

**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, May 28, 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:**

Gerald Bergmoser	Vice Chair
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	McGuire Woods, LLP
Ron Albeit	The Foundation
Mike Charbonneau	The Foundation
Anthony DiNardo	Developer
Jim Schutt	Resident
Jessie Fritz	Resident

**FIRST ORDER OF BUSINESS**

**Call to Order/Roll Call**

Mr. Adams called the meeting to order at 8:02 a.m., and noted, for the record, that Supervisors Bergmoser, Peterson and Slater were present, in person. Supervisors Brougham and Curland were not present.

**SECOND ORDER OF BUSINESS**

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

Mr. Bergmoser asked for public comments on non-agenda items.

Mr. Adams advised that Mr. Jim Schutt, a resident, would like to discuss recent thefts in the CDD.

Mr. Schutt stated that he was previously advised, by various neighbors, that there was a home break-in, in the Bellagio neighborhood and there was another incident in Deer Crossing. He pointed out that the guard patrols can only do so much and they do not patrol the rear of the homes.

Mr. Schutt questioned if the CDD should make a public service announcement, saying "as secure as we are, there are still things that you, as residents, must do to secure your homes". He conveyed that he is aware of residents that sleep with their sliding doors open and others that do not lock all of their doors when they leave the house, which is an invitation to intruders. Mr. Schutt indicated that he is not suggesting that the landscapers, pool people or any others who are here on regular business, are doing anything; however, the opportunity presents itself.

Mr. Schutt reiterated that residents should be alerted to take necessary precautions to prevent these types of things from happening.

Mr. Bergmoser asked Mr. Charbonneau to comment.

Mr. Charbonneau confirmed that there have been a number of incidents, which are being investigated. He conveyed that he has been communicating weekly with the sheriff's office and the investigator, regarding the two incidents that Mr. Schutt mentioned. With regard to the public service announcement, Mr. Charbonneau was of the belief that The Foundation maintains a "crawl" on FCTV and the "Safety Corner", reminding residents to lock their vehicles, not to leave valuables in plain sight, etc. He noted that he will confirm this information with his staff and, if the "crawl" was removed, he will make sure that it is back on within one or two days.

▪ **Litigation Update**

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

Ms. Robinson reported that she has very little of an update this month, partially due to the underlying action originally initiated by CDD #2. She noted that an important hearing, in that underlying action, was held on May 20 and brought the CDD #2 claims to a halt. Unfortunately, the hearing was not concluded on May 20 and will reconvene on June 25; the hearing will be concluded at that time. Essentially, the underlying action has been "stayed", pending the resolution of that hearing.

Ms. Robinson indicated that there were some discovery obligations for CDD #1 that were complied with. Responses to the request for production were served on May 12. She noted that

all appropriate objections were asserted and indicated a willingness to produce "relevant non-privileged documents".

Ms. Robinson advised that an "enormous" request for production was forwarded by Mr. Adams. She is in the process of reviewing all of the documents to determine "privilege and relevancy" and they will be processed and produced in due course. Ms. Robinson noted that Management is also reviewing their records to complete the request.

With respect to the Interrogatories, Ms. Robinson conveyed that the questions were phrased in such a way that a review of the documents that will be produced must be made prior to responding. For that reason and given the volume of documents in the production, a "60-day enlargement" was requested from opposing counsel. Ms. Robinson pointed out that this was the first enlargement request for the interrogatories and there may be another request, if necessary. She noted that the enlargement was requested on May 12, which will put the due date at July 11, assuming that another enlargement is not necessary.

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

Mr. Bergmoser asked if "Developer's Report/Update" was included in the agenda. Mr. Adams confirmed that it was not.

**THIRD ORDER OF BUSINESS**

**Consideration of Resolution 2014-10, Approving the District's Proposed Budgets for Fiscal Year 2014/2015 and Setting a Public Hearing Thereon Pursuant to Florida Law**

Mr. Adams presented Resolution 2014-10 for the Board's consideration. He explained that this is the first step in the budget deliberation process; the District is required to approve a proposed budget prior to June 15 and schedule the budget public hearing. The budget will be transmitted to the local municipality. Mr. Adams advised that the budget can be amended up to the day of the public hearing. A mailed noticed will be transmitted to the residents if assessments will increase, compared to the prior year.

