

**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 Districts # 1 was held on Wednesday, January 23, 2008, at 10:00 a.m. at the Fiddler's Creek Club and Spa, 3470 Club Center Drive, Naples, Florida 34114.

Present and constituting a quorum were:

Phillip Brougham	Chairman
Alexander Love	Vice Chairman
James Curland	Assistant Secretary
Peggy Schmitt	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, Esq.	District Counsel
Ron Albeit	HOA Manager/Fiddler's Creek Foundation
Mike Charbonneau	Fiddler's Creek Foundation

**FIRST ORDER OF BUSINESS**

**Roll Call**

Mr. Adams called the meeting to order at 10:22 a.m. and stated all Supervisors were present with the exception of Mr. Curland.

Mr. Brougham requested Mr. Cole present his report.

**b) Engineer**

Mr. Cole presented two draws to the Board. The first one was for the 2005 Bond Series, number 19 in the amount of approximately \$216,000 related to Phase 16-1 infrastructure work consisting of water and sewer lines, irrigation main piping, lake and road work. The balance of the 2005 Bond Series was approximately \$8.3 million, excluding interest. Conversation ensued regarding details of the draw.

Mr. Cole added the final draw was number 55 for the 2002 Bond Series in the amount of approximately \$27,000 related to landscaping plants. The Engineer's Report related to this draw will be presented to the Board at the next meeting. The balance of the 2002 Bond Series was

\$24,000, bringing the final balance to zero with any unfunded items being transferred to the 2005 Bond Series. Conversation ensued regarding the details of the draw.

A Board member questioned how the draw categories were determined. Mr. Cole explained each draw provided by Mr. Mark Strain lists 10 to 15 items. As an example, landscape plants could deal with plants or irrigation related to the plants while irrigation main piping could be listed under infrastructure.

Mr. Cole reported at the last meeting, he was directed to obtain prices for the striping of the double solid yellow line and raised pavement markers (RPM's) for Championship Drive, which were slated to be completed in the first week in February. The price for the striping and RPM's were less than the \$15,000 authorized by the Board.

Mr. Brougham questioned whether all the pavement markers needed to be replaced. Mr. Cole confirmed all of them will be replaced.

Ms. Schmitt reported on complaints received from residents regarding overloaded and unlicensed dump trucks driving down to the end of Club Center Drive and Cherry Oaks. Mr. Cole confirmed there were filling operations currently taking place and offered to speak to the developer. Ms. Schmitt recalled continuously seeing trucks going back and forth while she was on the golf course and questioned who was responsible for damage sustained by roads in CDD #1. Mr. Cole confirmed the contractor was responsible for any damages.

Mr. Robertson questioned whether the CDD maintained a portion of the roadway. Mr. Adams confirmed Cherry Oaks was turned over to the District.

Mr. Brougham felt the road surface sustained significant wear and tear with all of the construction traffic using this road over the years and the developer should bear the cost for repairs. He questioned whether the Board can put the contractor and/or the developer on notice to incur repair costs for damage sustained within a specific period of time.

Mr. Pires advised the District can put the contractor on notice for engaging in activities resulting in damages to the surface or base of the roadway based upon the type of vehicles they were utilizing. He felt the District also had the ability under the statute to adopt reasonable rules and regulations for use of the District's facilities through a rulemaking process and the District was within their rights to adopt rules or regulations to ensure the District was made whole for any damages sustained. Mr. Adams indicated from an engineering standpoint, the Engineer

could provide the weight capacity of the roadway and determine whether the trucks were exceeding it.

Mr. Brougham recommended Mr. Adams and Mr. Cole meet with the contractors to re-route the trucks rather than the Board adopting formal rules and regulations.

Mr. Adams offered to suggest the contractor use a dump truck fitting the design criteria of the road.

There was Board consensus for Mr. Adams and Mr. Cole to meet with the contractor to re-direct the trucks.

Final discussion resolved concerns by authorizing use of roads only if truck is allowed.

**SECOND ORDER OF BUSINESS**

**Discussion: Marco News Article, "Marco Council Members Receive City E-mail Addresses"**

Mr. Pires presented an article to the Board as a follow-up to the State Attorney's prosecution of a City Council member for a non-criminal violation for deleting e-mails on his personal computer related to business with the City of Marco Island. In an abundance of caution, he suggested the manager set up a separate e-mail account for Board members to utilize when dealing with District business. He advised any e-mails involving District business on personal e-mail accounts or personal computers cannot be deleted as they are subject to inspection and copying under the Public Records Law. Mr. Pires acknowledged Mr. Adams was currently working on providing links on the website for residents to click on to contact Board members through a separate e-mail address. Mr. Adams suggested the link be broadcast by the newsletter and community channel.

