

**MINUTES OF MEETING
FIDDLER'S CREEK
COMMUNITY DEVELOPMENT DISTRICT #1**

The Regular Meeting of the Board of Supervisors of the Fiddler's Creek Community Development District #1 was held on **Wednesday, October 22, 2008 at 9:30 a.m., at the Fiddler's Creek Club and Spa, 3470 Club Center Boulevard, Naples, Florida 34114.**

Present at the meeting were:

Phillip Brougham	Chairman
Alexander Love	Vice Chairman
James Curland (via telephone)	Assistant Secretary
James Robertson	Assistant Secretary
Peggy Schmitt	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Crismond	Assistant Regional Manager
Terry Cole	District Engineer
Anthony Pires	District Counsel
Ron Albeit	Fiddler's Creek Foundation
Mike Charbonneau	Security
Mike Sidovsky	Aquamatic Irrigation

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mr. Adams called the meeting to order at 9:55 a.m. and announced that all Supervisors were present.

SECOND ORDER OF BUSINESS

Staff Report: Engineer

Mr. Cole presented pay draw 28, for the 2005 Series Bond, for approximately \$11,000. He said this consisted of older invoices that were never put through for road work, sidewalk work, some landscaping plantings on Club Center Drive and the habitat area at the east end.

Mr. Cole advised that the handicap mat installation will be progressing soon on the sidewalk crossings previously discussed.

Mr. Curland asked for a follow up of Mr. Cole's discussion with the developer about the Championship ramps. Mr. Cole said staff will proceed with getting permits as insubstantial

change had to be submitted to install the sidewalk ramp crossing starting on the west side of Championship Drive. He stated that crossings would be placed at Hawk's Nest, Cardinal Cove, Deer Crossing and Cotton Green. He further indicated that pedestrian crossing signs will be included. Mr. Curland asked if signage will be added at Mulberry. Mr. Cole said he would check on this.

THIRD ORDER OF BUSINESS

Continued Discussion: Entry Fountains

Mr. Brougham recalled previous discussion about the entry fountains and introduced the maintenance contractor, Mike Sidovsky, of Aquamatic Irrigation.

*****Mr. Love arrived at the meeting.*****

Mr. Brougham asked Ms. Crismond for a recap on this matter. Ms. Crismond stated that last month staff had determined that the 7.5 horsepower pump needed to be replaced. She said she worked with Mr. Sidovsky to locate a distributor for a pump and motor replacement. One (1) pump was located for a price of \$11,000 and another for \$4,300. Additionally, upon further inspection, it was discovered that the electrical wires for the system were chewed up.

Mr. Sidovsky said it was suspected that an alligator chewed up the wires. He reported that from October 20, 2007 through January 28, 2008 the pumps ran fine. He said his firm had a contract from May 21st to June 30th to scrub and paint all the motors. He added that repairs were done to the pumps earlier this year, but shortly after they began malfunctioning again.

Mr. Brougham voiced concern that last month, Mr. Sidovsky's firm suggested the option of purchasing an expensive pump and motor system, without doing a physical inspection of the current one. Mr. Sidovsky said upon inspection of the electrical panel, it is easy to tell the condition of the motor and the wires. He stated at initial testing, the wires were in good condition. However, when the 15 Horsepower Pump went out, it was inspected more closely and found to be chewed up. He added that on initial testing, no short was found inside the electrical wire.

Mr. Curland said in his view, the CDD needed to get more value for its dollar. He wanted the contractor to do a thorough check of the motors and perform more preventive maintenance practices to keep the pumps in better shape.

Ms. Crismond said she had contacted another firm about a possible maintenance contract and a proposal to install a different set of fountains. However, the firm is unwilling to submit a

quote because in their view, the power voltage cabinet is not up to code and the conditions are therefore hazardous. Ms. Crismond said staff is looking into this allegation seriously.

Mr. Brougham said he could not believe that several years ago when the pumps were installed, the developer would agree to work that is not up to code. He requested that Ms. Crismond email the Supervisors about the results of staff's investigation.

Mr. Sidovsky recommended that the wires be placed into some type of flexible conduit to protect them. Mr. Brougham said the Board realized over the past year that it was not very judicious in overseeing the pump maintenance. He suggested Mr. Sidovsky work with staff to draft a contract providing for annual maintenance of these devices. He stressed the Board does not want to go through thousands of dollars to repair these devices.

Mr. Robertson commented that in his view, the Board did not follow up enough on maintenance of the pumps. He stressed going forward it will be necessary to perform constant, annual preventive maintenance on the pumps and electrical wiring.

