits left to resolve but he feels there are more. He confirmed that Mr. Cole is the engineer who certified the lakes and requested that he expedite the certifications for transfer to the operating entity. Mr. Pires advised he will resume the process of conveying the fee simple title for lakes. Mr. Brougham requested a status at the next meeting.

FIFTH ORDER OF BUSINESS

**Notice of General Election - November 6,
2012 – [Seats 3, 4 & 5]**

- **Candidate Qualifying Dates**

- Noon, Monday, June 4, 2012 through Noon, Friday, June 8, 2012
- Pre-Qualifying Begins on May 21, 2012
- **Consideration of Resolution 2012-5, Placing Special District Candidates on General Election Ballot**

Mr. Adams reported that Seats 3, 4 and 5, currently held by Supervisors Schutt, Slater and Brougham, respectively, are up for general election, this year. He explained that Resolution 2012-5 specifies the election date of November 6, 2012, the candidate qualifying period, the election requirements and gives notice of the general election through an advertisement, which will be published at least two (2) weeks prior to the qualifying period.

Mr. Pires clarified that the correct statutory reference in SECTION FIVE is 190.006(3)(b), and noted a typographical error in the same section. Mr. Adams confirmed that the correction was made to the final document.

On MOTION by Mr. Curland and seconded by Mr. Slater, with all in favor, Resolution 2012-5, Placing Special District Candidates on General Election Ballot, as amended, was adopted.

Mr. Brougham advised that he filed paperwork to run for re-election to Seat 5. He noted that Mrs. Eileen Robertson has also filed for Seat 5. Mr. Jesse Fritz filed for Seat 3, currently held by Mr. Schutt.

SIXTH ORDER OF BUSINESS

Approval of March 28, 2012 Regular Meeting Minutes

Mr. Brougham presented the March 28, 2012 Regular Meeting Minutes and asked for any additions, deletions or corrections. The following changes were made:

- Line 23: Strike entire line
- Line 175: Replace "Pruitt" with "Curland"
- Line 107: Replace "Cox" with "Pires"

On MOTION by Mr. Brougham and seconded by Mr. Schutt, with all in favor, the March 28, 2012 Regular Meeting Minutes, as amended, were approved.

SIXTH ORDER OF BUSINESS

Other Business

There being no other business, the next item followed.

SEVENTH ORDER OF BUSINESS

Staff Reports

a. Attorney

Mr. Brougham reported that, at the annual meeting of the Fiddler's Creek Foundation, on April 17, a resolution was adopted to acquire park lands, namely the Marsh Point Park, the boardwalk and gazebo and the park outside of Isla del Sol. He referenced the current license and maintenance agreements for the CDD to maintain those parks, as well as the supplemental maintenance agreement, put in force in 1996, referencing the CDD's responsibility for park maintenance. Mr. Brougham asked Mr. Pires to lead the discussion.

Mr. Pires explained that the Marsh Point Park original license and maintenance agreement was executed in 1996. In 2008, the agreement, which was between the District and 951 Land Holdings, Ltd., was modified and revised and additional areas were added. By virtue of the bankruptcy and the conveyance of those properties to the Foundation, Mr. Pires advised it would be appropriate to assign the agreement to the Foundation.

Mr. Brougham asked if it is appropriate for CDD #1 to modify or amend the license agreement to continue to maintain the parks, now owned by the Foundation, for the benefit of the entire community or if the agreement currently in force should be terminated.

Mr. Pires stated, from a legal perspective, it is appropriate and valid and the Board is authorized to continue the arrangement because, through the Foundation, it still benefits and accrues to the benefit of the residents of Fiddler's Creek CDD #1.

Mr. Curland noted that, although the property is now owned by the Foundation, it accrues to the benefit of all of the residents of Fiddler's Creek, not only the residents of CDD #1. He asked if there is any other property owned by the Foundation, which CDD #1 maintains. Mr. Pires replied he is not aware of any. Mr. Adams and Ms. Crismond agreed. Mr. Curland felt it is inappropriate to take on property for the benefit of the entire community for which CDD #1 is paying the total bill. Mr. Pires advised that there is a 30-day termination provision in the agreement.

