

**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, June 26, 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	Assistant Secretary
Richard Peterson	Assistant Secretary
Robert Slater (<i>via telephone</i>)	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Crismond	Assistant Regional Manager
Terry Cole	District Engineer
Tony Pires	District Counsel
Ron Albeit	The Foundation
Bill Reagan	FMSbonds
Jesse Fritz	Resident
Frank Weinberg	Resident
Joe Vacaro	Resident
Tony DiNardo	Developer

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

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

SECOND ORDER OF BUSINESS

Special Counsel Update: Bankruptcy Proceedings

There being no report, the next item followed.

THIRD ORDER OF BUSINESS

Developer's Report/Update

Mr. Brougham inquired about the Stop sign at Championship Drive and Fiddler's Creek Parkway. Mr. Albeit indicated that the sign was knocked over. Mr. Brougham asked if he knows who did it. Mr. Albeit did not but suspected that it was a large truck.

FOURTH ORDER OF BUSINESS

Update: WM/Collier County Roadway Resurfacing

Mr. Brougham indicated that a meeting was held with Waste Management (WM) and their contractor, Black Magic. The scope of work was signed and the releases were agreed upon; the releases will be signed once the work is completed. Work will commence on July 8 and is expected to take four (4) days, which will result in minor inconvenience to residents.

Mr. Cole distributed the minutes from the meeting with WM, which provide details of the planned work.

FIFTH ORDER OF BUSINESS

Update: Series 2006 Bonds

Mr. Reagan indicated that, three (3) weeks ago, when the documents were completed, they went to the market with the offering and, within 24 hours, the market interest rates crashed. He advised that the yields went up and bond prices went down. Mr. Reagan explained that, when in the market with a new issue and selling to institutional investors, as these are nonrated bonds, the purchasers stop buying and begin selling. He stated that they searched but could not find any takers for the bonds.

Mr. Reagan recalled the Series 1999 bond refinancing and noted that the involved parties significantly reduced their fees and sold them. He was unsure where yields will be in the next few months but believes that they should improve. Mr. Reagan believes that the bonds can be sold but the only buyers will likely be retail customers or small money managers. He explained the different views of institutional investors and retail customers. Mr. Reagan advised that, in

this case, the deal may have been priced too low, meaning there is not enough money in the deal to pay people. He suggested amending Resolution 2013-5 to increase the underwriter fee from “not-to-exceed 2%” to “not-to-exceed 2.5%”, which amounts to about \$10,000 to \$12,000 difference but does not affect the District’s savings.

Mr. Reagan stressed that there are no guarantees that sale of the bonds can be accomplished but he is hopeful.

Mr. Brougham asked if all things remain the same, including a savings of “no less than 10%”.

Mr. Reagan replied affirmatively.

Mr. Adams presented Resolution 2013-6 for the Board’s consideration. Mr. Adams explained that Resolution 2013-6 will amend Resolution 2013-5, as discussed to increase the underwriting discount from 2% to 2.5%. Mr. Pires stated that Resolution 2013-6 is in order.

On MOTION by Mr. Brougham and seconded by Mr. Peterson, with all in favor, Resolution 2013-6, Amending a Provision of Section 5 of District Resolution 2013-5, and authorizing the Chair to execute, was adopted.

SIXTH ORDER OF BUSINESS

Discussion: Lakes Turnover

Mr. Pires indicated that he, Mr. Cole and Mr. Mark Woodward met to review the various maps and documents related to the transaction. Adjustments will be made so it is easier to follow. Mr. Pires anticipates having a packet and resolution ready for consideration and acceptance of a deed, at the next meeting.

In response to a question, Mr. Pires advised that this does not conclude the transfer of all lakes within the District; the developer wished to retain a few lakes.

SEVENTH ORDER OF BUSINESS

Continued Discussion: Proposed Budgets for Fiscal Year 2013/2014

Mr. Brougham advised that he received confirmation that the State of Florida Department of Transportation will approve installation of a traffic signal at the intersection of 951 and Fiddler’s Creek Parkway; the official letter is pending. He noted that the District has no construction bond money left so the District must determine how to finance the signal. Mr.

Brougham felt that the cost should be shared, community-wide. He reported that the mast-arm type signals cost approximately \$350,000 to \$400,000; the District's contribution would be about \$200,000.

