

**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 14, 2022 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	Chair
Joseph Schmitt (via telephone)	Vice Chair
Frank Weinberg	Assistant Secretary
*Torben Christensen	* Holding over until successors appointed
*Joseph Badessa	* Holding over until successors appointed

Also present were:

Chuck Adams (via telephone)	District Manager
Cleo Adams	District Manager
Tony Pires	District Counsel
Terry Cole (via telephone)	District Engineer
Joe Parisi	Developer General Manager
Ron Albeit	Foundation General Manager
Ed Jasiocki	Fiddler’s Creek Director of Safety
Jody Benet	Fiddler’s Creek Irrigation Manager
Paul Dougherty	SOLitude Lake Management - Project Mgr.
Mark Grimes	GulfScapes Landscape Management
Mike Barrow	GulfScapes Landscape Management
Ryan Fantasia	Duval Landscape Maintenance
Fred Creamer	Resident/Cherry Oaks HOA Board Member
George Varianides	Resident
Jane Rudy	Resident

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mrs. Adams called the meeting to order at 8:00 a.m. Supervisors Slater and Weinberg and holdover Supervisors Christensen and Badessa were present. Supervisor Schmitt was not present at roll call.

SECOND ORDER OF BUSINESS

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

Mr. Albeit stated that the three-year Irrigation Management Shared Agreement expired May 5, 2022. He asked approval to present a new Agreement at the next meeting, proposing a 5% increase each year effective January 1, 2023. The CDD was billed at the old rate, which has not increased in three years; this increase is in line with the Consumer Price Index (CPI).

On MOTION by Mr. Slater and seconded by Mr. Christensen, with Mr. Slater, Mr. Christensen and Mr. Badessa in favor and Mr. Weinberg dissenting, the Irrigation Management Shared Three-Year Agreement with a 5% increase per year, effective January 1, 2023, subject to other additional provisions under Florida law for contracts and review by District Counsel, was approved. [Motion passed 3-1]

Mr. Albeit asked for an update on signage repairs, as he received several complaints on the matter. Mrs. Adams stated that the CDD already executed the Lykins-Signtek, Inc., contract to repair or replace signage, as needed.

Resident and Cherry Oaks HOA Board Member Fred Creamer, on behalf of the HOA, asked for approval for the HOA to do the following:

- Purchase and install solar lights on the two speed limit signs at either end of Cherry Oaks Trail.
- Seek recommendations and install a traffic calming device on Cherry Oaks Trail.

Mr. Creamer suggested installing speed humps or painting the speed limit on the street. Due to ongoing issues, the HOA Board sent a letter to residents reminding them to be good citizens and respectful of the laws of Fiddler's Creek.

Discussion ensued regarding the Traffic Hawk previously implemented by The Foundation, adverse effect of speed bumps on the Fire Department response and liability concerns.

Mr. Pires stated, that if signage, traffic control devices and pavement markings are in compliance with the codes, he sees no liability issues, in terms of the CDD.

Regarding a request to install solar panels on speed limit signs, it was noted that the HOA must obtain approval from the Design Review Committee (DRC) and, if the signs are in the CDD right-of-way (ROW), the HOA must execute a License Agreement with the CDD.

As the 25/35 mile per hour (mph) speed limit signs are within 10' of the corner, Mr. Cole stated he must research the possibility of relocating them and find out if painting the roadway requires County approval. Mr. Creamer will email the addresses to Mrs. Adams to email to Mr. Cole.

On MOTION by Mr. Slater and seconded by Mr. Weinberg, with all in favor, moving and/or relocating the speed limit signs at Cherry Oaks Trail, subject to Mr. Cole's review, was approved.

Resident George Varianides stated the Montreux HOA was billed \$3,800 for repairs to the water main break on Championship Drive and Montreux and asked where the HOA and CDD property line is located. Mrs. Adams stated that LandCare inspected the area and confirmed this was a neighborhood expense.

THIRD ORDER OF BUSINESS

Consideration of Resolution 2023-01, Declaring a Vacancy in Seats 1 and 2 of the Board of Supervisors Pursuant to Section 190.006(3)(b), Florida Statutes; and Providing an Effective Date

Mrs. Adams presented Resolution 2023-01. Seats 1 and 2, must be declared vacant because no one qualified to run for them during the candidate qualifying period.

On MOTION by Mr. Weinberg and seconded by Mr. Slater, with all in favor, Resolution 2023-01, Declaring a Vacancy in Seats 1 and 2 of the Board of Supervisors Pursuant to Section 190.006(3)(b), Florida Statutes; and Providing an Effective Date, was adopted.