Mr. Adams noted that the public hearing approving the proposed budget will be scheduled for August 27, during the Regular Meeting. Mr. Peterson advised that he is unavailable on August 27 and requested that the Public Hearing and Regular Meeting be moved

to August 20. The Board agreed to the new date. In response to a Board Member's question, Mr. Adams advised that the resolution will be adopted with the new public hearing date.

Mr. Adams reminded the Board that a workshop will be held tomorrow and will detail the access control program. He conveyed that the exchange bonds will be considered today, which will adjust the debt service funds.

Mr. Adams recommended a motion adopting Resolution 2014-10.

**On MOTION by Mr. Bergmoser and seconded by Mr. Peterson, with all in favor, Resolution 2014-10, Approving the District's Proposed Budgets for Fiscal Year 2014/2015 and Setting a Public Hearing Thereon, Pursuant to Florida Law, for August 20, 2014 at 8:00 a.m., at the Fiddler's Creek Club and Spa, 3470 Club Center Boulevard, as amended, was adopted.**

**FOURTH ORDER OF BUSINESS**

**Consideration of Resolution 2014-11,  
Authorizing Issuance of Special  
Assessment Bonds**

Mr. Bergmoser presented Resolution 2014-11 for the Board's consideration.

Ms. Cheryl O'Donnell Guth recalled that this is the exchange transaction that was preliminarily approved in January. She noted that her firm has been working diligently to get all the documents in order. Ms. O'Donnell Guth indicated that the Board received copies of all of the documents approximately one week ago.

Ms. O'Donnell Guth conveyed that Resolution 2014-11 approves the issuance of \$33,015,000 of four series of new bonds and will be exchanged for the existing Series 2002A, 2002B and 2005 bonds. The transaction is scheduled to close next week, on June 4. At the closing, the bonds will be exchanged with UTC and the prior bonds will be "extinguished and terminated and no longer outstanding".

Ms. O'Donnell Guth advised that the initial principal payment date is May 1, 2015 and the initial interest payment will be due on November 1, 2014. Those bonds will begin accruing current debt service and will be reflected in the new budget.

In response to a question, Ms. O'Donnell Guth clarified that interest payments will be made every six months and principal is paid once per year; interest will begin accruing on June 4, 2014.

**On MOTION by Mr. Slater and seconded by Mr. Bergmoser, with all in favor, Resolution 2014-11, Authorizing Issuance of Special Assessment Bonds, was adopted.**

**FIFTH ORDER OF BUSINESS**

**Approval of April 23, 2014 Regular Meeting Minutes**

Mr. Bergmoser presented the April 23, 2014 Regular Meeting Minutes and asked for any additions, deletions or corrections. The following changes were made:

- Page 1: Delete "Craig Wrathell" from the attendees list
- Page 5: Include "lake" before "banks" on the next to the last line from the bottom

**On MOTION by Mr. Slater and seconded by Mr. Peterson, with all in favor, the April 23, 2014 Regular Meeting Minutes, as amended, were approved.**

- **Action Items**

Mr. Slater requested a status on Action Item 15. Mr. Bergmoser advised that Ms. Crismond will address that item in her Staff Report.

**SIXTH ORDER OF BUSINESS**

**Other Business**

There being no other business, the next item followed.

**SEVENTH ORDER OF BUSINESS**

**Staff Reports**

**A. Attorney**

There being no report, the next item followed.

**B. Manager**

- i. Approval of Unaudited Financial Statements as of April 30, 2014**

The Unaudited Financial Statements as of April 30, 2014, were included for informational purposes.

**ii. 877 Registered Voters in District as of April 15, 2014**

There were 877 registered voters residing within the boundaries of the District as of April 15, 2014.

**iii. JOINT WORKSHOP: May 29, 2014 at 9:00 A.M.**

A joint workshop will be held on May 29, 2014, at 9:00 a.m.

**iv. NEXT MEETING DATE: June 18, 2014 at 9:00 A.M.**

The next meeting will be held on June 18, 2014 at 9:00 a.m.

