

**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 13, 2023 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:

Robert Slater	Chair
Joseph Schmitt (via telephone)	Vice Chair
Torben Christensen	Assistant Secretary
Joseph Badessa	Assistant Secretary
Frank Weinberg	Assistant Secretary

Also present:

Chuck Adams	District Manager
Cleo Adams	District Manager
Tony Pires	District Counsel
Scott Beatty (via telephone)	Special Counsel
Cole Prium	District Engineer
Joe Parisi	Developer General Manager
Ryan Hennessey	Fiddler’s Creek Director of Community Services
Alex Kurth (via telephone)	Premier Lakes, Inc.
Mike Barrow	GulfScapes Landscape Mgmt (GulfScapes)
Jack Combs	Resident

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mrs. Adams called the meeting to order at 8:01 a.m.

Supervisors Badessa, Christensen, Weinberg and Slater were present. Supervisor Schmitt was not present at roll call.

SECOND ORDER OF BUSINESS

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

Resident Jack Combs recalled that, about three years ago, the CDD replaced approximately 50' of ficus hedge with Clusia. He asked for GulfScapes to evaluate the philodendron plantings to determine if anything can be done. He asked if replacing them is a CDD responsibility or the responsibility of the villages. Mr. Barrow will assist in this regard.

Mr. Combs asked for the shoreline on the west side of Cardinal Cove to be evaluated to determine if replenishments in certain areas or plantings of grasses might prevent further erosion caused by runoff from roofs. Mr. Prium stated it will be inspected.

THIRD ORDER OF BUSINESS**Quality Control Lake Report - Premier Lakes, Inc. (Alex Kurth)**

Mr. Alex Kurth presented the Quality Control Lake Report and highlighted the following:

- Significant improvements were noted throughout CDD #1.
- Less volume of shoreline and broadleaf weeds has enabled technicians to have a greater focus on achieving a higher percentage of control with each treatment.
- Crews with backpacks were able to treat littorals in a very targeted way for maximum control and excellent results. Pre-emergent will be sprayed in an attempt to limit weed growth.
- Monitoring the lakes recently treated for algae will continue; areas treated have responded well. Some water lettuce, which is a floating weed, is treated as needed throughout the canal system with very good results.
- At the Board's request, technicians met last week with the Marriott staff regarding the Lake 11 Cristata Lilly.

Mr. Kurth stated that treatment of the lilies occurred that day; the CDD is only partially responsible for Lake 11 and a plan was developed to ensure that it is maintained with Marriott's contractor, moving forward. Treatment was applied last Thursday; the lilies should begin to deteriorate and be 90% controlled within two to three weeks; it will be monitored thereafter. Deterioration should begin within seven to ten days. He noted that the lilies will not turn brown as much as they will break apart and sink down; the lilies will be retreated if necessary.

Mr. Schmitt joined the meeting via telephone at 8:08 a.m.

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

FOURTH ORDER OF BUSINESS

**Discussion/Update: Litigation with CDD #2
Regarding Traffic Signal Cost Sharing**

This item was addressed following the Fifth Order of Business.

FIFTH ORDER OF BUSINESS

Consideration of Resolution 2024-01, Concerning the Conveyance of Certain Land Described Herein, Deemed Unnecessary to Be Owned in Fee Simple for District Public Purposes; Determining that Disposal of Fee Simple Title in Said Land in Exchange for a Platted Dedicated Drainage Easement (With Responsibility for Maintenance) and Maintenance Easement (Without Responsibility for Maintenance) is in the Best Interest of the Public and the District; Authorizing the Conveyance of the Land Described Herein and the Acceptance of the Replacement Platted Dedicated Drainage Easement (With Responsibility for Maintenance) and Maintenance Easement (Without Responsibility for Maintenance); Authorizing Certain Officers of the District to Take all Actions Required and to Execute and Deliver all Documents, Instruments and Certificates Necessary in Connection with the Conveyance of the Land Described Herein and the Acceptance of the Replacement Platted Dedicated Drainage Easement (With Responsibility for Maintenance) and Maintenance Easement (Without Responsibility for Maintenance); all Subject to an Opinion of Bond Counsel for the District that such Transaction is Not Prohibited by the

District's Special Assessment Revenue Bonds, Series 2014-1 (and Associated Documents); Authorizing the Vice Chairman and Assistant Secretaries to Act in the Stead of the Chairman or the Secretary, as the Case May Be; Authorizing Certain Officers of the District to Take all Actions and Enter into all Agreements Required in Connection With the Conveyance of the Land Described Herein; and Providing an Effective Date

Mr. Pires presented and discussed a redlined version of Resolution 2024-01. He described his suggested corrections of typographical errors and clarifications to language.

