

**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, January 27, 2016 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
Carrie Robinson ( <i>via telephone</i> )	Tobin & Reyes, P.A., Litigation Counsel
Ron Albeit	The Foundation
Mike Charbonneau	The Foundation
Frank Weinberg	Resident
Richard Peters	Resident
Jesse Fritz	Resident
Eileen Robertson	Resident
Shannon Benedetti	Resident

**FIRST ORDER OF BUSINESS**

**Call to Order/Roll Call**

Mr. Adams called the meeting to order at 8:01 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)**

Mr. Frank Weinberg, a resident, reported that traffic calming will no longer be pursued, as the county will not fund any future traffic calming that the CDD is responsible for providing.

Mr. Weinberg explained that 10% of the owners in an HOA must approve the study and 51% of property owners must agree to traffic calming, before the county will consider it. Mr.

Brougham asked if the CDD is responsible for the cost, versus the homeowners, if all requirements were met; the majority of homeowners must approve it and the CDD would then vote and pay for it. Mr. Weinberg replied affirmatively.

Mr. Richard Peters, a resident, inquired about the Cherry Oaks Lane deed. Mr. Pires has a copy of the Special Warranty Deed recorded on December 15, 2015. Mr. Brougham stated that Cherry Oaks Lane belongs to and will be maintained by the District. Ms. Crismond indicated that work will be scheduled when the weather clears. Mr. Brougham pointed out that the sidewalks and gutters need cleaning and the curbs, light poles and the stop sign need repainting. Ms. Crismond confirmed that the landscaping is already maintained and the additional maintenance items will be completed, as weather permits. Mr. Brougham requested removal of a broken tree limb. In response to a question from Mr. Peters, Mr. Brougham indicated that the District is responsible for the trees and the area between the lane and the lake; the developer was previously responsible but did nothing.

Mr. Jesse Fritz, a resident, asked about the fire hydrants. The Fire Marshall advised Mr. Brougham that no contractors were willing to paint only two fire hydrants. Mr. Brougham recommended a contractor to the Fire Marshall. Mr. Fritz was willing to paint the fire hydrants if the Fire Department supplied the paint.

Ms. Shannon Benedetti, a resident, and member of the landscape advisory team (LAT), toured the entire property. For budget purposes, Ms. Benedetti requested that the Board consider enhancing the front entrance and obtaining design plans from the landscaper for shrubbery enhancements. She referred to photographs of flower plantings from other areas, such as the Marriott golf course, which has white flowers, and Mahogany, which uses purple, pink and white flowers. Ms. Benedetti recalled that the Board agreed to flower plantings, four times per year. This request was for short-term flower enhancements.

Ms. Crismond asked Ms. Benedetti to recommend types of flowers and she will include them in the flower schedule received from The Foundation.

Mr. Adams recommended that Ms. Benedetti and Ms. Crismond coordinate the flowers, in the future.

Ms. Benedetti asked about plantings around the traffic signal control box. Mr. Brougham indicated that plantings were considered; however, he believed there is a 6' setback requirement around the control box. Mr. Cole clarified that 3' is the minimum clearance requirement. Mr. Brougham asked who has jurisdiction for approval. Mr. Cole replied the Department of

Transportation (DOT). Mr. Brougham inquired if Staff must draft a planting plan and submit it to DOT. Mr. Cole replied affirmatively. In response to Mr. Brougham's question, Mr. Albeit suggested asking Horticulturalist, Ms. Cathy Feser, for recommendations. Mr. Brougham asked if the control box is on District property. Mr. Cole indicated that it is within the 951 right-of-way (ROW). Mr. Brougham believed that Ms. Feser would not want to be involved because the control box is on state property.

Mr. Brougham asked if there is a plan for installation of shielding plant materials. Mr. Cole replied affirmatively, according to the state. Mr. Brougham asked Ms. Crismond for recommendations from other landscapers, as the District is responsible for mowing to the pavement and trimming. Mr. Cole noted that the District is responsible for irrigation.

Mr. Albeit stated that developer input is necessary for the landscaping in front of the property and suggested that Ms. Feser provide landscaping recommendations.

Mr. Peterson asked if there were budget issues. Ms. Crismond indicated that the cost would be minimal. Mr. Brougham preferred to obtain a cost estimate, prior to commencement of any work.