**C. Operations Manager**

Ms. Crismond reported that she followed up with TruGreen several times since the prior meeting; the last follow up was on Friday. TruGreen has made a tremendous turnaround since April. She noted that additional staff was assigned to work in the CDD. Ms. Crismond indicated that TruGreen was warned regarding backsliding. TruGreen's response was that they experienced issues with personnel leaving the company, which left them short-staffed. She noted that their withheld payments were released on Friday. In response to Mr. Slater's question, Ms. Crismond advised that Management held back more than two months worth of invoices. She reiterated that TruGreen's services have greatly improved.

Ms. Crismond indicated that The Foundation previously informed Management that the approved replacement trees for the diseased cassia trees can either be southern magnolia trees or pink tabebuia. She noted some concern that the pink tabebuia is a frail tree and can easily fall over in 35 mile per hour winds. Mr. Peterson asked who decides which trees are planted. Ms. Crismond advised that it is an internal decision and the decision is passed on by The Foundation. Mr. Adams clarified that it is made through the Design Review Committee (DRC).

Mr. DiNardo explained that The Foundation reviews the overall landscaping and architecture. The replacement trees were recommended to keep the same "look and appearance".

Mr. Peterson asked if a landscaping plan is available for each village. Mr. Albeit replied "no". Mr. Peterson questioned why the plans are not available. Mr. DiNardo stated "it's our information and we don't give it out. We don't give out our plans; we don't give out anything". Mr. Peterson asked if the plans are not provided "even if it benefits the village". Mr. DiNardo

contended that if the plans are available and a village makes a request, they will be provided. Mr. Peterson stated, "that is what I'm asking".

In response to Mr. Slater's question, Ms. Crismond explained that trees are replaced as they die. Mr. Peterson asked if the CDD has available funds for tree replacement. Ms. Crismond and Mr. Adams advised that the CDD has a plant replacement budget. Ms. Crismond clarified that the contractor will be held responsible to pay for any diseased replacement trees. Mr. Jessie Fritz, a resident, indicated that he observed the "most interesting piece of equipment" that may save the CDD money. Mr. Fritz provided a thorough description of the equipment. Mr. Adams advised that he is familiar with the equipment and noted that the CDD is better served with the current techniques utilized by the landscape contractor.

▪ **Engineer's Report**

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

Mr. Cole advised that work is continuing on the lake bank erosion repairs and this phase is substantially completed. He noted that they are in the process of obtaining sod for the area adjacent to the golf course; the areas adjacent to the residential homes are substantially completed.

With regard to the Fiddler's Creek Parkway traffic signal, Mr. Cole indicated that the contractor previously advised that the estimated cost is greater than the threshold required for the bidding process. A meeting was held with the present contractor to coordinate the bid items. Mr. Cole is in the process of organizing the bid package and surmised that bids might be available for the Board's review at the next meeting.

Mr. Cole reported that the rehabilitation and repair work being performed by the county and state is anticipated to be completed by the end of July.

Mr. Cole deduced that the bid will be awarded in July and the work will most likely commence in August. It appears that the CDD will be able to move forward with the other contractor.

Mr. Peterson asked if the bid specifications will include an end date for completion of the repairs. Mr. Cole replied affirmatively and noted that he does not have that date, at the moment. Mr. Cole clarified that the time frames must be reviewed again, as the project is ending later. In response to Mr. Peterson's inquiry, Mr. Cole confirmed that the date will be included in the bid specifications.

Mr. Bergmoser asked how long the project will last. Mr. Cole advised that the construction time period will be six to seven months but the actual work time will be less.

In response to a question, Mr. Cole confirmed that the project might be completed in 2015 and advised that he will review the time schedule and have more accurate dates at the next meeting. Mr. Peterson expressed confusion and conveyed that the original completion date was October, 2014. Mr. Cole explained that the project cannot begin until the current contractor finishes his portion and the bidding process is finalized. Mr. Peterson expressed disappointment with the anticipated time frame.

Mr. Slater contended that it seems that the first contractor does not want the job. He does not understand why the contractor advised of the costs so late in the process. Mr. Slater asserted that the community was advised that the project will be completed in October.

**EIGHTH ORDER OF BUSINESS**

**Supervisors' Requests**

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

**NINTH 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 8:33 a.m.**



  
Secretary/Assistant Secretary

  
Chair/Vice Chair