

**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 June 26, 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:

Phil Brougham	Chair
Robert Slater	Vice Chair
Joseph Badessa	Assistant Secretary
Torben Christensen	Assistant Secretary
Joseph Schmitt (via telephone)	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Adams	Assistant Regional Manager
Jason Olson	Assistant Regional Manager
Tony Pires	District Counsel
Valerie Lord	Counsel – The Foundation
Terry Cole	District Engineer
Shane Willis	Director of Safety, Health and Environment
Tammy Campbell (via telephone)	McDermitt, Davis & Company, LLC
Tony DiNardo	Developer
Brandon Duke	Juniper Landscaping – President
Rich Wiland	Davie Tree
Derek Harris	Davie Tree
Mark Swanson	LandCare
Shannon Benedetti	Resident/Landscape Committee
Jack Combes	Resident
Frank Weinberg	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 attending via telephone.

On MOTION by Mr. Slater and seconded by Mr. Brougham, with all in favor, authorizing Mr. Schmitt's attendance and full participation, via telephone, due to exceptional circumstances, was approved.

SECOND ORDER OF BUSINESS

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

Mr. Jack Combes, a resident, stated he recently asked Mr. Flage, with LandCare, to fill a 4' gap in front of Cardinal Cove that was left when LandCare replaced the ficus hedge with a clusia hedge over a month ago. He asked to have the gap filled with sod and pine straw. Mr. Olson would coordinate with LandCare to fill gap with sod and pine straw.

THIRD ORDER OF BUSINESS

Presentation of Audited Financial Report for the Fiscal Year Ended September 30, 2018, Prepared by McDirmit, Davis & Company, LLC

Ms. Tammy Campbell, of McDirmit, Davis & Company, LLC, presented the Audited Financial Report for the Fiscal Year Ended September 30, 2018 and described the information found on each page. The audit was consistent with past audits; it was a clean, unqualified audit with no findings or instances of noncompliance. The financial information in the Report was correct; however, Supervisors requested clarification of certain verbiage in the Report. Mr. Adams stated the following edits were sent to the Auditor to incorporate into the Report:

Page 28, Note 10, last sentence: Correct statement regarding litigation outcome.

Page 28, Note 8: Delete "as well as clubhouse management services"

Page 29, Note 10, Third Paragraph, last sentence: Insert language that lawsuit was tentatively resolved. The final Agreement has not been finalized or executed by all parties, yet.

The following changes would also be made to the Financial Report:

Page 30, last sentence: Insert "as this is not a forensic audit as it was not in the scope of our engagement" after "identified"

Page 29, Note 11, Third line: Change "Subsequent to year end" to "May, 2019"

Mr. Brougham referred to Page 3 of the January 10, 2019 Engagement Letter, and stated the District was entitled to a 20% reduction in fees since the Report was dated June 13, 2019. Mr. Adams confirmed that, due to the delay, the discount would be applied.

FOURTH ORDER OF BUSINESS

Consideration of Resolution 2019-03, Accepting the Audited Financial Report for the Fiscal Year Ended September 30, 2018

Mr. Brougham presented Resolution 2019-03.

On MOTION by Mr. Brougham and seconded by Mr. Badessa, with all in favor, Resolution 2019-03, Accepting the Audited Financial Report for the Fiscal Year Ended September 30, 2018, as amended, was adopted.

FIFTH ORDER OF BUSINESS

Developer's Report

There being no Developer's report the next item followed.

SIXTH ORDER OF BUSINESS

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

Mr. Cole reported the following:

- Paving Project: Project at Fiddler's Creek Parkway at entrance of 951 to Championship Drive was deemed complete. The permanent thermal plastic striping on the stop bars would be completed soon. All identified areas with concrete catch basin and curb and sidewalk repairs were completed.
- Antilles Buffer: Inspector identified several palm trees below the required 18' height as stated in the Planned Unit Development (PUD) Agreement.

Mr. Pires stated, besides the Agreement, the PUD is important as it shows two methods of enforcement, either through the County or the Agreement with the District. The position of Staff, with the County, involved in this issue, was that the PUD Agreement is very specific that these heights are required at the time of planting; it addresses species and height requirements, which the County Inspector adheres to during their preliminary inspection. The County was not going to wait until a tree matures, which is typical in the County Code. The Developer takes a risk during the Preliminary Inspection, as they may be told to remove and replace a tree because it did not comply with the PUD.

Mr. Brougham voiced his opinion that the Board has done everything possible to point out the disagreement and it was up to the County to interpret or enforce the issue.

SEVENTH ORDER OF BUSINESS

Consideration of Award of Contract for
Tree and Palm Pruning

Mr. Brougham stated he was unable to make direct comparisons of the bids. Mrs. Adams recalled prior discussion that, because of timing, the Request for Proposals (RFP) focused more on unit costs, since each vendor would provide their own counts, which could differ. The purchase of a software program to enter GPS coordinates would be requested later, which would provide them with a true-up count and the pruning schedule for each tree.

