

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

A Public Hearing and Regular Meeting of the Board of Supervisors of the Fiddler's Creek Community Development District #1 was held on **Wednesday, August 22, 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	Vice Chair
Gerald Bergmoser	Assistant Secretary
Jim Schutt	Assistant Secretary
Robert Slater (via telephone)	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Crismond	Assistant Regional Manager
Tony Pires	District Counsel
Terry Cole	District Engineer
Alice Carlson	AJC Associates, Inc.
Ron Albeit	The Foundation
Aleida Martinez Molina (via telephone)	Weiss Serota, Special Counsel
Tony DiNardo	Developer
Eileen Robertson	Resident
Jesse Fritz	Resident
Jack Perrin	Resident
Elliot Miller	Resident
Joe Badessa	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, Curland, Schutt and Bergmoser were present, in person. Supervisor Slater was attending via telephone.

On MOTION by Mr. Brougham and seconded by Mr. Curland, with Mr. Brougham, Mr. Curland and Mr. Bergmoser in favor and Mr. Schutt dissenting, authorizing Mr. Slater's attendance and full participation, via telephone, due to special circumstances, was approved. (Motion passed 3-1)

SECOND ORDER OF BUSINESS

Special Counsel Update: Bankruptcy Proceedings [Aleida Martinez Molina]

Ms. Martinez Molina reported that nothing of substance has taken place in the bankruptcy, with the exception of the court's decision regarding the golf litigants and the appeal filed, in response to the decision.

****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 presented Draw #70 for the 2005 Series bonds, in the amount of \$3,880.16. The work was primarily related to work with the water management district certification and permit review with the developer and his attorney. In response to a Board Member's question, Mr. Brougham confirmed that the funds are drawn from the operating fund, as there are no funds in the bonds. Mr. Cole stated that he is tracking the funds that would be due back to the general fund.

Mr. Cole indicated that he and Mr. Brougham visited Lake 6, at Mallard's Landing, last Friday, as there was resident concern regarding a geotube in the water. He reviewed pictures of the conditions and geotubes, indicating that the water is about half a foot above the control elevation, which is expected this time of year. Currently, several feet wide of sod is covered. He pointed out an area where the UV protection screen from over the top of the geotube came loose or was not secured properly, which is what the resident was possibly concerned about. Mr. Cole indicated that the problem will be corrected and noted that only a few locations with problems were discovered. He described how the UV strips are attached to the geotube. Mr. Cole confirmed that the repair costs will be the contractor's responsibility.

Mr. Brougham noted that there was an anonymous comment on the blog stating that the District wasted its money installing geotubes and that the contractor did not sufficiently raise the elevation so that the high waters would not inundate the geotubes. Mr. Brougham stated that he attempted to explain the situation; however, the person chose to remain anonymous and refused his invitation to attend today for an explanation. For the record, Mr. Brougham confirmed that the contractor performed the work they were hired to do and the results are what was anticipated.

In response to a question, Mr. Cole indicated that the contractor has not been notified; he will first identify the areas and then provide the contractor with a list. It was suggested that the contractor be notified that preliminary inspections have revealed this problem. A Board Member recommended asking if a different colored UV screen is available, which may look better.

Mr. Brougham stated that additional fill material may need to be installed at the lake bordering Peppertree and Bent Creek, as there is a depression where sediment may have fallen away.

FIFTH ORDER OF BUSINESS**Affidavit of Publication for August 22, 2012 Public Hearing and Regular Meeting**

Mr. Brougham presented the affidavit of publication for today's public hearing and regular meeting.

SIXTH ORDER OF BUSINESS**Public Hearing to Consider Resolution 2012-10, Adopting the Final Budget for Fiscal Year 2013, Pursuant to Florida Law**

Mr. Adams indicated that the District's programs are essentially the same as the previous fiscal year and, as a result, assessments are identical to last year. Mr. Adams stated that Ms. Alice Carlson, of AJC Associates, Inc., is in attendance today to answer questions regarding the lien roll.

Ms. Carlson distributed spreadsheets detailing the lien roll adjustments. She highlighted the adjustments related to the 2006 bonds, noting that five (5) Cotton Green 2 units were sold and prepayments were received for one (1) Hawk's Nest unit and one (1) Bent Creek unit. She advised that changes were minimal.

