

**MINUTES OF JOINT MEETING  
FIDDLER'S CREEK I & II  
COMMUNITY DEVELOPMENT DISTRICT**

The Joint Meeting of the Board of Supervisors of the Fiddler's Creek I & II Community Development Districts was held on **Wednesday, March 26, 2008 at 9:00 a.m.**, at the **Fiddler's Creek Club and Spa, 3470 Club Center Blvd., Naples, Florida 34114.**

Present for CDD #1 were:

Phillip Brougham	Chairman
Alexander Love	Vice Chairman
James Curland	Assistant Secretary
James Robertson	Assistant Secretary

Present for CDD #2 were:

James Robertson	Chairman
Diane Matire	Assistant Secretary
Victoria DiNardo	Assistant Secretary
Gretchen Scott	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Crismond	Assistant Regional Manager
Matt Morris	Client Services Manager
Terry Cole	District Engineer
Anthony Pires	District Counsel
Alice J. Carlson	AJC Associates, Inc.

**FIRST ORDER OF BUSINESS**

**Call to Order**

Mr. Adams called the meeting to order at 9:00 a.m.

Mr. Adams announced that all Supervisors were present for CDD #1, except Supervisor Schmitt, and that all Supervisors were present for CDD #2, except Supervisor Olson.

It was requested that Mr. Cole provide the Engineer's Report first.

**Engineer's Report - Terry Cole**

Mr. Cole presented the following pay draw for District 2: For the 2003 Series Bond, Draw #53 for approximately \$19,000. This consisted of roadway and miscellaneous survey and excavation work in a variety of locations.

Mr. Cole presented a pay draw in the amount of \$321,000. This covered roadway, water main, sewer main, irrigation and landscape work. He explained that a majority of these were retainage payments.

Mr. Cole referred to a drawing and aerial map of the Laguna development. He indicated that the 6' wall constructed on the eastern property line was provided as a landscape buffer and not a sound wall. Mr. Cole stated that the Engineer's Report contemplated this as a landscape wall as constructed.

A resident voiced concern about security during low occupancy periods in the summer because of a roadway that provides easy access into the community. The developer recommended that residents report anything they see that appears out of the ordinary to maintenance and if the sheriff's office needs to be involved, this can be done. It was pointed out that in any gated community, there are still areas of exposure where one can enter.

It was asked whether the sound barrier component can be reviewed as planning for the commercial shopping center moves closer. The developer stated that there are currently no plans for a sound barrier to US-41.

Mr. Cole presented the following pay draw for District 1: For the 2005 Series Bond, Draw #21 for approximately \$358,000. This consisted of work done on Championship Drive; work on Phase 3 units, and clearing of exotic plants on the southern peninsula.

Mr. Adams asked if the developer intends to turn this area over to the CDD for routine maintenance. Mr. Cole stated the developer plans to turn this over when completed.

Discussion ensued on this topic.

Mr. Brougham commented that it appears this area and its maintenance is being forced on residents of CDD #1 who will not really benefit from the area. Mr. Adams stated that while the area is a preserve, it is open space that is a required conservation area as part of the agreement to develop this community. Mr. Brougham expressed the hope that there are other options that the Board can pursue before negotiations begin. He felt that the Board needed to represent residents before anything is agreed upon, as this is a future maintenance responsibility.

Mr. Cole recalled that he had previously distributed the Final Engineer's Report for the CDD #1 Phase 3 Bond at the last meeting. He indicated where corrections were made and said the report is now being resubmitted for final approval.

**On MOTION for Fiddler's Creek 1 by Mr. Brougham and seconded by Mr. Love, all voted in favor of approving the Engineer's Report as corrected.**

**SECOND ORDER OF BUSINESS**

**Consideration of Resolution 2008-1 and Resolution 2008-3 Regarding Compliance with Access Control Procedures in Adopted Post Orders**

Mr. Adams stated that both resolutions concerned the acknowledgement of the requirement to comply with access to the public road system contained within the Fiddler's Creek #1 community and also concerns taking appropriate steps to ensure that the Post Orders for the community are in compliance with public road operations. He stated this is a slight rewrite of the resolution presented to the Fiddler's Creek 1 Board at the last meeting. Mr. Adams reported that the Security Committee met recently and recommended changing the language stipulating how the security measures will be tested. Mr. Adams advised that the rewrite basically states that the District will take all appropriate steps necessary to ensure compliance with the access procedures outlined.

