

**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, March 25, 2015**, 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	District Counsel
Tony DiNardo	Developer
Ron Albeit	The Foundation
Mike Charbonneau	The Foundation
Rick Herndon	TruGreen Landcare
Corporal Sylee Gibson	Collier County Sheriff’s Office
Jesse Fritz	Resident
George Ohye	Resident
Donna Ohye	Resident
Shannon Benedetti	Resident
Nancy Schneider	Resident
Eileen Robertson	Resident and HOA President

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)

Ms. Eileen Robertson, a resident and the HOA President, asked, for the record, how much it cost to remove the four, 40' canopy trees on Mulberry, who authorized the removal and how much it cost to replace the trees.

Supervisor Brougham indicated that removal cost the District nothing because the trees were diseased, due to whitefly; the trees were removed at the expense of TruGreen Landcare (TruGreen), pursuant to their contract with the District. Replacement of the ficus trees and understory were approved by Ms. Feser. In response to Ms. Robertson's question, Mr. Brougham advised that the CDD authorized removal, through Ms. Crismond.

Ms. Nancy Schneider, a resident, indicated that Championship Drive is a two-lane road, which creates a traffic hazard for bicyclists riding on the road. She suggested that the District install a bike path on the south side of Championship Drive, which would provide bicyclists with a safer place to ride.

Mr. Brougham agreed with Ms. Schneider's suggestion and recalled that, several years ago, the estimate to build a bike path was \$200,000 to 300,000. Mr. Cole did not recall the estimated cost but will research this matter and provide an estimate. Mr. Brougham stated that the District does not have bond construction funds of \$100,000 to \$300,000 to complete this capital expense; therefore, the cost must come from the District's budgeted operating expenses.

Ms. Schneider asked if Championship Drive was intended to be a four-lane road. Mr. Brougham replied affirmatively but, currently, there are no plans to make it a four-lane road.

Mr. Slater recalled discussion, years ago, where the Board was advised that riders should use the path, as, in Florida, a walking path can also be used as a bike path. Mr. Pires stated that bicyclists in a roadway must obey the motor vehicle laws and vehicles must maintain a certain distance from bicycle riders. Mr. Pires indicated that bicyclists on sidewalks must act as pedestrians and must yield to pedestrians. Mr. Brougham added that, at the time, it was stated that there were no restrictions or constraints within Fiddler's Creek regarding where bicyclists could ride; bicyclists must follow the rules depending upon where they are riding.

Corporal Sylee Gibson, of the Community Oriented Policing Services (COPS) Unit of the East Naples, Collier County Sheriff's Office, confirmed the information relayed by Mr. Pires.

Ms. Schneider reiterated her safety concerns and disputes between bicyclists and pedestrians. Mr. Brougham indicated that the District will not become involved with personal

disputes. Mr. Pires advised that the District does not have traffic enforcement authority. Mr. Brougham reiterated that an estimate will be obtained.

Ms. Shannon Benedetti, a resident, stated that she is a member of The Foundation Landscape Advisory Committee. She indicated that residents want to know what landscape enhancements are being considered for the front entrance monument and Fiddler's Creek Parkway up to the gate. Ms. Benedetti described the current plants as old and in need of replacement.

Mr. Brougham asked if Ms. Benedetti had recommendations, aside from installation of spears and flower rotations, which were previously discussed. Ms. Benedetti referred to a report from Ms. Feser, which advised of the poor appearance of the landscaping and recommended that, during budgeting, the Board utilize a landscape architect to develop a landscaping plan for the future.

Mr. Brougham indicated that, today, the Board will discuss a plan for landscaping on the west side of Mulberry, along the fence. He noted that the Board has no issue with Ms. Benedetti's suggestion and opined that the Board should discuss Phase 3, extending from SR 951 into Fiddler's Creek.

Ms. Benedetti felt that the driveway leading to the sales office could be filled in with additional plants. Mr. Brougham directed Ms. Crismond to review areas where philodendrons should be removed.

