

**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 22, 2013, 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
Gerald Bergmoser	Vice Chair
James Curland ( <i>via telephone</i> )	Assistant Secretary
Richard Peterson	Assistant Secretary
Robert Slater	Assistant Secretary

**Also present were:**

Chuck Adams	District Manager
Cleo Crismond	Assistant Regional Manager
Terry Cole	District Engineer
Tony Pires	District Counsel
Matthew Flores ( <i>via telephone</i> )	Woodward, Pires & Lombardo, P.A.
Bill Reagan	FMSbonds
Mike Williams ( <i>via telephone</i> )	Bond Counsel
Tony DiNardo	Developer
James Robertson	Fiddlers 2 Board Member
Shannon Benedetti	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, Bergmoser, Peterson and Slater were present, in person. Supervisor Curland was attending via telephone.

▪ **Update: WMI/Collier County Roadway Resurfacing**

***\*\*\*This item was an addition to the agenda.\*\*\****

Mr. Brougham indicated that the District received a revised engineer's report from Waste Management (WM). The scope of work appears to be what the Districts want, including repaving both sides of the road. Mr. Cole noted that cleaning the paver blocks was not included in the scope.

Mr. Brougham stated that, upon reviewing the releases, Mr. Pires discovered some issues and advised against signing the documents.

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

Mr. Pires noted the issues with the scope of work and agreement, including the omission of cleaning the paver blocks, or replacing them, should cleaning not be sufficient. He stated that he finds the release unacceptable, as it was a blanket release. A release typically indicates that it is for the purpose of resolving a particular claim or issue, pursuant to a particular scope. Mr. Pires indicated that this release says the "parties hereby, forever, release each other from any and all claims relating to the incident"; however, typically, the release excludes any performance still to be made. As drafted, this is a full, blanket release; therefore, it must be revised.

Mr. Pires indicated that Mr. Cole mentioned that the documents were to include coordination information, the detailed schedule, legal and engineering fees and an inspection by the District Engineer. Those items were not included in the scope of work provided by WM.

Mr. Brougham suggested that the scope of work be signed today, subject to Mr. Pires holding all signed documents, and that Mr. Pires draft the addendum to the documents, submit it to WM for signature and, once received, the District could authorize Mr. Pires to release the District's signed documents.

In response to a question, Mr. Brougham confirmed that the starting and completion dates are not established. Two (2) weeks time is needed to install the asphalt. The objective was for everything to be completed in June, which is still possible.

In response to a question, Mr. Brougham indicated that the association presidents are coordinating with residents, in addition to The Foundation sending an e-blast.

**SECOND ORDER OF BUSINESS**

**Special Counsel Update: Bankruptcy Proceedings**

There begin no report, the next item followed.

**THIRD ORDER OF BUSINESS**

**Developer's Report/Update**

There being no report, the next item followed.

**FOURTH ORDER OF BUSINESS**

**Update: Refinancing of Series 1999 Bonds**

Mr. Bill Reagan, of FMSbonds, indicated that bonds were sold and there is nothing additional to report.

**FIFTH ORDER OF BUSINESS**

**Consideration of Certain Documents Related to the Refinancing of the Series 2006 Bonds**

This item was deferred to later in the meeting.

**SIXTH ORDER OF BUSINESS**

**Update: Legal Description Boundary Amendment Communications/Activities**

Mr. Pires indicated that he mailed a letter to Hole Montes' attorney.

Mr. Pires recalled that, when CDD #2 was created, a portion of the property came from CDD #1 and equivalent acreage went into CDD #1. It was discovered that the documents in the application were correct; however, the final document's legal description still includes the part that was removed from CDD #1. Mr. Pires explained that the District boundaries must be amended to remove a portion of land from CDD #1.

