

**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 April 24, 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:

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| Phil Brougham | Chair |
| Robert Slater | Vice Chair |
| Joseph Badessa | 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 |
| Tony DiNardo | Developer |
| Valerie Lord | Counsel – The Foundation |
| Ron Albeit | General Manager – The Foundation |
| Gary Warner | Resident |
| Bob Rendine | Resident |
| Frank Weinberg | Resident |
| Jesse Fritz | 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, Badessa and Christensen were present, in person. Supervisor Schmitt was not present.

SECOND ORDER OF BUSINESS

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

Mr. Gary Warner, a resident, asked that the Board do something about the gate system, sooner rather than later. Mr. Brougham stated the District was purchasing new arms; however, he was unsure whether that would address the current issues.

THIRD ORDER OF BUSINESS

Special Counsel Update

Mr. Brougham recalled that, as part of the litigation settlement agreement, the District was to receive a check from Special Counsel's escrow account within 30 days of both parties executing the settlement agreement; however, it was being delayed for the Judge to officially close the case. He asked Mr. Pires whether the Judge could go against a settlement order. Mr. Pires stated, without having the terms of the agreement, he did not know. Mr. Adams would follow up with Mr. Reyes on the status of the case being closed.

FOURTH ORDER OF BUSINESS

Developer's Report

Mr. Albeit stated Oyster Harbor held a meeting related to a complaint about the condition of the hedge along Sandpiper Drive. Mrs. Adams confirmed that she was aware of it and she toured the area, which is part of CDD #2.

FIFTH ORDER OF BUSINESS

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

Mr. Cole reported the following:

- Catch basin repairs were almost complete.
- All areas of concrete curb and sidewalk repairs were identified for CDD #1 and would be completed in May by the same Contractor performing the roadway repaving services; a change order would be submitted to perform work identified on Mulberry Lane.

SIXTH ORDER OF BUSINESS

Consideration of First Amendment to Cross Access Easement By and Between Fiddler's Creek CDD #1 and JMD Development and Investments, LLC

Mr. Brougham presented the First Amendment to Cross Access Easement By and Between Fiddler's Creek CDD #1 and JMD Development and Investments, LLC (JMD). JMD requested an extension due to difficulty obtaining power from FPL to complete work at the Antilles development.

On MOTION by Mr. Slater and seconded by Mr. Christensen, with all in favor, the First Amendment to Cross Access Easement By and Between Fiddler's Creek CDD #1 and JMD Development and Investments, LLC, was approved.

SEVENTH ORDER OF BUSINESS

Discussion/Consideration: Gate Operator Replacement Estimates

- A. IQ, LLC, Estimate #4852**
- B. AV Tech Estimate #19045**

Mr. Albeit presented the proposals for replacement of six gate arm operators. Discussion ensued regarding which was the lowest bidder, based on the differences between the bids. Since AV Tech (AVT) already provides maintenance services to the District, Mrs. Adams suggested negotiating with AVT.

Mr. Slater was concerned about the current equipment already not working properly and asked whether the new equipment would address the current issues. Mr. Albeit stated the current issue has no correlation with the new equipment.

On MOTION by Mr. Badessa and seconded by Mr. Brougham, with all in favor, AV-Tech Estimate #19045, in the amount of \$60,750, was approved.

EIGHTH ORDER OF BUSINESS

Discussion: District Counsel Memorandum Regarding Posting of Signs At or Around CDD #1 Ponds/Lakes Warning/Alligators

Mr. Pires presented the Memorandum. Discussion ensued regarding whether to address only those areas of concern, additional postings if the alligators become more aggressive, The Foundation's alligator educational awareness classes, whether signage at the entrance to the community was sufficient, involving The Foundation and Sales Office in discussions and e-blasts which were effective and should be sent quarterly. Mr. DiNardo suggested having a disclaimer regarding wildlife on the gate passes and posting signs in areas identified by the drone. Regarding liability, Mr. Adams confirmed that, per the insurance carrier there is no signage requirement but the insurance carrier did recommend educating the public and, if posting signs, posting them at high focal points for residents and guests to see.

On MOTION by Mr. Brougham and seconded by Mr. Badessa, with all in favor, taking no action with regard to posting alligator warning signage, was approved.

Mr. Pires stated the Board could address this matter again, if the District is notified of an incident occurring.

Mr. Pires was trying to locate the Order of Dismissal of the CDD #1 case file and sent the Order of Dismissal of the CDD #2 case to Mr. Adams.

