

**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 Public Hearing and Regular Meeting on October 28, 2020 at 8:00 a.m., at the Fiddler’s Creek Club and Spa, 3470 Club Center Boulevard, Naples, Florida 34114, and via Zoom, at <https://us02web.zoom.us/j/81841398733>, and 1-929-205-6099, Meeting ID 818 4139 8733 for both.

Present at the meeting were:

Phil Brougham	Chair
Robert Slater	Vice Chair
Joseph Badessa	Assistant Secretary
Torben Christensen	Assistant Secretary
Joseph Schmitt	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Adams	Assistant District Manager
Tammie Smith	Operations Manager
Tony Pires	District Counsel
Lenore Brakefield	Woodward, Pires & Lombardo, P.A.
Terry Cole	District Engineer
Kevin Dowdy	Hole Montes, Inc.
Joe Parisi	Developer’s Counsel
Ron Albeit	Foundation General Manager
Shannon Benedetti	Resident and Landscape Committee
Alfred Noto	Resident
George Riainitis	Resident

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

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

SECOND ORDER OF BUSINESS

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

No members of the public spoke.

THIRD ORDER OF BUSINESS

Waterway Inspection Report - October 2020: SOLitude Lake Management

Mrs. Adams presented the Waterway Inspection Report for Group A and responded to questions. She stated that Ms. Smith followed up on the Defective Work Notice and nearly all items of concern have been resolved and the property looked good.

FOURTH ORDER OF BUSINESS

Developer's Report

Mr. Brougham stated he was advised that the Service Agreement with The Foundation expired in September. He recalled the long-standing inclusion of contracts in the agenda prior to discussion and stated the Board would discuss whether to approve issuing a purchase order for two months or whether to waive the rule and discuss a new proposed contract today. This item was deferred until Mr. Parisi's arrival at the meeting.

FIFTH ORDER OF BUSINESS

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

Mr. Cole introduced Mr. Kevin Dowdy, a new Engineer with Hole Montes.

Mr. Cole reported the following:

- Valley gutter repairs were underway.
- Roadway restriping was ongoing, with the exception of the portions that would be done in conjunction with the work on Fiddler's Creek Parkway.
- Lake erosion repairs were underway and would continue over the coming months.

SIXTH ORDER OF BUSINESS

Public Hearing to Hear Public Comments and Objections to the Adoption of the Amended and Restated Rules of Procedure, Pursuant to Sections 190.11(5), 190.011 (15) and 190.035, Florida Statutes [2019]

A. Affidavits of Publication

- **Notice of Rule Development**
- **Notice of Rulemaking**

The affidavits of publication were provided for informational purposes.

B. Consideration of Resolution 2021-01, Adopting the Rule Regarding Sidewalk Maintenance Responsibilities**Mr. Brougham opened the Public Hearing.**

Mr. Pires presented an updated redline version of the Rule Regarding Sidewalk Maintenance Responsibilities, which included the following proposed additional language:

➤ “To the extent that a tree, shrub or other plant material has been planted within District Right-of-Way (ROW) or easement without the express written authorization or approval from the District, and has caused or may cause damage to the sidewalks and/or curbing, the District may request the adjacent property owner to remove such material at such property owner’s expense. If said material is not removed, the District in its sole discretion may cause removal of the material.”

Mr. Pires stated that the proposed addition of Section F would provide an additional remedy for the District such that, if the District removes an unauthorized tree in the ROW and the property owner does not pay for it, the District may consider imposing a special assessment to recover the cost. Discussion ensued regarding whether trees were planted by and paid for by the District. Mr. Cole recalled that trees were planted by individual lot builders, and not the District. Mr. Pires stated Staff’s position was that the trees are not the District’s responsibility.

Mr. Brougham stated the Rule dealt specifically with trees planted between the edge of the sidewalk and the curb line on certain sections of Mulberry. In some instances, tree roots have impeded on sidewalks and driveways, causing damage, upheaval and safety concerns. Discussion ensued regarding who is responsible for trees in the ROW planted by the builder and/or lot owner, and not the CDD.

Mr. Schmitt joined the meeting at 8:16 a.m.

Mr. Pires discussed the District’s responsibility for correcting safety issues on District property and stated that, while the District is not the owner of the trees, it has the right to remove them if they disrupt District infrastructure.

Mr. Christensen asked if new landscape plans were approved by the Design Review Committee (DRC) and if inspections were conducted to ensure landscaping was done according to the plans. Mr. Parisi stated that inspections were done following Certification of Occupancy. Mr. Schmitt stated that the Mulberry documents clearly stated that homeowners are responsible for maintaining trees and landscaping all the way to the curb. Mr. Brougham stated

his opinion that trees have appeared in the District ROW without permission and the CDD has the right to remove the trees if they are deemed a hazard.

Mr. Brougham closed the Public Hearing.

On MOTION by Mr. Brougham and seconded by Mr. Christensen, with all in favor, Resolution 2021-01, Adopting the Rule Regarding Sidewalk Maintenance Responsibilities, with the updated version of Exhibit A provided at the meeting, was adopted.