Mr. Pires recalled the members of the Planning Committee he serves on using a Planning Commission e-mail address.

Mr. Brougham agreed with Mr. Pires suggestion and questioned how an e-mail address maintained on a server for Wrathell, Hart, Hunt & Associates (WHH&A) was protected and confidential from any employee or partner of WHH&A from accessing.

Mr. Robertson contended if he was communicating with Mr. Pires about District business, by definition, the e-mails were considered a public record. Mr. Brougham advised he was not debating on whether or not it was a public record. Mr. Robertson believed Mr. Brougham was debating about e-mails being confidential, which Mr. Pires advised by state law

were a public record. Mr. Pires recalled there being a determination made on a case by case basis on what qualified as exemptions for attorney/client communication. He advised e-mails retained on a server do not qualify as attorney/client communication unless the e-mail was between the manager, Chairman/Board member and the attorney.

Mr. Brougham emphasized his main concern as access by any employee or partner of WHH&A and expressed concern over any member of the public having access to those e-mails without going through a public records request. Mr. Pires commented he was not sure there was a distinction because the custodian was a member of the public.

Mr. Adams suggested having discussions of this nature by telephone or other means. Mr. Brougham expressed concern over any employee or partner of WHH&A casually browsing and/or deleting the Board's e-mails and suggested having password protection or some level of security. Mr. Adams expressed his opinion over IT and the District Manager having access to everything as the administrator but everyone else was required to submit a public records request.

Mr. Adams offered to establish a link for each Board member and estimated the cost for adding the links to the web-site was insignificant; well under \$1,000. However, if there was a significant cost was involved, he offered to come back to the Board for approval. He felt this was a good insurance policy for the Board to have as there were going to be some major changes to the Sunshine Law dealing with e-mails.

Mr. Brougham questioned whether the current e-mails could be copied to a CD and stored. Mr. Adams confirmed the e-mails can be stored on a CD in a separate box. Mr. Brougham requested assurances from Mr. Adams that no e-mails will be deleted and all documentation provided to WHH&A was up to date.

Mr. Adams recommended including a letter indicating the files received to date dealing with CDD business when submitting a CD or an attachment via e-mail

**On MOTION by Mr. Love and seconded by Mr. Robertson with all in favor Mr. Adams was authorized to establish a separate e-mail link for each Board member for constituents to send e-mails to at a cost not to exceed \$1,000. If the cost exceeded \$1,000, Mr. Adams was directed to come back to the Board for approval.**

**THIRD ORDER OF BUSINESS**

**Further Discussion Regarding  
Replacement of the Top Handrail on the  
Nature Park Walkway**

Mr. Adams reported he and Ms. Crismond and a member of Gulf Bay Development Group looked at the walkway. He explained a two board approach was recommended by both contractors because if they use 2x6 composite planking, cut at an angle, the widest material they had available is 6", which does not cover the 6x6 posts. An alternative was to use 2x10 pressure treated posts, replace the existing posts, re-stain and re-seal.

Mr. Brougham commented the e-mail from the Construction Manager details this approach in further detail but felt this made sense as they would end up with two different materials, which can disintegrate over a different period.

Ms. Schmitt agreed with Mr. Johns recommendations.

Mr. Robertson questioned the cost for the modifications. Mr. Adams explained the cost is significantly less with the pressure treated versus the composite. In his experience, it is at least a half to a third of the cost dealing with pressure treated versus composite in material costs.

Ms. Crismond distributed a proposal she received in the amount of \$14,165 for the pressure treated posts.

Mr. Brougham questioned the status of the authorization. Mr. Adams requested authorization from the Board to proceed with the proposal from Top Rail for the current material, staining and sealing.

Mr. Brougham questioned whether the proposal included pressure washing of the boardwalk. Ms. Crismond confirmed the pressure cleaning was already completed.