Mr. Pires voiced concerns with the revisions made to the resolution. He commented that the revision made substantial changes to the initial document crafted. Mr. Pires voiced concerns that language stating "the Board will do everything in its power to ensure compliance" creates duties that do not otherwise exist under law. He explained that these duties may, in turn, create liabilities for his office and WHHA Management. Mr. Pires added that this also creates liabilities from the perspective of the IRS and of residents, if it is ever perceived that Management did not do "everything in their power to ensure compliance." He added that the revised language removes the vendor's liability to ensure their system is in compliance.

Mr. Robertson voiced concern about the time taken to revise this document in light of Mr. Pires' comments.

Mr. Brougham stated that at the time Mr. Pires crafted the resolution for CDD #1 only, it was done at the CDD #1 Board's request. He pointed out that the revised resolution was revised on the recommendation of the Security Committee. This was done without any oversight by Mr. Pires. Mr. Brougham commented that Mr. Pires was paid a substantial fee and that he valued Mr. Pires' legal opinion.

Discussion ensued on this topic.

**On MOTION for Fiddler's Creek 1 by Mr. Brougham and seconded by Mr. Curland, the vote was 3-1 in favor of approving Resolutions 2008-1 and 2008-3, pending revision of language by the District Attorney, with Mr. Robertson dissenting.**

**On MOTION for Fiddler's Creek 2 by Mr. Robertson and seconded by Ms. Scott, all voted in favor of requesting that Mr. Pires meet with the Security Committee and approve revisions to Resolutions 2008-1 and 2008-3, which will be brought back to the Boards for approval.**

**THIRD ORDER OF BUSINESS**

**Consideration of Proposal from TEM Systems for Call Boxes, Cameras and DVR at Championship Gate**

Discussion was held regarding this ongoing topic. Mr. Adams stated the proposal in the Agenda packet was prepared for Mike Charbonneau and Ron Albeit and anticipates providing a call box system with cameras and after hours operations, without a remote communication program for guests or visitors.

Mr. Robertson voiced concern about costs of the various features being proposed. He commented that this would be resolved by having residents instruct guests to use the main gate.

Mr. Brougham read aloud his comments and views on this topic with regard to guest access, usage of the gate system and ingress/egress on Championship Drive. He felt the Boards need to face the fact that a lot of money has been spent on gate control programs. He commented that he sees no logic in having guests click out of the gate.

It was commented that adding more systems to the existing system opened the door for more complications.

Lengthy discussion ensued on this topic.

**On MOTION for Fiddler's Creek 1 by Mr. Brougham and seconded by Mr. Love, all voted in favor of accepting the proposal from TEM Systems pending implementation within one month.**

**On MOTION for Fiddler's Creek 2 by Ms. Scott and seconded by Ms. DiNardo, all voted in favor of approving the proposal for TEM Systems pending implementation within one month.**

Mr. Brougham indicated he had copies of proposed amendments to the Post Orders with regard to construction vehicles and registration of residences for sale. Mr. Brougham stated that the original document did not clarify what was considered a construction vehicle; this led to the revised language now being proposed.

Mr. Brougham read aloud the proposed amendment.

Discussion ensued on this topic.

Mr. Brougham proposed an amendment to clarify the method of registering homes for sale to facilitate open houses or other home visits.

Mr. Brougham read aloud the terms of the proposed amendment.

Discussion ensued on this topic.

**On MOTION for Fiddler's Creek 1 by Mr. Brougham and seconded by Mr. Love, all voted in favor of approving the amendments to the adopted Post Orders.**

**On MOTION for Fiddler's Creek 2 by Mr. Robertson and seconded by Ms. DiNardo, all voted in favor of adopting the amendments to the Post Orders.**

Mr. Adams stated the District Attorney will prepare a resolution for the Boards to adopt.