Mr. DiNardo stated that The Foundation will landscape its property, once the District's plan is known.

Mr. Brougham recalled that the District received a deficiency notice from Ms. Feser regarding two areas that were within the sales office area. He reiterated that, in areas where philodendrons are in poor condition, plants should be removed and replaced with approved understory plants.

Mr. George Ohye, a resident, voiced his opinion that the CDD should employ "cutting edge" pest control, as he did not believe that the CDD has done so. He stated that all Fiddler's Creek entities should coordinate to conduct the treatment. Mr. Ohye wished to discuss his perception of "the CDD's cavalier disregard for a long-standing irrigation issue".

Regarding pest control, Mr. Ohye expressed his opinion that the District's landscaping has not been properly treated, as the trees that the District treated are not thriving as much as

trees that he felt were properly treated. He indicated that the people treating the District's landscaping should attend the county and state courses regarding how to properly treat vegetation and contended that, if the people attended those courses, the ficus trees along Mulberry that were removed, could have been saved.

Mr. Brougham advised of multiple, ongoing discussions, over the past two or three years, led by the Village Council and others, which were attended by all of the major landscaping companies working within Fiddler's Creek, on the subject of state-of-the-art ficus tree and shrub treatments for whitefly. He stated that all of the attendees, along with the county extension representative, agreed on the current state-of-the-art treatment of whitefly that the CDD's landscaper employed on the ficus trees. Mr. Brougham noted that treatment methods evolve because the pest evolved. He felt that Mr. Ohye's allegation that the Board and the District's landscapers are not following state-of-the-art procedures requires justification.

Mr. Ohye contended that there is a big difference between the ficus on his property and the ficus that the CDD treated. He stated that his pest control contractor attends seminars and extension meetings and utilizes a combination of treatments.

Mr. Rick Herndon, of TruGreen, confirmed that TruGreen attends all extension annual and quarterly seminars; additionally, Dr. Caldwell, the Florida Extension Services Director, has toured the District. He advised that TruGreen performs systemic, root and foliar applications; chemicals are rotated.

Mr. Ohye questioned whether TruGreen performed all of those types of treatments and why the treatments worked on some trees but not others. Mr. Brougham advised that the Board will not sit for a debate between Mr. Ohye and Mr. Herndon regarding whether TruGreen is doing all that it can, in accordance with state requirements for pest control. Mr. Ohye stated "my eyes tell me differently". Mr. Brougham stressed that the Board was and continues to be very concerned about whitefly and treatment of the pest and has done all that it can to fight whitefly. Mr. Brougham indicated that the Board would welcome specific recommendations from Mr. Ohye of what could be done that has not already been done.

Mr. Ohye suggested that CDD #1 take the lead on coordinating treatments between entities within Fiddler's Creek, as he believed that the issues could be related to inconsistent treatment. Mr. Brougham indicated that The Foundation is the coordinating entity to ensure that

all villages, as well as the Districts and golf course, coordinate their efforts, with respect to whitefly treatment.

Mr. Ohye recalled making prior complaints about the need to redirect sprinklers, near a monument in his community; his village volunteered to make the necessary repair and bill the CDD but was advised that the sprinkler was properly placed and that the staining on one monument was due to wind blow. He presented recent photographs of a sprinkler hitting the monument, which is contrary to what Ms. Crismond reported.

Mr. Brougham directed Mr. Herndon to redirect the sprinklers following today's meeting to ensure that there is no contact with the monument.

Mr. Ohye continued debating the matter and stated that the Board should not disregard a homeowner's statement that they received wrong information. He stated that he wanted the entire Board to know that homeowner pleas to have a situation corrected are being treated very cavalierly and the District should "get rid of TruGreen".

Mr. Brougham asked if Mr. Ohye meant that TruGreen employees are being discourteous to homeowners. Mr. Ohye clarified that he meant "TruGreen is not doing its job". Mr. Ohye hoped that the CDD would clean the monument.