**SEVENTH ORDER OF BUSINESS**

**Consideration of Resolution 2013-4, Approving the District's Proposed Budgets for Fiscal Year 2013/2014 and Setting a Public Hearing Thereon Pursuant to Florida Law**

Mr. Adams presented Resolution 2013-4 for the Board's consideration. He indicated that, in accordance with Florida Statutes, the District is required to approve a proposed 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 noted that this commences the budget process but the Board does not typically review it in detail until the June and July

meetings, in preparation for the public hearing to be held on August 28, 2013 at 8:00 a.m., at this location.

In response to Mr. Brougham's question, Mr. Adams confirmed that the proposed budget is preliminary; the Board has the opportunity to adjust it, until the public hearing. If assessment levels will increase, the amount must be defined at least 30 days prior to the public hearing; a cap must be set and mailed notices must be sent to all property owners.

Mr. Adams noted that, as currently proposed, the budget anticipates a \$24 decrease in assessments from the current fiscal year.

In response to a question, Mr. Adams indicated that erosion control is contained under "other contractual – water management".

Mr. Adams reiterated that the Board will review the budget, line by line, at the June and July meetings.

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

**On MOTION by Mr. Bergmoser and seconded by Mr. Slater, with all in favor, Resolution 2013-4, Approving the District's Proposed Budgets for Fiscal Year 2013/2014 and Setting a Public Hearing for August 28, 2013 at 8:00 a.m., at this location, was adopted.**

▪ **Consideration of Certain Documents Related to the Refinancing of the Series 2006 Bonds**

*\*\*\*This item, previously the Fifth Order of Business, was presented out of order.\*\*\**

Mr. Reagan recalled previously discussing refunding the Series 2006 bonds. He noted that it is a small amount of bonds, with approximately \$2.8 million currently outstanding. The savings is excellent; the District currently has a 4.2% coupon and they are trying to reach a 3% coupon rate, which would likely result in annual savings of 15%, per unit.

In response to a question, Mr. Adams confirmed that these bonds mature in 2018.

Regarding the 1999 Series bonds refinancing, Mr. Reagan indicated that one (1) coupon was at 3.5% and the other was 4%. Mr. Reagan pointed out that those were more difficult; this is a substantially built out community.

Mr. Reagan discussed obtaining a rating with Standard and Poor's (S&P) but the main issue is that the debt service reserve fund is relatively small; therefore, he feels that it might not

be possible to obtain a rating. A rating would provide the District with even more savings but it would not be significant.

Mr. Reagan wants the preliminary documents approved today. Mr. Adams noted that the documents should be similar to the recently approved ones and suggested that Mr. Williams highlight any changes. Mr. Brougham recalled that, with the 1999 Series bonds refinancing, the Board authorized him to sign the documents, subject to certain parameters.

Regarding the parameters, Mr. Reagan indicated that the savings parameter will be 10%; however, they are hoping for 15%.

Mr. Mike Williams, Bond Counsel, stated that these documents are substantially identical to those in the 1999 Series bond refinancing, with only minor detail changes. The parameters include that the annual reduction in the assessment must be at least 10% for each year, the final maturity date cannot exceed the current maturity date of May 1, 2018 and the underwriting discounts will not exceed 2% par amount of the refunding bonds.

Mr. Williams read the title of Resolution 2013-5 into the record:

“A RESOLUTION OF FIDDLERS CREEK COMMUNITY DEVELOPMENT DISTRICT 1 AUTHORIZING THE ISSUANCE OF AND AWARDED THE SALE OF ITS NOT EXCEEDING \$2,750,000 PRINCIPAL AMOUNT OF FIDDLERS CREEK COMMUNITY DEVELOPMENT DISTRICT 1 SPECIAL ASSESSMENT REVENUE REFUNDING BONDS, SERIES 2013A FOR THE PRINCIPAL PURPOSE OF REFUNDING ALL OF THE OUTSTANDING FIDDLERS CREEK COMMUNITY DEVELOPMENT DISTRICT 1 SPECIAL ASSESSMENT REVENUE REFUNDING BONDS, SERIES 2006; DELEGATING TO THE CHAIRMAN OR VICE CHAIRMAN OF THE BOARD OF SUPERVISORS OF THE DISTRICT, SUBJECT TO COMPLIANCE WITH THE APPLICABLE PROVISIONS HEREOF, THE AUTHORITY TO AWARD THE SALE OF SUCH BONDS TO FMSbonds, INC. BY EXECUTING AND DELIVERING TO SUCH UNDERWRITER A BOND PURCHASE CONTRACT AND APPROVING THE FORM THEREOF; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION OF THE SEVENTH SUPPLEMENTAL TRUST INDENTURE; MAKING CERTAIN FINDINGS; APPROVING FORM OF SAID BONDS; APPROVING THE FORM OF THE PRELIMINARY LIMITED OFFERING MEMORANDUM AND AUTHORIZING THE USE OF THE LIMITED OFFERING MEMORANDUM AND THE PRELIMINARY LIMITED OFFERING MEMORANDUM; APPROVING THE FORM OF THE CONTINUING DISCLOSURE CERTIFICATE AND ESCROW DEPOSIT AGREEMENT; AUTHORIZING CERTAIN OFFICIALS OF FIDDLERS CREEK COMMUNITY DEVELOPMENT DISTRICT 1 AND OTHERS TO TAKE ALL ACTIONS REQUIRED IN CONNECTION WITH THE

ISSUANCE, SALE AND DELIVERY OF SAID BONDS; CALLING THE BONDS TO BE REFUNDED FOR EARLY REDEMPTION; PROVIDING CERTAIN OTHER DETAILS WITH RESPECT TO SAID BONDS; AND PROVIDING AN EFFECTIVE DATE.”

Mr. Pires reiterated that the documents referenced in Resolution 2013-5 are substantially similar in form and content as to those that were utilized in the recent refunding of the 1999 Series bonds.

In response to Mr. Pires’ question, Mr. Brougham confirmed that U.S. Bank will be the trustee.

**On MOTION by Mr. Slater and seconded by Mr. Bergmoser, with all in favor, Resolution 2013-5, Authorizing the Issuance of and Awarding the Sale of Its Not Exceeding \$2,750,000 Principal Amount Special Assessment Revenue Refunding Bonds, Series 2013A for the Principal Purpose of Refunding All of the Outstanding Special Assessment Revenue Bonds, Series 2006 and approving certain related documents, was adopted.**

**EIGHTH ORDER OF BUSINESS**

**Approval of April 24, 2013 Regular Meeting Minutes**

Mr. Brougham presented the April 24, 2013 Regular Meeting Minutes and asked for any additions, deletions or corrections. The following changes were made:

Line 90: Change “FMS Bonds” to “FMSbonds”

Line 91: Change “pre-closure” to “pre-closing”

**On MOTION by Mr. Peterson and seconded by Mr. Slater, with all in favor, the April 24, 2013 Regular Meeting Minutes, as amended, were approved.**

**NINTH ORDER OF BUSINESS**

**Other Business**

Mr. Pires indicated that, as a result of the oil spill, the question of ownership of Cherry Oaks Lane came up. Discussions took place regarding whether the District should be the owner of Cherry Oaks Lane. Mr. Pires stated that the area was reserved by the developer as a private

road right-of-way (ROW) and, additionally, Mr. Cole advised that the road was built to Collier County road standards; therefore, Staff recommends that the Board consider conveyance of Cherry Oaks Lane to Fiddler's Creek CDD #1. Release of the reservation that it is a private road ROW must be part of the conveyance, so it is understood that the road is a public road.

Ms. Shannon Benedetti, a resident, noted that homes belonging to Cranberry Crossing are on Cherry Oaks Lane; it is not only Cherry Oaks Condominiums. Discussion of who has title ensued. Mr. Pires indicated that conveyance is subject to the title report; if it is subject to the condominium declarations, it would be a different situation. Mr. DiNardo recommended obtaining two (2) opinions.

Mr. Brougham asked the downside to acquiring the road. Mr. Pires explained that, as with any other asset, the District would be required to operate and maintain the road and the costs involved, as well as a degree of liability.