Regarding the 1999 bonds, Ms. Carlson advised that the Runaway Bay neighborhood is being replatted from 49 to 98 lots; the debt on that property will be divided in half; meaning, each property owner's annual assessment, will be reduced from approximately \$5,000 to \$2,438. She indicated that it appears the replatting is being done as needed. Of the 98 lots, 19 were sold and others are pending. Units were sold in a few other neighborhoods. This area contains 442 total units with 335 sold and 107 unsold. Mr. Pires asked if this information is consistent with the most recently adopted updated assessment methodology and the approved reorganization plans. Ms. Carlson replied affirmatively.

Ms. Carlson noted that the 2002AB and 2005 bond series do not have platted neighborhoods. For both, the assessments are allocated on a per-acre basis to the various folio numbers of the unplatted property within CDD #1; both bond issues go across the same property. Ms. Carlson advised that the bankruptcy plan called for the principal and interest payments to stop and the interest to be accrued through a given date; for both bonds, the interest will accrue through November 1, 2012. A new amortization is created and the first principal and interest payment will be due May 1, 2013, for both bonds.

*****Mr. Brougham opened the Public Hearing.*****

No members of the public spoke.

*****Mr. Brougham closed the Public Hearing.*****

On MOTION by Mr. Curland and seconded by Mr. Bergmoser, with all in favor, Resolution 2012-10, Adopting the Final Budget for Fiscal Year 2013, was adopted.

SEVENTH ORDER OF BUSINESS

Consideration of Resolution 2012-11, Imposing Special Assessments and Certifying an Assessment Roll

Mr. Brougham presented Resolution 2012-11 for the Board's consideration.

*****Mr. Slater left the meeting and did not vote on this item.*****

On MOTION by Mr. Schutt and seconded by Mr. Bergmoser, with all in favor, Resolution 2012-11, Imposing Special Assessments and Certifying an Assessment Roll, was adopted. (Motion passed 4-0, with Mr. Slater not voting)

Mr. Brougham asked that the adopted budget and supporting documents be posted on the District's website within the next week.

EIGHTH ORDER OF BUSINESS**Discussion/Consideration: Renewal of Security Services Personnel Agreement with The Foundation**

Mr. Brougham indicated that, under the current security agreement with The Foundation, the District pays actual personnel and benefit costs. It is a one (1)-year contract, which expires December 1, 2012. CDD #1 and #2 must agree on all actions concerning security. Each year, the Boards have the option to renew the contract, as is, ask for quotes from other vendors or go through the sealed bid process. Mr. Brougham felt it is appropriate to make a decision now.

******Mr. Slater rejoined the meeting, via telephone.******

Mr. Brougham asked the audience for their comments.

Ms. Eileen Robertson, a resident, indicated that she does not understand the standard for bidding out all CDD contracts. Mr. Brougham indicated that the CDD is required by statute to bid any maintenance contracts over \$195,000. As the security contract is not maintenance and in conjunction with the last changes in the District's Rules of Procedure, the requirement to bid the security contract was removed. Mr. Brougham explained that the Board still maintains the option to bid the contract. Mr. Pires discussed statute thresholds and which services must be bid, pursuant to statute and which do not, as well as noting that the CDD can mandate bidding of certain services, within its rules. Mr. Pires explained that, in the case of the security contract, the District modified its rules to eliminate the bidding requirement.

Discussion ensued regarding bidding the contract, bid documents, etc.

Mr. Curland referred to a contract security services analysis document received from Mr. Adams, going back to 2006. Mr. Curland noted that in 2011, a fixed price contract was in place, with The Foundation, for security services. Mr. Adams concurred. Mr. Curland stated that the contract amount was \$437,912. Mr. Adams clarified that the budgeted amount was \$437,912 and the contract amount was \$435,912. Mr. Curland pointed out that \$450,000 was expended in 2011 and asked for an explanation of the overage. Mr. Adams indicated that the security contract does not run concurrent with the calendar or fiscal year; it begins December 1, each year and terminates November 30. Mr. Adams reviewed the data pertaining to that agreement period

and found that the total expenses were \$444,201.32, related specifically to the agreement with The Foundation. There were other items in the figures, which Mr. Adams netted out. In response to Mr. Curland's question, Mr. Adams confirmed that the expense was approximately \$9,000 over budget. Mr. Curland asked how the District could be billed for more than its contracted amount. Mr. Adams stated that the overtime and vacation were what likely pushed the expense up, as they were not anticipated; however, the District will pay the vacation expense, as it is an actual cost to The Foundation, in providing the services. Mr. Curland referred to the contract terms. Mr. Adams agreed but stated that he is simply trying to explain. Mr. Adams confirmed that the District expended more than the contracted amount.

