

**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, November 19, 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
Richard Peterson	Assistant Secretary
Robert Slater	Assistant Secretary
Charles Turner	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Crismond	Assistant Regional Manager
Terry Cole	District Engineer
Tony Pires (<i>via telephone</i>)	District Counsel
Matthew Flores	Woodward, Pires & Lombardo, P.A.
Carrie Robinson (<i>via telephone</i>)	Tobin & Reyes, P.A., Litigation Counsel
Tony DiNardo	Developer
Ron Albeit	The Foundation
Eileen Robertson	Resident
Bud Palmer	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, Bergmoser, Slater and Turner were present, in person. Supervisor Peterson was not present, at roll call.

SECOND ORDER OF BUSINESS

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

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

Ms. Eileen Robertson, a resident, advised that her neighbors were very upset about a major tree removal project. She reported that the trees were removed in an unsafe manner and

residents are upset because the appearance “looks terrible”. Ms. Robertson voiced her opinion that the area appears as if there was a hurricane. She questioned why the trees were removed, what will replace the trees and when the area will be repaired.

Ms. Robertson advised that large black olive trees, on the other side of Mulberry, drop debris on the sidewalks, rendering the sidewalks virtually unusable.

Mr. Brougham reported that the Ficus trees on the Peppertree side were completely barren, due to whitefly; per the landscape agreement, if vegetation dies, it is to be removed. He stated that the Ficus trees will be replaced with Sabal palms, three each, and new understory Clusia plants will be installed. Mr. Brougham advised that the golf course is responsible for the black olive trees.

Mr. Albeit indicated that he viewed the area and spoke to Ms. Crismond. He reported that there was no DRC review but acknowledged that guidelines were provided for when the Ficus trees were removed and replaced. Mr. Albeit noted that introduction of Sabal palms was never discussed, as a tree type; therefore, the District should have submitted a DRC request to add features, which should be reviewed by the horticulturalist.

Mr. Brougham directed Staff to expedite the request process.

Mr. Brougham referred to the black olive trees across Mulberry, toward the golf course, and questioned if those trees are the golf course's responsibility. Mr. Albeit indicated that he must research it, as the CDD currently mulches and maintains the berm. Ms. Crismond stated that she confirmed with Mr. Cole that the CDD owns the area from the back of the sidewalk toward the road; the golf course is responsible for the buffer landscaping on the back side of the sidewalk.

Ms. Robertson reiterated her question regarding when the area will be repaired. Mr. Brougham advised that it will be completed as soon as possible. In response to Mr. Brougham's question, Ms. Crismond indicated that, notwithstanding the DRC requirements, the work would progress once the trees and vegetation are received. Mr. Brougham confirmed that the work will be scheduled and directed Ms. Crismond to notify the Board and Ms. Robertson. Ms. Robertson stated that she will forward the notification to residents. Mr. Brougham asked Mr. Albeit to follow up on the black olive tree issue.

Mr. Slater indicated that a resident, living on Mulberry, advised him that the drop off behind his home, where the District previously placed bags around the lake, is gone. In response to a question, Mr. Cole reported that the area was inspected and erosion was not observed.

*****Supervisor Peterson joined the meeting, in person.*****

Ms. Robertson questioned if that area was included in the lake bank erosion project. Mr. Cole explained that erosion repairs were not planned for that area, as erosion was less than 9". Ms. Crismond concurred. Mr. Cole clarified that the area in question did not have much erosion. Ms. Robertson asked what residents can do. Mr. Cole replied nothing. Ms. Robertson questioned if residents must "just live with it". Mr. Cole pointed out that many miles of lakes have the same appearance; areas with less than 9" of erosion are not scheduled for repair. Mr. Cole confirmed that the area will be monitored.

Mr. Bud Palmer, a resident, voiced his concern about the maintenance of sidewalks and curbs. He noted that the sidewalks and curbs are cleaned annually, which creates a traffic hazard, requires much personnel and a lot of time. Mr. Palmer advised of a machine that allows for a much quicker maintenance cycle, reduces manpower and can be used on paver blocks and roadways. He urged the Board to consider his recommendation and asked that it be included as a discussion item on a future agenda.

Mr. Brougham directed Ms. Crismond to research the machine and provide a report of her findings, with regard to the cost and references.

