

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

A Continued Meeting of the Board of Supervisors of the Fiddler's Creek Community Development District #1 was held on **Monday, August 4, 2014 at 1:00 p.m.**, in the **Egret Room** 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
Richard Peterson	Assistant Secretary
Robert Slater (<i>via telephone</i>)	Assistant Secretary
Charles Turner	Supervisor-Elect

Also present were:

Chuck Adams	District Manager
Tony Pires	District Counsel
Rick Reyes	Special Counsel
Cherie Nottingham	Court Reporter

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mr. Adams called the meeting to order at 1:04 p.m., and noted, for the record, that Supervisors Brougham, Bergmoser, Peterson and Supervisor-Elect Turner were present, in person. Supervisor Slater was not present at roll call.

SECOND ORDER OF BUSINESS

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

There being no public comments, the next item followed.

THIRD ORDER OF BUSINESS

Administration of Oath of Office to Supervisor-Elect Charles A. Turner (*the following to be provided in a separate package*)

On the advice of District Counsel, Mr. Adams asked the Board to ratify the appointment of Mr. Charles A. Turner to the Board.

On MOTION by Mr. Bergmoser and seconded by Mr. Peterson, with all in favor, appointment of Mr. Charles Turner to Seat 1, term expires November, 2014, was ratified.

Mr. Adams, a Notary of the State of Florida and duly authorized, administered the Oath of Office to Mr. Charles Turner. He provided and briefly explained the following items:

- A. Guide to Sunshine Amendment and Code of Ethics for Public Officers and Employees**
- B. Membership, Obligations and Responsibilities**
- C. Financial Disclosure Forms**
 - **Form 1: Statement of Financial Interests**
 - **Form 1X: Amendment to Form 1, Statement of Financial Interests**
 - **Form 1F: Final Statement of Financial Interests**
- D. Form 8B: Memorandum of Voting Conflict for County, Municipal and Other Local Public Officers**

Mr. Adams advised Mr. Turner that he is eligible to receive compensation and instructed him to complete the enclosed W-4 form. He noted that Form 1 must be completed and submitted to the Collier County Supervisor of Elections, Form 1X should be completed if there are any changes and Form 1F must be filed within 60 days of leaving office.

Mr. Adams explained the Sunshine Amendment and Code of Ethics for Public Officers and Employees (Sunshine Law). He advised Mr. Turner that he cannot have discussions with other Board Members, regarding District matters, outside of a publicly advertised meeting and Staff cannot be used as a conduit between other Board Members. Mr. Adams noted that communications include oral, fax, text, blogging, email, etc.; Board Members should refrain from direct or indirect communication about District matters, outside of a meeting. He stated that the District Manager maintains copies of all District documents; therefore, it is not necessary for Board Members to keep copies of documents. Mr. Adams stressed that all District communication and documents are public record; hence, Board Members should keep District items separate and distinct from their private files, emails, etc.

******Mr. Slater joined the meeting, via telephone, at approximately 1:10 p.m.******

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

Mr. Pires provided an overview of the Sunshine Law and explained the civil and criminal penalties associated with a Sunshine Law violation. He stressed that Board Members should not engage in discussion or communications that could be construed as a violation, such as with a person expressing the opinions of another person, such that the person is a conduit between Board Members. Mr. Pires noted that email communications, such as responding to an email or exchanging in an email dialogue between Board Members, could be considered a violation of the Sunshine Law.

Mr. Brougham urged the Board not to use "reply all".

Regarding public records, Mr. Pires explained that any email or communication that a Board Member receives from anyone, regarding anything District related, is considered public record and must be retained or maintained as such. He recommended that Board Members utilize their District email accounts for all District related matters; Board Members should advise the community to contact them using their District email.

Mr. Pires recalled that a question was raised, at the last meeting, regarding whether Mr. Turner's service on the CDD Board is a conflict of interest with his service on The Fiddler's Creek Foundation Advisory Board. He voiced his understanding that Mr. Turner is a volunteer member and chairman of The Club and Spa Advisory Board, of The Fiddler's Creek Foundation, Inc. Mr. Pires noted that The Fiddler's Creek Foundation, Inc., is a Florida, nonprofit corporation and neither Mr. Turner, nor any family member, relative or spouse are officers, employees, directors or partners of The Fiddler's Creek Foundation, Inc.

