

**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, April 23, 2014, 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	Assistant Secretary

**Also present were:**

Chuck Adams	District Manager
Cleo Crismond	Assistant Regional Manager
Terry Cole	District Engineer
Tony Pires	District Counsel
Carrie Robinson ( <i>via telephone</i> )	Tobin & Reyes, P.A., Litigation Counsel
Cheryl O'Donnell Guth ( <i>via telephone</i> )	McGuire Woods, LLP, Bond Counsel
Bill Reagan	FMSbonds
Tony DiNardo	Developer
Mike Charbonneau	The Foundation
Jim Schutt	Resident
Jesse Fritz	Resident
Residents	

**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 all Supervisors were present, in person.

**SECOND ORDER OF BUSINESS**

**Public Comments: Non-Agenda Items (3 minutes per speaker)**

Mr. Brougham asked for public comments on non-agenda items. He advised that the public may speak on specific agenda items as they arise.

**THIRD ORDER OF BUSINESS**

**Special Counsel Update: Litigation Proceedings**

Ms. Robinson recalled that motions were filed and hearings are scheduled in the underlying case, which dealt primarily with CDD #2 issues. She noted that there is ongoing discovery, related to CDD #1. U.S. Bank served a request for production on CDD #1 and her office is working with the District Manager to compile the requested documents. Ms. Robinson reported that U.S. Bank recently served interrogatories on CDD #1; Special Counsel will coordinate with the District Manager to prepare draft answers for the Board's review and approval.

In response to Mr. Brougham's question, Ms. Robinson advised that the due date for the request for production is May 12, 2014; Special Counsel and the District Manager are attempting to assemble all of the documents by May 1, allowing time to finalize the District's response. Ms. Robinson confirmed that March 31 was the original due date; May 12 is the extended due date.

**\*\*\*Ms. Robinson left the meeting.\*\*\***

**FOURTH ORDER OF BUSINESS**

**Developer's Report/Update**

Mr. DiNardo indicated that The Foundation met with TEM Systems, Inc., (TEM) and OpenEye, a manufacturer of analytical cameras. He proposed holding a demonstration, prior to the next meeting, for both CDDs #1 and #2.

Mr. Brougham stated that the CDD #1 and #2 Boards can meet jointly, in a publicly announced workshop.

Mr. DiNardo explained that the Districts currently utilize TEM's "GateHouse" system. This system records who enters and exits the community through barcodes, gate access devices or call in. The current cameras provide a historical record; they take video and restore those videos. Mr. DiNardo indicated that the Districts also utilize roving patrols. He noted that the various systems are not integrated.

Mr. DiNardo indicated that the proposed new system would be integrated. The first phase of the security enhancement would be TEM "GateHouse on the Web", which would allow every resident access to information that could impact their property. Residents could manage access through the website, such as setting email alerts of their visitor's arrival. The second phase would be the installation of analytical cameras. Mr. DiNardo explained that the new

cameras create a virtual border and, in addition to taking a photograph, the system could alert the roving patrol officer if a virtual boundary is compromised. He stated that The Foundation is attempting to integrate all of its systems, which requires installation of analytical cameras. Mr. DiNardo noted that the analytical cameras are able to photograph each person, as they pass through the entrance, and compare it to the resident's photograph, in the database. He suggested that this could be used at night. Mr. DiNardo recommended that the Boards postpone discussion of "24/365" guards until after the camera presentation, as an integrated system might be better.

Mr. Brougham agreed with Mr. DiNardo's recommendation but stressed that the Boards need solid facts regarding the system costs and all of the alternatives. He also wants information regarding how the Districts can "better involve" local law enforcement in Fiddler's Creek.

Mr. DiNardo indicated that The Foundation's safety personnel are being certified through a local organization. He stated that the lieutenant of the organization communicates with Mr. Charbonneau if suspicious activity is observed. Mr. DiNardo advised that the sheriff is holding a symposium for all security directors, general managers, etc., in this District, or possibly the entire county, to share data. He pointed out that the integrated system, with analytical cameras, could share information with other entities.