Mr. DiNardo questioned if Mr. Palmer wants the District to purchase the machine. In response to a question, Mr. Palmer indicated that he discovered the machine at a recent trade show. Mr. DiNardo suggested that CDD #1, CDD #2 and The Foundation discuss purchasing the machine for use throughout the community, rather than hiring crews. Mr. Adams estimated that both Districts spend a combined \$100,000, annually, to pressure clean the curbs and sidewalks. Mr. Palmer advised that the machine costs approximately \$40,000, depending upon the configuration.

Mr. DiNardo discussed a scenario of The Foundation assuming responsibility for street cleaning, for the entire community, and financing the machine; an operator could be hired to run the machine, year round. Mr. Brougham asked that Ms. Crismond provide a report at the next meeting.

THIRD ORDER OF BUSINESS

Administration of Oath of Office to Newly Elected Supervisors: Charles A. Turner, SEAT 1 and Gerald Bergmoser, SEAT 2 (the following to be provided in a separate package)

Mr. Adams, a Notary of the State of Florida and duly authorized, administered the Oath of Office to Mr. Turner and Mr. Bergmoser. 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**
 - i. Form 1: Statement of Financial Interests**
 - ii. Form 1X: Amendment to Form 1, Statement of Financial Interests**
 - iii. Form 1F: Final Statement of Financial Interests**
- D. Form 8B, Memorandum of Voting Conflict**

FOURTH ORDER OF BUSINESS

Consideration of Resolution 2015-1, Electing Officers

Mr. Brougham presented Resolution 2015-1 for the Board's consideration.

Mr. Adams advised that, statutorily, the Board is required to consider its slate of officers following an appointment or election. He indicated that, currently, Mr. Brougham serves as Chair, Mr. Bergmoser as Vice Chair, Supervisors Slater, Peterson and Turner as Assistant Secretaries, along with himself as Secretary and Mr. Wrathell as Treasurer and Assistant Secretary.

Mr. Slater nominated the current slate of officers.

Mr. Turner asked if rules or guidelines specify how long a Board Member can sit as the Chair or Vice Chair. Mr. Adams confirmed that there are no statutory limitations. Mr. Pires recalled that the District's Rules of Procedure might specify one or two years. Mr. Pires will research the matter but clarified that the recent election resets the time clock on the officer positions.

On MOTION by Mr. Slater and seconded by Mr. Bergmoser, with all in favor, Resolution 2015-1, Electing Officers, as nominated, was adopted.

FIFTH ORDER OF BUSINESS**Special Counsel Update: Litigation Proceedings**

Ms. Robinson advised that the CDD #2 punitive damages motion is set for hearing on December 30, 2014 and the outcome of the hearing will be observed carefully. She reported that, since the last meeting, the bondholder, Fiddler's CDD Investor, filed its own motion for punitive damages, which was set for hearing on the same day but at a different time. Ms. Robinson stated that both motions in the CDD #2 action will be heard on December 30, 2014, which will provide guidance for CDD #1, regarding whether to file a similar or slightly different motion, thereafter. She indicated that preparation of lengthy discovery requests to be propounded upon U.S. Bank National Association (U.S. Bank) was completed and will be served today; the response deadline will be 30 days from today. In response to a question, Ms. Robinson confirmed that an extension could be requested.

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

SIXTH ORDER OF BUSINESS**Developer's Report/Update**

Mr. DiNardo referred to the Sandpiper Entrance, off of US 41, that is currently used as a construction entrance, and identified a location inside the gatehouse location where a temporary construction road will be built. Contractors working in the Oyster Harbor and March Cove neighborhoods will be provided with directions to the temporary road so that construction traffic does not travel on Sandpiper to Cherry Oaks. He noted that a \$1 million fountain will be installed at the front entrance to Oyster Harbor. Mr. DiNardo advised that construction on the Marsh Cove entrance should commence in January.

Mr. DiNardo discussed the location of the second phase of the construction road. He pointed out that most construction traffic will be diverted away from CDD #1. In response to a question, Mr. DiNardo confirmed that the Oyster Harbor Entrance will be a new entrance; the strategy is to divert most construction vehicles from the area, with the exception of a few

builders. He advised that construction of the Oyster Harbor Entrance is underway and the new construction traffic roads should be in place by January.

Mr. DiNardo advised that final pavement of all District roads will occur in January. He indicated that, once Stock and Lennar, in Runaway Bay, complete construction, CDD #1 will have very little construction traffic, only a small amount in Veneta.

Regarding whether another entrance will be constructed on US 41, Mr. DiNardo stated that the developer is considering the possibility. He discussed work being completed by the Department of Transportation and the possibility of a traffic signal.