Referring to a photo, Ms. Benedetti pointed out large Philodendrons with exposed roots along Fiddler's Creek Parkway, before the guardhouse, and indicated that Ms. Feser suggested adding smaller plantings. Mr. Brougham advised that maintenance of the area along the lake bank, entering from 951, to the information center, is the developer's responsibility. The work was performed in two phases. In Phase 1, Mr. Albeit arranged for removal of all plant material, up to the Sales Center driveway. In Phase 2, 20' was removed and replaced. Mr. Brougham believed that Ms. Benedetti was referring to the 20' to 30' of the bed that was not touched. Ms. Benedetti was referring to beds closer to the entrance. Mr. Albeit verified that the area at the beginning of the Sales Center must be completed. Mr. Brougham asked what area belongs to the CDD. Ms. Benedetti identified an area with two trees, at the entrance, near 951. Ms. Benedetti will tour this area with Ms. Crismond.

Mr. Brougham felt that dead plant material should be identified by Ms. Crismond and the landscaper and not by residents. Residents who observe dead plant materials should email a Board Member or Ms. Crismond, versus waiting to report it at a meeting.

In response to Ms. Crismond's question, Ms. Benedetti requested additional plantings around the exposed roots of the large Philodendrons. Mr. Brougham wanted the exposed roots removed.

Ms. Benedetti noted an area, by the guardhouse, where flowers were sparse and old pots were left behind. She requested alternative plants for the bougainvilleas in the medians. Ms. Feser will evaluate the medians this Friday and provide opinions. Ms. Crismond noted it has been raining and bougainvilleas do not like water. Ms. Benedetti reported that the landscaper is still trimming the Championship Drive median hedges in a roller-coaster pattern.

Ms. Eileen Robertson, a resident, noted that landscaping along the Mulberry wall was not replaced. Ms. Crismond indicated that one section was recently approved and work for the remainder will be scheduled, as weather permits. Three additional sections were identified, on the other side of the wall, which were damaged during the demolition work. Ms. Robertson recalled that the landscaping was never addressed when the first part of the wall was repaired. Mr. Brougham reported this area to Ms. Crismond within two days of the demolition work; there is no excuse for the contractor to leave debris. Ms. Crismond agreed that it was unacceptable. Mr. Brougham advised that the landscaper is replacing the landscaping, as quickly as possible. Ms. Crismond pointed out that the contractor was delayed, due to the weather conditions.

Regarding the bougainvilleas in the medians, Mr. Brougham indicated that Ms. Feser approved firebush, which were planted on Fiddler's Creek Parkway, between Club Center Boulevard and Championship Drive.

**THIRD ORDER OF BUSINESS****Special Counsel Update**

Ms. Robinson had nothing to report, as the court has not ruled on the pending Motion to Dismiss. A ruling was expected over the Christmas holiday but no ruling was made. Ms. Robinson advised that this is an unusual situation, as the issues are complicated. The proposed order submitted by U.S. Bank was 30 pages. She anticipated that it would take time for the judge to review his notes and become familiar with all of the pleadings.

Mr. Brougham surmised that there is nothing the District can do. Ms. Robinson agreed and felt that further evaluation is necessary to determine if there is a benefit to push the court to provide an order but, currently, it is not warranted. Mr. Brougham suggested asking the other party to propose a reasonable settlement. Ms. Robinson felt a settlement was unlikely.

Mr. Slater asked if judges are rotated in Florida, from one position to another, and whether it is likely for Judge Shenko to be rotated. Ms. Robinson believed that there is a possibility but it would have already occurred, for this calendar year, as all seats in Collier County are set for the year.

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

Mr. Brougham requested discussion about the Sheriff patrol and the Mulberry property owner issue, after the Sixth Order of Business.

**FOURTH ORDER OF BUSINESS**

**Developer's Report**

There being no report, the next item followed.

**FIFTH ORDER OF BUSINESS**

**Engineer's Report**

Mr. Cole reported that a patch of paving, completed by the contractor, at the corner of Fiddler's Creek Parkway and Club Center Drive is separating. The contractor is supposed to return, shortly.

Mr. Cole advised that the county is supposed to complete one more inspection of the SR 951 traffic signal. In response to Mr. Albeit's question, Mr. Cole indicated that the county will remove the temporary construction warning signs, after the inspection.