Mr. Brougham recalled previous discussions about training and certifying the District's security officers, in coordination with the sheriff. He stated that, if an incident occurs, Mr. Charbonneau's security personnel are not qualified or able to do any type of interdiction; the best they can do is call 9-1-1. Mr. Brougham asked if the integrated system could notify the sheriff to respond immediately, when a valid alarm goes off.

Mr. DiNardo stated that the sheriff must be consulted regarding whether Mr. Brougham's suggestion is possible. Mr. Brougham voiced his opinion that true security involves someone who can stop something from happening and arrest those involved. Mr. DiNardo noted that, in his experience with security, guards were urged to avoid intervening.

Mr. DiNardo indicated that, along with the analytical camera system, The Foundation would purchase a larger system and invite the individual villages to link cameras into it, providing security at both the District and individual village levels.

Mr. Charbonneau discussed the types of incidents that cause security to contact the sheriff. He stated that 9-1-1 is only called when it is a serious matter; under normal conditions,

security calls the non-emergency number to report the incident and the sheriff's office will determine how to respond.

Mr. DiNardo stated that he wants the camera demonstration to be held at a joint meeting on May 28. Mr. Adams noted that it might be necessary to schedule a separate, joint meeting. Mr. Brougham suggested scheduling a joint workshop once Mr. DiNardo informs Mr. Adams that the vendor's demonstration is ready to be presented.

Mr. Pires asked Mr. DiNardo to estimate the capital cost for the proposed system. Mr. DiNardo indicated that he did not know. The entire system costs "hundreds of thousands of dollars"; however, the Districts would not be asked to pay the entire amount. Mr. Pires stated that he inquired to determine if the project would reach the bidding threshold.

Mr. Curland pointed out that Fiddler's Creek is thought to be a safe community and voiced his opinion that, prior to installing a new system, the Boards should consider the number of break ins, assaults, drug deals, etc., that have occurred. If the numbers are low, Mr. Curland questioned spending a large amount of money to prevent a few incidents. He asked if The Foundation is trying to prevent a major crime wave occurring in Fiddler's Creek. Mr. Curland noted that the roving patrol officers do not observe what occurs in a backyard. He asked that the actual crime figures be provided to the Boards.

Mr. Brougham directed Mr. Adams to coordinate with both CDDs to select a date for the workshop. Mr. Adams felt that early June would be best. Three Board Members advised that they would be unable to attend the June 28, 2014 meeting, in person. Mr. Adams indicated that the June meeting will be rescheduled. Mr. Brougham voiced his preference for holding the joint workshop in late May. Mr. Adams recommended May 29 or 30.

**FIFTH ORDER OF BUSINESS****Engineer's Report**

Mr. Cole presented Draw #86, for the 2005 Series bonds, in the amount of \$484, for work related to the lake conveyance.

Mr. Cole advised that lake bank erosion work is proceeding. Work on the lake between Hawks Nest and Cardinal Cove is nearly complete and work at the lake at Hawk's Nest commenced yesterday.

Regarding the U.S. 41 and S.R. 951 traffic signal, Mr. Cole reported that he obtained estimates, which were very close to the threshold of \$334,000. He alerted the contractor that the

project must go out to bid if the cost exceeds the threshold amount. Mr. Cole indicated that the contractor is recalculating the cost; however, it will likely be over the bid threshold. He explained that the complication, if bids are required, is that the county's contractor has the work area "locked up". Mr. Cole spoke to the county's contractor who did not anticipate a problem with another contractor working in the area. He noted that the Districts' project must also be coordinated with the Department of Transportation (DOT). Mr. Cole reiterated his belief that the costs will exceed the bid threshold. He will present additional information at the next meeting and, if necessary, he will prepare a bid package for the consideration of both CDD Boards.

Mr. Pires pointed out the danger of a proposal that is very close to the bid threshold and the Districts receiving a change order that pushes the project over the threshold. In response to a question, Mr. Cole confirmed that the project would be awarded as a firm fixed price (FFP) contract.

Mr. Cole reported that the design consultant received minor comments on the permit request and a response will be submitted. He anticipates receiving permit approval in early June, which coincides with the potential bid time frame. In response to Mr. Brougham's question, Mr. Cole stated that the project will likely be pushed back one month.