FOURTH ORDER OF BUSINESS

Consider Appointment of Qualified Elector to Fill Seat 1 Vacancy; Term Expires November 2026

The Fourth and Fifth Orders of Business were presented simultaneously.

Mr. Weinberg nominated Mr. Badessa and Mr. Christensen to fill vacant Seats 1 and 2, respectively. No other nominations were made.

On MOTION by Mr. Weinberg and seconded by Mr. Slater, with all in favor, the appointment of Mr. Joseph Badessa and Mr. Torben Christensen to fill Seats 1 and 2, respectively, as nominated; Terms Expire November 2026, was approved.

Mrs. Adams, a Notary of the State of Florida and duly authorized, administered the Oath of Office to Mr. Badessa and Mr. Christensen. Both were already familiar with the following:

- **Administration of Oath of Office to Newly Appointed Supervisor (*the following to 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**

FIFTH ORDER OF BUSINESS

Consider Appointment of Qualified Elector to Fill Seat 2 Vacancy; *Term Expires November 2026*

- **Administration of Oath of Office to Newly Appointed Supervisor**

This item was addressed during the Fourth Order of Business.

SIXTH ORDER OF BUSINESS

Consideration of Resolution 2023-02, Designating Certain Officers of the District, and Providing for an Effective Date

Mrs. Adams presented Resolution 2023-02.

Mr. Wienberg nominated Mr. Schmitt as Chair. Mr. Slater nominated Mr. Schmitt as Vice Chair. It was noted that Mr. Schmitt cannot hold both positions. Mr. Slater nominated himself as Chair. Mr. Weinberg nominated Mr. Slater as Vice Chair. Mr. Slater declined the nomination for Vice Chair.

On MOTION by Mr. Badessa and seconded by Mr. Weinberg, with Mr. Badessa and Mr. Weinberg in favor and Mr. Slater and Mr. Christensen dissenting, appointment of Mr. Schmitt as Chair, was not approved. [Motion failed 2-2]

On MOTION by Mr. Slater and seconded by Mr. Christensen, with Mr. Slater and Mr. Christensen in favor and Mr. Weinberg and Mr. Badessa dissenting, appointment of Mr. Slater as Chair, was not approved. [Motion failed 2-2]

Mr. Schmitt joined the meeting at 8:27 a.m., via telephone.

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

Mr. Schmitt nominated Mr. Slater as Chair. No other nominations were made.

On MOTION by Mr. Weinberg and seconded by Mr. Badessa, with all in favor, appointment of Mr. Slater as Chair, as nominated, was approved.

Mr. Weinberg nominated Mr. Schmitt as Vice Chair. No other nominations were made.

On MOTION by Mr. Weinberg and seconded by Mr. Slater, with all in favor, appointment of Mr. Schmitt as Vice Chair, as nominated, was approved.

The slate of officers is as follows:

- | | |
|----------------|------------|
| Robert Slater | Chair |
| Joseph Schmitt | Vice Chair |
| Chuck Adams | Secretary |

Joseph Badessa	Assistant Secretary
Toben Christensen	Assistant Secretary
Frank Weinberg	Assistant Secretary
Craig Wrathell	Assistant Secretary

Prior appointments by the Board for Treasurer and Assistant Treasurer remain unaffected by this Resolution.

On MOTION by Mr. Weinberg and seconded by Mr. Schmitt, with all in favor, Resolution 2023-02, Designating Certain Officers of the District, as nominated, and Providing for an Effective Date, was adopted.

SEVENTH ORDER OF BUSINESS

Consideration of Award of Contract for Landscape Maintenance

Mrs. Adams discussed the bid process, criteria and tabulation results for the two respondents to the Landscape Maintenance contract. The current contract amount is \$773,222 and expires January 31, 2023. The contract budgeted amount is \$946,000. LandCare USA, LLC, the CDD’s current contractor, indicated that, due to the last several years of losing money on the contract, they declined to bid on the project. They are downsizing and will possibly reconsider at another time.

Mrs. Adams reported the following regarding respondent Duval Landscape Maintenance, LLC (Duval)

- Does not utilize E-Verify, which disqualifies them, as it is required by Florida Statutes.
- Only one reference in Jacksonville responded and conveyed that “they do a really great job”.
- Failed to provide various licenses.

Mrs. Adams reported the following regarding respondent GulfScapes Landscape Management Services (GulfScapes):

- They have been the vendor for a portion of Fiddler’s Creek CDD #2 since 2015 and were recently awarded the contract for the remaining section.

Mr. Ryan Fantasia, of Duval addressed questions regarding a local office, appropriate county and city licenses, references and staffing at Verona Walk.