Regarding beautification of the front entrance, Mr. Brougham asked if the large white "For Sale" signs, will be replaced. Mr. Albeit indicated that the signs may be modified. Mr. Brougham heard from residents that the sign is "not classy" and is "a distraction".

Mr. Cole reported that completion of the lake bank erosion project was delayed, due to rain. He anticipated that the contractor is a few weeks from cutting the bags and spreading the material.

Regarding the Waste Management hydraulic spill, Mr. Cole reported that oil was cleaned off of Cherry Oaks Lane, a few weeks ago, and the valley gutter was repaired. Mr. Brougham observed that Waste Management has brand new trucks which, supposedly, are less leak prone. Ms. Crismond pointed out that, recently, a Waste Management spill occurred in CDD #2. The spill occurred in Menaggio.

Mr. Cole is preparing a list of villages that have backflow assemblies and are responsible for their own fire hydrant maintenance. Mr. Brougham had a list, several meetings ago, which included all condo associations, except Montreux. Mr. Cole noted that the November minutes reflect that the HOA is responsible for maintaining, repairing and painting the fire hydrants at the Sales Center, Whisper Trace, Cascada, Cranberry, Deer Crossing and Clubhouses.

A resident recalled that, about four years ago, Mr. Albeit sent a letter to all association presidents regarding their responsibility for the fire hydrants and backflow.

Mr. Brougham asked about the traffic light reimbursement. Mr. Adams was waiting for release of the final retainage. For CDD #2, it will be in the form of a requisition, which will be drawn upon from the construction fund. Mr. Brougham asked if the retainage release will occur when the burn-in period ends. Mr. Adams replied affirmatively. In response to Mr. Brougham's question, Mr. Cole indicated that all punch list items were completed; the final inspection by the county is pending.

**SIXTH ORDER OF BUSINESS**

**Update: Highview Roost Road Zoning  
[excerpted] (for informational purposes)**

Mr. Pires indicated that the District has property within 500' of the requested re-zoning; therefore, the county notified residents of a neighborhood information meeting.

Mr. Brougham pointed out that the road is closer to CDD #2. Mr. Adams indicated that it is on the north boundary of CDD #2. Mr. Pires noted that the access point is off of Manatee Road.

▪ **Discussion: Sheriff's Patrol**

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

Mr. Brougham reported that, according to Ms. Crismond's Operations Report, 45 warnings and two citations were issued, as of January 22, 2016; five were issued to Staff. Mr. Brougham pointed out that, for only 4% of residents to be issued a warning, versus a citation, for running stop signs and/or speeding, speaks to the ineffectiveness of the Sheriff's patrol. The Sheriffs are meant to be a deterrent to speeders and stop sign runners; however, when only 4% are issued, he questioned whether the Sheriffs are a deterrent. Mr. Brougham noted that in 2009, there were 1,920 violations; of those, 1,588 were warnings and 332 were citations, equating to 17.3%. In 2015, of 264 total violations, 18 were citations, which is 6.8%.

Mr. Brougham recommended further discussion of this matter and definitive action by the Sheriff or alternative law enforcement, to serve as a deterrent. He felt obligated to do something different, if the intent was to reduce the number of moving violations. Mr. Brougham pointed out that past enforcement was at the discretion of a District commander or lieutenant. He suggested more stringent enforcement from the Florida Highway Patrol (FHP).

Mr. Peterson recalled increasing the number of times the patrols entered the community, during the season, to establish a baseline. Ms. Crismond pointed out that patrols were increased to twice per week, in season, and once per week, during the off season. Mr. Peterson asked if the officer had direction. Ms. Crismond indicated that, when there are issues, she contacts Ms. Edyth Bird, of the Collier County Sheriff's Office, and Ms. Bird will dispatch an officer to patrol the specific neighborhood. In response to Mr. Peterson's question, Ms. Crismond indicated that the Collier County Sheriff's Office determines the time of day to patrol. Mr. Peterson witnessed speeding cars while walking his dog, between Championship Drive and Fiddler's Creek Parkway, especially contractors exiting Runaway Bay. Mr. Slater preferred that tickets be issued, not warnings. Ms. Crismond noted that the District has no control over what the officers do. Staff spoke to the officers, numerous times; officers write tickets at their own discretion. Mr. Peterson felt that it is useless to have officers who refuse to write tickets.

