

**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, December 7, 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
Robert Slater	Assistant Secretary
Charles Turner	Assistant Secretary
Joseph Schmitt	Supervisor-Elect

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
Ron Albeit	The Foundation
Mike Charbonneau	The Foundation
Wes Cleaves	Girard Environmental Services
Mark Swanson	LandCare
Alfredo Molina	LandCare

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

Administration of Oath of Office to Newly Elected Supervisors: Joseph Schmitt, SEAT 3, Robert Slater, SEAT 4 and Phillip Brougham, SEAT 5 (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. Schmitt, Mr. Slater and Mr. Brougham. 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 2017-2, Electing Officers

Mr. Adams presented Resolution 2017-2 for the Board's consideration. Statutorily, the Board was required to consider its slate of officers following an appointment or election. Prior to the election, Mr. Brougham served as Chair, Mr. Bergmoser as Vice Chair, the remaining Supervisors as Assistant Secretaries, himself as Secretary and Mr. Wrathell as Treasurer. Mr. Adams requested that Mr. Schmitt serve as an Assistant Secretary.

Mr. Slater nominated the current slate of officers, with Mr. Schmitt as an Assistant Secretary. Mr. Bergmoser seconded.

On MOTION by Mr. Slater and seconded by Mr. Bergmoser, with all in favor, Resolution 2017-2, Electing Officers, as nominated, was adopted.

FIFTH ORDER OF BUSINESS

Special Counsel Update

Ms. Robinson stated that the deposition of Ms. Kathy Broecker, of U.S. Bank, was scheduled for January 24, 2017 but it could be moved, based on when the trial was set for the

Naples Lending litigation, which was contemplated for February or March. A hearing was scheduled for January 3, 2017.

Last week, Ms. Robinson received an order from Judge Shenko. Judge Shenko denied Fiddler's Creek CDD Investors request for U.S. Bank to pay for Harvey Pitt's second deposition, in advance but there could be reconsideration, if further information was received. In response to Mr. Brougham's question, Ms. Robinson stated that Mr. Pitt's deposition was not rescheduled and no fees were pending. Fiddler's Creek CDD Investors were weighing options on how to proceed.

Mr. Brougham asked if there were any responses on former actions taken by the District. Ms. Robinson stated that settlement discussions were ongoing and, if additional information was received, an Executive Session would be scheduled. Mr. Brougham recommended that Mr. Schmitt contact Mr. Adams about the litigation. Mr. Adams suggested that Mr. Schmitt speak to Ms. Robinson, directly.

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

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

There being no report, the next item followed.

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

Mr. Cole stated that the sidewalk repairs for CDD #1 were continuing and, after the last meeting, areas brought to his attention were checked; most were already on the list. He would follow up with the contractor to ensure that these areas were repaired.

Discussion ensued regarding the sidewalk and lake bank repair projects.

Mr. Slater asked what happened on the corner of Fiddler's Creek Parkway and Mulberry Lane. Ms. Crismond stated that a subcontractor from TEM Services, Inc. (TEM) performed boring work. Mr. Schmitt stated that the subcontractor left the area in an unacceptable condition and requested that a clause be included in all contracts. Mr. Adams suggested including a restoration provision in TEM's contract for damage or the District could perform the restoration work and bill TEM, so there would be an accurate bill and the work would be performed to the District's satisfaction. Mr. Schmitt felt that the work should be warranted and paid for by the contractor.

Discussion ensued about restoring the area, who should perform the work, who should pay for restoration, etc., along with restoration of damages in other areas.

Mr. Schmitt asked if contractors inform Mr. Adams what work needed to be performed to complete the contract and if the contract to install electrical connections to the cameras was a District contract. Mr. Adams replied that it was a CDD contract with TEM and a TEM subcontractor performed the boring work. TEM informed Mr. Adams that some trenching and removal of landscaping was necessary. There were no specifics and Mr. Adams deemed the work to be miniscule. The largest damage was the truck pulling out of the travel lane onto the road ROW. Mr. Schmitt asked if the cameras were approved by the Board. Mr. Brougham replied affirmatively.

Regarding the sidewalk repairs, Mr. Schmitt asked if there was a schedule. Mr. Cole replied that a portion of the work was approved by the District but a few items were added. Mr. Cole was waiting for the contractor to provide a revised proposal and schedule for the additional work, which would not exceed \$15,000. Mr. Adams recalled that the Board approved a not-to-exceed amount of \$15,000, for the sidewalk repairs, which was in line with the proposal from Curb Systems of SW FL and Sarasota, LLC (Curb Systems); however, another contractor proposed \$6,000 to \$8,000. With the additional work, Mr. Adams anticipated that the total amount for the sidewalk repairs would not exceed \$10,000. Mr. Schmitt asked if the contract included golf cart crossings. Mr. Cole replied affirmatively. Mr. Schmitt questioned the areas to be completed first. Mr. Cole stated, along Fiddler's Creek Parkway, some areas were completed but the orange striping was starting to wear. Mr. Cole would verify and hoped to be completed with the project at the end of January.

