

**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, October 26, 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
Richard Peterson	Vice Chair
Robert Slater	Assistant Secretary
Charles Turner	Assistant Secretary
Gerald Bergmoser	Assistant Secretary

**Also present were:**

Chuck Adams	District Manager
Cleo Crismond	Assistant Regional Manager
Tony Pires	District Counsel
Terry Cole	District Engineer
Carrie Robinson ( <i>via telephone</i> )	Special Counsel
Tony DiNardo	Developer
Ron Albeit	The Foundation
Shannon Benedetti	Landscape Advisory Committee
Mike Charbonneau	The Foundation

**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)**

There being no public comments, the next item followed.

**THIRD ORDER OF BUSINESS**

**Special Counsel Update**

Ms. Robinson stated that, for the past several months, Special Counsel worked with opposing counsel to establish a deposition schedule for the District's case, along with CDD #2's

underlying case. The first person on the schedule was Ms. Kathy Broecker, U.S. Bank Representative; the deposition commenced, several years ago, and would continue on November 9 and would be for both cases. The deposition of Mr. Elliot Miller, Corporate Representative of CDD #2, should occur prior to the end of the year but may not occur due to the deposition of another U.S. Bank Representative, Mr. Scott Strodhoff. Depositions would occur in the order established.

Mr. Brougham referred to developments, two or three weeks ago and discussed in the Executive Session, and asked how the depositions run in opposition to that discussion, with respect to U.S. Bank. Ms. Robinson stated that depositions were being scheduled but it still leaves room for other things to happen in the case and would not preclude those; it would be foolhardy, given the numerous schedules involved, to not proceed with the established deposition schedule. Mr. Brougham asked if depositions were proceeding as if the other matter did not occur and, if something developed with the other matter, the District would proceed with it. Ms. Robinson replied affirmatively.

Mr. Slater asked how many depositions were scheduled. Ms. Robinson stated that, currently, eight depositions were scheduled but a number were being sought. Neither CDD #1 nor #2 had a large list of deponents, as the issues were believed to be narrow and of which the witnesses' knowledge would be minimal; however, U.S. Bank and ITG did not agree and had a large list of additional deponents. Both sides agreed to alternate. Mr. Slater asked if there would be 20 to 25 depositions. Ms. Robinson replied affirmatively; however, ITG's depositions would not affect CDD #1 nor be part of the CDD #1 case. As information is obtained and the more important depositions are taken, other depositions might not be taken.

Mr. Slater wanted this item included on the Action Items List, as he had personal misgivings, and asked that it also be included as an Agenda Item. Mr. Slater wanted to discuss the cost and impact to the District. Mr. Brougham believed that the District did not have a choice. Mr. Pires suggested holding a closed-door session to discuss these matters, as they are related to legal and case management strategies, rather than discussing it in an open meeting. Ms. Robinson agreed that the discussions would be litigation strategy and suggested scheduling the Executive Session for November 2. Mr. Bergmoser wanted to delay the Executive Session until Mr. Reyes advised whether the other effort was successful. Ms. Robinson stated that an Executive Session must be requested during a Regular Meeting; therefore, if not scheduled today, the Executive Session could not be scheduled until the November meeting. Ms.

Robinson requested that today’s meeting be continued to Wednesday, November 2, 2016 at 3:00 p.m., at this location, for the purpose of holding the Executive Session

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

**FOURTH ORDER OF BUSINESS**

**Developer’s Report**

There being no report, the next item followed.