Mr. Curland referred to the email information received from Mr. Albeit. Mr. Curland addressed the average hourly pay breakdowns, under Item #2, and asked for specific salaries for each rover, rather than an average. Mr. Curland questioned why The Foundation is, on average, paying \$13 to \$15 per hour for employees and paying a single employee nearly \$23 per hour. Mr. Albeit stated that this is the way the department is staffed.

Mr. DiNardo indicated that the District has had a great track record since security was transferred to The Foundation. He pointed out that The Foundation does not pay the cheapest rate they could get; there are long-term employees. Mr. DiNardo warned the Board that The Foundation will not participate in any bid process; if the Board elects to go out to bid, they are electing to no longer use The Foundation for security services. He stated that he refuses to go through a bid process because he knows that security has always been the highest priority. Mr. DiNardo forewarned that, if the Board wants to gamble with security, it is their prerogative but that is why there are elections.

Mr. Curland discussed the structure of The Foundation's security personnel, noting it is high quality; however, he feels that an organization of that size does not need what equates to two (2) high-paid managers, meaning Mr. Charbonneau and the Safety Captain. Mr. Albeit indicated that Captain Dupree is a manager of an operation that is seven (7) days per week, 24 hours per day and he feels that the salary is deserved. Captain Dupree generally works a different shift than Mr. Charbonneau, giving managerial coverage at nights and on weekends.

Mr. DiNardo questioned why Mr. Curland does not ask similar questions about the landscaper.

Mr. Pires pointed out that, in Paragraph 6 of the First Amendment, the contract clearly states that the maximum annual compensation is \$435,912 and questioned how the District paid an extra \$9,000. Mr. Brougham felt that is a question for Mr. Adams to explain and adjust.

Mr. Brougham voiced his feeling that several of the security personnel have worked with The Foundation for a significant number of years and they deserve an increase in salary. Mr. Brougham feels that most residents are satisfied with the security services. He advised the Board to beware of what they wish for, if they choose to make any changes, because it could take the District years to recover from taking a step in a certain direction. Mr. Brougham stated that the last time this was bid was 2009.

Discussion ensued regarding the security of the community.

Mr. Curland suggested going through an informal RFP process to gauge interest from other vendors and to compare services and pricing.

Mr. DiNardo reiterated his threat that, if the District goes out for bid or RFP, The Foundation is out. Mr. DiNardo promised the Board that this will be an election issue if they vote to go to an RFP.

Mr. Bergmoser gave credit to Mr. Charbonneau and The Foundation but voiced his opinion that, as elected officials, the District should not be "no bidding" on any contracts; there should be no sole source contracts without at least knowing what services are offered. An RFP is not the same as awarding a contract; valuable information could be obtained. Mr. Bergmoser stated that, personally, he does not want to change suppliers but he feels the District cannot continue renewing contracts without competitive proposals.

Mr. Albeit voiced his opinion that the District knows what The Foundation provides and asked what the Board is trying to save by going to a lower cost security contractor. Mr. Albeit acknowledged that there are vendors that will propose a lower cost and questioned the value of saving residents a few dollars per month.

Mr. Badessa noted that the cost is not the only matter; there could be other or new technology that is not being used.

Mr. Albeit stated that the community is one of the examples used for security in communities.

Discussion ensued regarding the vehicle brands and models used by The Foundation. It was pointed out that The Foundation, not the CDD, owns one of the vehicles.

Mr. Fritz voiced his annoyance that the Board is considering trying to save money on security.

Mr. Jack Perrin, a resident, asked Mr. DiNardo to explain his statement that if the Board bids the contract, The Foundation is out of it. Mr. DiNardo stated that The Foundation will not participate if the District elects to obtain bids because he cannot lower the costs any further; he will not go through the process. Mr. DiNardo inferred that, if the District uses any other vendors, it will receive a lower quality service and costs will increase.

Mr. Brougham asked Mr. DiNardo to confirm that, if the District invites even one (1) other company to bid, The Foundation will cancel its contract. Mr. Pires confirmed that the District can invite other companies to bid. Mr. DiNardo stated that he will not cancel The Foundation's contract, which expires in December. Mr. DiNardo advised that there is a Board Member election in November and he will wait until November to see the results of the election, prior to deciding what to do. Mr. Pires pointed out that the renewal notice must be sent no later than November 1.

Mr. Joe Badessa, a resident, wondered, given the vendor's expense for the RFP process, if local security vendors will take the RFP/bid process seriously knowing that they probably only have a 5% chance of being awarded the contract. He questioned if it is a legitimate exercise.