Mrs. Adams reported the following:

- LandCare, Davie Tree (Davie) and Juniper Landscaping (Juniper) responded to the RFP.
- Juniper's bid was invalid as their license was suspended.

Mr. Pires stated Juniper cannot engage in tree pruning services until the County License, which is pending, is renewed.

Mr. Christensen felt that, in consideration of the importance to the community, as a whole, it made sense to reiterate Mr. Albeit's comments from the last meeting in which he stated that The Foundation was working towards a solution to provide a community-wide tree trimming program, which benefits everyone when the vendor can be on site before a hurricane occurs to speed up the hurricane recovery process.

Mr. Pires stated he did not recommend entering into a contract with an entity that is not a licensed contractor.

Mr. Slater requested tabling this item to the next meeting.

Mr. Brandon Duke, President and owner of Juniper, stated that the license issue was due to a clerical error, which caused the license to lapse; however, he expected to receive the license within 48 hours.

Mr. DiNardo felt that the best way to handle this would be to schedule a workshop with The Foundation, let The Foundation go into contract and then enter into a shared-cost agreement with the Districts, as it is better to have a contractor whose equipment remains on site when a storm event approaches. He stated that Juniper's numbers were out so, from a true bidding process, he believed that Juniper was at a disadvantage because, in his opinion, to do a bidding process, no one should know the numbers; the numbers should have been left out of the RFP. Mrs. Adams stated that the District Staff did not give out that information.

Mr. Schmitt stated he would like to extend the bid window to allow more responses and agreed to table this item. Mr. Brougham suggested rejecting all the bids and closing out the RFP since further RFP details must be worked out.

On MOTION by Mr. Brougham and seconded by Mr. Badessa, with all in favor, rejecting all responses to the RFP for Tree and Palm Pruning and authorizing advertisement of a new RFP, once the details of the RFP are finalized, was approved.

Mr. Adams stated the Joint Workshop was tentatively scheduled for July 10th, with both CDDs and The Foundation, to discuss a community-wide tree trimming contract, whether Juniper’s license is renewed, and whether having a “stand by” mode for storms should be included in the RFP, etc.

EIGHTH ORDER OF BUSINESS

Consideration of Amendment to Limited License Agreement for Traffic Hawk

Ms. Lord presented the Amendment to the Limited License Agreement for the Traffic Hawk. This was necessary as Cranberry Crossing residents requested the Traffic Hawk be relocated to another area. Mr. Pires confirmed that the Limited License Agreement was in good form; the only changes were to the Exhibits to indicate the new location of the equipment.

Mr. Schmitt asked whether the Mobile Traffic Hawks also needed a Limited License Agreement. Mr. Pires would confirm whether The Foundation was awarded right-of-way (ROW) permits to District Property and, if not, a Limited License Agreement for the Mobil Traffic Hawks would need to be prepared.

On MOTION by Mr. Slater and seconded by Mr. Badessa, with all in favor, the Amendment to Limited License Agreement for the Traffic Hawk on Cherry Oaks Trail, was approved.

NINTH ORDER OF BUSINESS

Continued Discussion/Update: Hurricane Irma Recovery

- **Recent FEMA Determinations Received**

Mr. Adams stated the Federal Emergency Management Agency (FEMA) determination letters were received and all three projects were denied grant reimbursements due to the District's procurement process. He explained that each grant request submitted was similar to his other Districts but each FEMA representative is different and several FEMA Program Managers were assigned to this District; he was unaware of any issues with the submittals. Mr. Adams, consulted Ms. Tracy Doyle, of CDR Maguire (CDR), regarding how the District approached its emergency clean up and the current situation, and her opinion was that the District has a good basis to appeal the procurement justification. He suggested engaging CDR's Appeals Specialist, whose hourly rate is \$160. Although he was unsure how many hours would be needed to review the files and file an appeal, access to the files was immediate since they are already uploaded to FEMA's portal. If the Board decides to proceed, the Appeal Letter could be presented at the July meeting, before submitting it to FEMA before the July 30th appeals deadline. He distributed a copy of another CDD's Emergency Procurement Justification Memo. Because CDR was highly recommended, Mr. Pires suggested engaging them for the appeals process and presenting the Appeal Letter for review and approval at the July 10th Workshop, rather than at the regular meeting, so that it can be filed well in advance of the deadline.

Mr. Brougham directed Management to email the Chair weekly regarding the status, what actions occurred, what progress was or was not made, any issues that may require the Board to reconvene, etc. He did not want any time to go by without receiving an update.