NINTH ORDER OF BUSINESS

Discussion: District Counsel Memorandum Regarding Marsh Cove/Ashton Woods/Drainage Easement Encroachment

Mr. Pires presented the Memorandum, which was generated as a follow up to discussions after discovery of several encroachments into CDD #2's drainage easements. The CDD #1 encroachments involved the first four tracts in Marsh Cove Phase 1. The courses of action to address the matter included sending a letter asking the homeowner to sign an agreement and, if no response, sending a follow up letter, or taking the position that the District has easement rights and doing nothing until an issue occurs. The District would not lose or waive any rights by not informing violators. Mr. Brougham was apprehensive about sending letters, as it would, most likely, create more issues; he preferred not to take any action at this time, since the District has the legal right to remove items, when necessary. Mr. Christensen agreed with Mr. Brougham's position. Mr. Pires recommended advising the property owners well in advance of a potential issue. Mr. Badessa stated he preferred communicating issues up front; he felt that letters should be sent to the property owners. Mr. Cole stated that inspections at Mahogany Bend and Mulberry were still underway and he was preparing a progress report to send to Mr. Pires, which identifies several areas.

On MOTION by Mr. Brougham and seconded by Mr. Christensen, with Mr. Brougham and Mr. Christensen in favor and Mr. Slater and Mr. Badessa dissenting, notifying homeowners at Marsh Cove and Ashton Woods of the drainage easement encroachments, was not approved. [Motion Failed 2-2]

This item would remain on the agenda. Mr. Cole would provide the costs to date, as well as the expected costs to complete the inspections in CDD #1.

TENTH ORDER OF BUSINESS

Discussion/Consideration: Irrigation Maintenance Agreement with The Foundation **Proposed Services**

Mr. Brougham asked how the duties and responsibilities of the CDD #1 irrigation maintenance contract with LandCare would interfere with The Foundation's Agreement. Mr. Albeit stated the irrigation system being controlled under one entity ensures that the systems would run efficiently and effectively and end to the issues throughout the communities. Discussion ensued regarding whether the contract allows for CDD #1 and the contractor to legally access private property, the concern of public funds used on private property, the CDD and the villages and the contractor's ability to provide certifications and/or licenses. Mr. Albeit stated this Agreement was between the District and The Foundation to monitor the satellite system and make minor repairs to the District's irrigation system, under a \$1,500 threshold. The Foundation would enter into separate agreements with the individual villages. Mr. Albeit would revise portions of the contract and submit it for final execution; the Agreement would be effective May 6, 2019, the same date as the contractor's start date.

On MOTION by Mr. Slater and seconded by Mr. Badessa, with all in favor, the Irrigation Maintenance Services Agreement with The Foundation, in substantial form, subject to changes incorporated into the final Agreement, as discussed, and authorizing Chair to execute the Agreement, upon final review, was approved.

Mr. Pires would replace the exhibit depicting and describing the District's systems with the document presented at the joint workshop.

ELEVENTH ORDER OF BUSINESS

Consideration of Award of Contract for Roadway Repaving Services

Mr. Cole presented the bid tabulation results for the District's Roadway Repaving project. Qualified bids were submitted by Ajax Paving (Ajax), Southern Striping Solutions, LLC

D/B/A Collier Paving and Concrete (Collier Paving) and Preferred Materials, Inc. (PM), ranging from \$415,863.40 to \$507,184.10, which were lower than the original \$515,000 cost estimate that included contingencies. His recommendation was to award the contract to Collier Paving, the lowest responsible bidder because they have done repair work in the Fiddler's community and worked with Mr. and Mrs. Adams at their other CDDs. Discussion ensued regarding traffic flow and scheduling and the work timeline. It was confirmed that the project would commence in May; the Mallards Landing and Bellagio HOAs were not interested in hiring the District's contractor to perform work in their communities.

On MOTION by Mr. Badessa and seconded by Mr. Brougham, with all in favor, authorizing the District Engineer to Award Collier Paving & Concrete the Roadway Repaving Services contract and to coordinate with Security and those involved in traffic notice schedules, was approved.

TWELFTH ORDER OF BUSINESS

Continued Discussion/Update: Hurricane Irma Recovery

Mrs. Adams stated there was nothing to report. Mr. Adams stated the claims were still in "peer review" with the Federal Emergency Management Agency (FEMA). He believes it might be a Collier County issue, since FEMA paid a few of his Lee County Districts.

THIRTEENTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of March 31, 2019

Mr. Adams presented the Unaudited Financial Statements as of March 31, 2019. Staff would research where the trailer rental expenses were allocated and reclassify them to the correct line item, "Rentals and leases". In response to a question regarding the "Legal-litigation" line item, Mr. Adams stated a few residual invoices were still expected.

FOURTEENTH ORDER OF BUSINESS

Consideration of Minutes

A. March 27, 2019 Regular Meeting

Mr. Brougham presented the March 27, 2019 Regular Meeting Minutes.

The following change was made:

Line 68: Insert "job" after "better"

It was noted six gate towers were being replaced, rather than 15, as indicated on line 234; no change was made, as the number six was stated at the meeting.