Mr. Curland questioned why the District would want to assume another obligation.

A decision on this matter was deferred until the title report is obtained and the advantages and disadvantages can be presented and discussed.

Ms. Benedetti asked about the impact to homes abutting the road. Mr. Pires indicated that maintenance matters for properties abutting the road are not currently a District issue.

**TENTH ORDER OF BUSINESS****Staff Reports****A. Attorney**

Mr. Pires had nothing additional to report.

**B. Engineer**

Mr. Cole presented Draw #7 for the 2005 Series bonds. The draw was primarily for work related to renewal of the subdivision bond for Phase 3, Unit 1, including paving of a certain area, in addition to punch list items. Mr. Cole stated that the bond will remain open until the road is paved with a second lift. Mr. Brougham asked if the road will ever be repaved. Mr. Cole replied that it will be repaved when money is available. Mr. Pires clarified that this relates to the subdivision improvement bond. Mr. DiNardo indicated that the second lift paving will be completed by the developer because the road is private. Mr. Cole noted that the subdivision improvement bond is primarily for road paving and drainage work associated with the roadway.

Mr. Brougham questioned why the District is responsible for the subdivision improvement bond. Mr. Cole indicated that the District-owned facilities include all of the other roads in Phase 3, Unit 1. Mr. Brougham summarized that this covers the annual fee, until the bond is closed. Mr. Cole replied affirmatively. Mr. Brougham asked why the District is responsible for paying the expenses of the bond, when it has no current or future responsibility to complete the work. Mr. Cole confirmed that the draw represents the District's portion of the annual bond fee.

Mr. Cole recalled that, at the last meeting, he was asked to review the lake north of Montreaux, Lake 19 or 20, within The Rookery Bay golf course area. The District previously paid for expansion of the lake, as part of its infrastructure and development improvements. The question, at the meeting, was whether the plans showed littoral shelves, other than the normal slope. Mr. Cole reported that there were no specific, shallow, littoral shelves shown on the plans; however, littoral shelves are shown in other locations. Mr. Cole reported that, upon investigation of the banks, mostly spike rush has grown along the banks, typically 25' wide, and growing up the slope. He stated that the growth is natural propagation for that type of plant.

Mr. Curland asked if the District will establish a standard for reasonable growth or if the plants will be left to grow, unencumbered, for their entire lifespan. Mr. Brougham felt that the plants should be left to propagate naturally, with nature controlling the distance into the lake; he believes that growth completely covering the perimeter of the lake would be a good thing. Mr. Curland voiced his understanding of the perimeter growth but questioned how far into the lake the District will allow plants to grow before taking action. Mr. Curland noted the east end of a particular lake that is totally covered with spike rush, which continues to expand each year. For the record, Mr. Curland reiterated his question regarding when the District will take action to control spike rush growth into the lake, given that the lake could eventually be completely covered and disappear.

A Board Member voiced his opinion that growth has not expanded.

Mr. Curland pointed out that Montreaux residents are concerned about expansion and asked what the District plans to do about it. He feels that, if a standard is not established, the Board is remiss.

Mr. Brougham asked if spike rush growth into a lake is controlled by depth; when the depth drops, spike rush cannot grow. Mr. Cole believed that is the type of growth taking place.



**On MOTION by Mr. Brougham and seconded by Mr. Peterson, with Mr. Brougham, Mr. Bergmoser, Mr. Peterson and Mr. Slater in favor and Mr. Curland opposed, establishing a District policy to allow spike rush and other littoral plants to grow naturally, in CDD lakes, was approved. (Motion passed 4-1)**

Mr. Cole indicated that lake erosion repairs are underway in CDD #2; work in CDD #1 should commence in approximately two (2) weeks. He is coordinating with Mr. Albeit regarding golf course closing dates and performing the lake erosion repairs around the scheduled closure.