On MOTION by Mr. Brougham and seconded by Mr. Christensen, with all in favor, authorizing the Chair to work with the District Manager and District Counsel to formulate a contract with CDR Maguire to engage an Appeals Specialist, at the rate of \$160 per hour, to process and file an appeal, was approved.

Mr. Slater stated he would rather the Board provide authorization to District Staff to move forward with filing the Appeals Letter once its completed, rather than waiting for the Board to approve it at the July 10th Workshop. Once completed, Mr. Adams stated he would forward the Appeals letter to the Board. Mr. Pires recommended amending the prior motion.

On MOTION by Mr. Brougham and seconded by Mr. Christensen, with all in favor, amending the prior motion authorizing the Chair to work with the District Manager and District Counsel to formulate a contract with CDR Maguire to engage an Appeals Specialist, at the rate of \$160 per hour to process and file an appeal, to incorporate providing the Chair, District Manager, District Counsel and outside Consultant authorization to take all actions appropriate and necessary to file an appeal to the FEMA denial, was approved.

TENTH ORDER OF BUSINESS

Continued Discussion: Fiscal Year 2020 Proposed Budget

Mr. Brougham stated in the proposed Fiscal Year 2020 budget, the “Access control-Contractual services” line item amounts were calculated to reflect The Foundation taking over Security, effective January 1, 2020; it would be necessary to prepare and execute a Services Agreement with The Foundation prior to that date. He requested adding a “Further Discussions of The Foundation taking Security In-house” topic to the next meeting agenda.

Mr. Adams provided an overview of the changes made to the draft proposed Fiscal Year 2020 budget since it was presented last. He and Mr. Cole would review and true-up figures to the “Roadway services-Capital outlay” line item and excess funds would be transferred to “Fund Balance”, since a minimum of 25% of the annual budget was required for the gap funding needs, and \$700,000 was estimated by year end.

Mr. Cole stated CDD #2 intended to redevelop certain areas to coincide with the Commercial Shopping Center at Sandpiper Drive and US 41, which would eventually require installing a traffic light during Fiscal Year 2021, the cost of which must be factored in the Fiscal Year 2021 budget, since CDD #1 is expected to share the costs, similar to the way costs for work at 951 and Fiddler’s Creek Parkway were shared.

The following changes would be made to the proposed Fiscal Year 2020 Budget:

Page 2, “Roadway services-Capital outlay” line item: True-up figure and transfer excess funds to “Fund balance”

ELEVENTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of May 31, 2019

Mr. Brougham presented the Unaudited Financial Statements as of May 31, 2019.

TWELFTH ORDER OF BUSINESS

Consideration of May 22, 2019 Regular Meeting Minutes

Mr. Brougham presented the May 22, 2019 Regular Meeting Minutes. The following changes were made:

Line 148: Insert "base" after "rock"

Line 288: Insert "advertising of" after "approved"

Line 348: Insert "Greater" before "Naples"

On MOTION by Mr. Slater and seconded by Mr. Brougham, with all in favor, the May 22, 2019 Regular Meeting Minutes, as amended, were approved.

THIRTEENTH ORDER OF BUSINESS

Active Action Items

Items 16 and 20 were completed.

Active Action Items 11, 13, 21 and 22 that were completed before the 05.22.19 meeting was moved to the completed list.

Item 18: Mr. Pires stated the notification letters to the various homeowners identified with encroachment issues would be sent as soon as he completes his research, before the next meeting.

Item 20: Mr. Pires attended the County Commission Meeting on June 25th regarding the revision to the Proposed Water Pollution Control and Prevention Ordinance. County Commissioners did not agree to put in an exemption for Communities with existing stormwater management systems permitted by other agencies.

Mr. Pires stated any updated information he receives from Juniper would be forwarded to Mr. Adams, Mrs. Adams and the Chair.

FOURTEENTH ORDER OF BUSINESS

Staff Reports

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

This item was presented during the Thirteenth Order of Business.

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

- **NEXT MEETING DATE: July 24, 2019 at 8:00 A.M.**

The next meeting will be held on July 24, 2019 at 8:00 a.m., and a Workshop, with both CDDs and The Foundation would be scheduled for July 10th.

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

Mrs. Adams and Mr. Olson presented the Operation's Report, noting the following:

- Front Entry Median: Bougainvillea damaged by vehicle was replaced.
- Front Entry Lakes: The trimming of the Paurotis Palms at the north entry lake would be completed next week and the vegetation on the south lake headwall was removed.

Mr. Slater asked if the pyramid cone's (spears) on top of the bougainvillea that the hurricane dissipated were being replaced. Mr. DiNardo suggested delaying any plans since The Foundation plans to upgrade the entrance area, at no cost to the District. MHK Architecture and Planning (MHK) plans to submit renderings within the next 60 days. The Foundation was no longer considering redoing the plot of land to the left to enter the commercial property.