**FIFTH ORDER OF BUSINESS**

**Engineer’s Report**

Mr. Cole stated that, with the end of the wet season, lake levels were receding but remained slightly high. Lake 7 receded below the level of the geotube bag so the contractor should be able to cut the bags and sod the bank to start to complete Phase 5 work within the next two weeks. As water levels continue receding, Mr. Cole would inspect and prioritize work to be included in Phase 6 and completed during Fiscal Year 2017. Regarding sidewalk repairs, Mr. Adams previously obtained a proposal from Southern Striping Solutions, LLC (SSS), for approximately \$7,000, and Mr. Cole obtained a proposal from Curb Systems of SW FL and Sarasota, LLC (Curb Systems), for approximately \$17,000. Mr. Cole recommended that SSS perform the curb repairs. Mr. Adams stated that, based on the Board’s motion approving the work, at the last meeting, the proposal was executed and sent to SSS, yesterday. In response to Mr. Bergmoser’s question, Mr. Cole confirmed that the scope of work included the 135 previously identified areas. Ms. Crismond advised Mr. Cole, earlier today, that the sidewalk repair, across from Cascada, was failing; he would inspect the area today and likely have SSS repair it. Ms. Crismond clarified that the sidewalk was not failing; the issue was sediment washing out from under the sidewalk.

**SIXTH ORDER OF BUSINESS**

**Consideration of Fiddler’s Creek Foundation d/b/a FC Safety Renewal to Contract (Access Control Services)**

Mr. Adams stated that the contract included the additional guard, at the main gate, from December 19, 2016 through April, 2017. The contract was in a not-to-exceed amount of \$622,905.

Mr. Pires distributed an Addendum to the contract regarding public records law, which clarified the public records obligations of contractors entering into contracts with public entities,

which requires specified language to be in all contracts entered into or amended, after July 1, 2016.

Mr. Peterson asked if Mr. Charbonneau was the Project Manager reflected in Item 3, on Page 2. Mr. Adams replied affirmatively. In response to Mr. Slater’s question, Mr. Adams indicated that the \$622,905 amount was what was approved, as part of the budget adoption process; the Ninth Order of Business was related to increasing the guard hours, at certain locations, from the hours specified in this contract.

**On MOTION by Mr. Bergmoser and seconded by Mr. Peterson, with all in favor, the Access Control Services Renewal to Contract and Addendum, was approved.**

**SEVENTH ORDER OF BUSINESS**

**Consideration of Easement Documents in Favor of The Foundation for the Construction of Boat Launch into Fiddler’s Creek from Runaway Lane**

Mr. Pires indicated that the Easement was reviewed and approved by himself, Mr. Cole, Mr. Adams and Ms. Valerie Lord. The only clarification was that the attachment must be replaced with a more accurate easement map and description. Bond Counsel confirmed, via email, that the easement and related use would not affect the tax-exempt status of interest on the Series 1999 bonds and would not breach any covenants in the Master Indenture; furthermore, the easement was permitted by Paragraph 2, of Section 7.5 of the Master Indenture.

Mr. Cole received and briefly reviewed construction plans for the boat ramp and recommended that approval be subject to review by Staff. Elevations must be reviewed to ensure that the filling of the lake to build the boat ramp does not interfere with existing lake bank maintenance and a nearby outfall pipe. Discussion ensued regarding when the accurate map and legal description would be provided, etc. Mr. Brougham did not want to delay the project pending receipt of those documents and asked why the Easement could not be executed today and the project commence today. Mr. Pires stated that the correct Exhibit A must be attached. All parties could execute the Easement today, the new Exhibit A could be attached and Mr. Pires should be able to record the Easement tomorrow. Mr. Brougham advised Mr. DiNardo to proceed with the boat launch project unless advised to stop work.

**On MOTION by Mr. Turner and seconded by Mr. Slater, with all in favor, the Easement documents in favor of The Foundation for the construction of a boat launch into Fiddler's Creek from Runaway Lane, subject to the District Engineer's review of elevations and attachment of the corrected Exhibit A, and authorizing the Chair to execute, were approved.**

**EIGHTH ORDER OF BUSINESS**

**Discussion: Rule for Ordinance Amendment to Expand/Contract Legal Description of Fiddler's Creek Community Development District #1**

Mr. Pires stated that the Petition and related documents were ready for execution in substantially final form.

