

**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, May 23, 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	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
Eileen Robertson	Resident
Jesse Fritz	Resident
Victoria DiNardo	CDD #2 Board Member

**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, Slater and Bergmoser were present, in person. Supervisor Curland was attending via telephone.

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

**SECOND ORDER OF BUSINESS**

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

Ms. Martinez Molina reported that the order on the appeal was signed April 25, 2012; the decision was rendered a few months ago. U.S. Bank has 30 days to appeal further to the Eleventh Circuit; however, she does not expect them to do so. If an appeal is not filed by tomorrow, the appellate matter is officially over.

Mr. Brougham asked the status of the records search activities. Ms. Martinez Molina indicated that it is proceeding and should be completed this week; her firm is ensuring that all responsive documents are turned over.

Mr. Brougham asked if there is anything for the District to do, other than wait, and asked if the District can force something to happen to rid itself of the public records request and being forced to incur additional legal fees. Ms. Martinez Molina stated that the District must wait, at this point; U.S. Bank's counsel indicated that the appeal had nothing to do with the public records request. Mr. Brougham asked if all records were turned over. Ms. Martinez Molina's understanding is that Mr. Pires and Mr. Adams' offices have provided the necessary documents; her office is still verifying the information and has not turned them over, yet. Mr. Pires confirmed that his office provided the requested documents.

Mr. Brougham questioned if there is a position that the District can take indicating that it has no intention of suing. Mr. Pires felt that the District could not make that statement that, as it does not know what facts or issues may arise in the future. Mr. Pires reminded the Board that anyone can make public records requests and cannot be precluded from doing so. Mr. Adams suggested that the Board could take the position that, based on actions and activities, to date, the District has no intention of suing but reserves the right in the future, should something materialize.

Regarding legal expenses, Mr. Slater pointed out that Ms. Martinez Molina is strictly "on call" right now, so the continuing cost is minimal. Mr. Brougham disagreed, stating that the legal fees continue to appear on the monthly financials. Mr. Adams explained that nominal monthly fees will continue to be incurred, as she is on call and monitoring the matter; however, the fees are nominal in comparison to when the case was in full swing. Mr. Brougham recalled that the Board previously approved Ms. Martinez Molina's continued monitoring of the case; however, he feels the District should discontinue monitoring and no longer retain Ms. Martinez Molina.

Ms. Martinez Molina explained that the expenses of the last few months relate to addressing and following up on the appellate process, final orders and the public records request. She expects that the public records request process will be finished this week and the appellate process will be over tomorrow. Ms. Martinez Molina advised that the monitoring, going forward, involves her receiving notifications from the bankruptcy court; unless someone else is registered with the bankruptcy court system to receive the notifications, the District would not receive them. The District would only receive notification of a lawsuit. Mr. Pires voiced his feeling that it is important for the District to retain Ms. Martinez Molina as counsel and have her on record as the District's bankruptcy counsel, in case something arises in the future. Mr. Brougham stated that he is tired of paying legal fees for "no good reason".

***\*\*\*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 he has no draws to present this month. He is working with the developer and his attorneys on the South Florida Water Management District (SFWMD) certification updates. Mr. Pires and Mr. Cole will meet to continue discussion of the lake conveyance documents. Regarding lake bank erosion repairs the contractor is completing Lake #4 and, Lake #4, along with all punch list items, should be completed within the next few weeks. Mr. Cole recalled reporting at the last meeting that Lake #7-A was substantially completed and sod was installed; however, there was significant rain with a lot of washouts. The contractor will repair areas, as needed. Mr. Cole referred to Lake #7-A, noting that it had the highest depth of erosion, requiring the bags to 12 to 15 inches thick, rather than the previously anticipated nine (9) inches. He discussed the lake bank appearance and feels that water levels will rise during the rainy season so the bags will not be as visible.

Mr. Schutt recalled that the black bag was previously thought to be the most aesthetically pleasing; however, after seeing them, he finds them worse than the erosion. Mr. Schutt asked for suggestions to enhance the appearance of the bags. Mr. Cole advised that fading will occur, over

time, along with natural adhering. Mr. Cole recommended planting littorals; however, the lack of a shelf might make that option unrealistic.

Discussion ensued regarding future lake bank erosion repairs, options and appearance. Mr. Slater questioned if rocks could be placed in areas with high exposure, so the bags are hidden.

Mr. Cole indicated that a bulkhead, at the corner of the lake, was damaged. He is obtaining quotes to repair the bulkhead.

Mr. Cole stated that he is working with Ms. Crismond on a utility deviation to show landscaping around the pump station on Mahogany Bend. Mr. Cole noted that the repairs were made and the road was repaved where there was an irrigation break on Mahogany Bend.