**FOURTH ORDER OF BUSINESS**

**Discussion Regarding Supervisor CDD  
Email Retention**

Mr. Adams stated that per Mr. Pires' advice, Management is only responsible for email that actually comes to WHHA. Mr. Pires stated that Management does not have the duty or responsibility to contact Board members to request copies of correspondence they have received.

Mr. Adams stated that Staff will have a proposal for the Boards to consider at the next meeting.

**FIFTH ORDER OF BUSINESS**

**Update on Irrigation Variance Request**

It was stated that this request was approved and that the Districts have been allowed two mornings a week, Mondays and Thursdays, from 12:00 a.m. to 8 a.m. for irrigation.

**SIXTH ORDER OF BUSINESS**

**Discussion of Meeting Times/Dates**

Mr. Brougham commented that as the business agenda grows for CDD #2, adequate time has to be allowed for both Board meetings. Mr. Brougham requested that meetings start on or about the time advertised to residents. He pointed out that the scheduling of meetings is largely determined by Mr. Adams' availability to attend meetings.

Mr. Adams stated he will try to adjust his schedule. He commented that it made sense to have both Boards continue to meet on the same day. He suggested that both Boards tighten discussion to avoid having the meetings extend too long.

It was determined that CDD #2 meetings will be held at 9:00 a.m. and CDD #1 meetings will be held at 10:30 a.m.

**FIDDLER'S CREEK CDD #2 ITEMS**

**SEVENTH ORDER OF BUSINESS**

**Acceptance of Resignation of Supervisor Clifford (Chip) Olson, whose term expires November, 2009**

**On MOTION for Fiddler's Creek 2 by Ms. DiNardo and seconded by Ms. Scott, all voted in favor of accepting Supervisor Olson's resignation.**

Mr. Adams advised that there is a year and a half remaining on this term; he also advised that the Board has the ability to appoint a replacement.

**EIGHTH ORDER OF BUSINESS**

**Consideration of Proposal for Special Assessment Roll Services**

- AJC Associates, Inc.

Mr. Adams indicated that a proposal and sample contract from AJC Associates, Inc. are provided for the Board's review.

Ms. Alice Carlson, president of AJC Associates, Inc. introduced herself. She stated that per Mr. Pires' advice, her contract needs to be changed to reflect \$2 million of liability coverage. Ms. Carlson stated she agreed with this change. Ms. Carlson then spoke of her qualifications and professional experience in providing these services.

Discussion ensued on this topic.

**On MOTION for Fiddler's Creek 2 by Ms. DiNardo and seconded by Mr. Robertson, all voted in favor of approving the proposal from AJC Associates, Inc. pending changes approved by Mr. Pires.**

**NINTH ORDER OF BUSINESS**

**Approval of Minutes of February 27, 2008 Regular Board Meeting**

A correction was provided to the minutes as follows:

Line 42: Change "al" to "a". Insert "of" after "cost".

**On MOTION for Fiddler's Creek 2 by Mr. Robertson and seconded by Ms. DiNardo, all voted in favor of approving the February 27, 2008 minutes as corrected.**

**TENTH ORDER OF BUSINESS**

**Staff Reports**

**Attorney**

Mr. Pires stated he is about 95 percent finished with drafting a set of rules and procedures for the District. He added that this will be provided in the next agenda packet, along with the financial disclosure and public notice documents.

**Manager**

**1. Unaudited Financials as of February 29, 2008**

Mr. Adams presented the financial statements for February 29, 2008.

**Operations Manager**

Ms. Crismond advised that the fire hydrant project is still ongoing.

Ms. Crismond reported that Management and Supervisor DiNardo had toured the lake on Monday, March 3<sup>rd</sup>, along with Lake Masters. The lakes were found to be in good condition.

Ms. Crismond reported that the weekly tours every Friday are ongoing. She explained that the entire community is looked at once a month.