Mr. Turner questioned the return that the District receives on its investment and requested the number of warnings issued for first time offenders, versus repeat offenders. Ms. Crismond noted that the Collier County Sheriff's Office only keeps track of Florida drivers, not out of state drivers. Mr. Turner suggested that an officer be posted every day, for two weeks, at peak times, such as when people are leaving for the day.

Mr. Brougham and Ms. Crismond spoke to Ms. Bird and a lieutenant, at the Collier County Sheriff's Office, last year, regarding the number of repeat offenders and was directed to the Driver And Vehicle Information Database (D.A.V.I.D.) system. With this system, an officer can swipe a driver's license on his computer to determine if the driver had any prior warnings but the officer still has the discretion to write warnings or issue tickets.

Mr. Bergmoser agreed that it is "ridiculous" to spend money when law enforcement only issues warnings, as it does not stop bad behavior, and the problem is getting worse. Mr. Slater agreed and requested that Mr. Charbonneau's staff patrol Championship Drive early in the morning and in the evening. Even if Mr. Charbonneau's staff cannot issue a warning, license plate numbers can be recorded. Mr. Peterson suggested that Mr. Charbonneau's staff utilize their flashing lights.

Mr. Charbonneau agreed with Mr. Turner's suggestion to post an officer every day, for two weeks, and confirmed that the patrol times are staggered from 6:00 a.m. to 10:00 a.m., 5:00 a.m. to 9:00 a.m. and 1:00 p.m. to 4:00 p.m., based on the log sheet. Mr. Charbonneau explained that a written warning is entered into the D.A.V.I.D. system; the officers discretion is mandated

by the state, meaning officers cannot be forced to issue tickets. According to the data, speeding is not as rampant as running stop signs but, running stop signs continuously gives the appearance of someone driving 70 miles-per-hour (mph).

Ms. Benedetti indicated that, at times, the Collier County Sheriff's Office has an empty vehicle on Sandpiper Drive.

Mr. Fritz stated that four different officers live on St. Andrews Boulevard, in Lely, and there are speed bumps, which he does not want.

Mr. Brougham requested concurrence from the Board to authorize Mr. Pires to draft a letter, for the Chair's signature, to Collier County Sheriff Kevin Rambosk, with a copy to the lieutenant or District Commander, stating the following points:

1. The population of Fiddler's Creek's is increasing, daily. As more and more people move in, particularly during the season, traffic violations observed by Sheriffs have increased.
2. Contrary to that trend, the trend on citations issued has gone down and the Board is concerned and continues to be concerned about the safety of residents, pedestrians, bikers and walkers in this community.
3. The Board would like Sheriff Rambosk's input and suggestions to alleviate the situation, as the Board understands that Staff cannot force officers to write citations. Officer discretion seems to be out of control and one-sided, leaning towards lax enforcement.

Mr. Pires recommended exercising discretion. Mr. Brougham requested that Mr. Pires ask Sheriff Rambosk to attend a meeting or respond, in writing, to the Board's concerns.

Mr. Brougham stressed that the Board wants something done, wants Sheriff Rambosk's input and the number of violations to decrease.

Mr. Brougham motioned for a patrol each day, for 28 days in February, with alternate time frames, particularly in the early morning and late afternoon. This request must be approved by CDD #2. Mr. Adams asked what happens if CDD #2 does not concur. Mr. Brougham indicated that CDD #1 would bear the total cost.

Mr. Slater disagreed with the motion. Mr. Brougham noted that the cost is minimal. Mr. Bergmoser would be surprised if the Sheriff dedicates that much manpower to this low crime area. Mr. Brougham stated that the hours are not the Sheriffs hours.

Mr. Brougham asked Ms. Crismond to contact the Florida Highway Patrol (FHP) regarding hiring off-duty officers. Mr. Turner asked Ms. Crismond to inquire about multiple



patrols for one time period, so there is multiple coverage. Mr. Brougham noted that patrols are subject to availability.

Mr. Brougham asked if the request for one officer per day is reasonable or if there should be three or four cars per day, for one week.