The following changes were made to Resolution 2024-01:

Page 1 of 5, second "WHEREAS" paragraph: Change "finance" to "financed"

Page 2 of 5, third "WHEREAS" paragraphs: Corrected redundancies in references to easements.

Page 3 of 5, Section 3e: Clarified language regarding the drainage easement, which comes with responsibility for maintenance, and the maintenance easement, which will be without responsibility for maintenance as to the easements that will be platted and dedicated to the CDD on the new Hidden Cove plat.

Page 3 of 5, Section 3e: Added reference to an Agreement dated December 13, 2023 that will address how this transaction occurs.

Page 3 of 5, Section 3f: Clarified language regarding the maintenance responsibility for the drainage easement.

Page 4 of 5, Section 6: Clarified language regarding the maintenance responsibility for the drainage easement.

Page 5 of 5, Section 8: Changed "XX" to "01"

A. Affidavit of W. Terry Cole

Mr. Pires presented the draft Affidavit of Mr. W. Terry Cole. The following edits were suggested:

Paragraph 6, 7 and throughout: Change the original bond series from "2000B" to "2002B"

Paragraph 10: Add the following language requested by Bond Tax Counsel:

"that no portions of the bond proceeds of the 2002B bonds or the 2014-1 bonds, which were the exchange bonds for 2002B, were allocated to the acquisition of title to the 20 foot strip defined in paragraph 11, below. A small de minimis portion of the bond proceeds were utilized to retain a small amount of excavated material, fill, within the 20-foot strip in order to form the necessary slope required by the Collier County and South Florida Water Management District permit and Development Order requirements."

Mr. Pires stated it is a relatively small amount and the CDD did not pay for the Title. A Deed was received. The CDD did not pay any separate consideration.

Paragraph 12: Add the following language requested by Bond Tax Counsel:

"McGuire Woods LLP may rely on this Affidavit in issuing their opinion that the conveyance does not affect the tax-exempt status."

Mr. Pires stated that Mr. Terry Cole reviewed the suggested edits to his Affidavit.

Mr. Pires asked Mr. Prium if Mr. Cole is in agreement with these edits. Mr. Prium replied affirmatively.

B. Consideration of Exchange Agreement

Mr. Pires presented the Exchange Agreement, which states the CDD has agreed to transfer Fee Simple Title to the property, as set forth in Exhibit A, subject to the following:

- Hidden Cove, LLC, a Florida Limited Liability Company, will subdivide the Hidden Cove property into 31 single-family lots and that they are re-platting it. And, in exchange for the CDD deeding Fee Simple Title to the 20' strip to Hidden Cove, Hidden Cove will dedicate to the CDD a platted drainage easement with responsibility for maintenance and a maintenance easement without responsibility for maintenance, all in favor of the CDD, over the 20' strip. The text of the Dedication is included. Hidden Cove is bearing all the expenses associated with re-platting.
- In the event that Hidden Cove fails to record the re-plat with the required dedications by July 31, 2024, Hidden Cove will then re-convey the 20' strip back to the CDD. This applies in

the event that the Deed is delayed by the County or development changes because, once the Deed goes out, the only way to get it back is to have it deeded back, per the Agreement.

Discussion ensued regarding eliminating or extending the requirement for Hidden Cove to re-convey the 20' strip back to the CDD.

Mr. Parisi noted that the Agreement can be amended, if necessary.

Mr. Pires stated that the Exchange Agreement is predicated upon receiving a favorable opinion from Bond Tax Counsel, as indicated in the Resolution.