**On MOTION by Mr. Brougham and seconded by Mr. Turner, with all in favor, the Petition for Rule Amendment to Expand/Contract Legal Description of Fiddler's Creek Community Development District #1 and authorizing the Chair to execute, were approved.**

**NINTH ORDER OF BUSINESS**

**Presentation/Discussion: Potential Additional Security Coverage Needs**

Mr. Turner stated that this item was to ascertain whether the District had an Access Control Services strategy for adding 24-hour coverage at the Championship and Sandpiper Gates, along with additional rover coverage. Mr. Adams stated that the additional costs were included in the email in the agenda but did not include the additional electrical, vehicle and fuel costs related to 24-hour gate coverage and an additional roving patrol. Mr. Turner believed that, at first, an additional vehicle would not be necessary. Regarding the overall cost for additional security services, Mr. Turner believed that the cost could amount to \$6 to \$8 more, per month, per unit and questioned who would object to the cost, given the benefit. The community was growing but Mr. Turner was not aware of new fire or police stations being built; the current response time was four to 10 minutes to reach the community.

Mr. Turner asked for a per-unit breakdown of the quoted costs and whether those costs were for additional coverage in both CDDs. Mr. Albeit stated that the amounts in the email were

the additional annual costs for 24-hour coverage at the Championship and Sandpiper Gates and for an additional rover for 8 hours per day.

Mr. Peterson felt that it must first be determined whether additional coverage, as described, was necessary. An elaborate security system, with cameras, was installed by The Foundation. Mr. Charbonneau confirmed that the new cameras were operational. Mr. Peterson wanted actual information of the need for additional security coverage. Mr. Turner agreed that the security cameras were helpful but additional coverage would improve the level of security, as the cameras cannot react to something, as it occurs. Mr. Bergmoser stated that the only hard data available would be Mr. Charbonneau's monthly security statistics. Through the first nine months of 2016, there were no arrests, assaults, burglaries, assaults, home invasions or suspicious persons and there was one grand theft, which did not evidence the need for additional security, at this time. Mr. Turner stressed that the District should plan ahead. Mr. Brougham surmised that parameters should be set and, if those parameters were reached, then additional security staffing could be considered. Mr. Slater felt that cost for the proposed additional coverage would be minimal and the question was when to implement it. Mr. Turner wanted Mr. Charbonneau's opinion of what additional coverage would be the most beneficial. Mr. Brougham wanted Mr. Turner to coordinate with Mr. Charbonneau to determine the parameters by which, once met, the District should consider additional security coverage, as it may not be necessary to have an additional guard, at each gate, for a full 24 hours per day. The issue of an additional roving patrol unit, if deemed necessary, should be considered separate and sooner than additional guards. Mr. Peterson asked if data regarding incidents reported since installation of the current camera security system, such as log sheets, was available. Mr. Charbonneau had data reflecting the number of alerts and responses were received from the thermal cameras. Mr. Turner agreed to coordinate with Mr. Charbonneau to establish parameters, benchmarks or criteria that, once met, would prompt consideration of additional security coverage. Mr. Brougham wanted the parameters established and ready for inclusion on agendas, beginning in late spring or early summer, 2017, when Fiscal Year 2018 budget discussions commence.

**TENTH ORDER OF BUSINESS****Acceptance of Unaudited Financial Statements as of September 30, 2016**

Mr. Brougham presented the Unaudited Financial Statements as of September 30, 2016. Mr. Turner asked if the funds allocated from the traffic signal were in one of the District's

accounts. Mr. Adams replied affirmatively. In response to Mr. Bergmoser's question, Mr. Adams confirmed that the "Settlements" line item, on Page 2, was for funds received related to trees that were cut down by a developer. Mr. Brougham stated that, per the County, the developer was reevaluating his options; the developer would have six months since the "last official act", which was a neighborhood information meeting, to move forward in their formal application; otherwise, it would be considered withdrawn. Mr. Cole believed that an extension could be granted. Mr. Brougham questioned if the act of requesting an extension constituted an official act. Mr. Cole replied affirmatively; however, the party could not request extensions, indefinitely. Mr. Bergmoser stated that "Operating supplies", on Page 3, was approximately \$27,000 over budget. Mr. Adams stated that the line item included clickers, additional cameras, camera repairs and replacement, maglocks and gates. In response to a question, Mr. Cole stated that "Total water management maintenance", on Page 2, was under budget because high water levels delayed lake bank erosion repairs; "Engineering", on Page 2, was over budget, as part of the expenses were for work related to the lake bank erosion repair project. Mr. Adams stated that the work was budgeted for Fiscal Year 2016 but unspent funds would fall into the surplus fund balance and the invoices would be paid, once received, which could necessitate a Fiscal Year 2017 budget amendment.