In response to Mr. Bergmoser's question Ms. Crismond indicated that the District pays \$45 per hour, for a maximum of four hours, twice per week. Mr. Bergmoser stated that it equates to \$180 per day. Mr. Brougham estimated a cost of \$6,000 for 29 days. Mr. Bergmoser commented that, if CDD #2 does not want to share in the cost, the Sheriffs would be directed to only patrol CDD #1.

Mr. Weinberg suggested telling Sheriff Rambosk, or the lieutenant, that the District has a problem and is willing to pay more money and see what they recommend. Mr. Slater disagreed, as no matter what the District does, the Sheriff will have discretion and the same amount of people will continue speeding, despite receiving a warning. Mr. Slater supported installing speed bumps on Championship Drive.

Mr. Turner agreed with Mr. Weinberg and recommended disseminating the message that the roads belong to the county and traffic violations are enforceable. Mr. Brougham agreed.

Mr. Brougham rescinded his motion for a patrol each day, for 28 days, for the month of February, with alternate time frames, particularly in the early morning and late afternoon, with the exception of the authorization for Mr. Pires to draft a letter, for the Chair's signature, to Collier County Sheriff Kevin Rambosk, outlining the problem and requesting recommendations.

Ms. Benedetti asked if the Board wanted her to place a friendly reminder in the newsletter that the roads are public.

Mr. Brougham voiced concern that five Staff members received citations and requested a list of the Staff members from Mr. Charbonneau. Mr. Charbonneau agreed but noted that he is not privy to this information. Mr. Pires will research whether a written warning is public record.

Mr. Bergmoser proposed inviting Sheriff Rambosk and his lieutenant to lunch at The Gator Grill, so that the Chair can voice the Board's frustration. Mr. Charbonneau reported that Lieutenant Jay Mulholland, Collier County District Commander, is not responsible for the traffic and suggested contacting Lieutenant Jones, head of contract services, as it was unlikely that Sheriff Rambosk could attend, on short notice. Ms. Crismond will contact Ms. Bird, as Lieutenant Jones retired.

Mr. Brougham reiterated that if CDD #2 does not concur with sharing costs, patrols will be restricted to CDD #1.

Ms. Crismond asked if the Board wanted multiple officers once or twice per day. There was Board consensus for one patrol per day, for two weeks.

Mr. Pires advised having one meeting, if Lieutenant Mulholland and Sheriff Rambosk were willing to speak to the Board. Mr. Brougham suggested scheduling a meeting at the end of the CDD #1 meeting.

**On MOTION by Mr. Brougham and seconded by Mr. Bergmoser, with Mr. Turner, Mr. Brougham, Mr. Bergmoser and Mr. Peterson in favor and Mr. Slater dissenting, authorization for Staff to contact Ms. Edyth Bird, of the Collier County Sheriff's Office, to provide an off-duty Sheriff twice per day, at varying hours, during the first two weeks of February, and sharing the cost with CDD #2, were approved.**

Ms. Robertson suggested that the Sheriff's representatives attend The Foundation meeting, on February 16, which is open to CDD #1 and CDD #2 Board Members and all residents. Mr. Brougham asked Mr. Albeit to make arrangements with the Sheriff's representatives.

▪ **Discussion: Mulberry Tree Pruning**

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

Mr. Brougham recalled a request from an adjacent property owner to prune a section of Ficus trees overhanging his property, which runs parallel to the fence on Mulberry Lane and Peppertree Way, on the other side, which is referred to as Diamond Shores. The property owner is planning to build three-story buildings, with a parking garage on the first floor. Mr. Brougham indicated that the property owner also wanted to paint the fence gray. Mr. Adams and Ms. Crismond met with the property owner to coordinate the work; however, instead of pruning the trees, the property owner chopped them down, leaving half-topped trees along the Mulberry Lane fence.

Mr. Brougham was not pleased with the way that the Ficus trees were thinned out in a 30' to 40' section. He felt that the property owner violated county code, as a county ordinance prohibits cutting trees, in this manner. The ordinance allows for reduction of 20% to 25% of a

canopy by pruning but not removing the canopy. It will take significant time for the greenery to return on that side of the fence.

Mr. Brougham requested that the property owner and/or his contractor be held responsible for removing the Ficus stumps and replacing the cut trees with the appropriately sized Live Oak trees or other type of canopy tree, as the trees were planted as a buffer between Fiddler's Creek, Mulberry and Port Au Prince, also known as Diamond Shores.

