

**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 February 27, 2019 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:**

Robert Slater	Vice Chair
Joseph Badessa	Assistant Secretary
Joseph Schmitt	Assistant Secretary
Torben Christensen	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
Shane Willis	Director of Safety, Health and Environment
Joe Vaccaro	Resident
Frank Weinberg	Resident
Shannon Benedetti	Resident

**FIRST ORDER OF BUSINESS**

**Call to Order/Roll Call**

Mr. Slater called the meeting to order at 8:00 a.m. Supervisors Badessa, Christensen, Slater and Schmitt were present, in person. Supervisor Brougham was not present.

**SECOND ORDER OF BUSINESS**

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

Mr. Joe Vaccaro, a resident, stated that he and several residents complained to Mr. Albeit and Mr. Duprey, but to no avail, about a container at the end of Club Center Boulevard and Cherry Oaks Trail for over six weeks. Mr. Willis would have the owner move it or have it towed. Mr. Pires stated, if the Board wishes to consider public towing, they must adopt a policy and install signs to include the Florida Statutes. Mr. Pires would draft a Resolution for consideration, to present at the next meeting.

Ms. Robinson presented the Settlement Agreement for the Board's consideration, which will not be final until the Board approves it. The terms in the Settlement Agreement were consistent with what was discussed and approved in the Executive Session.

A Board Member asked if the Settlement was announced in Court. Ms. Robinson stated she did not know, as she did not attend the recent court hearings. Her understanding was, after the terms of the Settlement Agreement, consistent with the approval from the Executive Session, when an agreement was reached as to the essential terms of a settlement, it may have been mentioned in court. A Board Member asked how the District would address the clause regarding publically announcing the terms of the Agreement. Ms. Robinson referred to portions in the Settlement Agreement, which provided the following exemption clauses:

➤ Paragraph 3e: Allows discussion at an open Board meeting of the terms on the Settlement Agreement, in order to obtain approval of a document.

Ms. Robinson stated nothing about this discussion or the attachment of the Settlement Agreement to the agenda that is at all prohibited; in fact, it is because it is required by Florida law in order to obtain the approval of a document.

➤ Paragraph 4: Expresses conditions of the Agreements that, upon final Board approval at the first Board meeting after the execution of the Agreement, expressly allows discussion and exempts the District from the Confidentiality Agreement.

Ms. Robinson stated the intention of the confidentiality provision was to prohibit press releases and additional e-blasts. This provision allows for open discussions about the settlement terms in this meeting and, in fact, is required by Florida Law.

Mr. Schmitt stated the Settlement Agreement was now part of the public records and that the amount of the settlement, noted in Paragraph 3a, was now public knowledge. Ms. Robinson understood that and stated it was always the understanding and intention of everyone involved that this document would be made a public record, which is why all exemptions of the confidentiality provisions were put in place. The clause was intended to avoid sending e-blasts and press releases, and U.S. Bank was well aware of this.

Mr. Schmitt stated the intent was to settle and stop expending more funds on litigation.

▪ **Consideration of Settlement Documents**

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

- A. Irrevocable General Release – Fiddler’s Creek CDD #1 to U.S. Bank National Association
- B. Irrevocable General Release – U.S. Bank National Association to Fiddler’s Creek CDD #1
- C. Settlement Agreement

Ms. Robinson stated she would advise U.S. Bank of the Board’s acceptance and to move forward with payment to the District.

On MOTION by Mr. Schmitt and seconded by Mr. Slater, with Mr. Schmitt, Mr. Slater and Mr. Badessa in favor and Mr. Christensen dissenting, the Irrevocable General Release – Fiddler’s Creek CDD #1 to U.S. Bank National Association, the Irrevocable General Release – U.S. Bank National Association to Fiddler’s Creek CDD #1 and the Settlement Agreement, were approved. [MOTION passed 3-1]

Ms. Robinson left the meeting.

**FOURTH ORDER OF BUSINESS**

**Developer’s Report**

Mr. Schmitt asked what the Developer’s plans were to restore the Isla Del Sol Park, since the area was no longer used as a staging area; the area still had hurricane and road construction debris on site. Ms. Lord stated she was unaware of any items in the area and would have the Developer investigate and address any issues.