Mr. Brougham directed Ms. Crismond to have the monument pressure washed.

THIRD ORDER OF BUSINESS

Special Counsel Update: Litigation Proceedings

There being no report, the next item followed.

▪ **Traffic Calming Presentation**

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

Mr. Brougham introduced Corporal Gibson.

Corporal Gibson presented information and photographs of a traffic calming speed monitoring device used by the Sheriff's Office. The unit is usually on site for one week to count vehicles, track the speed of each vehicle and provide the average and fastest speeds. She discussed the benefits of the device and potential locations.

Corporal Gibson noted that some communities utilize speed limit signs that post the speed of vehicles, as they drive by. She explained that the signs do not track speed but they alert drivers, which can be a speed deterrent.

Mr. DiNardo indicated that The Foundation will not allow that type of speed limit sign. He reported that The Foundation is working with TEM Systems, Inc. (TEM), on a similar concept that would be linked to the database but not visible; when someone speeds, The Foundation would know who it was, send a letter and issue tickets on private roads within the community and possibly suspend privileges of those who repeatedly speed on public roads. Mr. DiNardo believed that the program should be in place within one year. In response to a question, Mr. DiNardo confirmed that the system would also photograph vehicles that violate stop signs, etc. He noted that The Foundation might also turn the information over to the Sheriff's Office.

A Board Member questioned if the Sheriff's Office could take any action on information it would receive from The Foundation.

Corporal Gibson indicated that the system discussed by Mr. DiNardo appears similar to the red light cameras and explained that the issue with that system is that, while it photographs the vehicle, it does not capture the driver. She stressed that, regarding traffic enforcement, law enforcement must actually observe the infraction; action cannot be taken based on someone reporting the infraction.

Regarding the Board's prior discussions and questions about the limited number of citations issued and desire for officers to issue more, Corporal Gibson advised that statute does not allow "quotas"; therefore, law enforcement cannot be told to issue a specified number of tickets. She explained that it is the officer's discretion to make a stop and how the traffic stop is resolved. Corporal Gibson discussed visual perception of speed, which might not be accurate. She concluded that, often, speeds are not as fast as the public perceives them to be.

In response to Ms. Crismond's question, Corporal Gibson confirmed that, if a warning is issued in Collier County, it will be in the Sheriff's system, even if the driver has an out of state license; it will not track whether warnings were issued in other counties or states.

Mr. Brougham commented that stop sign violations seem most prevalent and questioned if warnings are a deterrent when citations are rarely issued.

Mr. Brougham wanted the Sheriffs to begin stopping bicyclists who disobey the rules of the road.

Discussion ensued regarding other traffic laws and violations.

Mr. DiNardo reported that the fountain in front of Marsh Cove will be completed in April, which will delay completion of the construction entrance by approximately 30 days. He indicated that, per Comcast, the cable should be completed in April so the analytic cameras and gate project is targeted for May, with completion in July.

In response to a question regarding a streetlight that is out at SR 951 and Championship Drive, Mr. Brougham directed the resident to contact the Collier County Transportation Department.

FIFTH ORDER OF BUSINESS

Engineer's Report

Mr. Cole presented Draw #92, for approximately \$3,920.04, for the Series 2005 A/B bonds, for work related to the transfer of the South Florida Water Management District (SFWMD) permits. He and Mr. Pires are working on this matter and it will be presented at the next meeting. Additionally, the draw included a permit fee for inspection on a lake that the District is trying to close out with the county.

SIXTH ORDER OF BUSINESS

Update: SR 951 Traffic Signal Installation

Mr. Cole reported that the permit was issued and work will commence in May; the mast arms were ordered. He confirmed that the traffic signal should be completed by the end of July and the beginning of the burn in period.