EIGHTH ORDER OF BUSINESS**Consideration of Award of Contract:
Landscape Maintenance**

Ms. Crismond stated that the contract went out to bid and 15 companies were invited to attend the pre-bid meeting. Five companies requested bid packages and attended the pre-bid meeting and LandCare USA, LLC (LandCare) and Girard Environmental (Girard) submitted bids. Both companies were qualified and capable of meeting the Scope of Services. The current contractor, LandCare, held the contract for eight years, with some positives and negatives over the years but, overall, LandCare performed well. Girard had offices around the State but not in the area and managed the Brooks of Bonita Springs CDD, landscaping; however, their contract

was not renewed. Based on Girard's history, Ms. Crismond did not believe that they had the capability or resources to maintain the District's property at the level of service that the community demanded. LandCare bid the current contract amount, which increased by \$50,000, due to performing a double sweep and four annual flower rotations.

Mr. Pires stated that, according to Ms. Crismond's Memorandum, Girard failed to submit evidence that all of their subcontractors hold valid necessary State, County and local licenses and their subcontractors' qualifications. The Board could deem Girard's proposal nonresponsive or waive the requirement, as an irregularity, and accept Girard's bid.

Mr. Wes Cleaves, of Girard, stated that some work would be performed in-house but a backup subcontractor was available. Regarding the license renewal issue, all paperwork was submitted to the State and the County but the time to process the paperwork was lengthy. Mr. Brougham asked when the paperwork was submitted. Mr. Cleaves replied that the certificate holder on the Certificate of Competency to renew must be changed by the State and required substantial paperwork. It may take 30 to 60 days before the renewal was approved but all paperwork was submitted in a timely fashion. Mr. Cleaves acknowledged problems with several properties but Girard was making strides internally and he was overseeing those properties. Mr. Cleaves expressed his desire to work with the District and detailed his previous experience, familiarity and understanding of the landscaping in the District, since its inception.

Mr. Mark Swanson, of LandCare, stated that LandCare maintained the property for several years and has the experience and knowledge to continue maintaining the property. There were some issues over the years but, overall, LandCare showed consistency to provide the results expected by the District. The most recent challenge was replacing the Account Manager to someone who was highly experienced in the property and able to take the direction that residents expected. Mr. Brougham clarified that Mr. Swanson was referring to Mr. Molina. Mr. Swanson stated that Mr. Molina was performing well and would continue performing well. Mr. Brougham noted no issues with LandCare's subcontractor letter and qualifications.

Mr. Pires stated that the Department of Business and Professional Regulation (DBPR) website showed that Girard's license expired on August 31, 2016.

Mr. Slater asked how quickly Girard could have their employees' onsite, if chosen. Mr. Cleaves stated that he had local staff and outside support staff. Girard would open a satellite facility close to the property that would be staffed with a full-time Account Manager, a team and

a small nursery to provide onsite support. The team would be recruited locally and be onsite on day one. Girard was 100% e-verified.

Mr. Bergmoser asked if LandCare's increase from year one to year two was due to higher labor costs. Mr. Swanson explained that labor costs over the last several years increased as much as 20%, due to all of the construction and development in the area. Costs were held back this year. A 3% increase was calculated, which was minimal and less than the actual cost of the services. Mr. Bergmoser asked how many other Managers and Supervisors were onsite, other than Mr. Molina. Mr. Swanson replied that there was another lead Supervisor, who was familiar with the property for six years that provided observations to Mr. Molina. Mr. Molina was on property 70% to 80%. In response to Mr. Bergmoser's question, Mr. Swanson indicated that Landcare was contracted to maintain three properties in Fiddler's Creek.

Mr. Cleaves responded to questions regarding his work history.

Mr. Turner asked if whoever managed the contract reported to Ms. Crismond. Ms. Crismond replied affirmatively and responded to questions about her working relationship with the current contractor, regarding their response time.

Discussion ensued regarding possible additional task orders, amendments to the contract, withholding payment, etc.

