

**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 December 8, 2021 at 8:00 a.m., at the Fiddler’s Creek Club and Spa, 3470 Club Center Boulevard, Naples, Florida 34114. Members of the public were able to participate in the meeting at 1-888-354-0094, Participant Passcode: 709 724 7992.

**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 District Manager
Tony Pires	District Counsel
Terry Cole	District Engineer
Joe Parisi	Developer’s Counsel
Ron Albeit	Foundation General Manager
Dan Frechette	Fiddler’s Creek Director of Safety
Christina Kennedy	SOLitude Lake Management (SOLitude)
Shannon Benedetti	Resident
Frank Weinberg	Resident
Jesse Fritz	Resident
Elliot Miller	Fiddler’s Creek CDD #2 Board Member

**FIRST ORDER OF BUSINESS**

**Call to Order/Roll Call**

Mr. Slater called the meeting to order at 8:00 a.m. Supervisors Slater, Badessa, Schmitt and Christensen were present. One seat was vacant.

**Audio commenced at approximately 8:05 a.m., just following the Call to Order and Roll Call.**

Mr. Slater thanked Mr. Ferrao, Mr. Parisi and Mr. Albeit for organizing Mr. Brougham’s Celebration of Life, which was very well received and appreciated.

**SECOND ORDER OF BUSINESS**

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

No members of the public spoke.

**THIRD ORDER OF BUSINESS**

**Consideration of Resolution 2022-01, Declaring a Vacancy in Seat 5 on the Board of Supervisors; and Providing an Effective Date**

Mr. Slater stated the Board had three options regarding filling the vacancy, including waiting until the November 2022 General Election, selecting one of the two individuals who submitted their information or advertising the vacancy to all residents of CDD #1. He stated the first option is not the preferred method and recommended the second or third option.

Mr. Schmitt thanked those who submitted their qualifications; however,, he did not support filling the seat until the vacancy is adequately advertised to all residents.

**On MOTION by Mr. Slater and seconded by Mr. Christensen with all in favor, Resolution 2022-01, Declaring a Vacancy in Seat 5 on the Board of Supervisors; and Providing an Effective Date, was adopted.**

**FOURTH ORDER OF BUSINESS**

**Consider Appointment of Qualified Elector to Fill Unexpired Term of Seat 5; Term Expires November 2024**

Mr. Slater reiterated his opinion that the vacancy should be advertised to all residents.

Mr. Christensen agreed and expressed his opinion that, since the seats were elected in a General Election, when a vacancy occurs the opportunity should be advertised.

Mrs. Adams stated an e-blast alerting residents of the vacancy would be sent this week. The e-blast would request resumes and explain what constitutes a Qualified Elector and when the Seat would be up for election. A deadline for resume submissions would be included to ensure that resumes are included in the agenda.

**A. George Varianides**

**B. Joseph Mayer**

Mr. Varianides and Mr. Mayer were encouraged to remain in consideration.

This item was deferred to the January meeting.

**FIFTH ORDER OF BUSINESS**

**Administration of Oath of Office to Newly Appointed Supervisor *(the following will be provided in a separate package)***

- A. Guide to Sunshine Amendment and Code of Ethics for Public Officers and Employees**
- B. Membership, Obligations and Responsibilities**
- C. Financial Disclosure Forms**
  - I. Form 1: Statement of Financial Interests**
  - II. Form 1X: Amendment to Form 1, Statement of Financial Interests**
  - III. Form 1F: Final Statement of Financial Interests**
- D. Form 8B – Memorandum of Voting Conflict**

This item was deferred.

**SIXTH ORDER OF BUSINESS**

**Consideration of Resolution 2022-02, Designating Certain Officers of the District; and Providing for an Effective Date**

This item was deferred.

**SEVENTH ORDER OF BUSINESS**

**Quality Control Lake Report – October, 2021: SOLitude Lake Management**

Ms. Kennedy presented the Quality Control Lake Report and highlighted the following:

- The last section of lakes treated were in the Group C section, the southern area that includes much of the golf course.
- Torpedograss has been problematic because one of the chemicals has been out of stock; since it was replenished in November, treatments resumed with good results.
- Alligator weed, which is a shoreline weed that looks like a vine with tiny flowers, was treated.
- Pondweed, which grows up from the lake bottom, is being treated in the flowways.

➤ Lakes in Group B that were treated last month were treated again this month.