Mr. Brougham recalled that the District's cash reserve is a little over \$1 million, which could be used to fund the project. The District could impose a special assessment of approximately \$100 per unit but the process could be problematic or the District could include the costs as a line item in the Fiscal Year 2014 budget. He favors the budget line item approach, as the developer would incur about 30% of the costs, through their assessments on the developer-owned property. Mr. Brougham recommends taking action during the budget cycle.

Mr. Adams pointed out that, since the District is carrying a very health fund balance, it has the ability to borrow from its fund balance, at the time it enters into an agreement. Over a number of years, the District could pay itself back through budgeted increases to fund balance.

Mr. Brougham stressed that CDD #1 should not fund the entire installation; there should be participation from CDD #2.

Mr. Peterson noted that the benefit is for the community's residents. He asked who Mr. Brougham is referring to when he speaks of the developer.

Mr. Brougham stated that he is speaking of Fiddler's Creek Community, LLC.

Mr. Peterson pointed out that the other developers would benefit, as well. He felt that the share of funding should be subject to a great deal of discussion, in terms of who participates and pays for what.

Mr. Curland felt that Mr. Brougham's assumption of a 50% split with CDD #2 was optimistic, in the sense that everything else is split 66% to 34%. He believes CDD #2 will not agree to a 50% split.

Mr. Brougham stated that the prorata split works well with expenses but a one (1)-time capital expense, such as this, is different.

Mr. Pires noted that a signal might be installed, at the US 41 entrance, in the future, which is CDD #2. The District could point this out now, if CDD #2 questions contributing 50%.

Acknowledging the community's interest in a signal but voicing his opinion that it is not necessary, Mr. Bergmoser recommended minimizing the cost to CDD #1, as much as possible, by sharing with developers, builders and CDD #2.

Mr. Slater asked if installation would likely occur in the Fiscal Year 2014 budget cycle. Mr. Cole estimated that, once approval is received, the project must go through the permitting process, which could take several months and the construction contract time might take a few months. Mr. Cole suggested considering permitting costs in Fiscal Year 2014 and construction costs the following fiscal year.

In response to a question, Mr. Adams stated that the contracting would likely be done by the Florida Department of Transportation (FDOT); the District would be a financial contributor.

Discussion ensued regarding how long a permit is valid. Mr. Cole felt that the window of time would be sufficient to take it into the following fiscal year.

Mr. Slater recalled that Mr. Adams suggested using the District's reserve funds and paying itself back.

Mr. Frank Weinberg a resident, voiced his opinion that the project should be funded during this budget cycle so the process is not slowed. Mr. Brougham stressed that CDD #1 will not slow the process. Discussion ensued regarding whether CDD #2 will choose to participate.

Mr. Joe Vacaro, a resident, asked who would be responsible for maintenance. Mr. Adams advised that maintenance would fall upon the FDOT; the District is simply helping to fund the installation.

Mr. Brougham confirmed that he wants Mr. Adams to address this at the CDD #2 meeting.

On MOTION by Mr. Slater and seconded by Mr. Brougham, with all in favor, appropriating the use of fund balance for installation of a traffic signal at Fiddler's Creek Parkway and Collier Boulevard, not-to-exceed 50% of the cost, was approved.

Mr. Brougham stated that he agrees with paying the District's portion from its reserve but wants a \$50,000 budget line item included, beginning in Fiscal Year 2014 and lasting four (4) years, to replenish the estimated \$200,000 commitment. Mr. Adams recommended waiting to see how this figures into the budget and assessment levels and making this a part of the budget discussions.

In response to a comment, Mr. Brougham noted that if others do not participate, the District will not incur any costs, as the project would not move forward.

Mr. Curland questioned if demanding 50% participation is the best way to “negotiate” with CDD #2.

Debate ensued regarding why the District would want the cost sharing arrangement to be different than the landscaping and other services. Mr. Adams pointed out that, eventually, CDD #2 will have far more units than CDD #1, meaning their benefit will be more than 50%, five (5) to seven (7) years in the future.

Regarding the proposed budget, Mr. Brougham anticipated movement in the figures, through the July meeting. Mr. Adams noted that numbers are still needed for line items, including access control contractual services. In response to a question, Mr. Adams indicated that he budgeted 3%, over the current fiscal year, in order to include something in the line item.

Mr. Brougham referred to the “Improvements and renovations” line item, under “Landscaping”, on Page 2, and noted that the figure remains at \$145,000, although the Board approved an additional \$70,000 to the normal line item amount. He advised that Ms. Crismond will discuss bids later in the meeting. Suspecting that the costs will exceed the anticipated \$70,000 extra, Mr. Brougham suggested spreading the increase over two (2) years.