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

Mr. Cole recalled an irrigation repair that required the sidewalk to be closed and noted that the repair was completed. Ms. Crismond confirmed that landscaping was not completed but all repair work was completed, with the exception of cleaning the culvert, which is being scheduled.

Mr. Cole spoke with the contractor, AquaMatic, and it was believed that the cause of the failure was a defective pipe, not construction vehicles, etc.; the pipe was properly installed. He noted that, in 15 to 16 years, this was the only pipe failure in the entire system. Mr. Cole recalled the Board's question of how other areas of the system could be checked or whether preventative measure could be implemented. He advised that portions of the system could be pressure tested; however, upon installation, all pipes were pressure tested at a minimum of 150 psi pressure and 80 to 90 psi is the normal operating pressure. Mr. Cole estimated a cost of \$10,000 to \$15,000 to pressure test an isolated area.

In response to Mr. Brougham's question, Ms Crismond advised that the repair cost was nearly \$20,000.

Mr. Cole stated that possible leaks could be identified if the Board wanted to try preventative measures; however, leaks could be caused by many things, including valves, gaskets, etc. He pointed out that the cause of the leak could not be identified until the pipe was dug up. Mr. Cole recommended continuing to monitor of the system's performance, without testing at this time.

Mr. Brougham concurred with Mr. Cole's recommendation.

Mr. Bergmoser asked about the use and necessity of road crossing conduits. Mr. Cole indicated that PVC pipes are generally installed underneath a crossing and are used for a variety of items, including communication, security and irrigation lines.

EIGHTH ORDER OF BUSINESS**Update: SR 951 Traffic Signal Installation**

Mr. Cole indicated that, per the consultant, David Plummer and Associates, the Department of Transportation (DOT) signal reviewer raised concerns regarding the signal timing. He noted that Collier County is the party operating the signal. The county representative and DOT reviewer were in discussions to coordinate the details. Mr. Cole clarified that the issue relates to the signal sequence.

Mr. Brougham questioned why signal sequencing would delay installation. Mr. Cole advised that the county will take over operation and maintenance of the signal and operate the sequencing. Mr. Brougham reiterated his question. Mr. Cole noted that this was the last comment by the DOT reviewer, with regard to issuing the permit. In response to Mr. Brougham's question, Mr. Cole indicated that the consultant was attempting to speak to the DOT reviewer's supervisor. Mr. Cole confirmed that the county is trying to help facilitate installation; the issue is with the DOT. Mr. Cole will provide Mr. Brougham with contact information for the DOT reviewer and the county representative.

Mr. Cole noted that the shop drawings were reviewed but not returned to the contractor, pending receipt of the permit. He recalled a question about the signal color and type of paint; the county wants the signal to be galvanized, not painted green, since they will assume maintenance responsibilities.

In response to a question, Mr. Cole confirmed the Board's decision not to issue the Notice to Proceed and order the mast arm until the permit was issued, due to the risk of additional changes. Mr. Bergmoser expressed his opinion that DOT approved the permit and simply made notation to discuss sequencing; he asked why the District does not proceed now. It was noted that someone might delay the permit and the District could be left holding \$100,000 worth of materials.

Mr. Brougham will mail a letter to all of the parties involved and copy Mr. DiNardo, to express the District’s displeasure with the delay. Mr. DiNardo recommended that Mr. Joe Parisi be copied, as well.

Mr. Cole confirmed that David Plummer and Associates was surprised by the DOT comment, since the county will own, maintain and operate the signal.

NINTH ORDER OF BUSINESS

Discussion: Installation of Traffic Calming Devices at Cherry Oaks Trail

Mr. Brougham expressed his opinion that discussion of this item is moot.

Mr. Cole noted that, as a result of the construction roads that will be built, a majority of the traffic will be rerouted. He stated that signage will be installed on either side of Sandpiper Drive identifying the construction entrance.

Mr. Brougham recalled issues with cul-de-sacs and other areas, which preclude traffic calming devices from being installed, by the land constraints.

A resident acknowledged that this approach might curb construction traffic; however, the issue of motorists traveling from Aviamar to The Club would continue. It was noted that, once the new amenity facility is constructed, it should ease the amount of traffic driving to The Club.

Regarding the estimated completion date of the SR 951 traffic signal, Mr. Brougham recommended maintaining the “late spring” date.

TENTH ORDER OF BUSINESS

Consideration of Draft First Amendment to Interlocal Agreement [Irrigation Distribution Lines] with District #2

Mr. Brougham recalled discussion, at the last meeting, regarding whether CDD #1 or CDD #2 was responsible for the costs related to repairing irrigation distribution lines. Mr. Adams clarified that this issue arose during the CDD #2 meeting.