Mr. Curland made a motion to terminate the agreement. The motion was seconded. Discussion followed. Mr. Slater did not feel it was worth the time and energy involved to terminate the contract. Mr. Slater stressed that the property must be maintained. Mr. Curland pointed out that all of the landscaping around the Club and Spa, which is Foundation property, is maintained by the Foundation. They have a landscape contractor to do this work and if the property is now owned by the Foundation, it is only appropriate that the Foundation take responsibility for its maintenance.

Mr. Brougham asked Mr. Albeit for his opinion regarding the pending motion. Mr. Albeit advised that the Foundation will perform the maintenance.

On MOTION by Mr. Curland seconded by Mr. Schutt, with all in favor, taking the necessary steps to cancel the current License and Maintenance Agreement between Fiddler's Creek CDD #1 and GB 100 Ltd., or 951 Land Holdings, Ltd., for the first amendment, with regard to the two (2) parks, was approved.

Mr. Brougham asked if any modifications are necessary to the supplemental maintenance agreement because it referenced parks. Mr. DiNardo felt this was a general statement. Mr. Pires asked if the Board wished to have the District Manager explore discussions with the Foundation regarding an updated palette. Mr. Schutt pointed out that if they keep changing the pallet, there is no standard. Mr. Adams clarified that what is planted today is the standard, in terms of plant selection. Mr. DiNardo felt that modifying the standard for the new pallet, post Wilma, could be easily done, for the record. Mr. Brougham had no objection to doing so.

Mr. Pires advised that he will follow up with Rookery with regard to u-turns by boats and trailers.

b. Manager

i. Unaudited Financial Statements as of March 31, 2012

Mr. Brougham presented the Unaudited Financial Statements as of March 31, 2012. In response to a question from Mr. Brougham, Mr. Adams explained what constitutes the \$341,144 listed under General 001, Assets, Due from other funds.

Mr. Brougham asked when the audit will be finalized. Mr. Adams indicated that the Notes are being completed; they are complicated because of the language required, as a result of

the bankruptcy order being finalized. There will be a qualified opinion because of the lack of proper invoices or records related to the "grab" of the reserve funds and construction funds by the trustee for their legal representation.

Mr. Brougham inquired about the \$1,000 spent for contingencies. Mr. Adams will look into this. Mr. Brougham referred to Access Control, on Page 3, Repairs and Maintenance – parts. Mr. Adams stated the majority is for the rack and pinion replacement on the vehicle.

Mr. Adams noted that the year-to-date amount for operating supplies is \$23,350, against the budget of \$27,621. He indicated that the majority will be for clickers, as a large portion of the clickers were sold to The Rookery. Recovery revenue against that, in the amount of \$13,554, is on Page 2, under Miscellaneous; thus, the net is within budget, year-to-date.

For the benefit of CDD #1 residents who were in attendance, Mr. Brougham advised that the fund balance in the general fund, operations and maintenance (O&M), continues to be very positive and, if some of the historically spent legal fees can be recovered, it will become even more positive. Mr. Adams stated, as of yesterday, the O&M fund balance is about \$1.5 million. The net fund balance, at year-end, will be about \$.5 million.

ii. NEXT MEETING DATE: May 23, 2012 at 8:00 A.M.

The next meeting is scheduled for May 23, 2012.

c. Operations Manager

Ms. Crismond presented the Monthly Field Operations Status Report. She reported that the April 9 lake maintenance tour was rescheduled to April 27. Replanting of Lake #37 was completed the first week of April and will be reviewed during this tour.

