

**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 Regular Meeting on Wednesday, July 25, 2018 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
Robert Slater	Assistant Secretary
Charles Turner	Assistant Secretary
Joseph Schmitt	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Adams	Assistant Regional Manager
Jason Olson	Assistant Regional Manager
Tony Pires	District Counsel
Terry Cole	District Engineer
Ron Albeit	General Manager – The Foundation
Robert Dieckmann	Interim Project Manager – The Foundation
Marie Puckett	Fiddler’s Creek Security
George Camberis	Resident and Board Member of Cranberry Crossing
Jeffrey Fitzgibbons	Resident
Jesse Fritz	Resident
Judy Tibbs	Resident
Joe Badessa	Resident

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mrs. Adams called the meeting to order at 8:00 a.m. Supervisors Brougham, Slater, Turner and Schmitt were present, in person. One seat was vacant.

SECOND ORDER OF BUSINESS

Public Comments: Non-Agenda Items (3 minutes per speaker)

Mr. George Camberis, a resident and Cranberry Crossing Board Member, stated he was attending on behalf of the Cranberry Crossing Board, to officially request that the District confirm whether all trees damaged by Hurricane Irma were being replaced along the back and

the waterway. He stated that CDD #1 first determined the trees were on Cranberry Crossing's (Cranberry) property so they were responsible for the entire removal, which was completed. Subsequently, the Landscape Architect on site mentioned the trees were on CDD property. The Cranberry Board researched the County's plat records and believes it may be CDD property and not The Foundation. Mr. Cole was notified and stated that, while the physical land is owned or deeded to the CDD, the CDD did not plant the trees. In response to the question of maintenance, Mrs. Adams confirmed the area in question is not maintained by the District but the District has a 15' or 20' easement to access the lakes to perform lake bank restoration work. Mr. Brougham's asked which entity is legally responsible for replacing the damaged trees. Mr. Pires stated it is significant to know whether the land was dedicated to the District as a lake maintenance or drainage tract or if it is owned by someone else, which would be confirmed on the Property Appraiser site. If the District did not plant the trees and it is part of the District's water management easement, the District would not be obligated to replace them unless an agreement or site plan is in place. Mr. Brougham stated that, once the research is completed, the District would take the proper next step, if any is required of the District.

Mr. Jeffrey Fitzgibbons, a resident, agreed with Mr. Brougham's view of the issue but felt that also at issue was that residents' overall assessments were \$5,900 and, of that, \$1,600 was for the removal and planting of those trees, which, to date, were removed but not replaced. He believed those costs should be shared between the HOA and the District. Mr. Brougham stated this matter will be added to the next agenda, allowing time for research, so that the District can provide an official and legally sufficient opinion as to who owns the land, who is responsible for maintaining what is on the land and knowing whether the District is required to replace the trees and, if so, how the District and residents would receive their money back.

Mr. Turner stated whatever the outcome, assessments would remain at \$5,900, since it was assessed through their HOA Board, through the Fiddler's Creek Foundation assessment. Mr. Brougham stated the CDD Board could not make decisions on assessments imposed by The Foundation. Mr. Pires suggested Mr. Bersher provide the District with the ownership information he obtained from the County. It was noted the trees were cut and removed by BrightView Landscapes, LLC (BrightView). It was noted that, per the Property Appraiser's records, the Plat's dedication was to CDD #2. It was noted that, until the research is completed, Mr. Dieckmann should hold off planting trees. Mr. Brougham stated the CDD has no jurisdiction to advise The Foundation not to perform work. Discussion ensued regarding

Waldrop Engineering's (Waldrop) evaluation and past discussions in which the District agreed to participate in costs, determining the property belonged to Cranberry and not the CDD, whether a replanting agreement was put in place and whether the trees were located outside of the homeowner's property. It was suggested that Management advise CDD #2 of this issue. It was noted, the County canal is located in CDD #1 and might have been platted and dedicated as a tract by the Oyster Harbor Plat.

Mr. Jesse Fritz, a resident, asked for an update regarding the disease killing palm trees on Montreux's property. He was directed to speak with the HOA of Montreaux.

THIRD ORDER OF BUSINESS

Special Counsel Update

There being no report, the next item followed.

FOURTH ORDER OF BUSINESS

**Special Counsel – Website ADA
Complaint – Request for Executive
Session**

Mr. Adams stated the District's insurance carrier retained Special Counsel, Roper & Roper, P.A. (R&R), to represent the District in response to a complaint filed alleging that the District's website is not compliant with the Americans with Disability Act (ADA) standards for the visually impaired. Management engaged an outside company who is working with Management to bring the District's website into compliance. The company audited the website and added an audit compliance seal and link to the District's compliance policy, stating that work was underway. The website is expected to be in full compliance within the next two months. The current document library and what items are legally required to be on the website will be presented at the next meeting and website retention requirements and the possibility of skimming down the website contents to lessen the financial burden of converting older documents would be discussed. In response to the question of how a website is made compliant to a blind person, Mr. Adams explained the process, which includes formatting and saving documents as a PDF-A file, enabling users to select text-to-speech, etc. Mr. Adams stated R&R officially requested an Executive/Shade Session to discuss settlement, by way of Mr. Donovan A. Roper's, July 20, 2018 letter. The letter explains the requirements in requesting a Shade meeting and how that meeting is conducted. The Board must not distribute the letter, as it is attorney-client privileged confidential material. For the sole purpose of holding the Executive Session, the August 22,

2018 meeting would be changed from 8:00 a.m., to 7:30 a.m., with the District’s regular schedule to follow at 8:00 a.m., as advertised. Management will advertise a separate notice of the Continued Meeting. Discussion ensued regarding quorum requirements and Mr. Brougham directed Management to perform a quorum checks well in advance of meetings, in case it is necessary to cancel a meeting.

FIFTH ORDER OF BUSINESS

Presentation of Audited Financial Report for the Fiscal Year Ended September 30, 2017, Prepared by McDirmit, Davis & Company, LLC

Mr. Adams presented the Audited Financial Report for the Fiscal Year Ended September 30, 2017. As the Scribner case was ongoing, Mr. Pires suggested adding an additional paragraph, under Note 10, on Page 30, stating that the case is ongoing and has not been settled.

The following changes were made:

Page 29, Note 8, Lines 2 and 3: Delete “as well as clubhouse management services”

Page 30, Note 10: Add additional paragraph regarding the ongoing Scribner. Mr. Pires provided language to be inserted.

SIXTH ORDER OF BUSINESS

Consideration of Resolution 2018-04, Accepting the Audited Financial Report for the Fiscal Year Ended September 30, 2017

Mr. Brougham presented Resolution 2018-04.

On MOTION by Mr. Brougham and seconded by Mr. Schmitt, with all in favor, Resolution 2018-04, Accepting the Audited Financial Report for the Fiscal Year Ended September 30, 2017, as amended, was adopted.

SEVENTH ORDER OF BUSINESS

Developer’s Report

There being no report, the next item followed.

EIGHTH ORDER OF BUSINESS

Engineer’s Report: *Hole Montes, Inc.*

Mr. Cole presented the Monthly Engineer’s Report. He highlighted the following:

- **Asphalt Repairs:** The pothole was repaired on Fiddler’s Creek Parkway between Majorca Lane and Mulberry Lane. He toured the area Mr. Fritz referenced, between Championship Drive and Montreux Lane, and found no erosion causing the road and sidewalk to be unlevel but asphalt is falling off of a driveway in Montreux. Mr. Dieckmann stated, as part of the Restoration Program, areas damaged during removal of ficus trees would be repaired next week.
- **Repaving Project:** In response to an action item, it was confirmed that Club Center Parkway was not included in the repaving project, likely because it was paved years later than Fiddler’s Creek Parkway. It will be monitored and eventually included in the repaving program.

Mr. Cole stated the primary grading and paving will begin at the entrance at 951 to Championship Drive. Mr. Schmitt noted signs of alligator cracking, up to the entrance of Marsh Cove, were most noticeable after it rains. Mr. Cole will check the condition. Updated repaving budgets, indicating what is included for Phase 1, should be provided in two months. Mr. Brougham stated commencement of the repaving project is expected in Fiscal Year 2019, weather permitting. The project consists of milling, paving and striping. Mr. Adams recommended obtaining two bids, adding Championship Drive as Phase 2, as the intent is to complete Phase 1 in its entirety, followed by Phase 2, budget permitting.

NINTH ORDER OF BUSINESS

Consideration of Fiddler’s Creek Tree Pruning Specifications Evaluation Report and Proposal, Prepared by McGee & Associates

Mr. Brougham gave an overview of why it was necessary to commission McGee to prepare this Report, which was due to the original Waldrop Evaluation Report indicating many of the District’s trees were damaged by Hurricane Irma because of inadequate tree pruning. The District, for several years, was proactive in its tree pruning program, and engaged an Arborist to prepare pruning specifications for the District to follow, which adhere to the American National Standards Institute (ANSI) standards and complies with County Code. The District engaged Davey Tree Service to perform work to those specifications and the District was to be notified if the company was not following protocol or if the specifications were not correct. Since the Report now raises more questions than answers, he suggested performing an analysis of the Report, including a plan of action that can be initiated.

Discussion ensued regarding whether the Report was inadequate or comprehensive, the District's efforts in engaging professionals to operate according to specifications, what Part-D of the Report was referring to regarding the arrows and strikethroughs, requiring McGee to amend the specifications at no cost and hiring another company to amend the District's specifications. Mrs. Adams noted that, towards the end of 2017, Federal and State Occupational Safety and Health (OSHA) revised the tree trimming specification requirements and those new changes would be reflected in this Report.

Mr. Brougham, at the consensus of the Board, directed Staff to advise McGee to revise the Report into a two-page bulleted items list indicating the recommended changes to the District's current Tree Pruning Specifications and including instructions as to when the stakes should be removed from the recently planted trees. Until received, McGee's invoice should not be paid.

On MOTION by Mr. Brougham and seconded by Mr. Schmitt, with all in favor, authorizing Staff to request the July 13, 2018 McGee & Associates Report be revised, as stated, was approved.

TENTH ORDER OF BUSINESS

Continued Discussion: Fiscal Year 2018/2019 Proposed Budget

Mr. Brougham recalled that the Fiscal Year 2018 budget increased \$500,000 to commence the repaving program; however, those funds we used for the initial Hurricane Irma cleanup, which prevented having The Foundation assess residents for that cleanup. The same line item and budget assessments were being kept the same, in anticipation of commencing the repaving project in Fiscal Year 2019. This was not a part of the Operations & Maintenance (O&M) line items.

Mr. Adams stated that the Board's directive was to ensure that the O&M budget assessment levels remained the same year-over-year and, doing so would result in adjusting the Roadway Capital Outlay, accordingly. Mr. Adams stated that, the only other thing that occurred since the last meeting was that a true-up was received for the payroll costs, which resulted in "Access control" increasing about \$ 7,000.

Mr. Adams confirmed that budget adjustments were made when true-up payments, in terms of the Equivalent Residential Units (ERUs) were received, an on-roll and off-roll ERU

analysis of CDD #2 was provided but he would confirm the number of units between the two CDDs. Mr. Adams confirmed the directive of the Board was to ensure O&M assessment levels were kept the same year-over-year and, if ERU adjustments were necessary, it should be in favor of CDD #1, due to paying less for safety, irrigation and technical.

Mrs. Adams stated that, for budgeting purposes, Mr. Olson was directed to document faded street lamps and signage, throughout the community and roadways, and obtain cost estimates to repaint them. The estimate excludes areas that were just replaced. Mr. Olson was waiting on other bids; however, one contractor provided a not-to-exceed cost of \$35,000. Mr. Adams stated that expense could be included in the Roadway Capital Outlay line item. In response to a question of whether \$125,000 was sufficient for the tree pruning project, Mrs. Adams stated that it was sufficient for Fiscal Year 2019; the Arborist confirmed those areas that require crown reduction must first recover from the hurricane before any action is taken. Mr. Schmitt requested the status of the technology related to access and the entrance changing and asked if the District was assessed. Mr. Dieckmann stated that an assessment would not be levied; a Maintenance Agreement would be finalized, indicating a savings, since the software should not need much maintenance in the first year. The District will not have a capital outlay expense for the equipment.

▪ **Continued Discussion/Update: Hurricane Irma Recovery**

****This item, previously the Twelfth Order of Business, was presented out of order.****

Mr. Adams stated, he spoke with the Federal Emergency Management Agency (FEMA) Grant Manager about two weeks ago and was advised that, per upper FEMA Management, the grant was working its way through FEMA's process. No additional information was requested. Per the FEMA website, the grant is complete, in terms of submission, and is awaiting final FEMA approval.

Mr. Cole provided the following report.

- BrightView is completing one remaining hurricane cleanup punch list item.
- Juniper completed work in CDD #1; the inspection was completed yesterday and only a few punch list items remain.
- Streetlight Repairs: A final walkthrough to go over punch list items was being scheduled with Bentley Electric Company Inc. (Bentley).
- Signage: Lykins-Signtek (Lykins) completed the repairs; the final walkthrough to go over punch list items was being scheduled.

➤ Wall/Fence Repairs: Per the prior minutes, the area showed no evidence of unevenness along Championship Drive, by Hawk’s Nest and Cardinal Cove. Mr. Cole will tour the area again and suggested the contractor was matching the installation to the grade.

In response to someone notifying Mrs. Adams of the large gaps at the bottom of the fence from Championship Drive, on the back side of Pepper Tree to Bent Creek, Mr. Cole will tour the area and the gap will be filled with dirt, instead of reinstalling the fence. The fence along Mulberry Lane was being installed. The County approved the fence permit for Hawk’s Nest, on the south side of Championship Drive. Mr. Cole stated he will coordinate with Mr. Dieckmann, in prepping the fence area. Fence materials were expected to arrive mid-August.

Staff responded to Mr. Schmitt questions, as follows:

- Sidewalk Repairs: The contract was signed for the Fiddler’s Creek Parkway sidewalk repair and placed on the contractor’s schedule; work should commence soon.
- Pine Straw: Mrs. Adams, as directed at the prior meeting, was coordinating pine straw installation in the areas other than in the replanted areas.
- Landscaping project continues along both sides of Championship Drive and Fiddler’s Creek Parkway, including filling holes where tree stumps were removed and removing the exposed irrigation pipe.
- Signage: Mr. Cole will tour the Mulberry Lane cul-de-sac to view the crooked post and repair it, accordingly.
- Streetlight Repairs: Mrs. Adams will contact Bentley to repair the street light at 7629 Mulberry Lane.

In response to a question, the gate by Mulberry Row will be repaired. Mr. Brougham stated residents should continue to report potential issues to Mr. Dieckmann, Mr. Cole or Mrs. Adams. Mr. Cole will coordinate with Mr. Dieckmann in combining projects, obtaining pricing to repair the sidewalks at Majorca and the marked concrete mass on the east side of Fiddler’s Creek Parkway, towards The Club, in the catch basin area. The broken catch basin on Mulberry Lane is on the ongoing projects list.

ELEVENTH ORDER OF BUSINESS

**Consideration of Resolution 2018-05,
Adopting the Annual Meeting Schedule
for Fiscal Year 2019**

Mr. Brougham presented Resolution 2018-05.

On MOTION by Mr. Brougham and seconded by Mr. Turner, with all in favor, Resolution 2018-05, Adopting the Annual Meeting Schedule for Fiscal Year 2018/2019, was adopted.

TWELFTH ORDER OF BUSINESS

Continued Discussion/Update: Hurricane Irma Recovery

This item was presented during the Tenth Order of Business.

THIRTEENTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of June 30, 2018

Mr. Brougham presented the Unaudited Financial Statements as of June 30, 2018. Off-roll assessments were at 75%, within the prorated projections; however, no assessments were booked in the current month due to a timing issue. Mr. Adams explained that on-roll assessment revenue collections were 101% because some property owners did not take advantage of the 4% early pay discount.

In response to Mr. Schmitt's question, Mr. Dieckmann confirmed that, once planting is completed, the park bench and paver project at Championship Drive will be finalized. Mr. Turner was concerned if expenditures stay consistent in the next five months they could exceed fund balance and the District could have shortages, before tax roll revenues are received. Mr. Adams stated that the District was not close to having a shortfall.

FOURTEENTH ORDER OF BUSINESS

Consideration Minutes

A. June 11, 2018 Continued Meeting

Mr. Brougham presented the June 11, 2018 Continued Meeting Minutes and asked for any additions, deletions or corrections.

On MOTION by Mr. Brougham and seconded by Mr. Slater, with all in favor, the June 11, 2018 Continued Meeting Minutes, as presented, were approved.

B. June 27, 2018 Regular Meeting

Mr. Brougham presented the June 27, 2018 Regular Meeting Minutes and asked for any additions, deletions or corrections. The following changes were made:

Line 104: Change “Willow Park” to “Parkway”

Line 209: Change “maintenance of the counter clocks and Hurricane Irma to reoccur next year” to “the replacement or repair of the satellite clocks, to the degree that they experienced this year due to Hurricane Irma”

Line 302: Change “John” to “Jon”

On MOTION by Mr. Brougham and seconded by Mr. Slater, with all in favor, the June 27, 2018 Regular Meeting Minutes, as amended, were approved.

FIFTEENTH ORDER OF BUSINESS

Action Items

This item was not discussed.

SIXTEENTH ORDER OF BUSINESS

Staff Reports

A. District Counsel: *Woodward, Pires and Lombardo, P.A.*

Per Mr. Brougham with regard to an action item, Mr. Pires will contact Q. Grady Minor & Associates, P.A. (GradyMinor) to obtain information needed to prepare the Licensing Agreement between CDD #1 and GradyMinor, for the right-of-way (ROW) pavement restoration project at Isla Del Sol.

Mr. Brougham directed LandCare to keep track of the irrigation line repair costs associated with those broken by C&C Fence Builders (C&C). Mr. Pires and Mrs. Adams were directed to review the contract to determine if C&C could be held accountable for the costs to repair the main line. Since nothing was specified in the contract, costs will continue to be tracked and the matter addressed, if expenses reach a significant amount. Mrs. Adams will have the damaged utility lines flagged.

B. District Manager: *Wrathell, Hunt and Associates, LLC*

i. Consideration of ADA Site Compliance Proposal for Website Compliance Shield, Accessibility Policy and One (1) Annual Technological Audit

Mr. Adams provided an overview of the ADA Site Compliance (ADASC) contract and the services involved, which was presented at the last meeting.

ii. NEXT MEETING DATE: August 22, 2018 at 8:00 A.M.

The next regular meeting will be held on August 22, 2018. The Executive Session will commence at 7:30 a.m., followed by the regular meeting.

C. Operations Manager: *Wrathell, Hunt and Associates, LLC*

Mr. Brougham stated that, until certain activity is completed and a decision is made about what will be planted along the fence line, mulch will be added along Peppertree, Bent Creek and Whisper Trace. The design concepts from Ms. Kathy Fesser and the Landscape Architect were expected.

Mrs. Adams presented the Field Operations Report and highlighted the following:

- The District will install four 25' Royal Palms, at Cherry Oaks Trail, to replace the one that died and three belonging to The Foundation. Mr. Dieckmann, on behalf of The Foundation, will credit the District for the cost differences between 12' and 25' trees. In response to the District obtaining four Royal Palm trees from Isla Del Sol, Mrs. Adams stated the costs associated with relocating them, the quality and without a warranty, was not worth the effort.
- Irma Restoration: Per Mr. Brougham, Mrs. Adams was directed to advise LandCare to handle throughout CDD #1, any remaining tree stumps and root balls they identified.
- Flower Rotation: Commences the end of August.
- Plant Renovation Project: Mr. Olson and Mrs. Adams were directed to contact the Landscape Architect and move forward with the \$5,100 not-to-exceed proposal to remove the split leaf philodendron. The cost includes a full set of specifications, plant species and placement.
- Patrol Services: Mr. Olson stated the Florida Fish and Wildlife Conservation Commission (FWC) expressed interest in providing a proposal; he will follow up on the pending proposal. Florida Highway Patrol (FHP) was contacted but does not provide private sector traffic enforcement.

Mr. Schmitt asked if Staff coordinates with the contractors in performing work and confirms whether areas are properly restored. Grass was installed where a contractor installed fiber optic cable, along the Parkway between Mayorca to Mulberry Lane, and the grass is now dead. Mrs. Adams recalled that, several months ago, a subcontractor reimbursed the District for damages they caused and further discussions of security notifying the HOA or Staff when contractors enter. Mrs. Puckett stated some contractors likely have a pass to enter; she will check to see which contractor Mr. Schmitt was referring to.

Mr. Pires confirmed that, for all utility work performed, the contractors are obligated to restore the area when finished and recalled previously suggesting the District sign up for the Sunshine One Call, which requires notifying the District through the system, 48 hours in advance, allowing time to locate and tag all lines. Mrs. Adams will have the debris cleaned up. Mr. Cole will follow up on completing the Sunshine One Call application and coordinate with Ms. Puckett and Mrs. Adams to develop a succinct procedural process for arriving contractors, so security and LandCare can follow it, including Post Orders.

- **Acceptance of Resignation of Supervisor Charles Turner**

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

Mr. Brougham presented the letter of resignation from Mr. Charles Turner.

On MOTION by Mr. Brougham and seconded by Mr. Schmitt, with all in favor, the resignation of Mr. Charles Turner, was accepted.

- **Appointment of Mr. Joe Badessa**

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

Mr. Pires suggested before any action is taken, Mr. Brougham open the floor to public comments, since this item is not on the agenda. Mr. Brougham nominated Mr. Joe Badessa to fill the remaining term of Seat 1. Mr. Badessa was an unopposed, qualified candidate for Seat 1 and would be elected to Seat 1 in November. No other nominations were made.

****Mr. Brougham opened the Public Comments.****

There being no public comments.

****Mr. Brougham closed the Public Comments.****

On MOTION by Mr. Brougham and seconded by Mr. Slater, with all in favor, the appointment of Mr. Joe Badessa to fill the unexpired term of Seat 1, was approved.

- **Administration of Oath of Office to Newly Appointed Supervisor (the following to be provided in a separate package)**

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

Mr. Adams, a Notary of the State of Florida and duly authorized, administered the Oath of Office to Mr. Joe Badessa. Mr. Adams provided and he and Mr. Pires 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**
 - **Form 1: Statement of Financial Interests**
 - **Form 1X: Amendment to Form 1, Statement of Financial Interests**
 - **Form 1F: Final Statement of Financial Interests**
- D. Form 8B, Memorandum of Voting Conflict**

Mr. Brougham thanked Mr. Turner for his service on the Board.

SEVENTEENTH ORDER OF BUSINESS Supervisors' Requests

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

EIGHTEENTH ORDER OF BUSINESS Public Comments

There being no public comments, the next item followed.

NINETEENTH ORDER OF BUSINESS Adjournment

There being nothing further to discuss, the meeting recessed at 9:54 a.m., and was continued to Thursday, August 22, 2018 at 7:30 a.m., at this location, for the purpose of holding an Executive Session. The regularly scheduled meeting would follow.

On MOTION by Mr. Brougham and seconded by Mr. Schmitt, with all in favor, the meeting recessed at 9:54 a.m., and was continued to Thursday, August 22, 2018 at 7:30 a.m., at this location.


Secretary Assistant Secretary


Chair Vice Chair