Mr. Pires advised of a conflict of interest, as his partner represented the buyer of the property. He suggested contacting Mr. Carlo Zampogna to represent the District.

Mr. Brougham voiced surprise that the property owner could be so irresponsible in the supervision of their contractors and take advantage of the opportunity to improve their property, with complete disregard that District property was destroyed, in the process.

Mr. Peterson asked if the Ficus trees are on District property. Mr. Brougham replied affirmatively. Mr. Adams advised that the Ficus trees are within a tract of land owned by the CDD that extends 15' to 16' beyond the other side of the fence. In response to Mr. Peterson's question, Mr. Adams indicated that the property owner was provided with the trimming parameters. The Ficus trees had not been trimmed since 2008.

Mr. Adams discussed the property owner's ability to clean up the area, on his side of the fence, with him. The property owner confirmed that this was not a problem and asked if he could paint his side of the wall. Mr. Adams agreed, as long as the property owner updated Staff about what he was doing, so it would not negatively affect the structural integrity of the wall. Mr. Adams and the property owner spoke about the parameters for reducing and thinning back the Ficus canopy. The property owner had a contractor perform this work and assured Mr. Adams that the contractor was qualified and had the proper licenses, which was not true. The property owner failed to provide the contractor's qualifications and Certificate of Insurance to Ms. Crismond, so that the action could be consummated, in a formal agreement. Subsequently, Mr. Adams and Ms. Crismond received emails with pictures and phone calls reporting that the property owner was "whacking" the trees.

In response to Mr. Peterson's question, Mr. Adams indicated that the property owner cut the trees without providing the requested information. Ms. Crismond met with the property owner on Friday, January 15 and the demolition crew was on site on Monday, January 18. Ms. Crismond did not know there was an issue until she contacted the property owner regarding the requested information and was told that the work already commenced. Mr. Adams stated that

the property owner ceased all cutting as soon as Ms. Crismond contacted him and acknowledged responsibility for the repairs. The property owner was contacted by the District's tree company, Davey Tree, who will perform the remainder of the tree canopy reduction work.

Mr. Adams confirmed that the property owner is building three-story buildings, with parking on the first floor and living spaces on the upper two floors. The structures will be 30' tall. Mr. Adams pointed out that the property owner has as much investment in the integrity of the hedge line, buffer and tree canopies, as the District. In addition to replacing the trees, the property owner will be required to provide an additional layer of buffering, as a part of the Land Development Code, resulting in multiple buffer layers.

Mr. Adams estimated that the property owner must remedy 200', along Mulberry Lane. Fortunately, the cutting stopped prior to the houses. Several years ago, the trees were taken down to the same height as the hedge line in CDD #2; however, it was completed in three annual phases, in accordance with the county ordinance, so there was no damage to the trees. Mr. Adams expected that the trees will grow back over the summer. In response to Mr. Peterson's question, Ms. Crismond indicated that there is a chance that the Ficus trees will recover but they may not. The fact that the property owner did not complete the cutting in phases and took 40' feet off a tree in one cut, is significant.

Mr. Peterson felt that there is no remedy other than time, as a full grown Ficus tree cannot be planted. Mr. Adams agreed that it will take a significant amount of time for the Ficus trees to fully recover and a good possibility that a large percentage will not recover, due to the significance of the one-time cut. Mr. Adams advised that the District is in a good position to demand that the property owner remove the Ficus tree stumps and plant Oak trees, which are heartier and require less maintenance. Mr. Peterson asked if it is possible to obtain sizeable Oak trees. Mr. Adams replied affirmatively, noting that the plan is to plant 20' nursery grown Oak trees, as any larger sizes would be field grown and the relocation process would shock the tree, causing it to take two to three years to establish.

Mr. Adams and Ms. Crismond agree with Mr. Brougham's request to hold the property owner and/or his contractor responsible for removing the Ficus stumps, replace the section with Oak trees and pay Davey Tree to properly prune the remaining Ficus trees.

Ms. Robertson asked if the crumbling wall is the property owner's responsibility. Mr. Adams indicated that the wall is the District's responsibility but the property owner damaged three panels, which the owner is paying for, as well as any other damage. Ms. Crismond

reported that the current landscaping property abutting Mulberry is scheduled to be completed next Tuesday, weather permitting.