Mr. Slater asked if the increase from the first year to the second year was automatically awarded or renegotiated and if the option for the second year could be renegotiated with the contractor. Mr. Pires did not believe that language was included in the bid documents or specifications. In response to Mr. Slater's question, Ms. Crismond stated that this would be a one year contract with a second year option and, if the District did not want to renew for the second year, it could go out to bid. Mr. Slater noticed that Girard bid the same amount for the second year and asked if the District could contract with LandCare for the first year and Girard for the second year. Mr. Adams replied affirmatively, if Girard was willing to honor their bid amount. Mr. Pires advised that, if the District did not exercise this option, the District must recommence the selection process. Mr. Adams explained that the Board could terminate LandCare and select the next, lowest, responsible bidder. Mr. Brougham stated that the Board could terminate a contract with 30-days notice, without cause, due to service, quality or price but could not just award the contract to Girard. The District must do it through a formal rebid.

On MOTION by Mr. Brougham and seconded by Mr. Bergmoser, with Mr. Brougham, Mr. Bergmoser, Mr. Schmitt and Mr. Turner in favor and Mr. Slater dissenting, award of the contract for landscape maintenance to LandCare USA, LLC, for two years, was approved. (Motion passed 4-1)

NINTH ORDER OF BUSINESS

Staff Reports

A. District Counsel

Mr. Pires stated that the inventory of the properties conveyed to the CDD and acquired by the CDD was not completed. Regarding the boundary change, all documents were being finalized and would be submitted to the Chair by the next meeting. Mr. Brougham asked if the District was incurring legal fees. Mr. Pires replied that the fees would be paid by the developer.

B. District Manager

Mr. Brougham asked if Mr. Molina would attend the January 19 meeting and repaired the clock. Mr. Molina replied affirmatively. Mr. Albeit stated that the purpose of the January 19 meeting was to discuss the irrigation system and satellite controls. Presidents from each village were participating, along with Management, the irrigation company and the gentleman responsible for maintaining the satellite system from the golf operations computer to the satellites. The entire system and how it works would be discussed, as well as educating everyone what to do if the system did not work. Mr. Albeit requested that Property Management and the landscaping company attend. The Board did not need to attend. In response to a Board Member's question, Mr. Pires advised that, if Board Members wanted to attend, no interaction should occur between the Board Members. Mr. Brougham stated that the meeting did not pertain to CDD business. Mr. Adams advised that the meeting pertained to District operations.

*****Mr. Swanson and Mr. Molina left the meeting.*****

Mr. Brougham stated that there were no unaudited financial statements. Mr. Adams stated that this was due to the holidays. In response to Mr. Slater and Mr. Brougham's question, Mr. Adams indicated that tax revenues were in transit. 75% of the annual tax collections were paid by the end of November and should be received by mid-December. Mr. Brougham stated that Fiscal Year 2016 ended with \$600,000 in the operating fund.

Mr. Adams stated that there were no minutes, due to the quick start time between meetings and Thanksgiving. Minutes would be provided at the January meeting.

i. NEXT MEETING DATE: January 25, 2017 at 8:00 A.M.

The next meeting will be held on January 25, 2017 at 8:00 a.m., at this location.

C. Operations Manager

Ms. Crismond presented the Operations Report.

Regarding the Mulberry gate, Ms. Crismond stated that Mr. Turner advised that several drains appeared to be clogged on Club Center Drive between The Club and The Rookery. M.R.I. UnderWater Specialists Inc. (MRI) inspected the drains and five need to be cleaned. They will be cleaned in January.

TENTH ORDER OF BUSINESS

Supervisors' Requests

Mr. Turner reported issues with the Championship Gate and Main Gate Arms. The Championship Gates were either broken or removed and, over the weekend, the outbound gate was not working, at the Main Gate. According to Ms. Crismond's report, the camera was not working at the Championship Gate. Mr. Adams stated that the camera was replaced. Mr. Turner asked if there were functionality issues at the Championship Gate. Mr. Adams stated that there was aging technology, which would eventually be replaced or repaired. Mr. Turner stated that the gate arms were not functioning and people were removing them, creating access control issues.

Mr. Albeit stated that there was a power failure on Friday and, as a result, the gate arms were removed but were reattached, once power was restored. The Championship Gates malfunctioned after the power failure. Mr. Turner wanted strategies in place to replace the gates and the equipment and asked why the outbound gate, at the Main Gate, was coned off for two days. Mr. Albeit stated that there was a water valve issue. Mr. Turner stated that the gate was bent down and he asked the guards to remove it to allow people through. Mr. Turner wondered why it was taking a long time to make repairs and if funds should be budgeted to replace the existing equipment.