Mr. Curland reiterated that the District is trying to see what other vendors can offer and if it is comparable; the District is not trying to push The Foundation out of the community. Mr. Curland noted that the contract has not been reviewed in four (4) years.

Mr. Brougham stated, for the record, that he feels the District should renew its contract with The Foundation. He respects that other Board Members wish to complete a cost check from outside vendors but both CDD #1 and CDD #2 must agree. Mr. Brougham felt it would be a sin and create undue angst to have the community's security parceled out and not be worth any monetary savings. He does not understand why the District would want to consider a change, as there have been no significant complaints about security or the cost. Mr. Brougham felt that if residents were upset, they would be attending the meetings. He voiced his opinion that the community is happy with the current security contractor and cost is not an important factor. Mr. Brougham felt that, if the Board moves in the direction it appears to be going, it will be a terrible waste of time and a mistake.

On MOTION by Mr. Brougham and seconded by Mr. Slater, with Mr. Brougham and Mr. Slater in favor and Mr. Schutt, Mr. Bergmoser and Mr. Curland dissenting, renewal of Security Services Personnel Agreement with The Foundation, was not approved. (Motion failed 2-3)

Discussion ensued regarding a sealed bid or informal RFP process. Mr. Adams indicated that either process can hold a pre-bid meeting. The main difference relates to the advertising, bid opening and pre-bid meeting requirements for the sealed bid process. The informal RFP process involves selecting specific vendors, providing the necessary information and inviting them to submit an informal proposal; there would not be a formal bid opening.

Mr. Pires clarified that, based on the previous motion, if the Board takes no further action, the current agreement will not be renewed.

In response to Mr. Brougham's question, Mr. Pires confirmed that, given the required notice, the Board must take action no later than the October meeting, if it wishes to renew its contract with The Foundation. Mr. Brougham voiced his opinion that the Board must make a decision at the September meeting. Mr. Brougham stated that a list of repercussions must be provided to the Board, at the next meeting, regarding what happens if a vendor other than the current contractor is selected, as CDD #2 already approved renewal of the contract with The Foundation. In response to a comment, Mr. Brougham agreed that he is making an editorial comment, as he is not happy about this.

Mr. Pires reminded the Board to not discuss this with any potential security vendors and, if contacted by a vendor, the Board Member must make full disclosure. Given that directive, a Board Member commented that no one should speak to Mr. Albeit or Mr. DiNardo. Mr. Brougham disagreed, stating that The Foundation is not participating and should be considered District employees.

On MOTION by Mr. Schutt and seconded by Mr. Curland, with Mr. Schutt, Mr. Curland, Mr. Bergmoser and Mr. Slater in favor and Mr. Brougham dissenting, proceeding with an informal RFP process for security services, was approved. (Motion passed 4-1)

Mr. Pires stated that the Board can approve contact with a vendor; therefore, routine contact with the existing vendor is appropriate.

Mr. Albeit asked Mr. Adams if he should submit a new budget for CDD #2's security services.

NINTH ORDER OF BUSINESS

Consideration of Fiscal Year 2011 Audit

Mr. Adams noted that the audit included is the original one and the revised audit is not yet available. He reported that, based on a discussion and confirmation that was received from the bankruptcy attorney, the auditor is comfortable with reviewing and addressing numbers in the audit pertaining to amounts due in the current year, relating to certain bonds. As a result of removing some of the due amounts, the auditors will remove or modify the deteriorating condition language. Mr. Adams hopes to include the new audit in the next agenda.

TENTH ORDER OF BUSINESS

Approval of July 25, 2012 Regular Meeting Minutes

Mr. Brougham presented the July 25, 2012 Regular Meeting Minutes and asked for any additions, deletions or corrections.

The following changes were made:

Line 193: Change "rules and procedures" to "Rules of Procedures"

Lines 240, 243 and 244: Change "Linton" to "Lytton"

Line 244: Insert "program" after "watch"

Line 322: Change to "with Mr. Curland, Mr. Slater, Mr. Schutt and Mr. Bergmoser in favor"

Line 325: Change "3-2" to "4-1"

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

ELEVENTH ORDER OF BUSINESS

Other Business

There being no other business, the next item followed.

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

Mr. Pires reported that he drafted a memo regarding the pros, cons and liabilities related to lake conveyance. He will provide it to Mr. Cole and it will be ready to discuss at the next meeting.