Hard pruning of the ornamental grasses, Sea Grapes, Coco Plum and Bougainvillea commenced. Management identified several areas of Sea Grape plantings that require fill in. TruGreen provided a quote and Ms. Crismond will verify their numbers to ensure that they are not adding areas where Terry will be doing some replacements. In response to a question from Mr. Brougham with regard to removal and full replacement of the Sea Grapes, Ms. Crismond agreed with replacing those that have outlived their usefulness. Mr. Brougham requested a complete survey and some cost estimates for a program to renovate aging landscape, to be considered in next year's budget. He clarified that this will be for all varieties of plants.

Ms. Crismond advised that Management has identified four (4) park bench areas requiring paver repairs, as well as cleaning. Asphalt repairs are scheduled for two (2) sections on

Mahogany Bend and will be completed by the end of next week. Sidewalk repairs are required in two (2) areas and have been scheduled for the week of April 23. She indicated to Mr. Brougham that, after their conversation, an additional repair was added. Ms. Crismond presented the patrol stats for April.

Ms. Crismond was asked about the standard differential for sidewalk replacement. She replied ¼". Mr. Cole indicated that he will verify the differential, as some felt it is ¾".

EIGHTH ORDER OF BUSINESS

**Audience
Requests**

Comments/Supervisors'

Mr. Frank Weinberg, a resident, presented two (2) requests on behalf of the Mahogany Bend Homeowners Association. He asked that sidewalk and gutter cleaning be properly funded in next year's budget, as it detracts from the look of the whole community. Mr. Brougham recalled that, at the last meeting, the Board voted to pressure wash the entire length of sidewalk for all CDD maintained roadways; however, nothing will be done with respect to the gutters. Mr. Weinberg asked that this be considered for next year. He also asked for proper landscaping around the lift station on Mahogany Bend, similar to what was done on Mulberry. Mr. Brougham requested that Ms. Crismond look at the lift station, inclusive of putting an enclosure around it, and report back at the next meeting with the cost. He advised Mr. Weinberg that the Board will take his request regarding the gutters under advisement for next year's budget.

Mr. Peter Blitcher, a resident, discussed the condition of the curbs on about 30% of the roads in Mahogany Bend, which are fronting property owned by the CDD. He indicated that the curbs go up to the park and the sprinklers in the park have turned the curbs black. Mr. Blitcher suggested that the Board take the money they will save on the parks and use it to address the curbs, in the worst areas. He asked if there is an emergency procedure to temporarily patch potholes when they occur. Mr. Brougham advised that any pothole will be patched, as identified. He did not feel they should wait a month for repairs. Ms. Crismond apologized for the delay and indicated that everything will be completed by next Friday.

Mr. Jesse Fritz, a resident, asked about removing the yellow stains on the roadways created by trees in the median. Mr. Brougham stated this occurs every year. Mr. Adams explained that they must let the tree go through the seeding cycle; then the roads can be cleaned

and it will sustain. If it is cleaned part way through the cycle, a week later, the stains will reappear.

Mr. Brougham confirmed that curb cleaning will be discussed during the budget cycle. An estimate of \$30,000 to \$40,000 was previously provided by Ms. Crismond. Mrs. Robertson indicated that there is a citricide that can be applied to the curbing and the sidewalks. As it rains, the chemical is activated and clears away the dirt. Mr. Brougham asked Ms. Crismond to look into how much the use of the citricide would add to the budget. He also requested that she obtain some independent opinions on the viability of using this treatment and how long it would extend the appearance.

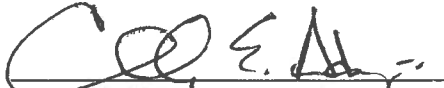
Mr. Albeit was advised that there are more and more back gate runners. It was suggested that the license numbers be recorded by the gate guard and provided to Mr. Charbonneau to research and attempt to identify the owners.

NINTH ORDER OF BUSINESS

Adjournment

There being nothing additional to discuss, the meeting adjourned.

On MOTION by Mr. Curland seconded by Mr. Slater, with all in favor, the meeting adjourned at 9:10 a.m.


Secretary/Assistant Secretary


Chair/Vice Chair