**On MOTION by Mr. Brougham and seconded by Mr. Love with all in favor the proposal from Top Rail for replacement of the top handrail on the nature park walkway with pressure treated lumber in an amount not to exceed \$16,000 was approved.**

**FOURTH ORDER OF BUSINESS**

**Discussion with Foundation Regarding  
Training Procedures in Place for Security  
Personnel**

Mr. Brougham reported based on a couple of instances over the last three to four months of realtors attempting to gain access to the community and the guards not following the Post

Orders, he requested Mr. Mike Charbonneau come before the Board to give an update on the Post Order changes.

Mr. Charbonneau explained according to a binder provided to new hires and current employees, the standard training for Road Patrol Officers and Gate Safety Officers was 24-hours, however, if someone needed more than the 24-hour hours based on their feedback, they will receive further training. Emphasis is put on 1) access control in relation to the District configuration of the roadways and/or 2) the rookery access as to specific guidelines in the Post Orders on un-restricted access and the implications if the guidelines were not followed. Mr. Charbonneau acknowledged revisions made to the Post Orders in April and November, which all employees reviewed and each Safety Officer signed. He confirmed the Safety Officer will contact him or his assistant, Captain Dupree or Mr. Albeit if both of them were not available in the event of an unfamiliar situation. Conversation ensued in regards to the procedures followed.

Mr. Brougham addressed the situation differing with the realtor. Mr. Charbonneau explained in this particular event, the realtor had access to the community in less than two minutes by going to another listing. He was provided with a map and the Road Patrol Officer verified their destination.

Mr. Charbonneau assured the Board on-going training continually takes place and a log book was maintained. He also has briefings with the Safety Officers.

Mr. Brougham complimented Mr. Charbonneau for the minute number of instances occurring throughout the past seven or eight years and expressed his interest and the Board's interest to do everything possible to assure access to the District or public roadways were maintained with the appropriate controls. He felt the appropriate controls were being followed and we now had the task of making sure those procedures and controls are continually followed. Mr. Brougham brought up the example of a news reporter being denied access and making a big deal about it on the news. He felt this may not happen but warned it has happened in Collier County within the last year and a half to two years. He thanked Mr. Charbonneau for his report.

Mr. Brougham questioned a document signed by the Board relating to the bonds. Mr. Pires explained during a bond closing in August or September of the previous year, Underwriter's Counsel was denied access to the community and informed the Chairman this issue needed to be resolved. He then sent a letter to the Board requesting execution of an

amendment to the Arbitrage Certificate certifying, acknowledging and promising not to deny access to District roads paid for with bonds.

In regards to instances where people were denied access, Mr. Pires recalled discussion with another Board about a telephone call he received four months ago from a Collier County Commissioner who was denied access to the community. He wanted to make sure this particular community adjusted their mechanisms appropriately. Mr. Pires advised the Board they did not want to be in a position where an IRS Agent was denied access and then receiving a nasty letter from the IRS later saying they were going to investigate the District's tax exempt status. The consequence of a District losing their tax exempt status was paying additional funds and the District having to assess the residents to pay for the differential.

Mr. Adams added this all results from the employee on the front lines.

Mr. Robertson was comfortable with the current Post Orders and the training the Safety Officer provides to his staff. He felt in certain instances, the resident did not understand they were supposed to contact the Safety Officer in advance in regards to the realtor and this was not a result of the Gate Officer not following procedures.

Mr. Brougham expressed some disagreement over the facts. Mr. Robertson felt Mr. Brougham was blaming the Gate Officer, which Mr. Brougham denied.

Ms. Schmitt commented in some instances, they submitted the name of the listing agent to the Gate Officer. However, she recalled issues with open houses and questioned whether there was a procedure in place for residents to inform the Gate Officer of open houses and put the responsibility on the resident to provide flyers to the Gate Officers to distribute to individuals attending their open house. Mr. Charbonneau explained there were procedures in the Post Orders for open houses; however, they put the onus on the resident to provide advance notification. In some cases, residents put "*access to all realtors*" on their access list, which the Gate Officer abides by.

Mr. Brougham commented the current Post Orders state "*It is incumbent upon the resident to notify the Safety Department*" and felt there should be clarification on the method used by the resident to notify the Safety Department. Mr. Brougham recommended the Board take action to test the gate procedures once a quarter to make sure there was compliance in all respects. He felt the Board should also take pro-active measures to assure the bondholders and the IRS of the Board's commitment.

The Board agreed with Mr. Brougham's suggestion.

Mr. Adams did not feel this action needed to be taken by a resolution. Mr. Brougham confirmed he wanted a resolution to formalize this as a pro-active action. If the action was not passed by motion, he felt there would be no proof of this action being taken.

