

**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, September 24, 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:**

Philip Brougham	Chair
Richard Peterson	Assistant Secretary
Robert Slater ( <i>via telephone</i> )	Assistant Secretary
Charles Turner	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
Ron Albeit	The Foundation
Mike Charbonneau	The Foundation
Kirk Wheale	Resident
Frank Weinberg	Resident
Dave Yates	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, Peterson and Turner were present, in person. Supervisor Slater was attending via telephone. Supervisor Bergmoser was not present.

**On MOTION by Mr. Peterson and seconded by Mr. Turner, with all in favor, authorizing Supervisor Slater’s attendance and full participation, via telephone, due to exceptional circumstances, was approved.**

**SECOND ORDER OF BUSINESS**

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

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

Mr. Kirk Wheale, a resident, noted that he serves on the Cranberry Crossing Board and advised that there has been a lot of discussion about the amount of traffic and speeding on Cherry Oaks Trail. He asked about the options for Cranberry Crossings to take over the road.

Mr. Brougham pointed out that Cherry Oaks Trail is a public roadway, which was funded and is controlled by the CDD. He indicated that, since the last meeting, the Board asked the Sheriff's Department to monitor the road for speeding. Mr. Brougham advised that the Sheriff is the only authority who can enforce speed limits; additionally, the District will post a "No Construction Traffic" sign on Cherry Oaks Tail. Regarding other options, Mr. Brougham opined that, even if there was a process to privatize the road, he did not believe it was legal to "block" access to vehicles, primarily because of emergency requirements. He noted that Cherry Oaks Trail is the main road but, in previous years, it was Championship Drive.

Mr. Pires concurred that Cherry Oaks Trail is a public road and cannot be blocked but he advised that the Board could consider using traffic calming techniques such as speed humps, speed tables and narrowing an exit. He advised that whether the District can give a road to a private organization depends on whether the road was acquired or constructed through bond proceeds. Mr. Pires pointed out that the bond covenants state that the CDD cannot sell the road to a private entity; otherwise, the bonds would not be considered tax exempt, unless the bondholders give their consent. He indicated that the Sheriff is patrolling the road.

Mr. Wheale acknowledged that residents were seeking a long-term solution, as Cherry Oaks Trail was being utilized not only for construction but as a throughway for people driving from Aviamar to the clubhouse. He questioned whether the CDD can take over that road once the bond is paid off. Mr. Brougham questioned how the District could prevent traffic from going onto a street assuming the bond is "paid off" and the CDD sold the road; he did not believe there were any viable options. Mr. Pires pointed out that there was no ability to convey this road to a private entity.

Mr. Wheale asked whether there was the possibility of having one gate. Mr. Pires advised that the public must be able to gain access through the gate; if there was an access control system, there must be a mechanism for the public to gain access.

Mr. Peterson pointed out that Cascada has one-way access but, once the gate opens, people speed through. He noted that they discussed different traffic control devices, such as speed humps, which the majority of residents, in Cascada did not want, renting electric signs showing how fast a car was going and paying an off-duty Sheriff but none were viable options.

Mr. Brougham felt that enforcement was the only solution. Mr. Charbonneau indicated that in the short term, traffic on Sandpiper Drive is monitored because all of the contractors use that entrance to gain access into the community. He noted that all contractors have a pass with their name, employer's name and information regarding the parcel/property where they are working. Offenders are handled on a case-by-case basis.

Mr. Wheale expressed concern about Cranberry being used as a throughway, not as a residential street, and noted his intent to find a long-term solution. Mr. Brougham acknowledged that he did not know of any long-term solution to abating an increase in traffic, as Fiddler's Creek builds out.

Mr. Dave Yates, a resident, noted that Mulberry had the same problem; residents had to live with it.

Mr. Pires suggested that the Board Members drive Seventh Avenue North, in Naples, which has two lanes to the beach, roundabouts and speed humps. He noted that the Board could ask Staff to place a cul-de-sac at the northern end of Cherry Oaks Trail instead of making the connection to Sandpiper Drive.

Mr. Brougham asked Mr. Cole to provide options at the next meeting.

Mr. Frank Weinberg, a resident, felt that, if a cul-de-sac is installed on Cherry Oaks Trail, the District must consider traffic calming on Mahogany.

**THIRD ORDER OF BUSINESS**

**Special Counsel Update: Litigation Proceedings**

Ms. Robinson reported that the status conference with Judge Shenko was held on September 4 and went as expected. She believed that the CDD #1 case was still consolidated with the CDD #2 case; there was discussion by counsel for the defendant to revisit the consolidation but, at this point, nothing happened and the cases are still consolidated. Ms. Robinson noted that the pivotal motion to the CDD #2 case is set for hearing on September 26 and Mr. Reyes is working with counsel to prepare for the hearing.

Ms. Robinson requested an executive session on Friday, October 10, 2014 at 4:30 p.m.  
There was consensus from the Board.