▪ **Irrigation Issue**

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

Mr. Brougham reported that irrigation ran for days on the north side of the lake between Peppertree and Bent Creek; TruGreen is addressing the matter. He questioned if the lake bank eroded due to the continuous irrigation. Mr. Cole will inspect the bank.

SEVENTH ORDER OF BUSINESS

Continued Discussion: Establishment of Emergency Line of Credit

Mr. Brougham advised that discussions are ongoing between Mr. Pires and an attorney representing Iberia Bank to prepare the loan documents. Mr. Pires will follow up with Iberia Bank's counsel for a status update. Mr. Brougham stated that Mr. Pires initiated contact with a

person who successfully established a line of credit at Fifth Third Bank for another CDD and is in the process of obtaining a term sheet from them.

EIGHTH ORDER OF BUSINESS

Consideration of Resolution 2015-4, Classifying Surplus Tangible Personal Property and Authorizing Disposition of Surplus Tangible Personal Property; Providing a Severability Clause; and Providing an Effective Date

Mr. Brougham presented Resolution 2015-4 for the Board's consideration.

Mr. Adams explained that the resolution authorizes and directs Staff to properly dispose of the Taurus patrol vehicle. He anticipated advertising for bids and accepting the highest bids; if no bids are received, the vehicle will be disposed of.

On MOTION by Mr. Peterson and seconded by Mr. Slater, with all in favor, Resolution 2015-4, Classifying Surplus Tangible Personal Property and Authorizing Disposition of Surplus Tangible Personal Property; Providing a Severability Clause; and Providing an Effective Date, was adopted.

NINTH ORDER OF BUSINESS

Consideration of Lake Bank Erosion Repair Proposals (to be provided under separate cover)

Mr. Cole reported that a request for proposals (RFP) was sent to five contractors; bids were received from Anchor Marine (Anchor) and Landshore[®] Enterprises, LLC (Landshore[®]), d/b/a Erosion Restoration. The most recent contractor, Anchor, bid \$174,687 and Landshore[®] bid \$149,063.52. He recommended awarding the contract to Landshore[®].

Mr. Brougham questioned whether Landshore[®] previously submitted bids. Mr. Cole did not recognize Landshore[®] as a previous bidder. In response to Mr. Brougham's question, Mr. Cole explained that the RFP was not advertised; it was sent to known contractors and contractors recommended by others. Mr. Cole confirmed that Landshore[®] would provide the same guarantees as Anchor and their references were checked.

Mr. Slater asked if the restoration method would be the same as with Anchor. Mr. Cole replied affirmatively.

On MOTION by Mr. Brougham and seconded by Mr. Bergmoser, deeming Landshore® Enterprises, LLC, d/b/a Erosion Restoration, the lowest, most responsive and responsible and best bidder proposal and most advantageous, the Landshore® Enterprises, LLC, d/b/a Erosion Restoration proposal for Phase 4 lake bank erosion repairs, in a not-to-exceed amount of \$149,063.52, was approved.

Mr. Cole anticipated that work would commence in one month and take about two months to complete. Mr. Brougham asked if Phase 4 is less extensive than the previous phases. Mr. Cole replied no; the estimate for all work was approximately \$1.7 million and the District is about \$500,000 into the overall project.

TENTH ORDER OF BUSINESS

Approval of Minutes

A. February 25, 2015 Regular Meeting

Mr. Brougham presented the February 25, 2015 Regular Meeting Minutes and asked for any additions, deletions or corrections.

Mr. Brougham referred to Pages 8 and 9 and asked Mr. Pires to review the term sheet and try to obtain a two-year loan.

Mr. Brougham referred to Lines 341 through 343 and asked Mr. Adams if he discussed the warranty and a possible reduction in fee with TEM. Mr. Adams stated that he did not discuss it and one payment was made. Mr. Brougham directed Mr. Adams to discuss this matter with TEM.

On MOTION by Mr. Peterson and seconded by Mr. Slater, with all in favor, the February 25, 2015 Regular Meeting Minutes, as presented, were approved.