Mr. Peterson referred to the “Other contractual - landscape maint.” line item, on Page 2, and asked if the \$845,000 amount, compared to the Fiscal Year 2013 \$880,000 amount, is a negotiated amount. Ms. Crismond confirmed that \$845,000 is the bid amount. Mr. Adams directed Mr. Peterson to the breakdown on Page 6.

Mr. Peterson asked the reason that the “contingencies” line item dropped from \$25,000 to \$10,000. Mr. Adams indicated that it is based on current year actuals.

Mr. Peterson asked if the “Contractual services” line item amount, under “Access control”, on Page 2, is a bid amount or a moving target. Mr. Brougham stated that the District’s rules give the Board options, with regard to the access control contract; it can renew it, seek sealed bids or request bids from the market. The current contract, with The Foundation, calls for the District to pay exact payroll, benefits and operating supplies; the costs are a direct pass through. Mr. Albeit provides Mr. Adams with an estimate of the costs, for budgetary purposes. Mr. Brougham advised that the costs can fluctuate, during the year; however, the contract has a

“not-to-exceed” limit. Mr. Brougham discussed the renewal provisions. It was noted that this is a shared expense with CDD #2; therefore, both Districts must agree.

Mr. Brougham recalled that the Districts went through the bid solicitation process last year and, as predicted, both bids were less than what the Districts currently pay. He noted that, had the Districts not stayed with The Foundation, the cost to each District would have been very costly because the community would have had two (2) providers, multiple vehicles, etc.

Mr. Curland recalled that The Foundation threatened the Districts, if they elected to use another security contractor. He noted that, had both Districts agreed on another contractor, they could have saved \$100,000 to \$150,000.

Mr. Peterson noted the dilemma that the District is accepting the services of The Foundation because it must; there is no alternative because of the situation with CDD #2. He noted that the District does not seem to be free to go to the market and accept another bid, as a division from CDD #2 cannot be managed.

Mr. Brougham agreed that Mr. Peterson's comments are accurate.

Mr. Peterson voiced his concern that there are no checks and balances; the District is being held hostage by this conundrum. He feels that the checks and balances must be made by contractual offerings from The Foundation, so that the District is assured that it is getting a fair market price for the value of the services received.

Mr. Brougham stated that he respects Mr. Peterson's position; however, the contract calls for paying the actual wages. He acknowledged that The Foundation employees' hourly wages are higher than other contractors because their employees have been in place for many years. Mr. Brougham advised that the majority of residents who attended a meeting about security voiced their support for The Foundation.

Mr. Peterson pointed out that those were people that appeared with an agenda; 1,900 people did not attend the meeting. He stressed that people with an agenda are generally the ones that show up but are not representative of the total population. Mr. Peterson voiced his concern that the existing arrangement must have checks and balances that satisfy the Board's responsibility.

Mr. Brougham questioned what checks and balances are needed.

Mr. Peterson felt that Mr. Albeit is not overseeing security without a fee. He voiced his understanding that payroll is higher with long-term employees, which may be good, in some

cases. Mr. Peterson has concern regarding proper checks and balances because of the nature of the Districts' need for agreement on a common provider. He observed that there does not necessarily seem to be agreement between the Districts.

Mr. Slater suggested that Mr. Peterson review the current contract and meet with CDD #2 regarding what can be negotiated. Mr. Slater recalled that the District went through this before and it got them nowhere. Mr. Slater feels that now is not the time to argue about what is in the proposed budget.

Mr. Brougham asked Mr. Pires to provide Mr. Peterson with a copy of the contract. Mr. Adams indicated that he will email the contract to Mr. Peterson.

Regarding checks and balances, Mr. Curland pointed out that, last year, the District proposed a limit to the contract increase, each year; however, The Foundation flatly turned down that attempt.

Mr. Brougham acknowledged Mr. Peterson's observation that the District is limited in its options because of CDD #2. He stated that he detests going through this process. Mr. Brougham recalled that when the subject of a revised contract was broached, last year, Mr. DiNardo stated that he would not participate in any way. He feels that the District should be able to craft an agreement that contains appropriate checks and balances.