Mr. Slater requested an email summary of the September 4 hearing prior to the executive session. Ms. Robinson will provide a summary to the Board.

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

**FOURTH ORDER OF BUSINESS**

**Developer's Report/Update**

There being no report, the next item followed.

**FIFTH ORDER OF BUSINESS**

**Engineer's Report**

Mr. Cole presented Draw #90, for the 2005 Series bonds, in the amount of approximately \$640, for work related to the annual PUD and DRI Monitoring Report, which updates the status of development in the community.

Mr. Cole noted that construction in Marsh Cove, which is to the south of Cherry Oaks Trail, is proceeding at a rapid pace. He will research speed humps for Cherry Oaks Trail. Mr. Cole pointed out that Mr. Pires has documentation for conveyance of water and sewer utilities, from the developer to the CDD; the CDD will convey the utilities to the county. He noted that there are two sets of documents because some utilities were constructed years ago with CDD funds; what is currently being constructed is being funded by the developer.

Mr. Brougham asked whether this was a two-step process; the first step is for the developer to arrange for the construction, the District Engineer to certify the construction and conveyance to the CDD for reimbursement, and the second step is for conveyance by the CDD to the county. Mr. Cole replied affirmatively and added that the utility lines that are being conveyed from the CDD to the county were constructed several years ago and the developer was already paid.

**SIXTH ORDER OF BUSINESS**

**Update: Permit Related to SR 951 Traffic Signal Installation**

Mr. Cole reported that the S.R. 951 traffic signal construction agreement with the Florida Department of Transportation (FDOT) was approved on the county commission's consent

agenda yesterday. He noted that the next step is to provide this documentation to FDOT. Mr. Cole anticipated issuance of the FDOT permit in the next few weeks.

Mr. Brougham expressed concern that the executive summary was not specific to the scope of the project. He felt that it was a blanket document between the county and FDOT that would cover any and all agreements and it should have been in place ten years ago. Mr. Cole agreed that the document was very generic.

Mr. Cole provided the contract for OnPower Services (OnPower), the signal contractor, for execution, and noted that a Notice to Proceed was issued for the submission of shop drawings, which were provided and forwarded to David Plummer and Associates, for review. A second Notice to Proceed was issued for ordering the poles and mast arms but this will not occur until the FDOT permit is issued.

Mr. Brougham asked for the time frame for completion. Mr. Cole confirmed that it would take six months to complete the project, as it will take a few months to receive the mast arms, once ordered. Mr. Cole noted that the contractor submitted an updated Certificate of Insurance. Mr. Brougham asked why the time frame was changed from February to April. Mr. Cole explained that they lost two weeks because the County Commissioners did not approve the construction agreement until yesterday; it was expected to be approved on September 9.

Mr. Brougham asked if there was an opportunity to expedite any phase of the project. Mr. Cole pointed out that he could issue a Notice to Proceed to the contractor for the mast arms order, prior to receiving the FDOT permit; however, the District would be taking a huge risk if, for some reason, the permit was not issued. In response to Mr. Brougham's question, Mr. Cole estimated that the mast arms cost between \$150,000 and \$200,000. Mr. Brougham agreed that the District should wait until the permit is issued by FDOT.

Mr. Brougham requested that Mr. Albeit send a notice to residents informing them that there were unavoidable delays and the signalization would be completed by late spring, 2015.

Mr. Brougham questioned whether the FDOT contractor released this section of S.R. 951. Mr. Cole indicated the he will follow up with the contractor, as they have been performing work in the area. Mr. Brougham asked whether the contractor would pave all right and left turn lanes, since they paved and striped the four-lane highway. Mr. Cole replied that the contractor should pave the turn lanes.

**SEVENTH ORDER OF BUSINESS**

**Approval of August 20, 2014 Public Hearings and Regular Meeting Minutes**

Mr. Brougham presented the August 20, 2014 Public Hearings and Regular Meeting Minutes and asked for any additions, deletions or corrections.

Mr. Pires noted that he disagreed with Mr. Adams' statement, on Lines 358 through 360, about the District's ability to "increase assessments, indefinitely, without sending a mailed notice, provided the increase does not exceed the assessment cap amount contained in the most recent mailed notice". Mr. Adams pointed out that this was his opinion, is what he said and wished it to remain.

For the record, Mr. Pires reiterated his disagreement with the statement remaining in the minutes.

**On MOTION by Mr. Brougham and seconded by Mr. Peterson, with all in favor, the August 20, 2014 Public Hearings and Regular Meeting Minutes, as presented, were approved.**

o **Action Items**

Mr. Brougham noted that Items 2, 5, 6, 8, 9, 10, 12, 13 and 14 were completed.

Mr. Pires clarified that Item 12, the Interlocal Agreement between CDD #1 and CDD #2, stated that each CDD would be responsible for one-half of the design, permitting, installation and construction costs of the S.R. 951 and U.S. 41 traffic signals. In his opinion, all costs would be part of the permitting. Mr. Brougham requested that they circle all of the costs inclusive of legal, engineering, design, contracting and procurement, prior to paying. He asked Mr. Cole to make sure he received invoices and paid for everything before closing out the project.