Mr. Christensen noted the importance of including the Exhibits in the agenda books, given the need for Board approval.

Mr. Pires apologized for not re-labeling the Exhibits and stated that they were included in the August 22, 2023 Memorandum from Mark Woodward, Esq.

Mr. Slater noted that those Exhibits are unchanged since they were last presented.

- C. **Memorandum Regarding Transfer Property to FCC Hidden Cove, LLC in Exchange for Platted Easements in Favor of the District**
- D. **Consideration of Hidden Cove Plat**

On MOTION by Mr. Weinberg and seconded by Mr. Slater, with all in favor, Resolution 2024-01, as amended to make any scrivener's non-substantive corrections necessary, Concerning the Conveyance of Certain Land Described Herein, Deemed Unnecessary to Be Owned in Fee Simple for District Public Purposes; Determining that Disposal of Fee Simple Title in Said Land in Exchange for a Platted Dedicated Drainage Easement (With Responsibility for Maintenance) and Maintenance Easement (Without Responsibility for Maintenance) is in the Best Interest of the Public and the District; Authorizing the Conveyance of the Land Described Herein and the Acceptance of the Replacement Platted Dedicated Drainage Easement (With Responsibility for Maintenance) and Maintenance Easement (Without Responsibility for Maintenance); Authorizing Certain Officers of the District to Take all Actions Required and to Execute and Deliver all Documents, Instruments and Certificates Necessary in Connection with the Conveyance of the Land Described Herein and the Acceptance of the Replacement Platted Dedicated Drainage Easement (With Responsibility for Maintenance) and Maintenance Easement (Without Responsibility for Maintenance); all Subject to an Opinion of Bond Counsel for the District that such Transaction is Not Prohibited by the District's Special Assessment Revenue Bonds, Series 2014-1 (and Associated

Documents); Authorizing the Vice Chairman and Assistant Secretaries to Act in the Stead of the Chairman or the Secretary, as the Case May Be; Authorizing Certain Officers of the District to Take all Actions and Enter into all Agreements Required in Connection With the Conveyance of the Land Described Herein; and Providing an Effective Date, was adopted, and the Exchange Agreement, as amended to make any scrivener's non-substantive corrections necessary, and authorizing the Chair to execute, was approved.

Mr. Pires will provide Staff with Exhibits for our records.

- **Developer's Report**

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

Mr. Parisi stated he is in final discussions with the construction manager for the Baseline irrigation replacement. He hopes to meet with the manager and with Mr. Cole next week to develop the scope of work and to discuss scheduling, materials, etc.

- **Discussion/Update: Litigation with CDD #2 Regarding Traffic Signal Cost Sharing**

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

Mr. Slater discussed the previous decision to proceed with mediation with CDD #2 and the need to select a representative to attend.

Mr. Adams stated a motion is not necessary, as it was previously approved by the Board. The mediation is tentatively scheduled for January 9, 2024 at 1:00 p.m. One Board Member can represent the CDD Board, via Zoom or in person, at Special Counsel's office.

Mr. Slater suggested appointing Mr. Schmitt as the Board's representative at the mediation. He stated, although Mr. Schmitt is not present, it was cleared with him, should the Board agree.

Mr. Adams clarified that he did not speak with Mr. Schmitt; rather, he spoke with Mr. Badessa.

A Board Member recommended appointing Mr. Schmitt as the Board's representative at the mediation and appointing Mr. Badessa as backup, should Mr. Schmitt be unable to attend.

Mr. Badessa asked if he and Mr. Schmitt can meet to discuss the Board's strategy. Mr. Adams stated such a meeting would require advertising and holding a public meeting or a special executive session.

Mr. Badessa voiced his opinion that sharing his knowledge of the situation would help enormously.

Mr. Schmitt rejoined the meeting, via telephone, after a brief technical issue.

Mr. Schmitt stated he is available on January 9, 2024.

Mr. Adams will speak with Special Counsel to address the concerns raised.

Mr. Schmitt agreed that meeting with Mr. Badessa would be beneficial. He would like to know the Board's direction prior to the mediation. He expressed his support for scheduling an Executive Session.