Mr. Curland said the electrical issues and alleged code violations needed to be addressed. He suggested that the fountains be shut down until the electrical issues and all the problems with the pumps are resolved.

Mr. Pires said the CDD cannot ignore the assertions of hazardous conditions and code violations at the pump station. He recommended shutting down the fountains while investigating the truth of these assertions to protect the District from liability.

Mr. Brougham made the following motion: "The CDD should engage the services of Bentley Electric for complete diagnosis and validation of the allegations that we are out of conformance on the Code as quickly as possible; also that the CDD continue to operate the fountains until it received a definite, objective report from Bentley Electric. Third, if the report confirms that the allegations are true, the pumps be immediately shut down and brought up to Code. Fourth, that Mr. Sidovsky discontinues any further work until this problem is resolved and does not expose his workers to any potentially hazardous conditions."

Mr. Robertson seconded the motion.

Mr. Curland pointed out that Mr. Pires had given an attorney's opinion on this and the Board should take his advice. Ms. Schmitt agreed that it would be foolish to ignore the attorney's opinion, as it was not a problem to turn off the pumps and turn them on a few days later.

On MOTION by Mr. Brougham and seconded by Mr. Robertson, with Mr. Curland, Ms. Schmitt and Mr. Love dissenting shutting down the fountains, after a review of code violations. (Motion failed.)

On MOTION by Mr. Love and seconded by Ms. Schmitt, with all in favor of shutting down the fountains immediately, in order to review the code violations and to determine a cost to repair these if in fact there are violation.

Mr. Brougham requested that Mr. Love act as a representative of the Board to facilitate this process on behalf of the Board.

On MOTION by Mr. Brougham and seconded by Mr. Love, with all in favor of requesting that the current contractor provide a proposal covering a more comprehensive annual maintenance program for the fountains.

Ms. Crismond requested an update from Mr. Sidovsky about the irrigation study. Mr. Sidovsky said his firm's portion of the contract involves going into some communities and performing water pressure tests; also, it dives and inspects the intake structures to determine silt levels around these structures and whether they needed to be dredged. He said his firm is communicating with Metro PSI, the firm that maintains the pump station, in order to learn what they discovered in their inspection of the filters.

FOURTH ORDER OF BUSINESS

**Consideration of Resolution 2009-1,
Regarding Routine Maintenance of
Certain District Sidewalks**

Mr. Pires recalled that at the previous meeting it was clarified that the assignment of reservation was recorded. He stated that the easements in 1B, Unit 2 and 1B, Unit 3 on Mulberry Row were appropriately assigned to the District. He said this resolution reflects the assignment and is recommended for approval. Mr. Brougham suggested that the Board inform residents of Mulberry, Mahogany and Cherry Oaks Trail, that the District will inspect the sidewalks for

mildew and perform power washing. Mr. Adams said pressure washing will likely be done bi-annually, generally late winter/early spring and at the end of the rainy season.

On MOTION by Mr. Brougham and seconded by Mr. Love, with all in favor of adopting Resolution 2009-1.

FIFTH ORDER OF BUSINESS

Approval of August 27, 2008 Public Hearing and Regular Meeting Minutes

Corrections to the minutes were provided as follows:

Line 69: Change "A Board member" to "Mr. Love".

Line 127: Change "Assets" to "Assessments".

Line 160: Change "directly obligated to" to "direct obligations of".

Line 238: Motion box: Mr. Curland made the motion and Mr. Love seconded.

Mr. Curland requested more detail in the minutes.

On MOTION by Mr. Brougham and seconded by Mr. Love, with all in favor of approving the September 24, 2008 Public Hearing and Regular Meeting Minutes as corrected.

SIXTH ORDER OF BUSINESS

Other Business

▪ **Resolution 2009-2**

Mr. Adams presented Resolution 2009-2 and said this resolution reflected updated language regarding alternative investments. Mr. Pires explained that changes were made to revise language in the resolution per Florida statutes regarding the alternative investment policy.

On MOTION by Mr. Love and seconded by Mr. Brougham, with all in favor of adopting Resolution 2009-2.

SEVENTH ORDER OF BUSINESS

Staff Reports

a. **Attorney**

Mr. Pires said with regard to the assignment of landscape buffers at Montreux, he was working with the developer's engineer to ensure that areas reserved for the District are appropriately assigned. Mr. Pires said he hopes to have this achieved by the next meeting.

Mr. Pires advised his office is still working with the developer on the lake conveyance.

b. Manager

i. Unaudited Financials as of September 30, 2008

Mr. Adams presented the financial statements for September 30, 2008.