**C. Manager**

Mr. Adams reported that he spoke to a representative at Wilmington Trust, who expressed interest in CDD #1 proceeding now, with the trustee transition from U.S. Bank to Wilmington Trust, as he feels the situation is far less adversarial with CDD #1, compared to CDD #2. Wilmington Trust is requesting minor modifications to the tri-party agreement, as they feel that a few provisions are not as applicable for CDD #1, as they were with CDD #2. Once the 2006 Series bond refinancing is completed, Wilmington Trust is prepared to proceed with the transition.

Mr. DiNardo felt that the bondholder must be involved, if the tri-party agreement is being revised.

**i. Approval of Unaudited Financial Statements as of April 30, 2013**

Mr. Adams presented the Unaudited Financial Statements as of April 30, 2013. He noted that on-roll assessment collections were 98% and the off-roll developer assessments were on target, at 58%. Interest earnings were above projections. Miscellaneous income was related to remotes purchased by The Rookery. Mr. Adams stated that the \$555 disposal of fixed assets amount was for the sale of the old, 2010 security vehicle.

Mr. Brougham asked Mr. Cole if he billed his costs for work related to the WM oil spill. Mr. Cole indicated that he billed the District; however, based on his conversation with WM, he sent the invoices to WM yesterday. Mr. Brougham asked if the District paid Mr. Cole. Mr. Adams replied affirmatively, stating that the District will be reimbursed.

Mr. Adams reviewed expenditures and concluded that, overall, expenditures were at 44% of budget; prorata would be 58%.

Mr. Adams noted that the District has a healthy cash balance; funds will be transferred to the insured cash sweep (ICS) account, in order to maintain full FDIC coverage in the SunTrust account.

**ii. 844 Registered Voters in District as of April 15, 2013**

Mr. Adams indicated that 844 registered voters resided within the District’s boundaries, as of April 15, 2013.

**iii. NEXT MEETING DATE: June 26, 2013 at 8:00 A.M.**

The next meeting is scheduled for June 26, 2013 at 8:00 a.m.

**D. Operations Manager**

Ms. Crismond reported that pruning the Ficus trees abutting Deer Crossing on Championship Drive has been scheduled to commence during the first week of June, weather permitting. Regarding line-of-sight issues on Championship Drive, Ms. Crismond stated that there was a request made to remove the Philodendrons and replace with sod to allow a better view on the curve along Championship Drive. Mr. DiNardo informed Ms. Crismond that the specifications must be reviewed by The Foundation first. Ms. Crismond indicated that she will send the information to Mr. Albeit for The Foundation’s review.

Regarding sidewalk repairs, Mr. Slater advised that the repairs are not completed; spray paint remains on the sidewalks.

Ms. Crismond reported that landscape renovations are on hold until further changes to the landscape plans are completed. Mr. Brougham voiced his displeasure with Mr. Vajen in holding the plans for three (3) weeks, making no mention of issues during the meeting and, only now, providing his required changes. Mr. Brougham pointed out that, if the delays continue and the District misses the rainy season, the entire project will be delayed another year.

A Board Member asked the condition of the sidewalk cleaning test area, treated with the citric acid product. Ms. Crismond advised that it is the same as the other areas. She clarified that, in her opinion, the result is no different from regular pressure cleaning; there is no reason to pay extra for this type of treatment.

In response to a question, Ms. Crismond confirmed that the streets are not cleaned.

**ELEVENTH ORDER OF BUSINESS**

**Audience  
Requests**

**Comments/Supervisors’**

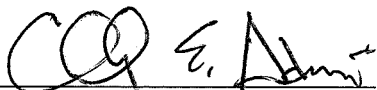
There being no audience comments or Supervisors' requests, the next item followed.

**TWELFTH ORDER OF BUSINESS**

**Adjournment**

There being nothing further to discuss, the meeting adjourned.

**On MOTION by Mr. Peterson and seconded by Mr. Slater,  
with all in favor, the meeting adjourned at 9:03 a.m.**

  
Secretary/Assistant Secretary

  
Chair/Vice Chair