**FIFTH ORDER OF BUSINESS**

**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**

Mr. Brougham presented Resolution 2012-6 for the Board's consideration.

Mr. Pires explained that the Board must approve a proposed budget for the basis of holding a public hearing. Mr. Adams indicated that, in accordance with the Florida Statutes, the District is required to approve a draft budget prior to June 15 of each year for the purpose of setting the public hearing, distribution to local municipalities and posting on the District's website. Mr. Adams recommended holding the public hearing on August 22, 2012 at 8:00 a.m., at this location.

Mr. Adams advised that the proposed budget is preliminary and the Board has traditionally reviewed it in more detail at subsequent meetings.

Mr. Brougham voiced his desire to discuss the proposed budget today.

**On MOTION by Mr. Slater and seconded by Mr. Schutt, with all in favor, Resolution 2012-6, Approving the District's Proposed Budget for Fiscal Year 2013 and Setting a Public Hearing for August 22, 2012 at 8:00 a.m., at this location, was adopted.**

Mr. Brougham referred to sales of platted lots to developers, and asked for an explanation of how those assessments are collected. Mr. Adams indicated that the assessments generally remain off-roll billings, to the extent that those properties are held by the original developer, or subsequent entities; however, in accordance with the trust indenture, assessments are on roll, once the properties transition to other owners. Mr. Brougham questioned if the three (3) new builders' assessments are on roll. Mr. Adams replied affirmatively, explaining that, at the time of sale, any past due property taxes and/or assessments must be satisfied, with them being billed on roll, going forward. In response to Mr. Brougham's question, Mr. Adams confirmed that the number of on and off-roll units should adjust accordingly, on next month's draft budget. Mr. Adams further explained on and off-roll assessment billing and collections.

Mr. Brougham questioned the forecasted off-roll collections. Mr. Adams confirmed that the collections will need to be adjusted, based on the financials; however, the projection is conservative, as sales are difficult to predict.

Mr. Brougham noted that CDD #2's ERUs have not changed in the preliminary budget and asked if they will. Mr. Adams clarified that they have not changed for either District but they will, based on Ms. Alice Carlson's true up in June.

Regarding insurance, Mr. Brougham asked Mr. Adams to explain why the premium increased so much during this fiscal year and if the District will rebid it. Mr. Adams indicated that insurance will be shopped; however, the District is viewed as high risk. Mr. Adams was hopeful that some of the risk will be abated with the approval of the reorganization plans and with most of the bankruptcy issue completed. Mr. Adams noted that the District's upcoming audit contains findings, which will not help their position. Mr. Adams confirmed that Management is working with the auditor regarding the wording in the findings.

Mr. Brougham recalled that the Board previously directed Ms. Crismond to power wash all District sidewalks; however, the proposed budget projected the same amount. He felt that estimates are needed and the figures should be updated.

Mr. Slater noted a line item with a double asterisk, with the definition being several pages after, and recommended including the notation on the same page. In response to Mr. Slater's request, Mr. Adams explained the other financing sources section of the proposed budget and how and/or where the amounts are derived.

Mr. Jesse Fritz, a resident, asked what was discussed regarding power washing. Ms. Crismond indicated that the Board discussed engaging the current contractor to power wash all

of the sidewalks. The current contractor submitted the lowest rate; however, the District is now considering a chemical cleaning process.

**SIXTH ORDER OF BUSINESS**

**Approval of April 25, 2012 Regular Meeting Minutes**

Mr. Brougham presented the April 25, 2012 Regular Meeting Minutes and asked for any additions, deletions or corrections. The following changes were made:

Line 63: Change "subsequent" to "subject"

Lines 227 and 229: Change "pallet" to "palette"

Line 231: Change "Liberty" to "Rookery"

Line 245: Change "of" to "on"

Line 283: Insert "the" before "whole"

Mr. Brougham referred to the proposed budget and recommended including a line item for vehicle replacement.

**On MOTION by Mr. Slater and seconded by Mr. Bergmoser, with all in favor, the April 25, 2012 Regular Meeting Minutes, as amended, were approved.**

**SEVENTH ORDER OF BUSINESS**

**Other Business**

Mr. Adams advised that, as reflected in the financials, the District has significant cash balances in its general operating account. He asked the Board to consider authorizing Staff and the Chair to take steps to open accounts with the banks identified on the handout provided. Mr. Adams stated that yields will not be significant; however, the funds should be invested to ensure they are FDIC protected. Mr. Adams confirmed that each institution is a qualified public depository, meet all the legal requirements to hold public funds and are all 4-star or better institutions. Mr. Brougham directed Mr. Adams to ask each institution whether they will open a line of credit for the District. Mr. Adams indicated he will ask; however, he does not think it is a possibility, as CDDs currently have a stigma. Additionally, the audit, with its findings and being a qualified opinion, will not work in the District's favor. Mr. Adams felt the District will not be in a good line of credit position for a number of years.