Ms. Crismond reported that Staff is making a list of replacement plant materials to be planted once the rainy season starts.

Ms. Crismond reported that the refurbishing at the Venita entry sign will be completed later that week.

**ELEVENTH ORDER OF BUSINESS**

**Supervisors' Requests and Audience Comments**

It was commented that the boardwalk renovation is beautiful.

**TWELFTH ORDER OF BUSINESS**

**Adjournment -Fiddler's Creek 2**

**On MOTION for Fiddler's Creek 2 by Ms. Scott and seconded by Ms. DiNardo, all were in favor of adjourning.**

There being no further business to discuss, the meeting was adjourned at 10:50 a.m.

[The meeting was briefly recessed.]

[The meeting was reconvened at 10:53 a.m.]

**FIDDLER'S CREEK CDD#1 ITEMS**

Mr. Adams announced that all Supervisors for CDD #1 were present, except Supervisor Schmitt.

**THIRTEENTH ORDER OF BUSINESS**

**Consideration of Proposal for Special Assessment Roll Services**

- **AJC Associates, Inc.**
- **Wrathell, Hart, Hunt and Associates, LLC**

Mr. Brougham commented that in future, when there is competition between WHHA and another vendor, it will be better to utilize a sealed bid process.

Ms. Alice Carlson, President of AJC Associates, Inc. introduced herself once again. She spoke of her qualifications and professional experience in providing assessment roll services. She briefly reviewed her proposal and advised that her fee estimate of \$25,000 is based on the number of transactions she believes are out there today.

Mr. Adams stated that WHHA also provides assessment roll services and offered this proposal, a competing option, for the Board to consider.

**On MOTION for Fiddler's Creek 1 by Mr. Love and seconded by Mr. Brougham, all were in favor of retaining AJC Associates, Inc. for Special Assessment Roll Services pending amendments to the contract as approved by Mr. Pires.**

**FOURTEENTH ORDER OF BUSINESS**

**Continued Discussion Regarding Front Entrance Lake Fountain Program**

Ms. Crismond indicated that pricing for lakes is broken down on the attached report. She explained that the annual maintenance cost for three fountains is \$12,500; for two fountains, the cost is \$11,500 and for one fountain, the cost is \$10,500. It was asked whether there is a separate pump for each fountain. Ms. Crismond responded affirmatively and advised it will take approximately twelve weeks for installation. She added that the Doral Golf Club in Miami has this system.

Mr. Adams explained that the District will own the equipment at the end of the lease term. He commented that the Board is looking at a way to become more efficient with these fountains.

Discussion ensued on this topic.

Mr. Adams stated Staff can secure proposals for each of these levels and bring this back to the Board for review.

**FIFTEENTH ORDER OF BUSINESS**

**Approval of Minutes of February 27,  
2008 Regular Board Meeting**

Corrections were provided to the minutes as follows:

Line 42: Replace "roof area" with "and Deer Crossing root barrier".

Line 50: Change "ramps" to "roadway."

Lines 71-72: Mr. Love recalled that at the meeting, there was discussion about CDD #2 approving the resolution. Mr. Love recalled that he made a motion to vote on the resolution and that Mr. Brougham seconded the motion. After discussion, Mr. Brougham rescinded the second. Mr. Love requested that this detail be included in the amended minutes.

Line 140: Change "Robertson's" to "Curland's".

Line 230: Change "Montrose" to "Montrea".

Line 240: Change "Bajan" to "Vajen".

**On MOTION for Fiddler's Creek 1 by Mr. Brougham and seconded by Mr. Love, all voted in favor of approving the February 27, 2008 minutes as corrected.**

**SIXTEENTH ORDER OF BUSINESS**

**Staff Reports**

**Attorney**

Mr. Pires stated that he will follow up on the Interlocal Agreement to be executed regarding access control.

Mr. Pires stated he will provide a revised proposal for CDD #2's Rules of Procedure at the next meeting. It was requested that Mr. Pires annotate the comparison between both Districts. Mr. Pires stated he will try to do so, but commented that this involves a substantial revision.