Mr. Brougham indicated that Mr. Albeit will provide budgetary numbers by next month. The District must renew by November 1; however, there is nothing that precludes the Districts from drafting a continuing services contract with appropriate checks and balances, with the participation of the current provider; if the current provider is not interested, then the Districts are back to the original contract. Mr. Brougham feels that the Districts must at least try to put a new contract in place that contains the requested checks and balances, along with reasonable numbers.

Mr. Peterson voiced his understanding that Mr. Brougham and Mr. Pires will review the contract.

Mr. Brougham stated that the budget figure is not tied to any contract; the Board could choose to draft a new contract with The Foundation but it must be drafted and reviewed and approved by CDD #2 by November 1. Mr. Brougham stressed that he is not happy with the current contract. He finds it problematic, especially having to go through the process each year.

Mr. Brougham asked Mr. Albeit if he would be a willing partner in reviewing a new continuing services contract.

Mr. Albeit stated that he will look at things, as presented. He questioned Mr. Peterson's understanding of the contract. Regarding checks and balances, he stated that no vendor would open their books to the District, while the District receives the actual payroll hours and pay, from the payroll company, etc. Mr. Albeit questioned what other checks and balances the District could want.

In response to a question regarding the projected ending fund balance of approximately \$1 million, Mr. Adams confirmed that the amount is good for a project that has a large, uninsurable asset, such as the landscaping program. He confirmed that the fund balance is not governed by statute or other rules. Discussion ensued regarding where the fund balance is housed.

Mr. Curland pointed out that a majority of the "Professional and administrative" expenses remain the same, year after year. He noted that "Access control" expenses are projected to be much less this fiscal year and stated that the District should not see an increase in their costs, for the coming fiscal year.

Mr. Adams stated that the difference with The Foundation is that the Districts are their only contract; therefore, they do not have the ability to absorb overhead adjustments year after year.

Mr. Brougham acknowledged that the Foundation has hired employees at lower rates and the District is paying the actual costs.

Mr. Adams agreed but stressed that there will be increases in other areas. He noted that the health care reform changes may impact the figures.

Regarding access control, Mr. Bergmoser pointed out the \$118,964 actual, through March 31, 2013 and the projected \$184,221, through September 30, 2013 and asked if that figure is simply to reach the budgeted \$303,185. Mr. Adams replied affirmatively. Mr. Bergmoser asked if the amount could be less. Mr. Adams stated that it could be less; however, it has not typically been less. Mr. Peterson recalled the previous statement that The Foundation is hiring new employees at lower wages and questioned increasing costs. Mr. Curland commented that The Foundation is increasing the wages of the long-term employees. Mr. Brougham stated that

the District does not pay anything over the cap amount. Mr. Peterson voiced his understanding but wondered if the budget could be less, if the Fiscal Year 2013 expenses were less.

Mr. Curland pointed out that The Foundation's access control expenses have never come in under budget but they have been over budget.

Mr. Adams reiterated that Mr. Albeit will present his proposed budget at the next meeting.

Mr. Frank Lambert, a resident, asked if the proposed budget will provide the same level of sidewalk and street cleaning, as in previous years. Mr. Adams replied affirmatively. Mr. Brougham stated that the policy is to clean curbs and gutters yearly. Discussion ensued regarding the policy and whether the cost was included in the budget discussions, last year.

The Board agreed to inclusion of a \$50,000 line item to repay the fund balance.

In response to a question, it was confirmed that the money is not paid back with interest.

Mr. Adams recommended not including the \$50,000 in the Fiscal Year 2014 budget and proceeding in the next fiscal year, once the cost is known.

Discussion ensued about not reducing assessments so that the fund balance can be built up, in anticipation of the expense.

In response to a question regarding the ERUs for the 2005 Series bonds, Mr. Adams confirmed that the ERU figure remains the same, even if the property is sold; the new owner continues to make the bond payments and pay operating assessments.

EIGHTH ORDER OF BUSINESS**Approval of May 22, 2013 Regular Meeting Minutes**

Mr. Brougham presented the May 22, 2013 Regular Meeting Minutes and asked for any additions, deletions or corrections. The following changes were made:

Lines 23 and 82: Change "FMS Bonds" to "FMSbonds"

Line 90: Change "attorney" to "and to the attorney that processed the petition"

Lines 249 and 250: Change "Pires" to "Cole"

Line 328: Insert "pruning" after "that"

Line 339: Change "Vagen" to "Vajen"

On MOTION by Mr. Curland and seconded by Mr. Bergmoser, with all in favor, the May 22, 2013 Regular Meeting Minutes, as amended, were approved.