Mr. Christensen stated some residents reported issues with lake weeds that provide fish habitat. Ms. Kennedy stated, while Illinois pondweed is a native plant that is good in moderation, it is selectively treated when growth is observed in shallow areas.

**EIGHTH ORDER OF BUSINESS**

**Health, Safety and Environment Report**

**A. Irrigation and Pressure Cleaning Efforts – Todd Lux**

A PowerPoint presentation was displayed for informational purposes. Mr. Adams stated questions should be directed to Mr. Lux.

**B. Security and Safety Update – Dan Frechette**

• **Update: Mahogany Bend Force Main Project**

Mr. Frechette reviewed the PowerPoint related to safety, monthly gate activity, occupancy, incident statistics and facilities management. He reported the following:

- Access Control: Gate house totals show much more activity compared to last month.
- Occupancy: Total occupancy increased in the weeks up to and including Thanksgiving and then dropped after the holiday.
- Parking: Five violators were referred to the Fining Committee.

Mr. Christensen asked about an incident involving a motorized boat speeding in the creek. Mr. Frechette recalled an incident in which guests in a boat with an electric motor were informed of the bylaws and asked to leave the premises. Mr. Christensen believed there was another incident involving a boat with a nonelectric motor. Mr. Frechette stated he would check to see if there was an incident of which he was not aware.

A Board Member complimented Staff on the detour signage and asked if all the signs were taken down. Mr. Frechette stated all signs should be removed until the top coat is completed. He would call to confirm that all signs were removed.

Mr. Weinberg stated he received complaints about unsightly sidewalks in Mahogany and he believed it was a year since they were last cleaned. Mr. Frechette stated he would direct Community Patrol to take and forward pictures to Mr. Lux. A Board Member asked if a second machine was under consideration.

Landscape Committee Member Shannon Benedetti stated the Landscape Committee was collaborating with Mr. Lux and inspecting monuments and curbs and found some to still be very dirty even after they were cleaned. She stated Mr. Lux believed a new cleaning solution might be necessary and a list was kept to schedule cleanings. Slippery walks were prioritized due to liability concerns. She voiced her opinion that some of the monuments are in bad shape. Mrs. Adams stated the monuments are managed by the Design Review Committee (DRC) and not the CDD.

**NINTH ORDER OF BUSINESS****Developer's Report**

Mr. Parisi stated the back gate is on schedule to be completed by the end of the year.

Mr. Schmitt stated he identified himself at The Foundation meeting as a CDD Supervisor and brought up the issue of the Linear Park; he went back and looked at the documents and found there was nothing in the PUD Amendment that put a time on completion of the Linear Park or the emergency entrance. He offered his apologies to The Foundation and stated that, as there is no commitment as to the timing, it is at the Developer's discretion if and when the Linear Park is built. Mr. Parisi stated he believed the timing would be determined as the project continues; the Wellness Center and other projects would likely be prioritized before the Linear Park. Mr. Albeit asked Mr. Schmitt to attend the next Foundation meeting to address the issue. Mr. Schmitt stated he would attend the meeting and he would also contact another interested individual to provide an update about the matter.

**TENTH ORDER OF BUSINESS****Engineer's Report: *Hole Montes, Inc.***

Mr. Cole stated the road closure and reopening on Championship Drive went well; some materials were being stored in the open area on the south side of the road and work would continue for approximately three months. Final milling and repaving would be done within 50' to 100' of each side of the cut. Ongoing work would be coordinated with Staff as it pertains to impacted irrigation lines and cleanup and restoration of staging areas would be done when the project is complete.

A Board Member observed that a temporary asphalt sidewalk and curbs were installed and asked if a permanent sidewalk and curbs would be installed. Mr. Cole replied affirmatively and stated the County requires permanent smoothing and restoration of the area.

Mr. Cole stated he attended a meeting with Mr. Ken van Assenderp, Ms. Silvia Alderman and the State regarding the CDD boundary revisions. Ms. Barbara Leighty was also in attendance and she received the information and forwarded it to the Florida Land and Water Adjudicatory Commission (FLWAC).

Mr. Pires stated a copy of the letter went to Mr. Slater and Mr. Adams; FLWAC received the petition and the next step would be for the Board to schedule a local Public Hearing for January 26, 2022 at 8:00 a.m. A Court Reporter would be present to transcribe the proceedings at which Mr. Cole and others would testify to the facts. The Public Hearing would be advertised in a local paper for four consecutive weeks prior to the Public Hearing. He stated he would work with Mr. Greg Urbancic to ask the County to consider the request on January 25, 2022 in order to have this considered at the local Public Hearing at this location, as part of the CDD’s Regular Meeting agenda, in lieu of the Board of County Commissioners holding a Public Hearing.