○ **Action Items**

Items 1, 6, and 7 were completed.

B. March 6, 2015 Continued Meeting

Mr. Brougham presented the March 6, 2015 Continued Meeting Minutes and asked for any additions, deletions or corrections. The following change was made:

Line 14: Insert "Robert Slater Assistant Secretary"

On MOTION by Mr. Bergmoser and seconded by Mr. Turner, with all in favor, the March 6, 2015 Continued Meeting Minutes, as amended, were approved.

ELEVENTH ORDER OF BUSINESS Other Business

There being no other business, the next item followed.

TWELFTH ORDER OF BUSINESS Staff Reports

A. Attorney

Mr. Pires indicated that the Petition for Rule Amendment to Correct Legal Description, due to a scrivener error, was submitted to Mr. Kenza van Assenderp, who initiated the process to meet with the appropriate state representatives and contact county staff.

B. Manager

i. Approval of Unaudited Financial Statements as of February 28, 2015

Mr. Brougham presented the Unaudited Financial Statements as of February 28, 2015. He referred to the "Balance Sheet", on Page 1, and noted \$560 on the "BB&T - Savings" line item, which continues to reappear. Mr. Adams stated that he spoke to Staff again, during the week, to ensure that the account was shut down. It was noted that the amount was \$566 on the last unaudited financial statements and continues reducing, due to bank fees.

ii. NEXT MEETING DATE: April 22, 2015 at 8:00 A.M.

The next meeting will be held on April 22, 2015 at 8:00 a.m.

C. Operations Manager

Ms. Crismond presented the Operations Report. She advised that the landscape material buffering Mulberry Lane is in need of replacement. The current pallet of philodendron and Mexican petunia has been in place nearly eight years and should be replaced. She provided a proposal from the landscape architect for approximately \$3,000 to develop a landscaping plan; additionally, it would cost \$25 to \$50 for the DRC to review the plan.

In response to a question, Mr. Adams estimated the project cost to be \$10,000 to \$30,000. A question was raised regarding whether a landscape architect must develop the plan. Ms.

Crismond stated that Staff can develop a plan and seek approval. Mr. Adams discussed the benefits of hiring a landscape architect and noted that the plans must conform to the community standards.

Mr. Brougham indicated that, if approved, Staff should meet with the Mulberry HOA to review the plan, prior to submitting the plan to the DRC. He recalled that the landscape architect previously prepared CAD files, which should be available to The Foundation and Ms. Feser.

Mr. Albeit asked the Board to consider allowing Ms. Feser to bid on the job, as she is capable of developing a landscaping plan and producing CAD files, as well as being familiar with the community standards. Mr. Brougham had no objection. Other Board Members supported obtaining an additional bid. Mr. Adams explained that the Board could approve a not-to-exceed amount and, if Ms. Bessel's bid is lower, the contract could be awarded to her. Mr. Bergmoser pointed out that the current bid is public knowledge; therefore, Ms. Feser would know to bid lower.

On MOTION by Mr. Slater and seconded by Mr. Turner, with Mr. Slater, Mr. Turner, Mr. Brougham and Mr. Peterson in favor and Mr. Bergmoser dissenting, the Dale Slabaugh proposal to develop landscape renovation plans for the Mulberry buffer, in a not-to-exceed amount of \$2,950, subject to reviewing the plans with the Board and Mulberry HOA, was approved. (Motion passed 4-1)

A resident asked that the handout be posted on the CDD website. Mr. Brougham confirmed that it will be posted.

Ms. Crismond indicated that there was a mainline irrigation line break on Fiddler's Creek Parkway, across from Cascada. She advised that damages totaled \$27,143, which included sidewalk replacement, landscape repairs and the contractor's costs to repair the mainline.