Mr. Brougham stated that he and Ms. Crismond were copied on emails regarding the availability of the boat ramp at that end of the creek.

Mr. DiNardo indicated that the District must realize that there is an easement between the lake and the resident property lines. He advised that The Foundation documents allow each property owner to access the "creek" via their dock; this document also sets forth the allowable boat sizes. Mr. DiNardo pointed out that residents trespassed on developer-owned property and placed larger boats in the "creek". The problem, now, is that the property that was trespassed upon will no longer be available, which raises the question of how boats will enter and exit the lake. Mr. DiNardo stressed to the Board that "this is not District business"; The Foundation is "looking at it and will come to some type of resolution". He recalled that residents violated the boat size restrictions, which created the current issues. Mr. DiNardo stated that residents should approach The Foundation.

Mr. Brougham voiced his understanding that this "is not District business" and indicated that the District is responsible for maintaining the lake banks; his question was whether the District's access, for maintenance purposes, will be impeded. Mr. DiNardo replied no; The

gives the District an easement. Mr. Adams confirmed that there are several access points, aside from the boat ramp.

Mr. Brougham recalled that the District must maintain the preserve areas and previously asked if the District can access the preserve, with an all terrain vehicle (ATV). Ms. Crismond indicated that she asked Mr. Cole for clarification. Mr. Brougham stated that the only question is whether LakeMasters will have appropriate access “to do their job”. Mr. Cole reviewed a slide of the plat and explained how contractors can access the preserve areas.

**SIXTH ORDER OF BUSINESS**

**Consideration of Certain Documents  
Related to Finalizing the Exchange Bond  
Transactions**

Mr. Bill Reagan, of FMSbonds, reported that the exchange documents are essentially completed; he is awaiting comments on behalf of the bondholders. He foresees no complications. Mr. Reagan indicated that the documents will be presented for approval and execution, at the next meeting.

Mr. Brougham asked that all documents be included in the agenda package or emailed to the Board, in advance of the meeting, to allow sufficient time for review.

Ms. O’Donnell Guth echoed Mr. Reagan’s comments; the process is “in good shape”. In response to Mr. Brougham’s question, Ms. O’Donnell Guth confirmed that all activities related to the change in trustee were completed.

***\*\*\*Ms. O’Donnell Guth left the meeting.\*\*\****

**SEVENTH ORDER OF BUSINESS**

**Discussion: Increasing Gate Guard  
Hours to 24/365 at Sandpiper and  
Championship Gates**

Mr. Brougham suggested tabling Items 7, 8 and 9 to the workshop.

Mr. Curland voiced his belief that the Districts should assess whether to continue access control as a CDD function. He noted that, when the community was originally established, The Foundation was in its infancy and it was logical for the CDDs to take responsibility for access control; however, The Foundation is now fully functional and well funded. Mr. Curland suggested that the Districts turn access control over to The Foundation, as it is not a District requirement to provide access control. He pointed out that there would be no additional cost to

homeowners, as the line item cost would shift from the CDD assessments to The Foundation's fees. Mr. Curland stated that The Foundation would no longer need to "come to the Districts" when they want to do something.

Mr. Brougham agreed that, at some point, security should be The Foundation's responsibility. He advised that, if the cost of security was moved from the CDD budgets, the total cost would transfer to The Foundation and be paid in the form of dues, rather than assessments. Mr. Brougham voiced his opinion that transferring the cost would essentially reduce the developer's costs because they would no longer be assessed for security, which would increase the homeowners' burden.

Mr. DiNardo noted that the gate houses were built by the Districts.

Mr. Brougham stated that, if the Districts wanted to transition access control, the question would be whether The Foundation would accept responsibility. In response to Mr. Brougham's question, Mr. Pires advised that transition would involve a formal agreement for operation and maintenance of access control.

Mr. Curland clarified that he was not suggesting that the Districts transfer all of the access control costs; he recommended the line item that pays for the manpower. Mr. Curland noted that the District should retain responsibility for the security vehicles and gate houses. He stated that part of the agreement would be that the ERUs, which are still on and off roll, would be appropriately paid by the developer, as they currently are. Mr. Curland felt that the only point of interest is the tax bill; the current cost, per door front, is \$200 per year.