On MOTION by Mr. Weinberg and seconded by Mr. Badessa, with all in favor, appointing Mr. Schmitt to represent CDD #1 at the mediation and appointing Mr. Badessa as the backup representative, as discussed, was approved.

SIXTH ORDER OF BUSINESS

Health, Safety and Environment Reports

A. Irrigation and Pressure Cleaning Efforts

Mr. Hennessey reviewed the Monthly PowerPoint presentation, which included reminders to report questions, comments or concerns to Irrigation@Fiddlerscreek.com or Pressurewashing@Fiddlerscreek.com or directly to the Safety Department.

Mr. Hennessey reported the following:

- Dead trees were removed from Club Center Drive.
- A dead tree will be removed from 7621 Mulberry.
- A new Assistant Manager, Paul Lupo, was hired to assist Mr. Benet.

B. Security and Safety Update

Mr. Hennessey reviewed the monthly PowerPoint presentation, which included reminders to first call 911 in an emergency, followed by reporting the incident or other non-emergency matters to the Community Patrol. Residents can register guests via the member's website, mobile app, calling the Automated Gatehouse or emailing Safety@Fiddlerscreek.com.

Mr. Christensen asked if the cause of the damage to the gate arms is known. Mr. Hennessey stated that, 95% of the time, it is due to driver error; for example, drivers following

too closely. Occasionally, damage is due to a malfunction or the result of operator error, such as a guard hitting the switch improperly.

Mr. Schmitt discussed a difference in the timing of the first and second gates opening when exiting Fiddler’s Creek Parkway to 951 and stated his opinion that the paving sensor should be adjusted or a sign should be installed.

Mr. Hennessey concurred that an adjustment might be needed but reiterated that, based on video, damage is usually the fault of the driver.

Mr. Parisi voiced his opinion that the gates causing drivers to stop are beneficial. He stated that, when gates open too quickly, drivers tend to drive faster.

SEVENTH ORDER OF BUSINESS

Developer’s Report

Mr. Parisi reported the following:

- As previously noted, a meeting will be held next week regarding the Baseline installation.
- Development continues in both Oyster Harbor and Dorado. The golf clubhouse is delayed slightly.

EIGHTH ORDER OF BUSINESS

Engineer’s Report: Hole Montes, a Bowman Company

Mr. Prium distributed and read the following updates:

1. Valley gutter and sidewalk repairs are ongoing on Mulberry Lane, Mahogany Bend Drive and Club Center Drive. Collier Paving will clean up work areas.
2. Championship Drive and Mulberry Lane paving repairs are being done this week by Collier Paving.

A Board Member asked if the potholes on Championship Drive, near Fiddler’s Creek Parkway, will just be patched. Mr. Barrow stated, from what he could see on Championship Drive yesterday, the holes are being filled in.

3. A proposal for restriping Fiddler’s Creek Parkway eastbound will be obtained.

4. They coordinated obtaining a proposal for cleaning out sand sediments from two catch basins along Fiddler's Creek Parkway due to recent irrigation line breaks along the north side of the road.

Mrs. Adams stated she executed that contract yesterday.

5. An insubstantial change will be submitted for removal of the guardrail opposite Whisper Trace along Fiddler's Creek Parkway.

6. An affidavit will be signed regarding a 20' strip of land in the proposed Hidden Cove plat.

Mr. Badessa asked if a proposal was obtained for replacement of the guard rail. Mrs. Adams stated it will be on the agenda when a proposal is received.

7. Lake erosion repair areas are being identified for the 2024 project. They will include an area in the lake east of Whisper Trace.

8. Phase 2 equipment was replaced and all pumps are operating properly. The chemical injection system is being reconnected after being disconnected for the pumping system replacement.

9. The proposed Irrigation Pumphouse #2 roof replacement contract needs to be approved by both CDD #1 and CDD #2 in order to keep the building permit review on track. The contractor will need to submit truss drawings by the manufacturer for County review and approval.

10. U.S. 41 and Sandpiper Drive Traffic Signal: The construction bond has been sent to the Florida Department of Transportation (FDOT) for approval. FDOT should be issuing the permit within the next couple of weeks. The contractor has submitted shop drawings for the mast arms and the signal control cabinet. These long lead items will be ordered once the shop drawings are approved. The materials will take several months to obtain. The anticipated signal completion will be in the fall of 2024.