Mr. Pires advised that Chapter 190 required that the CDD have a recorded Public Disclosure Document. He stated that this will be provided for review at the next meeting.

**Manager - Unaudited Financials as of February 29, 2008**

Mr. Adams presented the financial statements for February 29, 2008.

Mr. Brougham commented that the \$54,000 per month developer assessment figure is significant money not available to the District to earn interest on. He requested that all efforts be made on the part of the District Manager and the developer to pay the bill on time.

Mr. Brougham referred to Landscape Services and asked when the tree trimming program will continue. Mr. Adams said this will resume in the summer. Mr. Brougham wanted to ensure that the CDD coordinates with the County on what work will be done and to make sure it conforms to standard practice. Mr. Adams stated Management intended to do the same program as the year before, which was ultimately found to be in compliance.

A question was raised as to why 56% of the budget on street lighting was already spent. In response, Mr. Adams stated that this reflects repairs and maintenance.

### **Operations Manager**

Ms. Crismond reminded the Board of the ficus hedge in the Montreau community that is getting taller. Mr. Adams recalled that Mr. Pires had given a report indicating that the area in question was not the District's, but rather the Association's. Ms. Crismond said the relevant party needs to be informed that the hedge needs to be maintained. Mr. Adams suggested bringing this to Mr. Albeit's attention.

### **SEVENTEENTH ORDER OF BUSINESS      Supervisors' Requests/Audience Comments**

Mr. Curland stated he had requests from residents on the status of the parks. He asked if there are plans to do anything about the parks with the walkway or the parking area by the end of Championship Drive.

Mr. Brougham said it occurred to him that Mr. Curland had gone into the last Security Committee meeting with no input from the other Board members as to their desires and opinions.

Mr. Brougham said he wanted to discuss alligator removal within the District. He stated that during his investigation on this topic, he determined that there is a permit from the Fish and Wildlife Conservation Committee that was issued in 2004. This permit was addressed to the designated trapper and also designated the District as an open permit area. Mr. Brougham read aloud language in the permit stating: "This allows a trapper discretion to investigate and evaluate

the needed removal of nuisance alligators from these areas. However, the permit does not allow the trapper or its agents to enter private property without the permission from the landowner." Mr. Brougham said based on the information he has seen, it is important to determine who the landowner is. He felt that Gulf Bay is responsible for property around the lake shore. Mr. Brougham said he had spoken with the statewide Coordinator, who recommended that some entity within this development apply for a Targeted Harvest Area Permit. This permit allows the entity to specifically state their preferences and restrictions on the types of alligators to be removed if deemed to be a nuisance. Mr. Brougham said steps should be taken to shut down the indiscriminate harvesting which trappers are entitled to do under the existing permit.

Mr. Pires reminded the Board that Staff was working on finalizing the legal descriptions to convey lake areas to the District. He stated that when this is done, it will be appropriate for the Board to make a decision on the lakes it owns and how it wishes to handle this issue.

Mr. Adams stated the CDD did not want to take the position of determining whether an alligator is a nuisance and that a trapper can gain access to the community and view the nuisance from a resident's property.

It was stated that pursuing dialog with the trapper directly is the logical course of action. Lengthy discussion ensued on this topic.


Mr. Brougham asked the status of the area across from Cranberry on Club Center Drive by Marsh Cove. Mr. Albeit advised there will be a meeting on March 27, 2008 with the Board and the community.

**EIGHTEENTH ORDER OF BUSINESS****Adjournment – Fiddler's Creek 1**

<b>On MOTION for Fiddler's Creek 1 by Mr. Brougham and seconded by Mr. Curland, all were in favor of adjourning.</b>
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There being no further business to discuss, the meeting was adjourned at 12:05 p.m.

For Fiddler's Creek #1:

  
Secretary/Assistant Secretary

  
Chairperson/Vice Chairperson

For Fiddler's Creek #2:

  
Assistant Secretary/Secretary

  
Chairperson/Vice Chairperson