Mr. Brougham asked if the District should have an attorney draft a letter of notification to the property owner, citing what occurred, the circumstances and what the District requires. Mr. Pires recommended that the District retain an attorney to prepare the letter. Mr. Adams will contact Mr. Zampogna’s law firm.

**SEVENTH ORDER OF BUSINESS**

**Approval of Minutes**

**A. November 18, 2015 Regular Meeting**

Mr. Brougham presented the November 18, 2015 Regular Meeting Minutes and asked for any additions, deletions or corrections.

Mr. Brougham referred to Line 80, on Page 3; he was not aware of any bond draws. Mr. Cole explained that the draw was for OnPower, for the sewer line. Draws are still being processed and paid through the General Fund. Mr. Adams stated that the Series 2005 A/B bonds are the construction funds, which CDD #2 will utilize to pay their portion. Mr. Brougham felt that processing a payment was one thing but bonds should not be referenced. Mr. Pires suggested changing the reference.

Mr. Pires recommended deleting “Mr. Cole replied when the retainage is released”, as this did not make sense. Mr. Adams explained that CDD #2 will be invoiced for their portion of costs when the retainage is released.

The following changes were made:

Line 80: Remove “for the Series 2005 A/B bonds,”

Line 118: Change “East Naples Spa” to “East Naples Fire District”

Line 167: Insert “on Fiddler’s Creek Parkway” before “Mr. Cole replied no, because many areas,”

Lines 172 and 173: Change “three to five years” to “15 to 20 years”

Line 120: Change “Mr. Albeit” to “Mr. DiNardo”

Line 283: Insert “Manager” after “District”

**On MOTION by Mr. Brougham and seconded by Mr. Bergmoser, with all in favor, the November 18, 2015 Regular Meeting Minutes, as amended, were approved.**

**B. December 9, 2015 Regular Meeting**

Mr. Brougham presented the December 9, 2015 Regular Meeting Minutes and asked for any additions, deletions or corrections.

The following changes were made:

Line 23: Delete "Tony DiNardo";

Line 129: Change "CDD" to "county"

**On MOTION by Mr. Bergmoser and seconded by Mr. Brougham, with all in favor, the December 9, 2015 Regular Meeting Minutes, as amended, were approved.**

**EIGHTH ORDER OF BUSINESS**

**Action Items**

Mr. Brougham reported that Items 5 and 16 were completed.

Regarding Item 22, Mr. Brougham did not see a notice on The Foundation's website to

contact Ms. Crismond about dead plants.

Mr. Adams reported that Item 24 was completed. Mr. Pires advised that the records of

the Secretary of State reflect the name change of TruGreen LandCare, LLC to LandCare USA,

LLC (LandCare).

Mr. Albeit asked about the status of Item 11. Mr. Pires indicated that the documentation

for the buffer tracts is in process. Mr. Brougham asked if this item should be considered

ongoing. Mr. Pires replied affirmatively.

**NINTH ORDER OF BUSINESS**

**Other Business**

There being no other business, the next item followed.

**TENTH ORDER OF BUSINESS**

**Staff Reports**

**A. District Counsel**

Mr. Pires participated in a conference call with developer's counsel regarding the

proposed new boundary changes for CDDs #1 and #2.

Mr. Pires emailed county staff requesting a meeting and will follow up, as a meeting is

necessary to ascertain what documents are required to submit the application for the land swap.

Mr. Pires reported that a Report and Conclusions was sent to the attorneys in Tallahassee to file with the state.

**B. District Manager**

**i. Approval of Unaudited Financial Statements as of December 31, 2015**

Mr. Brougham presented the Unaudited Financial Statements as of December 31, 2015.

Mr. Adams reported that a majority of the annual revenues were received during the December, which is typical. Assessment revenue collections were at 81%. Expenses were in line, with the exception of "Legal advertising", due to publishing requirements for the property line correction and annexation of the property.

Mr. Brougham asked who pays the legal advertising costs for the annexation. Mr. Adams indicated that the developer will reimburse the District. Mr. Adams will coordinate with Mr. Pires on the attorney invoices. Mr. Pires billed the District's portion, along with the legal advertising expense, and Mr. Pires will receive reimbursement. Mr. Adams recalled Mr. DiNardo stating, on the record, that the developer is paying for the entire process.