Mr. DiNardo stated that, on behalf of the developer, The Foundation's answer is "no"; it will not accept access control responsibility. He responded to Mr. Curland's notion that the CDDs would place conditions on an agreement by advising that the situation would be reversed; The Foundation would place conditions on the Districts and transfer it to them.

Mr. Brougham summarized that, while Mr. Curland's suggestion might be viable, in the future, it would take cooperation with the agreement and advancement of the idea by the developer and The Foundation because there could be no agreement if a single party is unwilling.

**EIGHTH ORDER OF BUSINESS**

**Discussion: Increasing Roving Patrol from 1 to 2**

This item was deferred.

**NINTH ORDER OF BUSINESS**

**Continued Discussion: Smart Camera System**

This item was deferred.

**TENTH ORDER OF BUSINESS**

**Notice of General Election: November 4, 2014 [Seats 1 & 2]**

Mr. Adams advised that this is an election year; therefore, the District is required to formally announce the election. Seats 1 and 2, currently occupied by Mr. Curland and Mr. Bergmoser, respectively, are up for election. Each seat is for a four-year term.

- **Candidate Qualifying Period: Noon, June 16, 2014 – Noon, June 20, 2014**
  - **Candidates May Pre-Qualify Beginning June 2, 2014**

Mr. Adams indicated that the candidate qualifying period is noon, June 16, 2014 through noon, June 20, 2014. He stated that candidates may pre-qualify beginning June 2, 2014. Mr. Adams advised that candidates must be a qualified elector, with their primary residence within the boundaries of the CDD. The election will be held on Tuesday, November 4, 2014. Mr. Adams explained that the District is required to give notice of the general election, in conjunction with the Supervisor of Elections, at least 30 days prior to the beginning of the candidate qualifying period.

- **Consideration of Resolution 2014-9, Placing Special District Candidates on General Election Ballot**

Mr. Adams presented Resolution 2014-9 for the Board's consideration.

Mr. Curland noted that a renter can qualify to sit on the Board. Mr. Adams confirmed that candidates and Supervisors are not required to own property within the District; they must only reside within the District and be a qualified elector of Collier County.

**On MOTION by Mr. Slater and seconded by Mr. Bergmoser, with all in favor, Resolution 2014-9, Placing Special District Candidates on General Election Ballot, was adopted.**

**ELEVENTH ORDER OF BUSINESS**

**Approval of March 26, 2014 Regular Meeting Minutes**



Mr. Brougham presented the March 26, 2014 Regular Meeting Minutes and asked for any additions, deletions or corrections. The following change was made:

Line 310: Delete “of”

**On MOTION by Mr. Bergmoser and seconded by Mr. Curland, with all in favor, the March 26, 2014 Regular Meeting Minutes, as amended, were approved.**

- **Action Items**

This item was not addressed.

**TWELFTH ORDER OF BUSINESS**

**Other Business**

There being no other business, the next item followed.

**THIRTEENTH ORDER OF BUSINESS**

**Staff Reports**

**A. Attorney**

Mr. Pires presented several documents, related to bicycles, which he obtained from various agencies,. He summarized that, when bicyclists are on the road, they must comply with the general “rules of the road”. Mr. Pires explained that a cyclist riding on a sidewalk or in a crosswalk has the rights and duties of a pedestrian, must yield the right-of-way to pedestrians and give an audible warning before passing.

Mr. Brougham advised that bicycles are permitted in Fiddler’s Creek, both on roadways and sidewalks; cyclists on the sidewalk must obey the laws to warn a pedestrian when they are “overtaking” them.

Mr. Pires offered to provide the Board with copies of his documents.

**B. Manager**

**i. Approval of Unaudited Financial Statements as of March 31, 2014**

Mr. Adams presented the Unaudited Financial Statements as of March 31, 2014.