In response to Mr. Brougham's request, Mr. Olson would have LandCare review all the entrances for line of sight issues and determine whether the sea grapes need trimming or should be replaced, specifically in the median at Fiddler's Creek Parkway, coming out of the western exit of Pepper Tree Way, closest to Bent Creek Way looking right.

- No Outlet Sign: Mrs. Adams was following up with the insurance carrier for reimbursement of \$975 to replace the "No Outlet" sign damaged in a hit-and-run incident on Runaway Lane.

Mrs. Adams confirmed that, as directed, all the irrigation satellite boxes were unlocked. In response to Mr. Brougham's comment that the Irrigation Report was excellent, Mr. DiNardo stated Mr. Willis would provide an update during his presentation.

Mrs. Adams stated the District's Lake and Wetland contract would go out to bid in a few months, as that contract expires at the end of February, 2020. She would coordinate with SOLitude to address the torpedo grass and crystal lily growing in the flow way.

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

Mr. Willis highlighted the following:

- Community Service tasks, items involving the irrigation program and the pressure cleaning team now fall under his purview. New contacts include:
 - Mr. Douglas Dupree, Administrative Manager: Responsible for creating reports on behalf of The Foundation.

- Mr. Dan Pershette, Safety Security Manager: He would also be patrolling on site.
- There were approximately 9,000 gate activations, which was a significant reduction.
- Sergeant Hall, with the Collier County Sherriff's Department, added 38 additional patrols to the District's typical three to five patrols per week, during the month the gates were down. Gates were now functioning properly, everyone was now slowing down.
- Occupancy Report - Entries: The Foundation's new data system reports showed 1,700 per week, which was up from 1,500 per week last year.
- Patrol Mileage: 4,600 miles in April and 6,200 miles in May. The additional miles were attributable to increased patrols when the gates were down.
- There were 206 incident reports in April and 179 in May. The decrease was most likely due to residents returning North. Several complaints of fishing in the lakes were received.
- Pressure Cleaning: Team average 204 miles on the blower and the pressure washing machine had about 11 miles. Most of the monuments were completed: he would let Mrs. Adams know when the Aviamar pump station is completed. 25,000' of sidewalk and 37,000' of curb were cleaned in May.
- Irrigation Program: The cost to consolidate the District's Irrigation Program or to upgrade the entire system was obtained.

Mr. Willis stated to upgrade the entire system, each satellite box would have new software and hardware, consisting of a new face plate, mother board and power board that controls all the zones in that individual satellite area. WECO expected it would take 45 man hours to upgrade all 80 satellites. It was noted the District would incur the expense for its systems and each village would do the same. The benefits of upgrading the systems would include increased efficiency in water flow and allows for overriding and shutting down a system that is running outside of its regularly scheduled time. New "thumb print" locks would be installed providing limited access. The Irrigation Manager was working on 16 satellites that were still not communicating. If everyone opted to move forward with the upgrade, he would be able to obtain a significant discount on the satellites; the District's cost would be around \$13,760.05. He would provide Mrs. Adams with a revised proposal for each District; the discount would be good until October, 2019. Mr. Adams would revise the proposed budget to include a new line item and the estimated costs.

- Hawk's Nest Lift Station: The County was upgrading the area with fencing, etc., in accordance with what Homeland Security required, and working with Mr. Cole on gaining access to the driveway, which is CDD property.
- Storm Drain Protection: Study would commence once the grates arrive.
- Oil Spill: Entering into an Agreement with Safety-Kleen, Inc., to respond to future road spills using clay to contain and remove spills, since it is a felony and \$30,000 fine if pressure cleaned materials enter a storm drain. He would provide Mrs. Adams a cost sheet.

Mr. DiNardo stated The Foundation was considering designating the Safety Department to handle spills, since there is a limited window of time to apply the clay, and then bill the appropriate entity.

FIFTEENTH ORDER OF BUSINESS

Supervisors' Requests

Mr. Schmitt stated he was approached by a Mulberry Board Member about replanting where the new fence and gate were installed on Mulberry; the Mulberry community wants to plant grass/sod on the north end and remove the bougainvillea. The CDD currently maintains that area but the Mulberry community would be willing to mow it. Mrs. Adams would tour the area.

SIXTEENTH ORDER OF BUSINESS

Public Comments

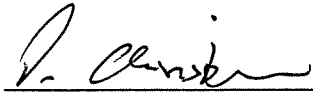
There being no public comments, the next item followed.

SEVENTEENTH ORDER OF BUSINESS

Adjournment

There being nothing further to discuss, the meeting adjourned.

On MOTION by Mr. Slater and seconded by Mr. Christensen, with all in favor, the meeting adjourned at 10:03 a.m.



Secretary/Assistant Secretary



Chair/Vice Chair