Discussion ensued regarding the logistics of scheduling the Public Hearing, the meeting and the processes and procedures for the meeting.

**On MOTION by Mr. Schmitt and seconded by Mr. Badessa, with all in favor, setting a Public Hearing related to the CDD boundary change for January 26, 2022, at 8:00 a.m., at the Fiddler’s Creek Club and Spa, 3470 Club Center Boulevard, Naples, Florida 34114, was approved.**

**ELEVENTH ORDER OF BUSINESS**

**Consideration of Collier Paving Estimate for Mulberry Lane Valley Gutter Replacement**

Mr. Cole presented the Collier Paving Estimate for the Mulberry Lane Valley Gutter Replacement. The Board previously approved reattaching an Americans with Disabilities Act (ADA) mat at Runaway Lane and replace the sidewalk on Fiddler’s Creek Parkway.

Mr. Pires stated it would be necessary to follow the rule amendment process to allow replacement of the valley gutter damaged by tree roots. He discussed the rule amendment process and stated he could present draft language at the next meeting.

Mr. Schmitt stated that the CDD does not own the trees causing the damage and asked if the CDD is liable for repairing the damage and if the trees should be removed.

Mr. Pires discussed the process whereby the CDD must advise the homeowner of the need to treat the roots in order to prevent damage and perform the root treatment to prevent damage if necessary. He noted that, if the treatment results in the death of the tree, the CDD would be responsible for replacing the tree.

Mr. Slater stated that the CDD is responsible for the repairs. Discussion ensued regarding homeowner and CDD maintenance responsibilities, other areas with similar issues, updating the document language, the need to treat the roots and the extent of the damage to the sidewalks, valley gutters and streets. Mr. Schmitt noted that not all property owners have problematic trees and suggested making those that do aware of their responsibility, options and the liability, given that the trees do not belong to the CDD. Discussion ensued regarding revising the document to include valley gutters, informing the property owners in question of their responsibilities and creating a "catch-all" phrase in the Resolution.

Mr. Cole suggested including a contingency for installation of a root barrier. Mr. Adams suggested approving a not-to-exceed amount of \$4,000.

**On MOTION by Mr. Slater and seconded by Mr. Christensen, with all in favor, the Collier Paving Estimate for Mulberry Lane Valley Gutter Replacement, in a not-to-exceed amount of \$4,000.00, was approved.**

Mr. Pires stated the Board's consensus was to advertise the rule development and to present suggested language to expand the scope of the notice and ability to notify homeowners at the next meeting.

Mr. Schmitt requested that the Field Supervisor identify other areas that may need immediate attention, not necessarily valley gutter replacement, but root treatments.

**TWELFTH ORDER OF BUSINESS**

**Continued Discussion: US 41 Traffic Signal Agreements**

Mr. Adams stated CDD #2 had no interest in joint discussions regarding this matter.

Discussion ensued regarding communicating via public comment or noticing CDD #1 Board Members' attendance and possible participation at the CDD #2 meeting, whether CDD #1 should claim the full share of the 7-Eleven contribution, the Interlocal Agreement and whether continued discussion would be worthwhile.

Mr. Adams noted that, while Publix is on CDD #2 property, the 7-Eleven is off site. Mr. Schmitt perceived a breach of the Interlocal Agreement, which he felt showed a lack of integrity for a meager benefit to each homeowner. Mr. Badessa stated the Agreement predates the identification of the area as commercial and the agreement was a 50/50 split.

Mr. Slater recalled that Mr. Pires cannot advise on this matter, given the conflict of interest, and noted the need to engage an outside attorney to pursue the matter. Mr. Parisi suggested a delegate from CDD #1 meet with a delegate from CDD #2, one-on-one, to discuss the issue. The consensus was that Mr. Badessa would call Mr. Miller. Mr. Adams stated he would provide Mr. Badessa with the pertinent information in preparation for the call.

**THIRTEENTH ORDER OF BUSINESS**

**Discussion: Status of Non-Disturbance and Encroachment Agreement for Lot 21B, 3273 Ibiza Lane, Marsh Cove**

Mr. Pires presented the Non-Disturbance and Encroachment Agreement for Lot 21B, 3273 Ibiza Lane, Marsh Cove, which was consistent with other such Agreements.