NINTH ORDER OF BUSINESS**Other Business**

Mr. Pires recalled the letter sent regarding correction of the scrivener's error on the legal description of the District boundaries. He reported that he heard from Mr. van Assenderp, who started the process. He asked the Board to authorize the Chair or Vice Chair to execute the petition that must be filed, along with any and all other documents, following Staff's review, to begin the formal process to correct or revise the District's boundaries.

Mr. Pires explained 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 portion that was removed from CDD #1.

On MOTION by Mr. Bergmoser and seconded by Mr. Peterson, with all in favor, authorizing the Chair, or Vice Chair, to execute the petition and all other documents, to correct the District's boundaries, following Staff's review, was approved.

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

Mr. Pires had nothing additional to report.

B. Engineer

Mr. Cole presented Draw #79, for the 2005 Series bonds, for \$1,525 for ongoing work related to the permit conversions and lake conveyance.

Regarding the lake bank erosion repairs, Mr. Cole reported that the contractor has worked primarily in CDD #2; however, when the golf course was closed, he filled bags on those lakes but has not spread the top layer because of the rains. He plans to complete that area when the golf course is closed again. Mr. Cole believes that work in CDD #1 will begin within a few weeks, once CDD #2's lakes are completed. He confirmed that sod will be installed.

Discussion ensued regarding the erosion repair project.

In response to Mr. Slater's question, Mr. Cole indicated that the only lakes worked on, in CDD #1, are the golf course lakes; work will begin on the other lakes in a few weeks. Regarding delays, due to rain, etc., Mr. Cole confirmed that the contract specifies a time limit and indicated that the contract may need to be extended.

C. Manager

i. Approval of Unaudited Financial Statements as of May 31, 2013

Mr. Adams presented the Unaudited Financial Statements as of May 31, 2013. He noted that on-roll assessment collections were 100% and the off-roll developer assessments were on target, at 67%. Overall, revenue was at 92%.

Mr. Adams reviewed expenditures and concluded that, overall, expenditures were within budget, at 50%; prorata would be 67%. He noted a few anomalies, such as legal expenses related to bankruptcy and several seasonal, one (1)-time expenses. Mr. Adams advised that there are large expenditures coming up, which will bring expenditures in line.

Regarding hard cutting, Mr. Brougham pointed out that they just completed Mulberry last week. Ms. Crismond indicated that they hope to have everything completed by this Saturday, weather permitting.

For next month, Mr. Brougham asked that a current running rate projection be included, at least through the end of June.

ii. NEXT MEETING DATE: July 24, 2013 at 8:00 A.M.

The next meeting is scheduled for July 24, 2013 at 8:00 a.m.

D. Operations Manager

Ms. Crismond reported that many changes were made to the original landscaping renovation plan, including increases in quantities, size changes, etc. The same contractors bid. The previous low bid contractor, The Brickman Group (Brickman), had numerous errors. Ms. Crismond confirmed that Brickman is agreeable to correcting their bid. She noted that Brickman could not locate certain items and bid for larger plants, which increases the cost.

Although this was not a sealed bid process, Mr. Pires felt that the District could open itself to problems, if it allows Brickman to have a third chance to correct its bids, given that the other bidders completed the process correctly.

On MOTION by Mr. Slater and seconded by Mr. Curland, with all in favor, awarding the plant replacement contract to SunnyGrove, for completion of Phases I and II, as well as the Lake Bulk Head in 2013, and Phase III, in the following year, was approved.

ELEVENTH ORDER OF BUSINESS

**Audience
Requests**

Comments/Supervisors'

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

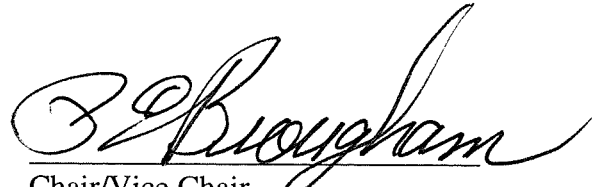
TWELFTH ORDER OF BUSINESS

Adjournment

There being nothing further to discuss, the meeting adjourned.

On MOTION by Mr. Bergmoser and seconded by Mr. Peterson, with all in favor, the meeting adjourned at 9:55 a.m.


Secretary/Assistant Secretary


Chair/Vice Chair