**FIFTH ORDER OF BUSINESS**

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

- **Discussion: Timeline of the Sidewalk Repair Project and Plans to Redirect Traffic**

Mr. Cole noted this was related to the paving project, not the sidewalk repair project.

Mr. Cole reported the following:

- The plans for milling and resurfacing Fiddler’s Creek Parkway were completed. Discussions were underway with several contractors to review their methods for traffic control and, since two lane roads are in each direction, one of each would be closed to perform the work until the project is completed. The project was expected to take three to four weeks.

Discussion ensued regarding bicyclists using the road during construction, whether The Foundation should send an e-blast asking bikers to ride on the sidewalks during the

construction period and not in the one remaining lane, whether to involve law enforcement, etc. Mr. Pires was directed to research restricting bicycles during the milling phase. Mr. Willis stated, after a meeting with the Sheriff's Department to address the upcoming construction project, road closures, bicyclists, etc., the Sheriff would provide digital sign that would address those issues. Mr. Cole stated Mr. Willis would be invited to attend the pre-bid meeting with the contractors, in the May/June time frame, to discuss traffic concerns and other potential issues.

- Sidewalk repairs: The first phase of sidewalk grinding and the curb valley gutter repairs were completed. A proposal would be sent to Mrs. Adams for the additional required work.
- Proposals to repair several catch basins within the community were being obtained but it was difficult to obtain proposals from various contractors.

Mr. Badessa asked Mr. Cole to obtain proposals to repair the larger catch basin, along the curb outside the Championship Drive gate, near the guardhouse.

- C&C Fence Builders (C&C) will be repairing the chain-link fence adjacent to Mulberry Court and fill in the 8" gap punch list item.
- Applied for the Sunshine 811 application. A meeting would be scheduled with Mr. Willis to discuss and prepare a Standard Operating Procedure (SOP).
- As the areas could not be toured before today, he would identify areas of encroachment in the drainage easements at Ashton Woods within Marsh Cove.

Mr. Pires stated, once determined by Mr. Cole and as directed at the last meeting, he would send a formal letter to Ashton Woods requesting removal of any encroachment on CDD property.

Mr. Cole was directed to follow up and identify other areas of encroachment in the drainage easements. Mr. Badessa referred to the County's Planning Commission amending its Land Development Code (LDC) to change the language associated with the installation of home generators. When asked if the County was reviewing for any drainage encroachments, the County stated, unless it is noted on the plat, it was the District's responsibility to do so. Mr. Pires would send a letter to the Board of the County Commissioners (BOCC) Chair, the Planning Commissioners and their Staff requesting that, as a condition before the permit is approved, residents would be required to notify easement holders of any encroachments. He recalled an instance that occurred in CDD #2.

Mr. Schmitt asked Mr. Olson to coordinate straightening the sign leaning in the median exiting to Championship Drive.

On MOTION by Mr. Schmitt and seconded by Mr. Christensen, with all in favor, authorizing Mr. Pires to send a letter to the County Commission and Staff in response to the Land Development Code (LDC) amendment and proposing that the LDC amendment clearly state it is the applicant’s responsibility to obtain the easement holder’s approval before the permit is issued, was approved.

**SIXTH ORDER OF BUSINESS**

**Consideration of Settlement Documents**

- A. Irrevocable General Release – Fiddler’s Creek CDD #1 to U.S. Bank National Association
- B. Irrevocable General Release – U.S. Bank National Association to Fiddler’s Creek CDD #1
- C. Settlement Agreement

This item was presented following the Third Order of Business.

**SEVENTH ORDER OF BUSINESS**

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

Mr. Adams stated the three reimbursements were under peer review by the Federal Emergency Management Agency (FEMA). If they show no findings, he would sign off on DDRs, and the claims would be sent to the State. The State processes claims within about 60 days.

**EIGHTH ORDER OF BUSINESS**

**Acceptance of Unaudited Financial Statements as of January 31, 2019**

Mr. Slater presented the Unaudited Financial Statements as of January 31, 2019.