Mr. Pires felt it was good protocol for the Board to have a resolution highlighting various actions taken the Board.

Mr. Adams agreed it only takes one incident with the wrong person to cause a major problem and felt this could be avoided by having the Post Orders posted at the guardhouse.

There was Board consensus for District staff to prepare a resolution for review and approval by the Board at the next meeting on compliance with the Post Orders.

Mr. Adams was directed to provide a cost for hiring an individual to go undercover to evaluate the current gate procedures.

Mr. Brougham suggested providing a script to the individual hired to test the gate. Mr. Albeit suggested having different scripts for different situations.

Mr. Adams agreed with having separate scripts and offered to provide prices.

Ms. Schmitt commented the news stories were in regards to the safety of gated communities and not the denial of access.

Mr. Charbonneau clarified there were procedures the Gate Officers follow to ensure the residents privacy and safety. The problems have been corrected but there was a human factor involved as they were processing 5,000 vehicles a month.

Mr. Brougham reiterated the small number of instances occurring throughout the past seven or eight years but agreed with Mr. Adams about only one incident with the wrong person causing a major problem. He requested the Gate Officers do all they can to make sure no further instances occurred.

**FIFTH ORDER OF BUSINESS**

**Further Discussion Regarding Irrigation  
Water Restrictions and Variances**

Mr. Albeit confirmed the variance request was currently being handled by the attorneys for submittal. Once approved, they will provide to SFWMD. The variance requested a second watering day.

Mr. Brougham felt it was a benefit to the District if the variance request was approved. Mr. Albeit felt it was an inconvenience for the homeowners to water during the day.

Mr. Albeit recalled discussion earlier about the sprinklers in Cherry Oaks being turned on Thursday night and staying on all night. A resident reported last Thursday evening, the sprinklers turned on before 5 p.m. and were still on at 9 p.m.; he contacted the guardhouse who in turn, tried to contact Mr. Albeit and Cardinal Management but received no answer. The resident noted he finally reached Cardinal Management who tried to assist them but could not reach anyone. When they went to bed, the sprinklers were still running. He also reported at a quarter after nine, while driving to Wal-Mart, he saw water gushing down the road.

Mr. Albeit confirmed this was one of the watering times.

The resident questioned whether the sprinklers were supposed to run for a long time in the same zone and confirmed the previous day, the landscapers replaced some sprinkler heads and when the sprinklers were running on Thursday night, he knew something was wrong when he saw water gushing down the street.

Mr. Albeit recalled identifying this situation in the variance request.

Mr. Brougham confirmed there was a malfunction and requested the residents be told what number to call in an emergency.

**SIXTH ORDER OF BUSINESS****Follow-up Discussion on Bid Protest from  
Prior Meeting**

Mr. Adams confirmed staff has not heard anything additional from the petitioning party in regards to the bid protest but reported Mr. Pires had a response to the question Mr. Curland's raised at the last meeting with regards to having an Executive Session.

Mr. Pires explained the Board has the option to meet in non public so long as minutes were taken and the meeting was properly and publicly noticed. However, he advised, since there was no pending litigation, the Board could not hold an Attorney/Client Session. If and when the litigation is filed, Mr. Pires advised the proper protocol was for him to advise the Board at a public meeting on the pending litigation and schedule the closed door session for another date and time to be advertised separately. There was also discussion about modifying the rules dealing with the competitive selection and bid process.

Mr. Brougham requested the rules incorporate the previous request of the Board members to be more involved in the bid specifications as they were distributed and as bid proposals were received.

Mr. Adams acknowledged this was appropriate and understood the Board's desire to be more involved in this process. He offered to proceed in this manner.

Mr. Adams reported as a result of the Board's reconfirming award of the landscaping contract at the last meeting; OneSource was under contract and performing the District's landscape duties at this time.

**SEVENTH ORDER OF BUSINESS**

**Approval of Minutes**

- **November 28, 2007 Joint Board Meeting**

Mr. Adams requested the Board consider the following changes to the Fiddler's Creek #2 minutes:

- On Page 1, "Mr. Carlo Zampogna" should be added as District Co-Counsel under the list of attendees.
- On the bottom of Page 5, "Occupation License" should be "Occupational License".
- On Page 6 "Fiddler's Creek C.D.D. #2 Items" should be "Fiddler's Creek C.D.D. #1" Items".
- The motion boxes at the top of Page 6 should reflect the addition of the word "Joint" before "Meeting Minutes".