Mr. Christensen stated a recent waterline break occurred on Runaway and he observed slurry running out of the hole and running into catch basins for several hours. He asked if those catch basins are inspected to see how much they fill up because, in his opinion, the volume was great given the number of catch basins in Runaway.

It was noted that a contract was just executed to clean out two catch basins along Fiddler’s Creek Parkway. Mrs. Adams asked Mr. Christensen to email her the detailed location information so that it can be addressed.

Mr. Adams stated Special Counsel will call in to schedule an Executive Session, on the record. The consensus was that Friday, January 5, 2024 is acceptable.

NINTH ORDER OF BUSINESS

Discussion: Fiddler’s Creek Foundation, Inc., Satellite Report [Irrigation Maintenance Agreement]

Mr. Schmitt noted that the Report is informative and asked if there is a budget for repairs.

Mr. Parisi stated one of the reasons for the meeting with the Construction Manager is to determine the costs, timing, scheduling, delivery of materials, etc. When the information is compiled, it will be possible to give the CDD an idea of the costs, for budgeting purposes.

Mr. Schmitt asked if there will be a cost associated with upgrading. Mr. Parisi replied affirmatively and stated the Construction Manager will visit sites and review plans to determine where cost savings can be achieved, such as, combining the communities onto one system to enable cost sharing. He stated the information will be shared as soon as it is available.

Mr. Christensen asked if it is anticipated that the first-generation equipment will be workable or will it have to be upgraded. Mr. Benet stated Toro has not stopped manufacturing parts for the controllers but it will eventually be impossible to obtain parts for analog controllers. Staff is doing its best to keep systems running. While parts are still available, it will eventually be difficult or impossible to get parts; this issue is one of the big instigators for proceeding with the irrigation system update.

This item will be removed from the agenda until further notice.

TENTH ORDER OF BUSINESS

Consideration of Proposals for Runaway Bridge Project

A. Florida Painters

Mrs. Adams presented the \$26,900 Florida Painters proposal, which includes removal of all decorative stone, cleanup and painting.

B. Mike Carroll Services, LLC

Mrs. Adams presented the \$4,480 Mike Carroll Services, LLC proposal, which only includes removal of the caps.

Mr. Beatty joined the meeting via telephone at approximately 8:50 a.m.

Mr. Beatty stated, as the Board Members are aware, mediation in the lawsuit with CDD #2 is scheduled for January 9, 2024. In order to discuss the mediation and strategy, he will need information and direction from the Board. He requested an Executive Session be scheduled for January 5, 2024.

It was mutually agreed that the Executive Session will be scheduled for January 5, 2024 at 9:00 a.m.

▪ **Discussion resumed: Consideration of Proposals for Runaway Bridge Project**

Mr. Parisi stated, while he is unsure how many stone pieces are missing, the bridges by Marsh Cove will come down between now and April 1, 2024 and he expects there to be adequate pieces available.

Mr. Christensen stated he will speak with Richie about this. He noted that the proposals were obtained and Staff was unable to locate stone.

Discussion ensued regarding future plans for the golf course tunnels.

Mr. Parisi stated no plans changed; some of the stone will be retained for future repairs.

Mr. Schmitt stated a whole section of wall between Holes 3 and 4 came down. He recommended engaging one contractor to repair both the bridge and the wall to take advantage of economies of scale.

Mr. Christensen noted that a few stones are coming down on the back side, between Holes 1 and 2.

Mr. Parisi will have the area inspected. The consensus was to partner with the golf course to share the cost of repairs in the future.

This item was deferred and will be removed from the agenda and placed on the Action Item List.

ELEVENTH ORDER OF BUSINESS

Discussion: Sophistico Floors Corp, D/B/A Sophistico Construction Proposal and Draft Contract Regarding Irrigation Pump House #2 Roof Replacement

Mr. Pires stated Ms. Viegas, a CDD #2 Board Member, reported some scrivener's errors in the Agreement.