**ELEVENTH ORDER OF BUSINESS****Approval of October 5, 2016 Regular Meeting Minutes**

Mr. Adams presented the October 5, 2016 Regular Meeting Minutes and asked for any additions, deletions or corrections. The following changes were made:

Line 10: Change "Vice Chair" to "Assistant Secretary"

Line 12: Change "Assistant Secretary" to "Vice Chair"

Line 110: Insert "improvements acquired with" after "of"

Line 114: Insert "and" after "harmless"

Line 116: Change "\$1.2 million, \$1.3 million" to "to \$2 million, to \$3 million"

Lines 148 through 149: Change "back out of the approval, if the Board changed its mind" to "prepare agreement to allow approval after receiving all appropriate documents"

Line 255: Change "Schmitt" to "Turner"

**On MOTION by Mr. Bergmoser and seconded by Mr. Turner, with all in favor, the October 5, 2016 Regular Meeting Minutes, as amended, were approved.**

**TWELFTH ORDER OF BUSINESS                      Action Items**

Items 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29 and 30 were completed.

Items 1, 2, 3, 4, 14, 27 and 31 remained.

**THIRTEENTH ORDER OF BUSINESS                      Other Business**

There being no other business, the next item followed.

**FOURTEENTH ORDER OF BUSINESS                      Staff Reports**

**A.     District Counsel**

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

**B.     District Manager**

**i.     NEXT MEETING DATE: November 16, 2016 at 8:00 A.M.**

The next meeting will be held on November 16, 2016 at 8:00 a.m., at this location.

**C.     Operations Manager**

Ms. Crismond presented the Operations Report. The landscape contract, due to expire January 31, 2017, would go out to bid; the bids would be presented, for consideration, at the December meeting. Mr. Brougham asked if there were plans to modify the flowers in front the bubblers, on each side of the front entrance. Ms. Crismond stated that the flower rotation was scheduled for November. Mr. Brougham asked if the flowers would be lower. Ms. Crismond stated that the flowers would not be lowered but the spray height would be raised. Discussion ensued regarding the number of flower rotations, flower types, planting schemes, planting shorter flowers and raising the spray height. The Board directed Ms. Crismond to raise the spray height. At the next meeting, Ms. Crismond would provide details of the number of flower rotations previously approved.

Regarding the Mulberry gate, Ms. Crismond stated that the landscaper must correct the angle of the hedges. The dropdown rods and posts would be replaced because the current posts were damaged; the cost was deducted from the prior contractor's invoicing.



Discussion ensued regarding whether to increase to daily patrols, in January and February, at a total cost of approximately \$10,000. Mr. Brougham was concerned about the low ratio of citations issued, compared to the high number of warnings issued and directed Ms. Crismond to emphasize this to the Sheriff's Department.

**FIFTEENTH ORDER OF BUSINESS                      Supervisors' Requests**

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

**SIXTEENTH ORDER OF BUSINESS                      Public Comments**

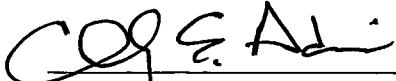
There being no public comments, the next item followed.

**SEVENTEENTH ORDER OF BUSINESS                      Adjournment**

There being no further business to discuss, the meeting recessed and was continued to Wednesday, November 2, 2016 at 3:00 p.m., for the purpose of holding an Executive Session.

**On MOTION by Mr. Bergmoser and seconded by Mr. Slater, with all in favor, the meeting recessed at approximately 9:04 a.m., and was continued to Wednesday, November 2, 2016 at 3:00 p.m., for the purpose of holding an Executive Session.**

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

  
Secretary/Assistant Secretary

  
Chair/Vice Chair