

**FIDDLER'S CREEK
COMMUNITY DEVELOPMENT
DISTRICT #1**

**REGULAR MEETING
AGENDA**

May 23, 2012

Fiddler's Creek Community Development District #1

6131 Lyons Road, Suite 100 • Coconut Creek, Florida 33073

Phone: (954) 426-2105 • Fax: (954) 426-2147 • Toll-free: (877) 276-0889

May 16, 2012

Board of Supervisors
Fiddler's Creek Community Development District #1

ATTENDEES:
Please identify yourself each time you speak to facilitate accurate transcription of meeting minutes.

Dear Board Members:

The Board of Supervisors of the Fiddler's Creek Community Development District #1 will hold a Regular Meeting on **Wednesday, May 23, 2012 at 8:00 a.m.**, at the **Fiddler's Creek Club and Spa, 3470 Club Center Boulevard, Naples, Florida 34114**. The agenda is as follows:

1. Call to Order/Roll Call
2. Special Counsel Update: Bankruptcy Proceedings [Aleida Martinez Molina]
3. Developer's Report/Update
4. Engineer's Report
5. Consideration of **Resolution 2012-6**, Approving the District's Proposed Budget for Fiscal Year 2013 and Setting a Public Hearing Thereon Pursuant to Florida Law
6. Approval of **April 25, 2012** Regular Meeting Minutes
7. Other Business
8. Staff Reports
 - a. Attorney
 - b. Manager
 - i. Unaudited Financial Statements as of April 30, 2012
 - ii. **776** Registered Voters in District as of April 15, 2012
 - iii. **NEXT MEETING DATE: June 27, 2012 at 8:00 A.M.**
 - c. Operations Manager
9. Audience Comments/Supervisors' Requests
10. Adjournment

The fifth order of business deals with the consideration of Resolution 2012-6, approving the proposed budget for Fiscal Year 2013 and setting a public hearing date. A copy of the proposed budget is included in the agenda package for information and review.

Should you have any questions, please do not hesitate to contact me directly at 239-464-7114.

Sincerely,



Chesley E. Adams, Jr.
District Manager

CA:dg

FOR BOARD MEMBERS AND STAFF TO ATTEND BY TELEPHONE:

CALL IN NUMBER: 1-888-354-0094

CONFERENCE ID: 8593810

RESOLUTION 2012-6

A RESOLUTION OF THE BOARD OF SUPERVISORS OF FIDDLER'S CREEK COMMUNITY DEVELOPMENT DISTRICT #1 APPROVING A PROPOSED BUDGET FOR FISCAL YEAR 2013 AND SETTING A PUBLIC HEARING THEREON PURSUANT TO FLORIDA LAW AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the District Manager has heretofore prepared and submitted to the Board of Supervisors of Fiddler's Creek Community Development District #1 (the "Board") prior to June 15, 2012, a proposed operating budget for Fiscal Year 2013; and

WHEREAS, the Board has considered the proposed budget and desires to set the required public hearing thereon.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF FIDDLER'S CREEK COMMUNITY DEVELOPMENT DISTRICT #1:

1. The operating budget proposed by the District Manager for Fiscal Year 2013 attached hereto as **Exhibit A** is hereby approved as the basis for conducting a public hearing to adopt said budget.

2. A public hearing on said approved budget is hereby declared and set for the following date, hour and location:

DATE: August 22, 2012

HOUR: 8:00 A.M.

**LOCATION: Fiddler's Creek Club and Spa
3470 Club Center Boulevard
Naples, Florida 34114**

3. The District Manager is hereby directed to submit a copy of the proposed budget to Collier County at least 60 days prior to the hearing set above.

4. Notice of this public hearing on the budget shall be published in a newspaper of general circulation in the area of the district once a week for two (2) consecutive weeks, except that the first publication shall not be fewer than 15 days prior to the date of the hearing. The notice shall further contain a designation of the day, time, and place of the public hearing. At the time and place designated in the notice, the Board shall hear all objections to the budget as proposed and may make such changes as the Board deems necessary.

5. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2012.