Discussion ensued regarding the Sophistico Construction Proposal and Draft Contract Regarding Irrigation Pump House #2 Roof Replacement.

Mrs. Adams stated only one proposal was received.

Mr. Weinberg asked Mr. Prium if the bid of \$167,000 is about what was expected. Mr. Prium replied affirmatively.

On MOTION by Mr. Schmitt and seconded by Mr. Weinberg, with all in favor, Sophistico Construction Proposal # 1060, in the amount of \$167,589, the Draft Contract Regarding Irrigation Pump House #2 Roof Replacement and authorizing correction of non-substantive scrivener's errors, were approved.

TWELFTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of October 31, 2023

- **Breakdown**

The Financial Highlights Report was distributed.

Mr. Christensen questioned the "Irrigation supply – Repairs and maintenance" line item, for which \$10,719, or 21% of budget, was spent. He feels that either the budget is too low or something happened.

Mrs. Adams stated that expense was a miscoded Collier Paving sidewalk repairs expenditure that was already re-coded to road maintenance.

The financials were accepted.

THIRTEENTH ORDER OF BUSINESS

Approval of October 25, 2023 Regular Meeting Minutes

Mrs. Adams presented the October 25, 2023 Regular Meeting Minutes. The following changes were made:

Line 127: Change “Mulbury” to “Mulberry”

Line 154: Change “a substantial” to “an insubstantial”

On MOTION by Mr. Weinberg and seconded by Mr. Slater, with all in favor, the October 25, 2023 Regular Meeting Minutes, as amended, were approved.

FOURTEENTH ORDER OF BUSINESS

Action/Agenda or Completed Items

Items 3 was completed.

Item 2: The Marsh Cove Bridge project will be put off to a later date.

Item 6: Remove.

Item 10: Change “Mr. Pires” to “Special Counsel”

FIFTEENTH ORDER OF BUSINESS

Staff Reports

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

Mr. Pires distributed a handout and discussed the new requirement for Supervisors to complete a four-hour ethics continuing education course every year. The course must be completed by December 31, 2024 but he recommends that Supervisors running for reelection complete the requirement by July 1, 2024, so that, when Form 1 is filed with the Supervisor of Elections, the box can be checked to indicate the requirement was met. He provided a link to two online options and noted that one course costs \$79 and another costs \$75. A free course prepared by the Florida Association of Special Districts (FASD) might also be available. The CDD will pay for courses as a legitimate expenditure. Updates will be provided as additional courses become available.

Mr. Weinberg recalled a local news story that stated Naples City Council members resigned rather than completing Form 6, which requires them to disclose all their assets. He asked if CDD Board Members will be subject to that requirement. Mr. Pires stated CDD Supervisors are not subject to that requirement.

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

- **NEXT MEETING DATE: January 24, 2024 at 8:00 AM**
 - **QUORUM CHECK**

All supervisors confirmed their attendance at the January 24, 2024 meeting.

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

This item was an addition to the agenda.

Mrs. Adams distributed the Monthly Field Operations Report.

SIXTEENTH ORDER OF BUSINESS

Supervisors' Requests

Mr. Schmitt asked if any feedback was received from Carter Fence regarding the perimeter fence. Mrs. Adams stated a proposal was received; she reviewed it and requested additional clarification.

SEVENTEENTH ORDER OF BUSINESS

Public Comments

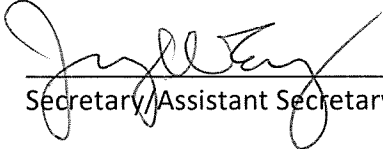
There were no public comments.

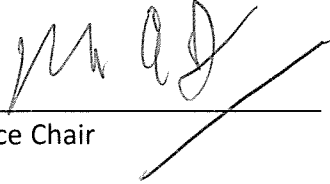
EIGHTEENTH ORDER OF BUSINESS

Adjournment

On MOTION by Mr. Slater and seconded by Mr. Weinberg, with all in favor, the meeting recessed at approximately 9:09 a.m., and was continued to January 5, 2024 at 9:00 a.m., at this location, for the purpose of holding an Executive Session.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]


Secretary/Assistant Secretary


Chair/Vice Chair