**On MOTION by Mr. Schmitt and seconded by Mr. Badessa, with all in favor, the Non-Disturbance and Encroachment Agreement for Lot 21B, 3273 Ibiza Lane, Marsh Cove, was approved.**

**FOURTEENTH ORDER OF BUSINESS**

**Consideration of Hole Montes, Inc. Stormwater Management System 20-Year Needs Analysis Proposal**



Mr. Cole presented the Hole Montes proposal for preparation of the Stormwater Management System 20-Year Needs Analysis Report. Due to new legislation, all Special Districts are required to prepare and submit the initial Report to the County by June 30, 2022 and file subsequent Reports every five years thereafter. He discussed the work required to complete the Report, the template provided and the requirement to inventory all stormwater management pipes in the CDD and noted that Passarella & Associates would submit a separate proposal to provide the pipe database.

Mr. Christensen asked how the Watershed Project fits into the Needs Analysis Report, given that how much additional water would be pumped into the CDD’s waterways is unknown. Mr. Cole stated that project was not under the guise of CDD #1 or CDD #2; based on his review, the Watershed Project indicates there should be no detrimental impacts. He recalled that some lake erosion work was included in the plans for the current year and, if increased stormwater flow caused lake erosion, it would need to be accounted for. The budgeting process, the purpose of the analysis and what it will be used for were discussed.

**On MOTION by Mr. Schultz and seconded by Mr. Badessa, with all in favor, the Hole Montes, Inc., Stormwater Management System 20-Year Needs Analysis Proposal, in the amount of \$9,000, was approved.**

**FIFTEENTH ORDER OF BUSINESS**

**Acceptance of Unaudited Financial Statements as of October 31, 2021**

Mr. Slater presented the Unaudited Financial Statements as of October 31, 2021. The Financial Highlights Report was distributed during the meeting. The financials were accepted.

**SIXTEENTH ORDER OF BUSINESS**

**Approval of October 27, 2021 Regular Meeting Minutes**

Mr. Slater presented the October 27, 2021 Regular Meeting Minutes.

The following change was made:

Line 107: Change “environmental” to “association”

**On MOTION by Mr. Badessa and seconded by Mr. Schmitt, with all in favor, the October 27, 2021 Regular Meeting Minutes, as amended, were approved.**

**SEVENTEENTH ORDER OF BUSINESS**

**Action/Agenda or Completed Items**

Item 2: Mr. Adams stated he was waiting for new determination memos from the Federal Emergency Management Agency (FEMA) on two of the three claims. The certified copy would be mailed. No determination on the third claim was made. The portal website stated that the claim was partially overturned but he was unable to find out to what extent. Further updates would be provided.

Items 9 and 10 would be merged.

Items 4, 5, 6, 7, 8,11, 14, 16, 18, 19, 20, 22 and 24 were completed.

Item 21: Mr. Cole stated he received an email from Mr. Mark Minor and while the sign complies with line-of-sight requirements, visibility coming out of the gatehouse was not addressed. Mr. Pires suggested this be addressed in the CDD #2 meeting. Mr. Christensen believed there may be line-of-sight issues at the stop sign if the foliage is not trimmed.

Item 23: Mr. Cole stated the proposal was in progress, pending additional information.

**EIGHTEENTH ORDER OF BUSINESS**

**Staff Reports**

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

There was nothing further to report.

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

- **NEXT MEETING DATE: January 26, 2022 at 8:00 A.M.**

- **QUORUM CHECK**

Supervisors Badessa, Christensen and Schmitt confirmed their attendance at the January 26, 2022 meeting. Mr. Slater would attend via telephone.

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

The Field Operations Report was e-mailed.

**NINETEENTH ORDER OF BUSINESS**

**Supervisors' Requests**

Mr. Schmitt asked when the remaining force main pipe would be installed. Mr. Cole estimated it would take two to three months to complete, as the contractors were waiting on the necessary materials.

**TWENTIETH ORDER OF BUSINESS**

**Public Comments**

There were no public comments.

**TWENTY-FIRST ORDER OF BUSINESS**

**Adjournment**

There being nothing further to discuss, the meeting adjourned at 9:30 a.m.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

  
Secretary/Assistant Secretary

  
Chair/Vice Chair