▪ **Developer's Report**

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

Mr. Parisi discussed the amended Service Agreement that was emailed to the Board and Staff. Mr. Brougham stated the proposed Service Agreement included a 5% increase, over three years, billed annually. He asked the Board to consider waiving the requirement for inclusion of the Agreement in the agenda. Discussion ensued regarding cost, scope of work, cleaning schedule and services provided.

On MOTION by Mr. Slater and seconded by Mr. Christensen, with all in favor, accepting the Service Agreement contract, as modified, subject to any corrections and adjustments provided by Staff, was approved.

Mr. Parisi reported the following:

- The Gatehouse was progressing according to schedule.
- Crushed rock would be installed soon so that the Creative Lane construction entrance may be opened soon. An email would be sent when the entrance opens.
- Landscape plans would be sent to Board Members and Staff for review.

SEVENTH ORDER OF BUSINESS

Consideration of Donation Agreement with Collier County for Proposed Force Main Extension

Mr. Pires presented the Donation Agreement with Collier County for the proposed force main extension and responded to questions.

On MOTION by Mr. Slater and seconded by Mr. Brougham, with all in favor, the Donation Agreement, the Utility Easement and the GAP Affidavit, and authorizing the Chair to execute, was approved.

Mr. Cole stated the proposed force main extension would likely begin in the first quarter of 2021. The project, estimated to take 60 to 90 days, would require road closures of one to two days. Road closures would be coordinated with Emergency Services and the Sheriff's Office and communicated accordingly.

EIGHTH ORDER OF BUSINESS

Continued Discussion/Update: Hurricane Irma Recovery

Mr. Brougham stated he would like to request proposals from lobbyists for assistance in pursuing the Federal Emergency Management Agency (FEMA) claim. Discussion ensued regarding the process thus far. The request was approved.

NINTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of September 30, 2020

Mr. Brougham presented the Unaudited Financial Statements as of September 30, 2020 and the Financial Highlights Report distributed by Mrs. Adams. The financials were accepted.

TENTH ORDER OF BUSINESS

Approval of September 23, 2020 Regular Meeting Minutes

Mr. Brougham presented the September 23, 2020 Regular Meeting Minutes.

The following changes were made:

Line 30: Change "Montreal" to "Noto"

Line 29 and 65: Change "O'Neil" to "O'Neill"

On MOTION by Mr. Brougham and seconded by Mr. Badessa, with all in favor, the September 23, 2020 Regular Meeting Minutes, as amended, were approved.

ELEVENTH ORDER OF BUSINESS**Action/Agenda or Completed Items**

Items 6, 7, 8, 10, 11, 16, 19, 21, 22, 23 and 24 were completed.

TWELFTH ORDER OF BUSINESS**Staff Reports****A. District Counsel: *Woodward, Pires and Lombardo, P.A.*****I. Update: Traffic Signal Contribution Request, 7-11 at Greenway and US 41**

Mr. Pires stated the County Commission issued conditional approval of the Traffic Signal Contribution Request, which is acceptable to both Districts.

Mr. Pires stated the Governor's most recent Executive Order extension indicated that local governments should plan for in-person meetings, beginning on November 1, 2020.

▪ QUORUM CHECK

This item, previously part of Item 12B, was presented out of order.

All Supervisors confirmed their attendance at the November 11, 2020 meeting.

II. PowerPoint Presentation: Sunshine Laws

The PowerPoint presentation would be provided to Staff and shared with Board Members. Ms. Brakefield discussed the following:

- All meetings of public boards or commissions must be open to the public; no Resolution, rule or formal action shall be considered binding except as taken or made at such meeting.
- Reasonable notice must be given and minutes must be taken and recorded.
- The Sunshine Law applies if two or more members of the same Board wish to discuss some matter that may, foreseeably, come before that Board for some action. Fact-finding committees would be outside the scope of The Sunshine Laws, as they do not make decisions.

Ms. Brakefield discussed hypothetical situations and provided examples of improper communications, situations that would and would not be subject to The Sunshine Laws and sanctions for violations. Board Members should contact District Counsel with any questions.

Mr. Pires stated the Attorney General opined that, for local governments such as CDDs to take action, there must be a physically present quorum of Board Members. The Governor's Executive Orders related to the COVID-19 declaration of emergency stated that, during the specified period, local government entities, such as CDDs, could utilize communications media

technology to establish a quorum and meet the requirements for those meetings to be accessible to the public.

Mr. Alfred Noto, a resident, asked if these rules also affect community boards. Mr. Pires stated they generally do not apply to HOAs or private entities unless the entity is performing governmental functions; however, other restrictions may apply.

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

- **NEXT MEETING DATE: November 11, 2020 at 8:00 A.M.**
 - **QUORUM CHECK**

This item was addressed in during Item 12A.

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

The Operations Report was included for informational purposes.

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

There being no report, the next item followed.

THIRTEENTH ORDER OF BUSINESS

Supervisors’ Requests

There were no Supervisors’ requests.

FOURTEENTH ORDER OF BUSINESS

Public Comments

Mr. George Riainitis, a resident, asked if the Creative Lane entrance gate would have a guard. Mr. Parisi responded affirmatively.

FIFTEENTH ORDER OF BUSINESS

Adjournment

There being nothing further to discuss, the meeting adjourned at 9:25 a.m.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]



Secretary/Assistant Secretary



Chair/Vice Chair