Mr. Brougham questioned the \$3,000 “Roadway maintenance” expenditure, on Page 3. Ms. Crismond stated that it is likely a combination of sign replacements and sidewalk cleaning and repairs. Mr. Brougham pointed out that the line item was already at 87%. Mr. Crismond

noted that the District will more than likely go over budget. Mr. Brougham asked why. Ms. Crismond stated that it is because of sidewalk repairs and cleaning, wall repairs, sign replacements and an unanticipated right-of-way repair to the asphalt abutting The Rookery. Mr. Brougham questioned if the line item should be increased, in future years. Mr. Adams and Ms. Crismond replied affirmatively.

Mr. Adams indicated that the District received another 'consent to extend Debt Service payments' from the bondholders. The District is extending beyond the May 1 principal and interest payment on the 2002 and 2005 Series bonds. Mr. Adams confirmed that the information was forwarded to the trustee; this only impacts the developer-owned properties.

Mr. DiNardo advised that the bankruptcy is over.

**ii. NEXT MEETING DATE: May 28, 2014 at 8:00 A.M.**

Mr. Adams indicated that the next meeting is scheduled for May 28, 2014 at 8:00 a.m. He noted that, in addition to the exchange bond documents, the Fiscal Year 2015 proposed budget and the Fiscal Year 2013 audit will likely be presented at the May meeting.

Mr. Brougham reiterated that the June meeting should be rescheduled, as only two Supervisors will be able to attend, in person.

**C. Operations Manager**

Ms. Crismond presented the Operations Report. She advised of ongoing issues with TruGreen Landcare (TruGreen); the outstanding maintenance issues are worse in CDD #2, than in CDD #1. Ms. Crismond indicated that payment is being withheld; a meeting is scheduled for next week. She explained that TruGreen is very behind in numerous maintenance activities and many of the issues discussed with them, in February, remain unresolved. Ms. Crismond stated that, if the issues continue, she will hire other contractors to perform the work and bring the property into compliance and pay those contractors through deductions to TruGreen's invoicing.

Mr. Brougham asked what is causing TruGreen to fall behind. Ms. Crismond stated that TruGreen will not identify any specific issue. Mr. Brougham supported withholding funds, provided TruGreen received ample warning, and suggested that Ms. Crismond not delay hiring other contractors to address the deficiencies.

Mr. Jesse Fritz, a resident, asked what other contractors the District might employ. Mr. Adams indicated that he would consider ValleyCrest, The Brickman Group, OneSource or

Girard Environmental Service, Inc. Mr. Brougham advised that the District is not interested in OneSource, based on prior experiences.

**FOURTEENTH ORDER OF BUSINESS                      Supervisors' Requests**

Mr. Slater recalled that he received an email, from Management's office, regarding the ongoing litigation. He indicated that he emailed a message back to Management's office but did not receive a response to his message. Mr. Slater referred to the Notice of Service of First Set of Interrogatories and pointed out that the District is not noticed; the District is not an addressee so it cannot be a plaintiff. He asked what the District is doing about it and why it is submitting documents, as he felt that the District should "just drop it".

Mr. Pires stated that this discussion falls within the District's litigation strategy and recommended that Mr. Slater discuss this matter with Mr. Adams and Ms. Robinson. Mr. Slater reiterated that CDD #1 was not named on the notice. Mr. Slater stated that he "caught" the error and notified Management but no one responded to him. Mr. Adams indicated that Management's office did not forward Mr. Slater's message to him. Mr. Pires asked Mr. Slater to forward his message to him and Mr. Adams. Mr. Slater reiterated that CDD #1 is not an addressee. Mr. Pires advised that, if this is an issue with the "style of the case" and CDD #1's name was simply left off, it has no bearing because the District is a party to the case. Mr. Adams and Mr. Pires will discuss this issue with Ms. Robinson.

Mr. Brougham directed Staff to schedule a workshop.

**FIFTEENTH ORDER OF BUSINESS                      Adjournment**

There being nothing further to discuss, the meeting adjourned.

<p><b>On MOTION by Mr. Brougham and seconded by Mr. Bergmoser, with all in favor, the meeting adjourned at 9:18 a.m.</b></p>
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Secretary/Assistant Secretary

  
Chair/Vice Chair