

**MINUTES OF MEETING
FIDDLER'S CREEK COMMUNITY DEVELOPMENT DISTRICT #1**

The Board of Supervisors of the Fiddler's Creek Community Development District #1 held a Special Meeting on Tuesday, October 17, 2017 at 9:30 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	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Tony Pires	District Counsel
Terry Cole	District Engineer
Ron Albeit	General Manager – The Foundation
Ryan Binkowski	Waldrop Engineering, P.A.
Mark Minor	Grady Minor Engineering
Jesse Fritz	Resident
Alfred Noto	Resident
Mark Sherbekow	Resident
Pat Knicker	Resident
Barbara Harding	Resident

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mr. Adams called the meeting to order at 9:35 a.m. Supervisors Brougham, Bergmoser, Slater and Turner, were present, in person. Supervisor Schmitt was not present at roll call.

SECOND ORDER OF BUSINESS

Public Comments

Mr. Brougham asked if anyone had a comment or question. He thought everyone would rather proceed to the discussion of the program and how the District would potentially participate in the program to restore the CDD. On the advice of District Counsel, Mr. Brougham read the following:

“The CDD is not providing guidance or advice, or providing or making representations, or assurances, as to the Internal Revenue Code application to individuals, nor opining or providing guidance, or advice, or providing, or making representations or assurances, that a person has the ability to make a claim and recover payment from the individual’s insurance coverage.”

*****Mr. Schmitt arrived at the meeting at 9:37 a.m.*****

Mr. Brougham stated that this is a specialized area and each person should review their insurance policies and consult with their insurance agents, adjusters, financial advisors and accountants. It seemed that everyone was talking about insurance and saying, “we can deduct this, or do that” and, questions such as that would not receive an answer from this Board. The single objective is to restore the CDD to a condition that everyone could be proud of. Any plans that are embarked upon or agreements reached, first and foremost, must be fair to the homeowners and the residents of the CDD. The Board must be effective and cost-efficient, with the proper controls and checks and balances put into any projects and agreements, to assure everyone that the plans are being carried out in accordance with contracts and that work is being performed satisfactorily and in a professional manner.

THIRD ORDER OF BUSINESS

Consideration of Hurricane Irma Recovery Replanting, Replacement and Potential Financing Plan

Mr. Brougham stated that he, District Counsel and Mr. Adams worked on many versions of an Agreement between the CDD #1, CDD #2 and The Fiddler’s Creek Foundation. The Agreement was necessary to outline all scopes of responsibilities. The last draft Agreement was circulated to all Supervisors, as late as yesterday. All Supervisors, with the exception of himself, had not had the opportunity to sit in at various meetings and go through all of the detailed items in the Agreement with District Counsel. The Board Members needed sufficient time to absorb the information in the Agreement and ask the questions necessary of Staff and Principals at The Foundation. The proposed Agreement would be on the October 25, 2017 agenda for questions and answers and then a vote of acceptance, or not. He anticipated many questions.

Mr. Brougham introduced Mr. Ryan Binkowski of Waldrop Engineering, P.A. (Waldrop) who presented a short brief to the Village Council.

Mr. Binkowski stated that he is a Landscape Architect. He and his team of Landscape Architects inspected CDD #1 and tagged certain material.

Mr. Binkowski stated that the scope for this project was to inspect the property very quickly following the hurricane to create an assessment of the damage with the assumption that, if items were replaced, the best available material would be used, and to estimate the District's potential financial obligation. Decisions were made in the field to understand what those replacement costs would be and some decisions were a judgment, primarily on safety and welfare. In many cases, the questions that were raised were about why there were pink tags or orange tags on trees. Primarily, the pink tag represented anticipated death or tree removal; whereas, the orange tag represented a version of standing or uprighting a tree or a structural pruning was required to make the tree safe, as it was still capable of surviving. Some of the trees with pink tags survived but some have since fallen after marking them pink, and now presented a risk. This general overview of the assumptions in tagging those trees is relevant, since a majority of these areas are within public common spaces or along roadways, where there is a risk from falling limbs or a weighted tree could fall over. Worse, would be a tree that a basic landscape company or other individual who assumed it could be up righted but it was either improperly staked or improperly observed and, due to loss of root structure, it could no longer stand up on its own. He was very critical in assessing the CDD areas, especially for risk to those trees or further possibility of the tree injuring someone or their private, real and personal property. While the trees may appear fine, certain intentions were in mind when making those decisions. The palm trees are relevant to CDDs. There are large Royal Palms and a number of clusters of Coconut Palms, which presents a significant contingency in the Plan. Those were marked as orange, whenever possible. When marking the palm trees, they were specifically looking at the health or damage to the bud, which is the terminal part of the tree where the new spiky palm leaves come out. Judgments were made in an effort to determine the potential cost for replacement trees. Waldrop was doing an assessment of damage to ensure that, with what was being programmed for any replacements or redesign, there would be an adequate budget in place to be able to make whole, certain areas. It did not mean that it was necessarily the final design. The design phase was not started yet and some of the final determinations would come through the recommendations in the final report that would be released at the end of the week. There were sections specific to individuals and sections for CDD #1 and CDD #2. General summaries of the costs were provided to The Foundation and what was included in the spreadsheet was shared

with both CDD Boards. The important thing to understand was that it was not the final design budget but a proposed assessment of the value of the damage. Mr. Binkowski realized that many of the CDD's flowering trees were damaged, which would have a visual impact in the CDD. Steps were being taken to ensure that they were cleaned up and replaced with something equally pleasing. The ficus trees were on both CDD areas and banyans, which some loved and some hated, were big and difficult when they turn over. Ultimately, those trees are typically irreplaceable since there are not many trees in South Florida that could replace that aesthetic. Those were tagged accordingly, if they had structural, root damage. He tried, where there was opportunity, to design open views or create them. If something was turned over and was going to be expensive to repair, he would try to wait and see if it would grow back and took into consideration if it would expose or impact yards, views, etc. The ficus trees suffered a lot of the damage, especially within both of the CDDs. The long-term effort should be engaged with the District's landscaping program. General landscaping maintenance does not provide arbor care. Structurally, as trees grow and, if not pruned correctly for storm-related damage, the trees become worse, to the point that they create large canopies full of branches eliminating a way for wind to move through them. He recognized that although arbor maintenance is expensive, it should be done; based on observations, the trees were not being properly pruned, by arbor care standards. What remained was good and quality landscaping; not all of it was at risk of falling over in a storm. Mr. Binkowski believed that one-for-one replacement in the streetscape areas was not necessary. There were a lot of side areas along homes and the individual Villages that would be very attractive with a bit of cleanup. After being on site for a day or two, he felt more comfortable with this opinion. Beyond just the trees and the design phase, the intent was to evaluate the areas that were significantly damaged and try to incorporate further, some improvements to the ground plan. It would not only be to the damaged materials but where there is opportunity to bring in color to some areas where that is more appropriate. He would provide some very good design recommendations going forward.

Mr. Brougham had comments, as follows:

1. During the last meeting, CDD #1 voted unanimously to opt into the Restoration Plan. Currently, the District is in the Plan and what is being considered is now the Agreement between CDD #1, CDD #2 and The Foundation, to ensure the Plan to proceed is carried out on budget.
2. Counting on tree trimming, CDD #1 had an annual budget item for tree pruning of the hardwood trees on a rotational basis, approximately every three years, with the objective of

reducing the hardwood canopies up to 25%, primarily to improve the health of the tree and, as Mr. Binkowski mentioned, provide an airway for winds to go through. He was interested in Mr. Binkowski's recommendations; more specifically, as to the effectiveness of the pruning program, since the District spent a lot of money pruning over the years, to meet the objective, as stated.

3. There were questions in the earlier meeting this morning and he personally received a lot of debris removal questions. A number of roadways within CDD #1 are District roadways, such as Fiddler's Creek Parkway, Championship Drive, Club Center Boulevard, Mahogany Bend Drive, Cherry Oaks Trail, Sandpiper Drive and Mulberry Lane. The landscaping within the Right-of-Way (ROW) and easements of the CDD, on either side of some of the roadways, was taken care of, cut down, removed and carried away. On roadways, such as Mahogany Bend Drive, Cherry Oaks Trail and Mulberry Lane, which are District roadways, most of the debris was from private homes and it was put along the curbs. Removal on private property is not the District's responsibility but his inclination would be not to argue about removal with the Villages or homeowners, since he could just have one of the District's contractors do it and haul it away, for the benefit of the entire community. That was his personal opinion but it would be a question of the history, and potentially paying for work on private property.

Mr. Jesse Fritz, a resident, stated that the District was doing a nice job of cleaning Fiddler's Creek Parkway and entrances. He discussed damaged areas that might not be visible from Fiddler's Creek Parkway. Mr. Brougham stated that the first priority was to clear all the roadways. Mr. Fritz understood but wanted to know if the District was sending someone back again. Mr. Brougham replied that it would be a consideration, for the restoration phase.

Mr. Alfred Noto, a resident, stated that Fiddler's Creek Parkway was cleared of the debris, by Montreux; however, over the last few days, trees were being trimmed and all that debris was on Fiddler's Creek Parkway and Montreux. He inquired if this was the District's work. Mr. Brougham asked Mr. Adams to make a note of that since he was not aware of that.

A resident, residing next to Fiddler's Creek Parkway, on Mahogany Bend Drive, stated that the trees around the sides of Mahogany Bend Drive were all over her property. The tree was dead and she was afraid that it would catch fire. She wanted to know if it was going to be picked up, as she believed it was not her responsibility. Mr. Brougham stated that Fiddler's Creek trees fell onto her property and remained there and, if they were CDD trees, they would eventually be removed. If a neighbor's tree or a CDD's tree falls on your house or property during a hurricane,

it is not the liability of the District for any damages. If it is CDD material, it would be removed when the District had some money. The resident replied that was what she was asking.

Regarding questions about why things, with respect to financing, were not handled the same way as with Hurricane Wilma, Mr. Brougham stated that the difference was that, in 2005 and 2006, CDD #1 was not in litigation. There were no outstanding legal problems and the District was able to obtain short-term financing for all clean up and restoration work, through the Developer or one of the Developer's entities. Subsequently, the District received a short-term, five-year loan, in 2006, and was able to allow property owners to pay their portion through a one-time assessment or over a five-year period. The difference today was that CDD #1 has been involved in an on-going litigation with U.S. Bank, for years. As a result the District would not be able to obtain a loan. What is being offered is a financial opportunity through The Foundation. The simple reason that things were not being done similar to Hurricane Wilma was that the CDD could no longer obtain a loan.

Mr. Bergmoser stated that Mr. Binkowski mentioned that the ficus trees were damaged during hurricanes and questioned if it made sense to replant that type of tree again, after spending in excess of approximately \$100,000 per year trimming trees that fell down during the hurricane. Mr. Brougham replied that the Board adopted a Resolution, after Hurricane Wilma, that any ficus tree that toppled over in any future storms would not be uprighted; it would be removed and not replanted. That would be the direction for the landscaping.

Mr. Schmitt stated that some of the ficus trees, specifically along Fiddler's Creek Parkway, right at Montreux, were trimmed, cut and removed but he did not know if they were tagged. Mr. Binkowski replied that he did the tagging without knowledge of the Board decision that all of them were to come out. He tagged some trees orange but not pink. Where the trees were tagged orange, they were primarily a significant tree with regard to the landscaping design such that, if one side was removed, it would completely expose something. Taking into consideration that that Board decision exists, Mr. Binkowski would approach the design differently. A lot of ficus trees had damage and significant ground damage. The tops broke off but it did not necessarily uproot. It was not his intention to have those trees have 6' to 8' of trunk left and expect that it would grow well, have sound branches and would not fall over again. The risk is that the new growth is weak and it takes a long time to train them back into strong branches. He would not recommend allowing the stumps to grow, since there is a proper way to manage the grounds for the ficus trees that the District wanted to preserve. Mr. Schmitt asked if

this would all be part of Mr. Binkowski's recommendation for Phase II. Mr. Binkowski replied affirmatively.

A resident asked if more local, native types of ground cover would be used. Mr. Binkowski stated that there would be some redefining of landscaping in some of the areas, and he discussed various options.

Mr. Brougham stated that as the District moved forward, notwithstanding the Agreements and no matter who had responsibility, there must be a certain degree of trust in the professionals the District retained, as the Board did not have the time or expertise to debate the opinions of the professionals. The District could not individualize each plan for each home or Village. There was an overall approach and, when beginning the planting phase, additional meetings might be needed.

Mr. Mark Sherbekow, a resident, stated that he lost a lot of privacy, due to the loss of the trees on the main road and wanted to have input during the design phase, as to what was planted. Mr. Brougham stated that everyone would have input, to a point wherein it becomes unreasonable. Things like that, with proper screening for privacy, would certainly be a major consideration in any replanting plans. Mr. Sherbekow stated that people were calling and wanted to know what the process would be. Mr. Brougham did not have that information but, Mr. DiNardo had stated that the Board would be transparent when it came to the plans with the engineering firm.

Mr. Binkowski stated that a design concept would be developed over the next month and the goal was for The Foundation to acquire services to do a restoration plan; the installation target date was May. The design would be presented at the meetings. He would take input prior, or during the meetings, in order to make any final adjustments. The design would be used when obtaining bids.

Residents wanted confirmation that Mr. Binkowski would have plans available for them to review. Mr. DiNardo clarified that, when the pronoun, "us" was used during these discussions, it was referring to the Board; he did not want residents to misconstrue that and think that all 3,000 residents would have input. Everybody had some type of Condominium Board or Village Board and they would determine whether to opt in. He further discussed the process for the CDDs and individual Villages, including recommendations to various Villages, etc. Just like everyone else, the CDD Board was trying to get this done as quickly as possible but, if everyone wants to become a Landscape Architect and redesign the community, the Landscape Architect

would be told to keep his time so that the Associations pay for it because the District is not going to absorb those costs. He thought the Board was being very responsible. He wants to be responsible and The Foundation is prepared to do that, which is why this program was developed. He would insist that the CDD #1 and CDD #2 Boards vote on the program at the next meeting because they must move forward. If the Boards do not vote, it would be interpreted as a "no" vote. This whole thing was put together and there were contracts to do the restoration. In the Village Association, prices went from approximately \$1.5 million to \$1.25 million, which is a \$250,000 swing on three bidders. Prices will not hold. He understood that everyone was worried about the grass, etc., but the work must be done as soon as possible, which would protect real estate values for all property owners. Taylor Morrison sold four or five home last week, which was important. Once this phase is resolved the Associations can decide what to plant. He wanted to use the 80/20 rule; get 80% done as soon as possible and the other 20% could wait.

Ms. Pat Knicker, a resident in Isla Del Sol, stated that on the Championship Drive side, where Cotton Green and Isla Del Sol border the golf course, buffer land is a swamp right now. She stated that the CDD was going to address drainage issues to a certain degree, since there was standing water in other areas, due to the hurricane. Mr. Brougham stated that, if there were a CDD drainage issue, the Board would take it up at a regular meeting. If it was not a CDD issue, the District Engineer would tell the Board that. A resident stated that the area she was referring to belonged to the golf course and a lot of that was already identified as low wetlands, was not the CDD's.

A resident, inquired about the perimeter fence, along Mulberry and Bent Creek, in the hardscape report. Mr. Brougham replied that as one Board member's opinion that the same material would not be used, going forward; it would have the same look and the Board was looking at alternatives presented by the Engineer.

A resident stated that she saw green tags in her neighborhood. Mr. Binkowski explained that her community was the first he went to and, initially, there were two conditions that he looked for in the field. There were a number of the barsentonian trees and/or trees that were between homes that were leaning and some were not. The trees were tagged for a secondary count since it was indicated to him that following his assessment, it would be in the interest of the Associations to be able look at it, as to what it meant from a code perspective and the regulations required to look into moving those trees, in addition to things that were damaged

during the storm. Eventually, the green tags were abandoned and no other communities have the green tags.

Ms. Barbara Harding, a resident, asked for the status of the road repaving. Mr. Brougham replied that CDD #1 and CDD #2 adopted their Fiscal Year 2018 budgets in August. CDD #1 budgeted approximately \$400,000 plus, for repaving projects, starting with Fiddler’s Creek Parkway, which is approaching 20 years old. That line item and project is still in the budget, along with approximately \$700,000 more that was allocated into tree pruning and other things. The Board would discuss those items at its meeting next week, as to whether the Board would proceed with that or if it would be tabled and the funds utilized for another purpose. There is money in the budget but he did not know if it would be used for repaving.

Mr. Brougham stated that at the last meeting, CDD #1 voted to opt in to The Foundation Restoration Plan and was still in the Plan. They now had an Agreement to consider and vote on, at the next meeting. That would determine where the District would go from there. He understood that there were a lot of questions and a lot to do and suggested that the residents bring their concerns to the next meeting and the Board would do their best to address them.

FOURTH ORDER OF BUSINESS

NEXT MEETING DATE: October 25, 2017 at 8:00 a.m.

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

ELEVENTH ORDER OF BUSINESS

Supervisors’ Requests

This item was not addressed.

TWELFTH ORDER OF BUSINESS

Adjournment

There being no further business to discuss, the meeting adjourned at 10:20 a.m.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]


Secretary/Assistant Secretary


Chair/Vice Chair