Ms. Crismond reported that the District Engineer is obtaining estimates to install the second lift of asphalt in CDD #2 and restripe in CDD #1. Mr. Cole clarified that bids are being obtained for the paving project and he will recommend the low bidder, at the next meeting; after the contract is awarded, he will obtain an estimate from that contractor to restripe and present it in May.

Mr. Brougham advised that some areas of asphalt need to be repaired and asked that they be repaired during the paving project. Mr. Cole will inspect those areas for possible repairs.

Ms. Crismond noted construction issues with the Sandpiper Bridge; the medallion fell off. Management obtained a cost estimate to repair the bridge and is awaiting an estimate to clean and paint the bridge. She expected the work to be completed within the next two weeks at a cost of approximately \$975.

THIRTEENTH ORDER OF BUSINESS

Supervisors' Requests

Mr. Slater recalled the water leak, last Thursday, between Bent Creek and Peppertree and advised that he did not know the emergency number; he spoke to a lot of people in order to make contact with TruGreen. He noted that someone responded two days later but nothing was done; the water ran from Thursday until Monday. Mr. Slater found this situation unacceptable and asked for the phone number to contact TruGreen, in an emergency.

Mr. Brougham advised that the gatehouse should have the emergency contact number for TruGreen. Mr. Charbonneau indicated that he must confirm with Mr. Herndon that the gatehouse has the correct emergency numbers.

Mr. Herndon believed that the gatehouse has the correct numbers, as they call him on a regular basis. He stated that, when he received Mr. Slater's call, on Friday night, he immediately sent an irrigation tech to the site. Mr. Herndon noted that the valve stuck again Saturday night but could not recall when he received the second notification. He explained that the valve was replaced on Monday.

Mr. Slater indicated that the residents' perception was that work is not being done when it should be done and those residents call him because he is on the CDD Board. He reiterated that he could not locate TruGreen's emergency contact number and that he received numerous calls from residents.

Mr. Turner asked if there is a standard height for bushes, along Fiddler's Creek Parkway, especially at intersections. He pointed out an issue entering Cascada, traveling southbound on Fiddler's Creek Parkway, where oncoming traffic is not visible when turning left, into Cascada. Mr. Turner noted other blind spots throughout the community.

Mr. Brougham directed Staff to investigate the areas mentioned by Mr. Turner and survey the community for line-of-sight issues.

Mr. Slater asked Mr. Albeit and Mr. Charbonneau why, off and on, the gates going to SR 951 are stuck up. Mr. Charbonneau indicated that the issue was attributed to Comcast running the fiber optic lines related to the surveillance system, which required keeping one gate lifted when Comcast blocked one lane.

Mr. Brougham stated that the most important matters to the Board are safety and landscaping, which are a major part of the annual budget. He advised that the District is prepared and funded to address any legitimate landscaping complaint. Mr. Brougham urged residents to email or call him if they believe their concerns were rebuffed or not properly attended to by Staff.

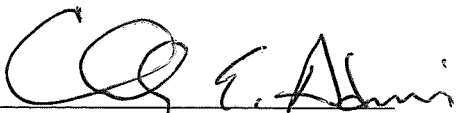
Mr. Ohye hoped that Mr. Brougham and the Board were equally concerned about residents being misinformed. Mr. Ohye questioned why a tradesman's opinion is accepted by the Board, over a homeowner's concern. Mr. Brougham acknowledged Mr. Ohye's comments but noted that, at times, residents acted inappropriately towards contractors and interacted directly, rather than contacting Staff or the Board. Mr. Brougham explained that the Board instructed all CDD contractors not to interact with residents, directly; the contractor should tell the resident to contact Staff. Mr. Ohye stated that he heard from Staff and that was what was wrong.

FOURTEENTH ORDER OF BUSINESS

Adjournment

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

On MOTION by Mr. Brougham and seconded by Mr. Peterson, with all in favor, the meeting adjourned at approximately 9:30 a.m.


Secretary/Assistant Secretary


Chair/Vice Chair