Mr. Brougham referred to page 1, to the Combined Balance Sheet entry, "Due from Developer." He commented that this is identical to the entry from the previous month. Mr. Adams explained that monies were received and footnoted on the previous month's statement.

Mr. Brougham referred to page 4 and requested that staff include a footnote when items are re-classified at the bottom of the reconciliation page.

Mr. Adams indicated that additional expenses in the Operating Supplies line item actually belong under Repairs and Maintenance - Gatehouse. He said these entries would be relocated. He also referred to the Repairs and Maintenance - Fuel line item and said all these transactions concerning the security vehicle were legitimate.

ii. NEXT MEETING DATE: November 19, 2008, 9:30 a.m. or immediately following the Fiddler's Creek Community Development District #2 meeting

Mr. Brougham announced that the next meeting is scheduled for November 19th at 9:30 a.m. or after the CDD #2 meeting. Mr. Adams said he would not be there in person and that Ms. Crismond will run the meeting. Mr. Brougham requested that staff provide the Board members with a good summary and back up materials prior to the meeting, as the landscape maintenance contract will be addressed on that date.

c. Operations Manager

Lake Fountains: Mr. Curland referred to the lake maintenance report, second paragraph, and asked whether electricity was included in the \$90,000 cost for repairs and maintenance. Mr. Brougham said electricity and insurance were included in this figure.

Mr. Curland asked whether it would be prudent to have the electrician also inspect the bubblers the next time the fountains are being inspected. Mr. Adams agreed to this request.

Lake Maintenance: Ms. Crismond reported that littoral plantings were completed on Friday. She said she would inspect these as well as water quality issues the following Wednesday. The pre-bid meeting was also held on Friday. Bid opening is Monday, November 3.

Tree Replacement: Ms. Crismond stated she had received some proposals to remove trees and replace the bougainvilleas on Club Center Drive. She stated that Doria Landscaping had submitted the lowest bid. Mr. Brougham spoke of an area on Club Center Drive, about 150 yards approaching The Rookery, with ugly guava trees. He said the question was raised as to why these guava trees were at this location when the other trees on Club Center Drive were bougainvilleas. He said discussions were held with Chris Major, manager of The Rookery, who is willing to replace these trees with more attractive landscaping to better enhance the approach to the property. Mr. Brougham said the estimates will be forwarded to Mr. Major who will consult with his boss further.

Tree Trimming: Ms. Crismond advised that palm trimming work will be completed in November prior to Thanksgiving.

Sheriff Patrol: Ms. Crismond reported that the Sheriff's patrol had given out a few citations for not stopping at a Stop sign and for speeding.

EIGHTH ORDER OF BUSINESS

**Audience
Requests**

Comments/Supervisors'

Mr. George Ohye requested more detail in the meeting minutes. Regarding sidewalk cleaning on Mulberry, he asked whether it would be appropriate to provide even more specific language in the resolution to avoid sending residents any mixed messages. Mr. Brougham agreed and requested that a draft be prepared and sent to Mr. Adams.

Mr. Robertson reminded the Board of the need to be prudent about improvements that involved spending the residents' money.

Mr. Love announced that this is his last official meeting. He thanked the Supervisors and staff for their efforts serving with him over the past few years.

Mr. Curland proposed that in future, CDD #1 and CDD #2 alternate their start times as both were holding more extended meetings.

Mr. Brougham stated he had attended the CDD #2 meeting earlier and heard the audit report delivered over the phone. He commented that for the money being spent on auditing

services, it is courteous to have a representative deliver the report in person. He suggested that the Board include a stipulation to have the audit report delivered in person and not over the telephone. Mr. Adams agreed. Mr. Brougham requested that the Board set a specific delivery date for the audit report. He further requested that the auditors provide an accounting detail on the staff hours spent on the audit.

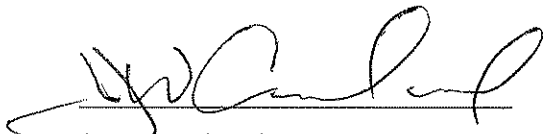
Mr. Brougham asked what is being done to secure a new vehicle. It was stated that Mr. Charbonneau was looking into this and that some options will be presented to the Board soon.

NINTH ORDER OF BUSINESS

Adjournment

**On MOTION by Mr. Love and seconded by Mr. Brougham,
with all in favor of adjourning.**

The meeting was adjourned at 11:25 a.m.



Secretary/Assistant Secretary



Chairman/Vice Chairman