Mr. Brougham indicated that, under "Assets", "Due from other funds" was \$128,803 and "Due to other funds General fund 001" had the same amount. Mr. Adams recalled that \$128,803 was the funding of the entitlement expenses, due to activities that the District Engineer was conducting on behalf of the District, during the bankruptcy. Since the District does not have access to the construction funds, those expenses continue to be booked as due and as part of pursuing the recovery of funds from U.S. Bank. Upon the advice of special counsel, Mr. Adams advised that the foreclosure expenses were removed, based on the arguments the CDD was asserting.

Mr. Turner asked if the "Balance Sheet" reflected the payment for the traffic signal. Mr. Adams indicated that the retainage for the traffic signal was under "On Power Svc retainage". The retainage for the lake bank erosion repairs was under "Landsshore Enterprises retainage" and the asphalt retainage was under "Preferred Material retainage". In response to a question, Mr. Adams explained that the OnPower retainage is 10% of the contract, as \$360,000 was paid and the final contract amount was \$455,460. Mr. Brougham pointed out that the District will receive funds from CDD #2. Mr. Adams estimated that 50% will be paid back from CDD #2.

**ii. NEXT MEETING DATE: February 24, 2016 at 8:00 A.M.**

The next meeting will be held on February 24, 2016 at 8:00 a.m.

**C. Operations Manager**

This item was not discussed.

**ELEVENTH ORDER OF BUSINESS**                      **Supervisors' Requests**

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

**TWELFTH ORDER OF BUSINESS**

**Adjournment**

There being no further business to discuss, the meeting adjourned at approximately 9:30

a.m.

The meeting reconvened at 9:35 a.m.

▪ **Additional Landscape Cleaning**

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

Ms. Crismond recalled that, at last month's meeting, concerns were addressed with the timeliness of debris removal and plant replacements by LandCare. She pointed out that the contract is not specific to a seven-day turnaround on plant replacements; seven days is only required for a defective work notice. This was never an issue with LandCare, until the last few years when the level of service changed.

Ms. Crismond requested a proposal from LandCare of \$4,600 per month, which would include a two-man crew, on site, every morning and afternoon, Monday through Friday, to pick up trash and vegetation. Under the current contract, LandCare picks up debris at the end of each day. LandCare is acknowledging a guarantee on the timing of plant replacements.

Mr. Slater asked if providing plant replacements within seven days is included in the proposal. Ms. Crismond did not have an actual breakdown; however, she requested a guarantee from LandCare and it is included in the proposal. Mr. Brougham explained that LandCare is responsible for replacing dead plant material, at their cost, under the current contract but the contract did not specify the time frame. The contract will be amended to include the language, "LandCare must replace dead plant material, at their cost, within seven days." There is no additional fee. Mr. Adams pointed out that the financial impact is the additional sweeping, five days per week.

Mr. Pires advised that the proposal does not reflect that the additional debris removal is five days per week. It says, "Upon approval, there will be one property sweep taking place, at the start of service each day and one property sweep at the end of the day". Ms. Crismond

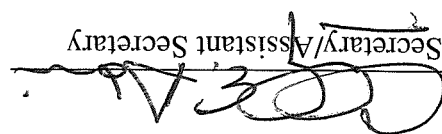


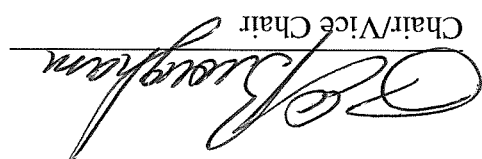
clarified that, upon approval of the proposal, LandCare will complete a sweep of the property, five days per week, twice per day. Mr. Pires recommended removing "Upon approval". Mr. Adams will strike it from the proposal.

**On MOTION by Mr. Brougham and seconded by Mr. Turner, with all in favor, the LandCare USA, LLC proposal for debris removal, twice per day, five days per week and seven day dead plant replacement, within seven days, in a not-to-exceed amount of \$4,600, was approved.**

There being no further business to discuss, the meeting adjourned at approximately 9:42 a.m.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

  
Secretary/Assistant Secretary

  
Chair/Vice Chair