On MOTION by Mr. Brougham and seconded by Mr. Slater, with all in favor, the March 27, 2019 Regular Meeting Minutes, as amended, were approved.

B. Mr. Brougham presented the March 27, 2019 Joint Irrigation Workshop Minutes.

The following changes were made:

Line 126: insert "is" after "head" and delete "was"

Regarding the March 27, 2019 Regular Meeting Minutes, it was noted that the correct number of gate towers being replaced was 15 and the Agreement includes replacing the magnetic loops; however, no change to that portion of the March 27, 2019 Regular Meeting Minutes was needed.

On MOTION by Mr. Christensen and seconded by Mr. Brougham, with all in favor, the March 27, 2019 Joint Irrigation Workshop Minutes, as amended, were approved.

FIFTEENTH ORDER OF BUSINESS

Action Items

Items 12, 15, 13, 19, 21, 22 and 23 were completed.

Item 13: Mrs. Adams confirmed the Jacaranda tree was alive but in shock; she would continue to monitor the tree located in the median island going into Mulberry Lane, adjacent to Fiddler's Creek Parkway.

SIXTEENTH ORDER OF BUSINESS

Staff Reports

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

Mr. Pires distributed items related to Collier County's proposed Amendments to its Pollution Control and Prevention Ordinance and requested it be placed on the next agenda. If enacted, the changes could require Districts to structurally retrofit any stormwater system identified as the source of pollution. He recommended that Mr. Cole monitor the County's

plans to advertise this for a public hearing and that the Board follows the recommendation to exempt existing residential permitted properties, such as the District, as County staff opposed that position.

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

i. 1,236 Registered Voters in District as of April 15, 2019

Mrs. Adams reported that there were 1,236 registered voters residing within the boundaries of the District as of April 15, 2019.

ii. NEXT MEETING DATE: April 24, 2019 at 8:00 A.M.

The next meeting will be held on May 22, 2019 at 8:00 a.m., rather than April 24th, as incorrectly listed in the agenda.

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

Mrs. Adams and Mr. Olson presented the Field Operation's Report and highlighted the following:

- Mosquito Control Program would commence May 3rd and occur every two weeks, through September. Mr. Albeit would send an e-blast to residents.
- Irrigation Pump Station: Two variable frequency drives required replacement due to a high electrical surge, at a cost of \$20,000. Staff was unable to determine if the damages were due to FPL's work on the electrical system on March 20th.
- Landscape: Mr. Olson continues to tour the property with LandCare, twice a month, to ensure projects are completed.
- Street Signs. The leaning street sign at the Championship Drive exit was installed.
- LED Streetlight Conversion: Project was almost completed. 14 lights on Mahogany Bend were expected to be installed within the next couple of weeks.
- Sidewalk Repairs: The potential trip hazards on Mulberry Lane were marked. Mr. Cole would include this with the changes in the current work order.
- Construction Entrance Ramp: Mr. Olson would address the safety concerns and move forward with repairing the loose hand rail and broken or missing slats, upon receipt of a proposal.

Mr. Albeit stated a Village Council meeting was scheduled for May 7th, at which Juniper would present a proposal to The Foundation for tree pruning, pressure washing and the irrigation systems throughout Fiddler's Creek, on a continuous basis. A staging area would be

provided for Juniper's equipment to remain on site. This matter would be included for discussion, on the next agenda. For Juniper's information, Mrs. Adams would send Mr. Albeit the District's Board-approved, detailed specifications to provide proper tree pruning services to the CDD. Mr. Albeit would resend notifications to the villages.

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

There being no report, the next item followed.

SEVENTEENTH ORDER OF BUSINESS

Supervisors' Requests

Mr. Badessa stated, since The Foundation was moving forward with project on US 41, he requested that the Board allocate the \$172,000 from the litigation settlement towards funding the District's portion of the expenses related to the project, to prevent an assessment increase. Discussion ensued regarding what the District's legal obligation was with regard to funding part of the streetlight conversion, whether it would be necessary to increase assessments to fund the project, building fund balances, reserves, etc. Mr. Adams stated it was too early to discuss this, since the project was at least two years out and, if the milling and repaving project was completed by then, those funds could be reallocated to this project.

Mr. Slater asked for clarification that six was the correct number of barrier gate towers at the entrance from US 41, as noted in AVT's proposal. It was confirmed that six were required.

EIGHTEENTH ORDER OF BUSINESS

Public Comments

Mr. Bob Rendine, a resident, asked which roads were being repaved. Mr. Brougham provided an overview of the repaving project, which would take several years to complete.

NINETEENTH ORDER OF BUSINESS

Adjournment

There being nothing further to discuss, the meeting adjourned.

On MOTION by Mr. Brougham and seconded by Mr. Slater, with all in favor, the meeting adjourned at 9:28 a.m.

COPSAH
Secretary/Assistant Secretary

Mr. J. S.
Chair/Vice Chair