Mr. Mark Grimes, of GulfScapes gave an overview of GulfScapes and addressed the same questions directed to Duval Landscape.

On MOTION by Mr. Slater and seconded by Mr. Weinberg, with all in favor, awarding the Landscape Maintenance contract to GulfScapes Landscape Management Services, was approved.

EIGHTH ORDER OF BUSINESS

Quality Control Lake Report – November 2022: SOLitude Lake Management

Mr. Dougherty presented the Quality Control Lake Report for November.

NINTH ORDER OF BUSINESS

Health, Safety and Environment Report

A. Irrigation and Pressure Cleaning Efforts: *Julie Staar*

Mr. JasiECKi stated he will present this Report, going forward.

Mr. JasiECKi stated the November PowerPoint presentation was not available and reported the following:

- Irrigation: Overall, the irrigation systems are operating properly.

A Board Member asked if the rumor about switching to digital equipment to monitor the irrigation system is true. Mr. JasiECKi stated upgrading and modernizing the existing system is being researched. It was noted that the equipment is 25-years old and near the end of its life span.

- Pressure Cleaning: Pressure washing was completed in several areas and areas in Mulberry are being retouched.

- Tree Trimming is on schedule. Storm-damaged palms are being removed. He will inspect, once the contractor advises that the project is completed.

Mr. Slater stated that residents reported three down trees off Championship Drive and Montreux that they think are CDD trees. Mr. JasiECKi believed this was already reported to Juniper; he will follow up.

Mrs. Adams asked Mr. Albeit to give her Juniper's count of trees lost in the hurricane and the locations so the CDD can replace them.

B. Security and Safety Update: *Ed JasiECKi*

Mr. JasiECKi gave the monthly PowerPoint presentation, which included the reminder that 911 should be called first in an emergency, followed by calling Community Patrol to report the incident. AvTech is on site repairing all the gates damaged in the storm and expects all of them to be operational by Friday.

Mr. Christensen asked if some of the speed devices should be relocated to Cherry Oaks, in addition to the permanent one already in place and if the police should be asked to concentrate on troubled areas when they patrol.

Discussion ensued regarding speeding enforcement on public and private roads, relocating the speed device to the long stretch of Cherry Oaks and visibility of the patrol car.

TENTH ORDER OF BUSINESS

Developer’s Report

A. Architectural Renderings of Championship Drive Gatehouse Remodel

Mr. Albeit reported the following:

- New construction is ongoing.
- Utility work is being completed at the Golf Clubhouse.
- The construction compound is almost completed. Issues arose with Florida Power & Light (FPL) not issuing meters for new construction due to the recent hurricane rebuilds, which resulted in conversations with the Florida Speaker of the House to get this issue addressed.

Mr. Slater saw several trailers at the entrance at 951 and Fiddler’s Creek Parkway and asked if it is being used as a holding place. Mr. Albeit stated he will follow up; that area is not typically used for that.

B. Golf Course Site Development Plans

This item was not discussed.

ELEVENTH ORDER OF BUSINESS

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

Mr. Cole reported the following:

- Signage Repairs: Lykins-Signtek, Inc., has commenced work on the project.
- The sidewalk inspection was completed. Collier Paving is preparing a proposal to repair or replace critical panels and a separate proposal for Mulberry Lane, as it appears most of those areas were damaged because of the trees between the road and sidewalk.

- Trebilcock Consulting Solutions resubmitted its response and 90% plans to the Florida Department of Transportation (FDOT) for the traffic signal on Sandpiper Drive. The FDOT’s review of the 90% plans is expected any day.
- A meeting was held Monday to discuss the bid package to replace Irrigation Pump House #2. The hope is to award the project no later than March 2023. A proposal to repair the doors and screens for the exhaust fan is being obtained.

Resident Jane Rudy asked who is responsible for sidewalk repairs on Mulberry Lane. Mr. Slater stated it is the homeowner’s responsibility.

TWELFTH ORDER OF BUSINESS

Discussion: Notice of Anticipatory Breach of Interlocal Agreement with Fiddler’s Creek CDD #2 [Traffic Signal Cost Sharing]

Mr. Slater asked for comments on the letter from Fiddler’s Creek CDD #2. A Board Member opined that this is a non-issue and questioned how there can be a breach when there is no invoice or documentation of the total cost. Mrs. Adams was asked to resend the Interlocal Agreement to the Board. Mr. Slater asked for this item to be on the next agenda.