ATTEST:

**BOARD OF SUPERVISORS OF
THE FIDDLER'S CREEK
COMMUNITY DEVELOPMENT
DISTRICT #1**

Secretary

By: _____

Its: _____

EXHIBIT A

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

3
4 A Regular Meeting of the Board of Supervisors of the Fiddler's Creek Community
5 Development District #1 was held on **Wednesday, April 25, 2012, at 8:00 a.m.**, at the **Fiddler's**
6 **Creek Club and Spa, 3470 Club Center Boulevard, Naples, Florida 34114.**

7
8 **Present at the meeting were:**

9
10 Phil Brougham Chair
11 James Curland (via telephone) Vice Chair
12 Gerald Bergmoser (via telephone) Assistant Secretary
13 Jim Schutt Assistant Secretary
14 Robert Slater Assistant Secretary

15
16 **Also present were:**

17
18 Chuck Adams District Manager
19 Cleo Crismond Assistant Regional Manager
20 Tony Pires District Counsel
21 Terry Cole District Engineer
22 Aleida Martinez Molina (via telephone) Weiss Serota, Special Counsel CDD #1
23 Ron Albeit Fiddlers Creek Foundation
24 Amanda Barton ITG Counsel
25 Tony DiNardo Developer
26 Eileen Robertson Resident
27 Jesse Fritz Resident
28 Peter Blitcher Resident
29 Frank Weinberg Resident

30
31
32 **FIRST ORDER OF BUSINESS**

Call to Order/Roll Call

33
34 Mr. Adams called the meeting to order at 8:00 a.m., and noted, for the record, that
35 Supervisors Brougham, Schutt and Slater were present, in person. Supervisors Curland and
36 Bergmoser were attending via telephone.

37
38 **On MOTION by Mr. Brougham and seconded by Mr. Slater,**
39 **with all in favor, authorizing Mr. Curland and Mr.**
40 **Bergmoser's attendance and full participation, via telephone,**
41 **due to exceptional circumstances, was approved.**

43 **SECOND ORDER OF BUSINESS**

**Special Counsel Update: Bankruptcy
Proceedings [Aleida Martinez Molina]**

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45
46 Ms. Martinez Molina reported that the appeal was resolved about 30 days ago; however,
47 the judge has not issued a formal order. She explained that the parties have 30 days, after the
48 issuance of the formal order, to appeal; however, there is no indication that an appeal will take
49 place. Ms. Martinez Molina acknowledged a pending public records request and expressed her
50 understanding that Mr. Pires' office made the documents available. Her office is doing so, as
51 well. Ms. Martinez Molina noted that there are no other motions, sales motions, etc., that
52 concern the CDD, with regard to the reorganized debtors.

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

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

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

73

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

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

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

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

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

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

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

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

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

135

136 **FIFTH ORDER OF BUSINESS**

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

137

138

- 139 • **Candidate Qualifying Dates**

- 140 ○ Noon, Monday, June 4, 2012 through Noon, Friday, June 8, 2012
- 141 ○ Pre-Qualifying Begins on May 21, 2012

142 ● **Consideration of Resolution 2012-5, Placing Special District Candidates on General**
 143 **Election Ballot**

144 Mr. Adams reported that Seats 3, 4 and 5, currently held by Supervisors Schutt, Slater
 145 and Brougham, respectively, are up for general election, this year. He explained that Resolution
 146 2012-5 specifies the election date of November 6, 2012, the candidate qualifying period, the
 147 election requirements and gives notice of the general election through an advertisement, which
 148 will be published at least two (2) weeks prior to the qualifying period.

149 Mr. Pires clarified that the correct statutory reference in SECTION FIVE is
 150 190.006(3)(b), and noted a typographical error in the same section. Mr. Adams confirmed that
 151 the correction was made to the final document.

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

157
 158
 159 Mr. Brougham advised that he filed paperwork to run for re-election to Seat 5. He noted
 160 that Mrs. Eileen Robertson has also filed for Seat 5. Mr. Jesse Fritz filed for Seat 3, currently
 161 held by Mr. Schutt.