Mrs. Adams confirmed the Joint Workshop for CDDs #1 and #2 and other attendees was rescheduled for March 27<sup>th</sup> to discuss WESCO and the current irrigation system.

There was discussion surrounding the expense of the “Access control”, “Repairs and maintenance – parts” line item. Regarding the gate at the front entrance of 951 being down more than it is operative; Mr. Badessa asked whether the vendor stores parts, as the repairs are always delayed. Mr. Willis stated that the person who hit the gate was paying for the repairs. Mrs. Adams stated she was not notified of any accident. Discussion ensued regarding response time of the new vendor, proprietary parts, parts having to be built to order because the original manufacturer was no longer in business, replacing and upgrading all TEM gate arms, the

incoming and outgoing gates at Championship also being down more than operative, whether the Board should consider changing the entire system. Mr. Willis would obtain quotes to replace the gate arm towers by next meeting.

Mr. Adams was directed to have the Trustee closeout the Debt Service Series 2014-3 and 2014-4 balance and transmit the funds to the CDD. Mrs. Adams would research the reason for the Series 2013 \$29,167 figure noted in the 2006 column.

**NINTH ORDER OF BUSINESS**

**Consideration of Minutes**

**A. January 23, 2019 Regular Meeting**

Mr. Slater presented the January 23, 2019 Regular Meeting Minutes. The following changes were made:

Line 261: Change "Continue" to "Continued"

Line 271: Change "the structures" to "infrastructures"

**On MOTION by Mr. Schmitt and seconded by Mr. Slater, with all in favor, the January 23, 2019 Regular Meeting Minutes, as amended, were approved.**

**B. January 30, 2019 Continued Meeting**

Mr. Slater presented the January 30, 2019 Continued Meeting Minutes.

**On MOTION by Mr. Slater and seconded by Mr. Christensen, with all in favor, the January 30, 2019 Continued Meeting Minutes, as presented, were approved.**

**TENTH ORDER OF BUSINESS**

**Action Items**

Items 4, 10, 11, 15 and 16 were completed.

**ELEVENTH ORDER OF BUSINESS**

**Staff Reports**

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

Mr. Pires reported the following:

- One of two agenda items was heard at the County's Public Hearing. After hearing public comments and the recommendations of the Productivity Committee, the BOCC decided to delay, for at least another year, adopting a Resolution to enter into agreements with the Property Appraiser and Tax Collector's Office to place a non-ad valorem assessment on the tax bills, for the stormwater utility tax. Several Commissioners were not in favor of tax.
- The issue of the Antilles landscape buffer was resolved to where they will install a 15' enhanced buffer, as outlined in the plat and CDD letter.
- Ashton Woods' stance concerning cleaning up the cement discharging into the catch basins was that the catch basins and filters were clean and, according to the County, the pipes were clean. Since the pipes are 11' deep, he would continue to insist they provide the CDD with a video confirming there was no sediment obstructing the pipes to the lakes.
- Under Florida Statute, no more than two bike riders abreast were allowed on the road.
- A recent Wall Street Journal article discussed the Americans with Disabilities Act (ADA) website compliance issues and how lawsuits were on the rise. Management was commended for promptly addressing the compliance matter to avoid any issues.

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

Mr. Adams stated, now that the District settled its case with U.S. Bank, he suggested writing off \$132,078 from the balance sheet, in the Capital Projects Series 2005 column of the "Liabilities", "Due to other funds" "General fund 001" line item.

**On MOTION by Mr. Slater and seconded by Mr. Badessa, with all in favor, authorizing the District Manager to write off \$132,078 from the "Capital Projects Series 2005", "Liabilities", "Due from CP2005 to GF011", line item, was approved.**

- **NEXT MEETING DATE: March 27, 2019 at 8:00 A.M.**

The next meeting will be held on March 27, 2019 at 8:00 a.m. The Joint Workshop was rescheduled for 1:30 p.m.

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

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

- There were no complaints about the flowers installed in February.

Mrs. Benedetti, a resident and Landscape Advisory Committee Member, stated that the colors were supposed to be pink and red but they were mostly red, resulting in little contrast.