THIRTEENTH ORDER OF BUSINESS

Consideration of Non-Disturbance and Encroachment Agreement

Mrs. Adams stated this request will require executing a Non-Disturbance and Encroachment Agreement between resident Jeff Kelley and the CDD. Mr. Cole stated he reviewed the information. His emailed response indicating that he has no objections to the proposed encroachment was distributed. Mr. Pires suggested and the Board agreed to have Mr. Cole’s November 15, 2022 email included in the minutes and for the resident to pay the recording fee and provide a clean copy of the backup material.

On MOTION by Mr. Slater and seconded by Mr. Badessa, with all in favor, resident Jeff Kelley’s encroachment request for pool and generator equipment on CDD property, subject to DRC approval and the criteria set forth by Mr. Cole requiring execution of a Non-disturbance and Encroachment Agreement, authorizing the District Manager, District Engineer and District Counsel to prepare the Non-Disturbance and Encroachment Agreement, and authorizing the Chair to execute, was approved.

FOURTEENTH ORDER OF BUSINESS

Discussion: Fiddler's Creek Foundation, Inc., Pressure Cleaning Service Agreement

Mrs. Adams stated that this Agreement, which expires September 27, 2023, was included for the Board to consider if it wants to increase services from annually to bi-annually. A Board Member stated this came about because Mahogany Bend residents asked for additional cleanings. The areas in question were already spot cleaned.

FIFTEENTH ORDER OF BUSINESS

Continued Discussion: Plat Review of Mulberry to Determine Maintenance Responsibilities for Sidewalks Repairs

Mr. Pires distributed and presented the December 8, 2022 Southwest Property Management letter, which he will record with the County, along with the attached certified copy of Resolution 2022-05. This will ensure all future property owners are on notice of this rule. Mrs. Adams stated this was also emailed to everyone.

SIXTEENTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of October 31, 2022

Mrs. Adams presented the Unaudited Financial Statements as of October 31, 2022. She was asked to research the fountain issues and email the Board.

The financials were accepted.

SEVENTEENTH ORDER OF BUSINESS

Approval of October 26, 2022 Regular Meeting Minutes

Mrs. Adams presented the October 26, 2022 Regular Meeting Minutes. The following changes were made:

Line 113: Change "Wilcox" to "Trebilcock"

On MOTION by Mr. Slater and seconded by Mr. Weinberg, with all in favor, the October 26, 2022 Regular Meeting Minutes, as amended, were approved.

EIGHTEENTH ORDER OF BUSINESS

Action/Agenda or Completed Items

Item 1: Mr. Pires and Mr. Parisi to meet the first week in January to discuss backup materials.

Item 14: Mr. Cole stated he would provide recommendations at the next meeting.

NINETEENTH ORDER OF BUSINESS

Staff Reports

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

There was no report.

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

- **NEXT MEETING DATE: January 25, 2023 at 8:00 A.M.**

- **QUORUM CHECK**

All Supervisors confirmed their attendance at the January 25, 2023 meeting.

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

Mrs. Adams presented the December Field Operations Report.

TWENTIETH ORDER OF BUSINESS

Supervisors' Requests

There were no Supervisor's requests.

TWENTY-FIRST ORDER OF BUSINESS

Public Comments

There were no public comments.

TWENTY-SECOND 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

1

EXHIBIT

2

District Engineer 11.15.22 Email

3

RE: No Objection to Pool and Generator Encroachment Request

Anthony Pires

Include in Minutes

From: Terry Cole <TerryCole@hmeng.com>
Sent: Tuesday, November 15, 2022 10:10 AM
To: 'Cleo Adams'
Cc: Anthony Pires
Subject: RE: requesting letter of no objection

I have no objection to the proposed encroachment of pool and generator equipment as long as it is covered in a Non Disturbance and Encroachment Agreement.



W. Terry Cole, P.E.
District Engineer, Fiddler's Creek - CDD 1 and CDD #2
Hole Montes, Inc.
950 Encore Way, Suite 200
Naples, FL 34110
Main Line: (239) 254-2000
Direct Line: (239) 254-2024
Mobile No.: (239) 572-3316
Facsimile: (239) 254-2099
Email: terrycole@hmeng.com

From: Cleo Adams <crismond@whhassociates.com>
Sent: Tuesday, November 15, 2022 9:32 AM
To: Terry Cole <TerryCole@hmeng.com>
Cc: Anthony Pires <APires@wpl-legal.com>
Subject: FW: requesting letter of no objection

Hi Terry,

This will be added to the December agenda for Board's consideration Non Disturbance and Encroachment Agreement. I don't know if you need to field review however want us to be prepared to approve it at that meeting, noting that he will require approval from the DRC as well.

Cleo Adams
District Manager
Wrathell, Hunt & Associates, LLC
9220 Bonita Beach Road
Suite #214
Bonita Springs, FL 34135
(239) 989-2939 (M)