163 **SIXTH ORDER OF BUSINESS**

Approval of March 28, 2012 Regular Meeting Minutes

164
 165
 166 Mr. Brougham presented the March 28, 2012 Regular Meeting Minutes and asked for any
 167 additions, deletions or corrections. The following changes were made:

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

171
 172 **On MOTION by Mr. Brougham and seconded by Mr. Schutt,**
 173 **with all in favor, the March 28, 2012 Regular Meeting Minutes,**
 174 **as amended, were approved.**

175 **SIXTH ORDER OF BUSINESS** **Other Business**

176
177 There being no other business, the next item followed.

178
179 **SEVENTH ORDER OF BUSINESS** **Staff Reports**

180
181 **a. Attorney**

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

188 Mr. Pires explained that the Marsh Point Park original license and maintenance
189 agreement was executed in 1996. In 2008, the agreement, which was between the District and
190 951 Land Holdings, Ltd., was modified and revised and additional areas were added. By virtue
191 of the bankruptcy and the conveyance of those properties to the Foundation, Mr. Pires advised it
192 would be appropriate to assign the agreement to the Foundation.

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

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

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

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

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

215

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

222

223

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

231 Mr. Pires advised that he will follow up with Liberty Bay with regard to u-turns by boats
232 and trailers.

233 **b. Manager**

234 **i. Unaudited Financial Statements as of March 31, 2012**

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

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

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

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

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

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

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

256 The next meeting is scheduled for May 23, 2012.

257 **c. Operations Manager**

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

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

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

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

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

277

278 **EIGHTH ORDER OF BUSINESS** **Audience** **Comments/Supervisors’**
279 **Requests**

280
281 Mr. Frank Weinberg, a resident, presented two (2) requests on behalf of the Mahogany
282 Bend Homeowners Association. He asked that sidewalk and gutter cleaning be properly funded
283 in next year’s budget, as it detracts from the look of whole community. Mr. Brougham recalled
284 that, at the last meeting, the Board voted to pressure wash the entire length of sidewalk for all
285 CDD maintained roadways; however, nothing will be done with respect to the gutters. Mr.
286 Weinberg asked that this be considered for next year. He also asked for proper landscaping
287 around the lift station on Mahogany Bend, similar to what was done on Mulberry. Mr.
288 Brougham requested that Ms. Crismond look at the lift station, inclusive of putting an enclosure
289 around it, and report back at the next meeting with the cost. He advised Mr. Weinberg that the
290 Board will take his request regarding the gutters under advisement for next year’s budget.

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

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

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

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

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

314

315 **NINTH ORDER OF BUSINESS**

Adjournment

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317 There being nothing additional to discuss, the meeting adjourned.

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

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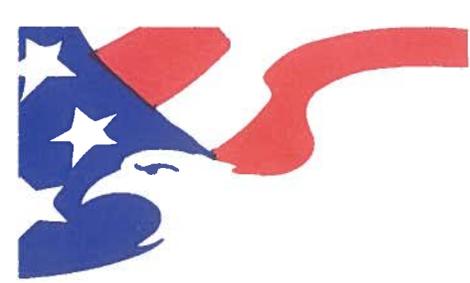
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327

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329 _____
Secretary/Assistant Secretary

_____ Chair/Vice Chair



JENNIFER J. EDWARDS
SUPERVISOR OF ELECTIONS

April 15, 2012

Mr. Craig Wrathell
Fiddlers Creek CDD
Wrathell, Hart , Hunt & Associates
6131 Lyons Road Suite 100
Coconut Creek, FL 33073

Dear Mr. Wrathell,

In compliance with Florida Statute 190.06, this notice is to inform you that the official records of the Collier Count Supervisor of Elections show the number of registered electors residing in Fiddlers Creek CDD upon April 15' 2012 was **776**

Should you have questions regarding election services for the district please feel free to contact me.

Sincerely,

David B Carpenter
Qualifying Officer
Collier County Supervisor of Elections
(239) 252-8501
DaveCarpenter@colliergov.net