Mr. Brougham asked him to elaborate, as the directive at the last meeting was to provide a summary of risks, liabilities, positives or negatives. Mr. Pires concurred, adding that he is also explaining the different forms of interests versus the fee-simple ownership, from ownership, liability and permitting perspectives. Mr. Brougham asked the current direction. Mr. Pires stated that the lakes will be conveyed in fee-simple ownership to the District.

Mr. Pires confirmed that there are no deadlines for conveyance of the lakes.

b. Manager**i. Unaudited Financial Statements as of July 31, 2012**

Mr. Brougham presented the Unaudited Financial Statements as of July 31, 2012. He inquired as to why a balance still appears for fund 2 and asked if checks were cut. Mr. Adams indicated that the checks were cut last week and will be reflected on the August financials. Mr. Brougham noted that bank fees of \$62 were incurred, due to the delay, and asked if they will be deducted from Management's fee.

Regarding the bond fund balance and amortization pages, Mr. Brougham asked that they only be provided quarterly. Mr. Adams indicated that those items tie into the balance sheet; therefore, Management prefers to include them on the unaudited financials. Additionally, the financials are posted on the website, as part of the agenda package, so they should be included.

Mr. Brougham asked the progress in rebidding insurance. Mr. Adams did not have information but confirmed that Management is moving forward to obtain bids. Mr. Adams stated that PGIT is no longer insuring any CDDs.

ii. Fiscal Year 2013 Proposed Meeting Schedule

This item was not addressed.

c. Operations Manager

Ms. Crismond presented the Monthly Field Operations Status Report. She recalled that, at last month's meeting, the Board voted against expending \$500 on littoral plants. Ms.

Crismond indicated that she received a large number of emails, which is why she is bringing it up again. The area was replanted on August 8, at the contractor's expense.

Ms. Crismond indicated that the fountains are scheduled for installation on Monday. She clarified the proposals presented at the last meeting, stating that the Board approved Bentley Electric's \$9,000 proposal. Once the motors were pulled, it was determined that the south fountain's casings and light fixtures were completely covered with barnacles, requiring total replacement at an additional cost of \$2,200, \$400 for the casing and \$225 for each light. Ms. Crismond presented pictures of the conditions of the fountains when they were removed from the lakes

Ms. Crismond stated that Management is in the process of obtaining an additional cost estimate for the annual tree-trimming program and is expecting a proposal by Friday.

Regarding landscape renovations, Ms. Crismond reported that she met with the original landscape architect assigned to this community and reviewed the buffer areas along the Parkway. The landscape architect submitted a proposal for \$7,700, which includes his design services, including plans and Collier County approvals.

In response to a question, Mr. Adams indicated that approximately \$55,000 remains in the landscape budget. Ms. Crismond noted that she spent another \$12,000 that has not yet posted. The landscape plan would include three (3) phases plus a design to replant the South bulk head landscape area abutting 951.

Regarding the Mahogany Bend lift station, Ms. Crismond indicated that the county notified Mr. Cole that the double gate system and landscaping is not sufficient and did not approve the gate installation, as submitted. Mr. Cole explained that the county is retrofitting all lift stations to include fencing. Mr. Cole recalled previously being approved to install double gates and landscaping; however, the county now requires the District to install a fence enclosure.

Mr. Brougham voiced his understanding that shielding the lift stations is the District's desire, not the county. Mr. Cole replied affirmatively, stating that when the lift stations were approved, there was no fencing requirement. Mr. Brougham asked if the county is now saying that the District must fence and double-gate the area, if it wants to install plants. Ms. Crismond noted that the area was already planted; the request was to install double gates, for access. Mr. Pires clarified that the plants are not on the county's property.

The total cost for the double gate and a fence is \$2,525, including permitting fees. The Board agreed to leave the plantings and not pursue the double gate issue.

Ms. Crismond indicated that the cleaning of the sidewalks and curbs project will commence in October, just before season.

THIRTEENTH ORDER OF BUSINESS	Audience Requests	Comments/Supervisors'
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Mr. Curland noted that the fountains were in disrepair and asked Ms. Crismond how that will be avoided in the future. Ms. Crismond indicated that she is trying to locate a maintenance company to assume the contract from Architectural Fountains. Architectural Fountains is still under contract, until a replacement contractor has been found.

A resident, asked if the CDD's website can be used as the District's official blog. Mr. Adams replied no.

FOURTEENTH ORDER OF BUSINESS	Adjournment
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There being nothing additional to discuss, the meeting adjourned.

On MOTION by Mr. Curland and seconded by Mr. Bergmoser, with all in favor, the meeting adjourned at 9:50 a.m.



Secretary/Assistant Secretary



Chair/Vice Chair