Mr. Pires reviewed a memorandum regarding the conflict of interest. He indicated that the Florida Commission on Ethics is the agency that has authority to issue opinions relating to any matters involving the Ethics Code, under the State of Florida. Mr. Pires summarized that his opinion was based upon review of ethics opinions and statutes and reiterated that the Florida Commission on Ethics is the only agency that can issue an opinion. He advised that a formal or informal opinion can be requested from the Florida Commission on Ethics.

Mr. Pires reviewed the memorandum and concluded that he found no conflicts with Mr. Turner's service on The Club and Spa Advisory Board.

E. Consideration of Resolution 2014-12, Electing Officers

Mr. Adams presented Resolution 2014-12 for the Board's consideration. He indicated that Mr. Curland previously served as Assistant Secretary. Mr. Adams noted that the Board can maintain the existing slate of officers and appoint Mr. Turner as Assistant Secretary or reconsider the entire slate of officers.

On MOTION by Mr. Bergmoser and seconded by Mr. Peterson, with all in favor, Resolution 2014-12, Electing Officers, as currently positioned, with Mr. Turner serving as Assistant Secretary, was adopted.

FOURTH ORDER OF BUSINESS

Executive Session

Mr. Adams recessed the Continued Meeting at 1:23 p.m., and noted that those attending the Executive Session are Supervisors Brougham, Bergmoser, Peterson and Turner, himself, as District Manager, Mr. Pires, as District Counsel and Mr. Reyes, as Special Counsel.

The Executive Session commenced at 1:23 p.m.

The Executive Session closed at approximately 2:22 p.m.

FIFTH ORDER OF BUSINESS

Consideration of Action Items Resulting from Executive Session

Mr. Adams reconvened the Continued Meeting at 2:22 p.m.

Mr. Brougham recommended that the District continue with the current litigation strategies and revisit the matter, during an executive session, following the hearings scheduled for September 4, 2014 and September 26, 2014.

On MOTION by Mr. Brougham and seconded by Mr. Bergmoser, with all in favor, continuing with the current litigation strategies, was approved.

Mr. Adams indicated Supervisors Brougham, Bergmoser, Peterson and Turner, were present, in person. Supervisor Slater rejoined the meeting via telephone, prior to the vote.

SIXTH ORDER OF BUSINESS

Supervisors' Requests

Mr. Brougham indicated that he and Mr. Adams discussed the legal fees associated with removal of U.S. Bank, as trustee, and removing the “roadblock” asserted by the developer for the exchange bonds. He noted that the developer was adamant that the exchange transactions could not proceed with U.S. Bank, as trustee; therefore, the District was forced to remove them. Mr. Brougham stated that this situation will be discussed at the next meeting.

Mr. Adams stated that the litigation costs related to removal of U.S. Bank total slightly less than \$60,000. Discussion ensued regarding whether these costs could be part of punitive damages. Mr. Adams felt that the District should seek direct reimbursement from the developer for these legal fees. He explained that the developer’s position regarding U.S. Bank forced the District to expend legal fees to remove U.S. Bank so that the Series 2002 and 2005 bond exchanges could be completed.

Mr. Brougham summarized that the total benefit of removing U.S. Bank accrued to the developer, not the CDD residents.

In response to Mr. Slater’s question, Mr. Adams confirmed that the budgeted litigation line item amount was not changed.

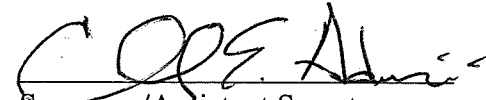
Mr. Adams stated that he received a new equivalent residential unit (ERU) tally prepared by Ms. Alice Carlson, of AJC Associates, Inc., and Mr. DiNardo. He indicated that the new figures infused 254 additional ERUs into the number of assessable units; the adjustment reduced the anticipated assessment increase for Fiscal Year 2015 from approximately \$200 per unit to \$35. Mr. Adams noted that the mailed notice was already prepared and mailed containing the higher assessment rate.

SEVENTH ORDER OF BUSINESS

Adjournment

There being nothing additional to discuss, the meeting adjourned.

On MOTION by Mr. Bergmoser and seconded by Mr. Peterson, with all in favor, the meeting adjourned at approximately 2:28 p.m.


Secretary/Assistant Secretary


Chair/Vice Chair