**EIGHTH ORDER OF BUSINESS**

**Other Business**

There being no other business, the next item followed.

**NINTH ORDER OF BUSINESS**

**Staff Reports**

**A. Attorney**

There being nothing additional to report, the next item followed.

**B. Manager**

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

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

Mr. Brougham asked for an update on the line of credit. Mr. Adams confirmed that documents were provided to Iberiabank and they seemed interested in working with the CDD. He will follow up with his contact at Iberiabank. If this does not work, Mr. Adams indicated that he will contact Fifth-Third Bank.

Mr. Adams noted that expenditures were in line with the budget, even with the unbudgeted \$90,000 "Litigation" expenses. He indicated that the understory planting invoices should be forthcoming in the next week or two.

**ii. NEXT MEETING DATE: October 22, 2014 at 8:00 A.M.**

The next meeting is scheduled for October 22, 2014 at 8:00 a.m.

**C. Operations Manager**

Ms. Crismond presented the Operations Report. She obtained a proposal for the roof replacement, at the main gate house, as requested at the last meeting. Ms. Crismond noted that the quote was \$25,000 and, once she receives all of the proposals, she will provide them to Mr. Cole, for review.

Mr. Brougham questioned how much was spent on roof repairs this year. Ms. Crismond estimated \$2,500.

Mr. Adams recommended replacing the roof, as it is 17 years old. Ms. Crismond indicated that, according to the District Engineer, the life expectancy of a roof is 20 years. Mr. Brougham pointed out that they will make a decision once the quotes are received.

Ms. Crismond reported that Management continues to meet with LakeMasters Aquatic Weed Control, Inc. (LakeMasters) to review the lakes within the community.

Ms. Crismond indicated that the Sandpiper bridge repair is not completed. Mr. Brougham asked what caused the damage. Ms. Crismond reported that TruGreen's mowers caused the damage and TruGreen agreed to reimburse the District for the repairs. In response to Mr. Brougham's question, Ms. Crismond confirmed that she met TruGreen's new Branch Manager in August and has a meeting with him today.

Ms. Crismond reported that the landscape renovation project on Championship Drive was completed on Friday. She is waiting for the consultant to confirm that everything is complete. Mr. Peterson requested that the contractor remove the empty pots. Ms. Crismond indicated that 28 Cassia trees were removed and The Foundation approved 15 to 25-gallon Ligustrums. Ms. Crismond stated that she prefers 25-gallon trees and the price differential would be \$60 per tree but there would be no charge for labor.

Ms. Crismond reported that patrols were increased to two times per week due to an increase in construction traffic and speeding. Mr. Brougham asked Ms. Crismond to find out how often Cherry Oaks Trail is monitored and request that close attention be paid to speeders. She pointed out that she requested a higher concentration of patrols on Campanile and Cherry Oaks Trail.

Mr. Brougham advised residents to call the Collier County Sheriff's substation to file complaints for speeding.

Ms. Crismond reported that the contractor started pressure washing all CDD sidewalks and curbs and should be completed by the end of October.

Mr. Brougham asked about the status of the area behind the parking lot where dead trees were to be removed and replaced with shrubs, sod and mulch. Ms. Crismond indicated that TruGreen should complete the work by the end of this week; she is meeting with TruGreen today to discuss all current projects.

Mr. Peterson questioned the status of the street post/signage maintenance project. Ms. Crismond reported that it will take two-and-a-half to three weeks to complete, depending on the weather. She noted that the contractor was three weeks behind schedule, due to the rain. Mr. Peterson questioned the turnaround time to reinstall individual signs. Ms. Crismond acknowledged that it took the contractor a while to get a sign uprighted; the signs must be fabricated. She pointed out that the normal turnaround time was three weeks but it has been taking five weeks. Mr. Adams noted that temporary signs were installed immediately, for stop signs, until new signs can be fabricated. Mr. Turner questioned whether individual residents could be billed for damaging signs. Ms. Crismond indicated that a claim is made to the responsible parties' insurance carriers.



**TENTH ORDER OF BUSINESS**

**Supervisors' Requests**

Mr. Brougham asked Mr. Adams if he received a response to the September 5 letter to the developer requesting reimbursement. Mr. Adams replied that he did not receive a response; he will wait seven to ten days before following up.


**ELEVENTH ORDER OF BUSINESS**

**Adjournment**

There being no further business to discuss, the meeting recessed.

**On MOTION by Mr. Peterson and seconded by Mr. Turner, with all in favor, the meeting recessed at approximately 10:57 a.m., and was continued to Friday, October 10, 2014 at 4:30 p.m., at this location, for the purpose of holding an executive session.**

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

  
Secretary/Assistant Secretary

  
Chair/Vice Chair