Mr. Brougham asked about the roving patrol process when a gate needed attention. Mr. Albeit stated that The Foundation's IT Department troubleshoots to determine the issue and correct it, so that the District would not have to pay for outside services. Then the IT Department contacts TEM. Mr. Turner stated that there is a volume of activity at the gates and there should be funds if the entire mechanism must be replaced, versus making "band-aid" repairs. Mr. Adams stated that operating funds were available to match the need of the repair

and/or replacement on an annual basis. Parts were changed out on an as needed basis. Generally, a motor needs to be replaced. In response to Mr. Brougham's question, Mr. Adams estimated a new motor costing a few hundreds of dollars; however, gates typically break after hours, resulting in overtime charges. Mr. Brougham asked if TEM responded on an emergency basis, even if overtime was necessary. Mr. Adams replied that the District had a Preferred Client Agreement with TEM for emergencies.

Mr. Brougham requested that TEM perform a complete inventory of the equipment, regarding age, service ability, expected life and replacement costs. Mr. Turner suggested evaluating the vendor. Mr. Brougham requested that TEM attend the next meeting to discuss the current contract, potential upgrades, spare parts on critical components, frequency of breakdowns over the last 18 months and a preventative maintenance contract.

Mr. Albeit distributed a Safety Department Activity Log. Thermal cameras were activated on Sandpiper Drive and Championship Drive from 10:00 p.m., to 6:00 a.m., and at the main gate from 12:00 a.m., to 6:00 a.m. When a thermal camera was activated, it automatically alerts the main gate and the rover received a picture of the vehicle on their iPad. The report did not include statistics for the main gate and would be included on the next report.

Mr. Albeit reported that each rover had a Global Positioning System (GPS). Mr. Charbonneau and Mr. Albeit meet weekly to discuss how the GPS was used on each shift, which averaged 100 miles per day. The morning shift was 6:00 a.m., to 2:30 p.m., the afternoon shift was 2:30 p.m., to 10:00 p.m. and the evening shift was 10:00 p.m., to 6:30 a.m. There were ping marks throughout every village and buildings, showing the movement of the rover. Every officer must complete an Activity Log.

Mr. Slater asked why the thermal camera was not activated at 6:00 p.m. Mr. Albeit explained that activity at that time was extremely active and changing the time would add another burden to the guards. In response to a question, Mr. Albeit stated that the thermal cameras were activated at the Championship gate, from 10:00 p.m., to 6:00 a.m.

Mr. Pires advised the Board to take the position that the GPS information for the roving patrol qualified as part of a security system plan and the records were exempt from public records requests.

Mr. Slater asked why LandCare watered Fiddler's Creek Parkway every morning, versus at night when there was less traffic. Mr. Albeit stated that it was programmed this way. Mr. Slater stated that it should not be programmed in the morning between 6:00 a.m., and 8:00 a.m.

and from 4:00 p.m., to 6:00 p.m. Ms. Crismond confirmed that the watering was operating manually and would speak to LandCare about changing the hours to the middle of the day. These were primarily wet checks.

Mr. Turner reported that when the water main valve at the main gate was repaired, the area was dug up and staked with yellow security tape but not covered. Mr. Albeit stated that it was the backflow preventer for the restrooms. Mr. Brougham stated that backflow preventers must be accessible for County maintenance and no action could be taken by the District.

Mr. Brougham distributed information about Antilles. Last week, Mr. Brougham, Mr. Slater and Ms. Eileen Robertson met with Mr. Dennis Albaugh, the developer of Antilles, his attorney, Mr. Richard Yovanovich and the engineer. At the neighborhood information meeting, last April, residents were against Mr. Albaugh’s proposal for three story homes, with two stories over parking. Mr. Brougham felt that what Mr. Albaugh currently proposed was an improvement. Around the perimeter, which borders Mulberry, Bent Creek and Pepper Tree, Mr. Albaugh proposed two story homes, with one story over parking and pastel colors. If this was approved, Mr. Albaugh committed to plant landscaping to shield the view from the back of these homes from residents of Mulberry, Bent Creek and Pepper Tree. Mr. Slater stated that Mr. Albaugh planned a setback of 40’ from the fence line, with garages in front of the property. The height of the two story homes would not exceed 35’. Mr. Brougham felt that Mr. Albaugh addressed resident concerns. Mr. Albaugh was scheduling a neighborhood informational meeting in mid-January or as soon as full renderings were completed. In response to a question, Mr. Schmitt stated that the plans were not approved by the Planning Commission.

ELEVENTH ORDER OF BUSINESS

Public Comments

There being no public comments, the next item followed.

TWELFTH ORDER OF BUSINESS

Adjournment

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

On MOTION by Mr. Brougham and seconded by Mr. Bergmoser, with all in favor, the meeting adjourned at approximately 9:36 a.m.


Secretary/Assistant Secretary


Chair/Vice Chair