Mr. Brougham requested line numbers be added to the minutes for the next meeting. He felt the sentence "Enforcement of the water restrictions; the necessity of compliance with the rules for the Board and the possibility of shutting down the pump house to ensure compliance and avoid fines continued" was poorly worded.

Mr. Adams clarified this was based on a point he made to ensure enforcement on non-watering days and offered to amend this sentence to make it read better.

Mr. Brougham commented "951" should be amended to include the limited partnership. Mr. Adams confirmed the name of the company was 951 Landholdings.

**On MOTION by Mr. Brougham and seconded by Mr. Love with all in favor the minutes of the November 28, 2007 joint Board meeting were approved as amended.**

- **December 19, 2007 Joint Board Meeting**

Mr. Adams requested the Board consider the following changes to the Fiddler's Creek #2 minutes:

- On the bottom of Page 1 “Scoot” should be “Scott”.
- In the second paragraph on Page 2 the words “acknowledge a withdrawal of the” should be added between the words “determination” and “challenge” and on the bottom of Page 2, “Via Mar” should be “Aviamar”.
- On Page 11, under the tenth order of business, the adjournment time should reflect 10:55 a.m. instead of 2:55 p.m. and under the eleventh order of business, the word “later” should be “earlier”.
- In the last paragraph on Page 12 and the fourth paragraph on Page 13, “Polcal Construction” should be “Polkow Construction”.
- In the fourth paragraph on the top of Page 16, the word “was” should be inserted after “check #2057” and in the prior sentence, the word “acknowledged” should be “stated”. In the following paragraph, “Occupation License” should be “Occupational License”.
- In the third paragraph from the top of Page 17, the words “He asserted that” should be inserted before the word “All”. In the next sentence, the word “reiterated” should be changed to “asserted”.
- In the first paragraph on Page 19, the word “thought” should be “through”.

Mr. Brougham commented in the third paragraph on Page 3, the word “sidewalks” should be “sidewalk ramps”. On Page 12, in the paragraph above the fourteenth order of business, the word “misquoted” should be “miss-posted”.

Ms. Schmitt commented on Page 14, \$425” should be “\$4.25”.

Mr. Love commented the motion box on the bottom of Page 19 reflects all were in favor, however, he attended the meeting by phone and when this motion was made he was disconnected. Mr. Brougham requested the minutes reflect that Mr. Love left the meeting. Mr. Pires advised a notation should be made in the minutes that after closing statements were made by both parties; “Mr. Love was disconnected from the meeting and did not participate in any voting”.

**On MOTION by Mr. Brougham and seconded by Ms. Schmitt with all in favor the minutes of the December 19, 2007 joint Board meeting were approved as amended.**

Mr. Brougham announced the District received an offer of settlement from Severn Trent Services (STS) and read the following e-mail into the record from Mr. Dana Kaas, the Vice President of Operating Services for STS.

*"This will confirm our telephone conversation of January 2, 2008 regarding the proposed settlement of a pending claim by Fiddler's Creek against Severn Trent Services.*

*Briefly, this claim demands credit for Field Services in the amount of \$5,999 covering work during the months of March, April and May of 2005. We propose a settlement for this and any other contemplated claims by Fiddler's Creek of \$4,000. We understand this will require approval by the Fiddler's Creek Board at their meeting on January 16, 2008.*

*If approved, we arrange to provide a release that will require execution by a Board authorized representative. Once the release is completed, we will remit the check to the Fiddler's Creek CDD.*

*If you have any questions, please feel free to contact me."*

Mr. Brougham confirmed this settlement was reached without the participation of attorneys and requested a motion for the Board to accept the settlement.

Mr. Love questioned whether there were any additional claims. Mr. Brougham confirmed to his knowledge, he did not know of any pending claims as the dispute was based on field management services the District paid for and never received.

Mr. Pires recalled similar problems other districts had with STS regarding field management services, accounting services and penalties incurred from the IRS for a pension plan and from Collier County for outstanding effluent billings. He confirmed the current manager received the most up-to-date financial statements from STS and updated them in the system to bring them current without the District having to incur additional expenses. He further confirmed the penalties incurred by other districts were not applicable to this District.

Mr. Brougham questioned whether there were any outstanding or potential claims. Mr. