

**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 September 26, 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
Joseph Badessa	Assistant Secretary
Robert Slater	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
Carrie Robinson (via telephone)	Special Counsel
Valerie Lord	Counsel – The Foundation
Marie Puckett	Fiddler's Creek Security
Robert Dieckmann	Interim Project Manager – The Foundation
Shannon Benedetti	Resident
Jesse Fritz	Resident
Torben Christensen	Resident
Judy Tibbs	Resident
Gary Shira	Resident

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mrs. Adams called the meeting to order at 8:00 a.m. Supervisors Brougham, Badessa and Slater were present, in person. Supervisor Schmitt was not present. One seat remained vacant.

SECOND ORDER OF BUSINESS

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

Mr. Torben Christensen, a resident, noted that, lately, the patrol cars look muddy and dirty whereas before they were shiny and clean. Staff was asked to make sure that the patrol

cars are washed daily. Next, the palms and some of the bushes on Runaway Lane that were destroyed by Hurricane Irma and subsequently removed have not been replaced. As they often fail to trim the area, Mr. Christensen asked if the landscapers could be reminded that the portion of Runaway Lane from Fiddler's Creek Parkway, down to the monument, is part of the CDD. Mrs. Adams alerted LandCare about the issue. Mr. Brougham stated that the same would apply to the two CDD-owned entrances on Isla Del Sol. Mrs. Adams would remind LandCare of the entrances as well.

Mr. Brougham stated that Mr. Gary Shira, a resident, noted several bare spots along Fiddler's Creek Parkway, between the sidewalk and the main gate, and asked if that area would be replanted. Planting would commence on October 1 at the main gate and the bare spots would be filled in. Mr. Slater stated that several areas underneath the fence, from Whisper Trace up to Mulberry, have bare spots. Mr. Cole stated that the decision was to lower the portion of the fence near Mulberry Court; a contractor placed fill under it and he would inspect the area after the meeting. Mr. Brougham asked Mr. Adams to place a hold on the contractor's retainage.

Ms. Judy Tibbs, a resident, stated that the concrete fence post between Bent Creek and Peppertree is on the ground and should be discarded. Staff was asked to have the fence post removed.

THIRD ORDER OF BUSINESS**Special Counsel Update**

Ms. Robinson provided the following update:

- The depositions are well underway; a number of depositions have been taken to date.
- Mr. Adams, the CDD #1 representative, will conclude his depositions in early October.
- The deposition of Mr. Miller, as the CDD #2 representative, was recently concluded.
- The deposition of a U.S. Bank representative in Minnesota was set for this morning but was canceled due to travel issues and will be rescheduled.
- Numerous depositions are coming up at the end of this week and over the next several weeks.
- A hearing was set for October 29 on U.S. Bank's Motion to Bifurcate the cases; they asked the Court to sever the CDD #1 case from the CDD #2 case, for trial, reasoning that the issues are separate for the Districts and separating the trials would benefit judicial economy.

➤ Ms. Robinson plans to oppose U.S. Bank's motion.

Mr. Brougham asked if the cases were not initially joined together by a Court. Ms. Robinson confirmed that they were consolidated, at the beginning, and are still proceeding as consolidated cases. Mr. Brougham questioned why the first judge's decision to join the cases does not take precedence over the subsequent request to separate them. Ms. Robinson replied that every judge is entitled to review prior interlocutory orders of another judge and determine whether it is the same and, in this instance, the landscape of the cases has changed since that original decision. When the original ruling was made, CDD #1 was an intervener into the declaratory judgment action brought by U.S. Bank against CDD #2. U.S. Bank's position is that CDD #2 is no longer a party to that declaratory judgment action, by virtue of U.S. Bank's removal of Trustee. Ms. Robinson noted that the cases are so similar that there is a risk of inconsistent results, based on the same language, if there are two different trials. In response to Mr. Slater's question regarding what would happen if U.S. Bank prevails on the motion, Ms. Robinson stated, because the cases are competing as one single, consolidated case, there is one judge and, if they are separated for trial, the cases should still both stay with that same judge. As to whether there is a legal requirement that one judge will preside over both cases, Ms. Robinson stated, there is no procedure stipulating that, when the cases are bifurcated, a new judge will be assigned; they will both be under the same judge and, although it is not beyond the realm of possibility, it is very unlikely. Ms. Robinson was asked to alert the Board to new developments.

Ms. Robinson left the meeting.

FOURTH ORDER OF BUSINESS

Developer's Report

There being no Developer's Report, the next item followed.

Mr. Brougham asked if someone could validate that the PUD Amendment for the 41 parcel was approved by the Board of County Commissioners. Ms. Lord replied affirmatively and confirmed that there are no new developments.

FIFTH ORDER OF BUSINESS

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

Mr. Cole reported the following:

- The landscape restoration work is substantially complete; a punch list inspection of CDD #1 areas is scheduled for tomorrow.
- The sidewalk repairs were recently substantially completed.
- Collier Paving is too busy to do the sidewalk repairs. Mr. Cole will secure a proposal from another contractor.
- The Hawk's Nest fence installation is underway.
- The iron, double-rod Mulberry fence gate was located and will be installed.
- Regarding the gate's locking mechanism, plates must be installed to see if that is possible because it is a vinyl fence instead of concrete.

A Board Member questioned if the mechanism will match, in size and shape, with the new gates, since the material is different. Mr. Brougham asked Staff to review and determine if it will match.

- Streetlights, signage and tree removals were substantially complete.
- By the next meeting, all of CDD #1's restoration projects should be completed.

Mr. Brougham asked if the landscaping must be revamped at the CDD's expense after the Hawk's Nest fence is installed. Mr. Dieckmann stated the landscaping is still being worked through. Mr. Dieckmann was asked to determine the cost of landscaping and email the information to Mr. Brougham, who would initiate a discussion with Mr. Salvaggione, as to what Hawk's Nest would like to do. In response to a Board Member's question, Mr. Adams stated that the streetlight painting is part of routine maintenance. Mr. Cole stated that he is organizing the milling and repaving project, which will include striping. Mr. Brougham asked if the CDD could accommodate the Isla Del Sol Association if they pave the CDD #1-owned portion of the roadway, as part of their repaving project. Mr. Adams stated, if they are willing to pay, it is simply a transfer of those funds offsetting the costs to the CDD, which would be cleaner than entering into a license agreement and allowing them to pave the District's roadway. Mr. Brougham inquired about the crosswalk striping. Mr. Cole would check with Grady Minor Engineering to see what is reflected in their plans.

SIXTH ORDER OF BUSINESS

Official Recognition of The Foundation and Robert Dieckmann for their Recovery Efforts from Hurricane Irma

- **Consideration of Resolution 2018-10, Expressing Appreciation for the Assistance and Support Rendered by the Fiddler's Creek Foundation, Inc., and Robert Dieckmann in the Aftermath of Hurricane Irma; and, in the Hurricane Irma Restoration Project**

Mr. Brougham presented Resolution 2018-10 and read the title.

On MOTION by Mr. Slater and seconded by Mr. Badessa, with all in favor, Resolution 2018-10, Expressing Appreciation for the Assistance and Support Rendered by the Fiddler's Creek Foundation, Inc., and Robert Dieckmann in the Aftermath of Hurricane Irma; and, in the Hurricane Irma Restoration Project, was adopted.

Mr. Brougham requested that Management have the recognition laminated, mounted and delivered to Mr. Dieckmann.

SEVENTH ORDER OF BUSINESS

Presentation/Consideration: Irrigation Design Group Proposal

This item was deferred to the next meeting.

EIGHTH ORDER OF BUSINESS

Consideration of Revised Post Orders

Mr. Brougham stated that the Revised Post Orders is an update, requested by the Board, because the original version was outdated; comments or corrections are welcomed. On Page 9, "CDD, Fiddler's Creek Staff and Rookery Staff" makes no mention that the Rookery Golf cCub purchased a large amount of clickers from the CDD and that rookery golf club members have clickers. Other noted errors include:

Page 5: "Faces to Know": Does not have the names of the personnel under them.

"TEM" is no longer responsible for "gate repairs"; and the new contractor's name should be added.

Mrs. Adams stated that the new company takes over on December 1.

In response to a question from Page 9, Ms. Puckett stated that the barcodes are placed on the rear driver's side window of vehicles.

Page 9: District Management Staff have passes instead of gate transmitters, as alluded to under "CDD, Fiddler's Creek Staff and Rookery Staff"

Page 13, last bullet: Change "checks" to "check"

Page 4, Item #10, "Code of Ethical Conduct": Change "intoxication" to "impairment" and add "any non-prescribed narcotic or controlled substances"

- On Page 8, "General Public", last sentence: Delete "suspicious"
- On Page 10, bolded paragraph, last sentence: Change "resident" to "authorized person or property owner"
- Page 15: Residents requested corrections on the "Broken Irrigation Response List"
Ms. Puckett would make the modifications.

Mr. Brougham thought that the CDD should seriously consider whether to continue using clickers, in light of all of the new technology currently available. He asked to revisit the clickers and the reconciliation of clickers at a subsequent meeting before the Board considers other big investments.

NINTH ORDER OF BUSINESS

Consideration of AV Tech ISN Gate Keeper 5-year Customer Service Agreement

Mrs. Adams stated that the Agreement is the same agreement as before. She asked Ms. Gillyard to email the revised agreement and listed the following revisions that were made:

- Taxes were removed from the final cost.
- The date was changed to the start date of December 1.
- The Agreement can be cancelled after one year with 30-day prior written notice.
- Implement an after-hours schedule on weekends and weekdays after 5:00 p.m.
- Management requested making payments instead of one; one on December 1 and the other payment six months later.

Mrs. Adams would circulate the revised Agreement to the Board as soon as possible. A Board Member noted that the cancellation clause changes the agreement from a 5-year to a 1-year agreement and he would prefer a mutual cause for cancellation. Mr. Adams would amend the language to reflect that. Mr. Brougham requested a change in the "Service" language in reference to preventative maintenance, on Page 1.

Change "or" to "and"

Mrs. Adams would make the change.

TENTH ORDER OF BUSINESS

Consideration of Iberia Bank Term Sheet for Renewal of Line of Credit, Which Matures on October 25, 2018

Mr. Adams presented the Iberia Bank Term Sheet for Renewal of Line of Credit between Iberia Bank and the District and reviewed the terms of the Agreement.

On MOTION by Mr. Brougham and seconded by Mr. Badessa, with all in favor, the Iberia Bank Term Sheet for Renewal of Line of Credit, for \$500,000, which matures on October 25, 2018, was approved.

ELEVENTH ORDER OF BUSINESS

Discussion/Consideration: Change December Meeting Date from December 5 to December 12

- **Consideration of Resolution 2018-11, Amending the Annual Meeting Schedule for Fiscal Year 2018/2019**

Mr. Adams presented Resolution 2018-11. He stated that the primary change is with the December meeting. He requested the Board's approval to line it up with CDD #2's meeting, which was scheduled for December 12.

On MOTION by Mr. Slater and seconded by Mr. Badessa, with all in favor, Resolution 2018-11, Amending the Annual Meeting Schedule for Fiscal Year 2018/2019, was adopted.

TWELFTH ORDER OF BUSINESS

Continued Discussion/Update: Hurricane Irma Recovery

Mr. Adams stated that the District's three projects are currently under peer review by several Federal Emergency Management Agency (FEMA) managers. This is one of the final stages before the funds are obligated and transitioned to the State for further scrutiny. Although there would be no add-ons, there could be some reductions.

THIRTEENTH ORDER OF BUSINESS**Acceptance of Unaudited Financial Statements as of August 31, 2018**

Mr. Adams presented the Unaudited Financial Statements as of August 31, 2018. A Board Member asked what the District owed to CDD #2 for \$26,796. Mr. Adams stated it was a monthly cost-sharing for irrigation supply and access control; CDD #1 pays the bill and then bills CDD #2 and sometimes there is a discrepancy at month's end. In response to a question, Mr. Adams confirmed that the average expenditures overall are approximately \$280,000 per month. In response to Mr. Brougham's question regarding time frame, Mr. Cole hoped to have proposals by the next meeting. Mr. Adams suggested going out to bid for the paving project after the holidays and executing it after Easter but before the rainy season.

FOURTEENTH ORDER OF BUSINESS**Consideration of August 22, 2018 Regular Meeting Minutes**

Mr. Brougham presented the August 22, 2018 Regular Meeting Minutes and asked for any additions, deletions or corrections. The following changes were made:

Line 13: Note that Mr. Slater's participation, via telephone, was only for the regular meeting and public hearing.

Lines 105, 106 and 107: Change to read "easement along the rear of those tracts a Fiddler's Creek Perpetual Easement (FCPE), both reserved to the original Developer as well as each of those lots having a 15' drainage easement in favor of CDD #1"

Line 107: Change "either" to "the LBE"

Line 160: Change "buildup" to "buildout"

Line 176: Change "Mr. Pires" to "Mr. Cole"

Line 204: Change "followed up" to "follow up"

Line 242: Change "Mr. Mark Meyers" to "Mr. Mark Minor"

Line 262: Change "7:00 p.m." to "5:00 p.m."

Line 318: Mr. Adams to confirm if "\$5,000" is accurate for contingencies

Lines 405 and 421: Change "Traffic cop" to "Traffic Hawk"

On MOTION by Mr. Slater and seconded by Mr. Badessa, with all in favor, the August 22, 2018 Regular Meeting Minutes, as amended, were approved.

FIFTEENTH ORDER OF BUSINESS

Action Items

The following change was made, per Mr. Cole's request:

Items 19 and 23: Change "Mayorca" to "Majorca"

Mr. Adams confirmed that the District's adopted budget for "Professional admin contingencies" is \$5,000, as presented. A Board member inquired about ownership of the access road near Montreaux. Mr. Adams stated that the area needs to be sodded; he would contact Chris Major about it.

Items 1, 2, 3, 4, 5, 6, 11, 13, 16, 18, 19, 20, 22, 23, 24, 25, 26, 28, 30, 31, 33, 35, 36, 38 through 44 remained ongoing.

Items 7, 8, 9, 10, 12, 14, 15, 17, 21, 29, 32, 34, 37 were completed

- **Operations Manager: *Wrathell, Hunt and Associates, LLC***

This item, previously Item 16C, was presented out of order.

Mrs. Adams presented the September 28, 2018 Field Operations Report and highlighted the following:

- Planting projects are commencing on October 1, on Fiddler's Creek Parkway; 19 areas are identified and DRC approval was obtained.
- Staff received DRC approval to replant the flower beds along Championship Drive and for the planting along the buffer between Mulberry and Whisper Trace.

Mr. Brougham rejected placing a hold on the Mulberry and Whisper Trace plantings; they can start at the Mulberry end and plant all the way to where the fence will be raised or lowered to be filled.

- The next flower rotation will be in November and will consist of red and white sunpatiens.
- Tree pruning specifications are not available but will be uploaded on the webpage and provided to The Foundation as soon as they are received.
- Streetlights and signage are currently being repainted throughout the community.
- Staff is in the process of identifying all the faded street sign inserts for replacement.
- Mrs. Adams contacted Mr. Albeit and is awaiting the pressure cleaning schedule from The Foundation.

➤ The rust stains on the curb are caused by Tannin, an iron oxide that is drawn up through the pump stations and into the irrigation lines. Proposals were requested from SOLitude to aerate.

Regarding pressure washing, Mr. Brougham stated that it would be more effective if Mr. Albeit could appoint someone to assist District Staff with emergency mildew cleaning. If there is not an effective response, the Board may have another discussion to reconsider the contract with The Foundation.

SIXTEENTH ORDER OF BUSINESS

Staff Reports

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

Mr. Pires stated that he appreciates the efforts of the Board and District Staff in composing a lengthy objection to the County Commission as to why the property owners want the County Commission voters to postpone it for a year. One Board Member wants an update in October. He would keep monitoring this. At the County Commission meeting, he was only allotted three minutes to make a case for all five of the Districts that he represents. Unfortunately, no County Staff members responded to the letter. Secondly, regarding the Cranberry Crossing issue of the vegetation behind the homes, a memorandum was distributed regarding the recommended course of conduct. The Staff recommendation is that the District maintains the Lake and canal but not the vegetation on it. Mr. Brougham stated that the District always maintained the waterway. The issue would be discussed further at the CDD #2 meeting. The PUD change was approved on May 22 and became effective May 24.

Mr. Brougham stated that there will be a meeting tomorrow at 9:30 a.m., at the County Library meeting room, regarding erecting affordable housing units in the area. The subcommittee will attempt to reach a consensus/recommendation to the Board of County Commissioners (BOCC) on how to develop or not develop the Bembridge PUD site and on Manatee Park. It is a public meeting and all speakers are welcome.

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

i. NEXT MEETING DATE: **October 24, 2018 at 8:00 A.M.**

The next meeting will be held on October 24, 2018.

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

This item was presented following the Fifteenth Order of Business.

SEVENTEENTH ORDER OF BUSINESS

Supervisors' Requests

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

EIGHTEENTH ORDER OF BUSINESS

Public Comments

Mr. Christensen commended the Board and Staff on the redesign of the CDD's webpage.

NINETEENTH ORDER OF BUSINESS

Adjournment

There being nothing further to discuss, the meeting adjourned at 9:20 a.m.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]


Secretary/Assistant Secretary


Chair/Vice Chair