Mrs. Adams apologized for engaging Club Care of Florida, LLC (Club Care), without Board approval, for the purchase and installation of flowers, in the amount of \$13,875, instead of engaging the District’s contractor, LandCare. She discussed the LandCare contract and noted that the Club Care cost was \$3,875 higher than LandCare. She requested ratification of engaging Club Care and for approval to continue with Club Care for future flower installations, as she felt Club Care provides a better product. Ms. Benedetti explained that The Foundation recommended Club Care to Mrs. Adams and the Board, and told them that Club Care provides and has access to a better variety of plants than LandCare. She discussed prior issues with LandCare’s ability to provide the desired plants.

**On MOTION by Mr. Slater and seconded by Mr. Schmitt, with all in favor, Management’s actions to engage Club Care of Florida, LLC, in the amount of \$13,875 for the purchase and installation of flowers, was ratified and authorizing Management to engage Club Care for future flower installations, was approved.**

Mr. Slater stated that several guests complimented the beautiful aesthetics of the entrance. He recognized the individual communities along Fiddler’s Creek Parkway and the Landscaping Committee for their efforts.

➤ LandCare was sent a defective work notice to replace the dead bougainvillea plant beds, by this Friday; Staff was directed to closely monitor the situation. She would confirm whether the area included the end of Championship Drive and Mulberry Lane.

➤ SOLitude Lake Management (SOLitude) tested at Hawk’s Nest due to a recent fish kill. As the oxygen levels were okay, the damage was likely due to runoff of insecticides, etc.

**D. Director of Safety, Health and Environment: *Shane Willis***

Mr. Willis gave a PowerPoint presentation and highlighted the following:

➤ Residents will have three gate access options, which will be e-blasted. Demonstrations will be sent every Friday, along with communication that Security personnel are not to be considered first responders. Residents would be able to edit their information.

➤ Crime Statistics within the community were presented by a Sherriff’s Deputy, reflecting zero crime; however, contractors have reported stolen equipment.

- An alligator class was conducted educating residents on safety and why alligators are needed. Trappers would remove large alligators, as needed; crocodiles, cannot be removed unless approved by the Florida Fish and Wildlife Conservation Commission (FWC).
- Gate activation in January was 70,000, with 19 service calls, due to wear and tear.
- The Traffic Hawk took about 21,000 photographs in January. The average speed was 18 miles per hour (mph) and 95% were at 35 mph or below. The Lieutenant’s quote was that Fiddler’s Creek does not have a speeding problem, just a few individuals who speed. Once identified, speeders will be contacted. The Traffic Hawk was moved to capture the illegal turns at traffic circles at Aviamar and Veneta.
- Patrols averaged 6,300 miles in January and they responded to 287 incidents.
- Programs were being implemented, signs from the Sherriff’s office were being purchased to install at construction sites to prevent crime, etc.
- He attends the monthly Collier County Sherriff’s meeting.
- A permanent Traffic Hawk on Cherry Oaks Trail will be installed within a few weeks.
- Issues with construction traffic continue. Requesting that Google remove Cherry Oaks Trail as a throughway. He would check whether the same issue occurs for Championship Drive.
- ISN Database completion was expected soon, along with the tie into the physical gates.
- The roving patrol accident and policy reports would be transmitted to Mrs. Adams.

**TWELFTH ORDER OF BUSINESS**

**Supervisors’ Requests**

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

**THIRTEENTH ORDER OF BUSINESS**

**Public Comments**

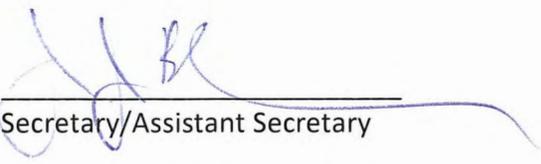
There being no public comments, the next item followed.

**FOURTEENTH ORDER OF BUSINESS**

**Adjournment**

There being nothing further to discuss, the meeting adjourned.

**On MOTION by Mr. Slater and seconded by Mr. Schmitt, with all in favor, the meeting adjourned at 9:31 a.m.**



Secretary/Assistant Secretary



Chair/Vice Chair