Mr. Pires explained that he drafted the amendment to differentiate that the capital costs associated with replacement or repairs to distribution lines were borne by each of the Districts, as to their respective lines.

Mr. Adams stated that this issue arose with the CDD #2 Board because the mainline break was in CDD #1, yet CDD #2 was being required to pay a portion of the \$16,000 repair

costs. He confirmed that the current Interlocal Agreement is specific to distribution lines and, as written, appears to indicate that the CDDs would share the repair costs. There was pushback and discussion by the CDD #2 Board regarding the intent of the agreement. Mr. Adams advised that the intent was for the CDDs to share the costs of the production facilities, essentially, the holding pond and pump houses that are delivering the pressured water into the waterlines; however, the supposed intent was that the distribution lines within the boundaries of each District were to be the responsibility of the individual District.

Mr. Adams indicated that the amendment was reviewed and approved, at the Staff level, and recommended for the Board's approval.

Mr. Brougham had no objection to the amendment, provided it does not involve the production facilities, pump houses, pumps, electricity and maintenance. He pointed out that "Attachment A" is missing and should be included, to clearly define each District's distribution lines.

Mr. Adams indicated that Mr. Cole can prepare the requested attachment, identifying the irrigation line locations and sizes, on a map, at a cost of approximately \$2,000. Mr. Pires believed that this is important and necessary to avoid confusion, in the future, and for Management's inventory control, capital improvement plans and insurance purposes.

Mr. Peterson questioned if the \$16,000 costs for the mainline repair, in CDD #1, will be shared at the prorata 66% and 33% split. Mr. Adams replied affirmatively, as the current agreement applies but, going forward, the cost would be segregated to the individual District.

On MOTION by Mr. Brougham and seconded by Mr. Peterson, with all in favor, continuation of this item, for consideration at the next meeting, subject to preparation of a detailed map, defining the boundaries of the irrigation facilities, with the preparation costs shared by both CDDs, were approved.

*****Mr. Pires left the meeting.*****

ELEVENTH ORDER OF BUSINESS

Approval of Minutes

A. October 10, 2014 Continued Meeting

Mr. Brougham presented the October 10, 2014 Continued Meeting Minutes and asked for any additions, deletions or corrections.

On MOTION by Mr. Brougham and seconded by Mr. Peterson, with all in favor, the October 10, 2014 Continued Meeting Minutes, as presented, were approved.

B. October 22, 2014 Regular Meeting

Mr. Brougham presented the October 22, 2014 Regular Meeting Minutes and asked for any additions, deletions or corrections.

On MOTION by Mr. Bergmoser and seconded by Mr. Peterson, with all in favor, the October 22, 2014 Regular Meeting Minutes, as presented, were approved.

o **Action Items**

The action items were not discussed.

TWELFTH ORDER OF BUSINESS

Other Business

There being no other business, the next item followed.

THIRTEENTH 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 October 31, 2014

The Unaudited Financial Statements as of October 31, 2014 were provided for informational purposes. He noted the limited activity, as October is the first month of the new fiscal year; most activity was related to payment of annual expenditures and fees and the monthly "Management fee".

In response to Mr. DiNardo's question regarding the 2014 bond "Cost of Issuance" amount, on the "Balance Sheet", Mr. Adams confirmed that the funds will be refunded to the developer; he must draft a Letter of Direction. Mr. DiNardo recommended that "all of the other money" be rolled up into a reserve account, under the bonds. Mr. Adams asked Mr. DiNardo to email him because, normally, the money would be directed to prepayment. Mr. DiNardo felt that a reserve account was the best option.

ii. NEXT MEETING DATE: December 17, 2014 at 8:00 A.M.

The next meeting will be held on December 17, 2014 at 8:00 a.m.

C. Operations Manager

Ms. Crismond presented the Operations Report. She advised that the lake aeration will be operational today, with lights.

FOURTEENTH ORDER OF BUSINESS

Supervisors' Requests

Mr. Brougham recalled Ms. Robertson's comments about the tree removal and asked that, in the future, anything of major importance be communicated to residents so that everyone is aware of what will occur.

FIFTEENTH ORDER OF BUSINESS

Adjournment

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

On MOTION by Mr. Peterson and seconded by Mr. Bergmoser, with all in favor, the meeting adjourned at approximately 8:58 a.m.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]


Secretary/Assistant Secretary


Chair/Vice Chair