**On MOTION by Mr. Slater and seconded by Mr. Brougham, with all in favor, authorizing Staff and the Chair to execute all required documents to open money market accounts with institutions in descending order of positive net yield, per the May 22, 2012 analysis, was approved.**

**EIGHTH ORDER OF BUSINESS****Staff Reports****a. Attorney**

Mr. Pires indicated he is still trying to contact Rookery Bay. The lake conveyance work continues and Mr. Pires asked that it be included as a standing item on the agendas. Mr. Pires recalled a 2010 accident where a truck entered the lake. Mr. Brougham directed Mr. Pires to follow up with the sheriff's department regarding the accident and then contact the insurance company to determine if a claim can be made for damage to the bulkheads.

Mr. Curland recalled discussion of a document for future builders guaranteeing that the District's roadways would be left in the same condition, after work is completed. Mr. Curland asked if this document was completed and whether the new builders signed it. Mr. Pires advised that, according to Mr. DiNardo, the Foundation is handling this matter. Mr. Albeit stated that a deposit is required for new construction.

**b. Manager****i. Unaudited Financial Statements as of April 30, 2012**

Mr. Brougham presented the Unaudited Financial Statements as of April 30, 2012. He noted that assessment collections are at 99%. Tax certificate sales will be in June and the funds should be received in July. Expenses are at 48%; however, there are seasonal projects to be considered.

**ii. 776 Registered Voters in District as of April 15, 2012**

Mr. Brougham indicated that, as of April 15, 2012, there were 776 registered voters residing within the boundaries of the District.

**iii. NEXT MEETING DATE: June 27, 2012 at 8:00 A.M.**

The next meeting is scheduled for June 27, 2012.

**c. Operations Manager**

Ms. Crismond presented the Monthly Field Operations Status Report. She reported that Hole #14 will be replanted. The lake contractor installed plants but sprayed it out again, due to bulrush. She explained that this process takes many months. Mr. Bergmoser questioned the

timing of the project and his opinion that it caused a large portion of the golf course to be ugly during peak season. Mr. Bergmoser recommended coordinating work so the golf course looks its best during the peak season. Ms. Crismond acknowledged that the area is unsightly but it is a difficult project. Ms. Crismond advised that additional bulrush removal will take place around the golf course. In response to a question, Ms. Crismond confirmed that the primary reason for removing the bulrush is to eliminate snakes. Mr. Bergmoser suggested rethinking that.

Mr. Brougham questioned who requested removal of the bulrush and whether they participated in funding the project. Ms. Crismond indicated that Mr. Jim Vajen requested it and that they did not contribute to the funding. Mr. Brougham stated that the District might reconsider removing it. Mr. Brougham asked that any future spending on items related to the golf course lakes be brought to the Board for consideration. Ms. Crismond reminded Mr. Brougham that the bulrush removal at Hole #7 was approved by the Board and bulrush removal at Hole #17 has cost nothing. Ms. Crismond noted that the work has not yet been completed. Mr. Brougham reiterated his request that, on a go-forward basis, bulrush removal or any other significant maintenance to the lakes, to be funded by the District, must be discussed with the Board, prior to proceeding.

Ms. Crismond indicated that she met with the tree trimmer and a proposal is pending to trim all ornamentals. A large number of ficus were identified on Mahogany Bend that require trimming. She will meet with Mr. Vajen to review older sections of the property for aged plant materials. Mr. Brougham recalled discussing this at the last meeting and noted that additional details are needed. A Board Member felt the landscaper is doing a better job.

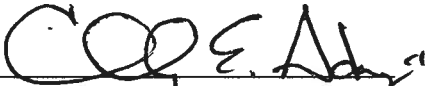
Ms. Crismond reported that she received a request for the thick hedge just, before the clubhouse, to be cut, on the Rookery side. Discussion ensued regarding trimming and having a plan for the area.

Ms. Crismond presented the patrol statistics and recalled discussion at the last meeting regarding why more citations are not being issued. She spoke with the sheriff's department and was advised that for speeding, the first five (5) miles over are forgiven, per Florida Statute, and speeding tickets are not issued until a higher threshold is met.

Mr. Schutt referred to the Department of Safety Monthly Status Report and questioned why the information is tracked, if the District does nothing with the data. Mr. Adams noted that this information is used by the Foundation; however, the Board can consider shortening the list of items tracked. Mr. Fritz felt the report is important. Mr. Albeit assured the Board that





  
Secretary/Assistant Secretary

  
Chair/Vice Chair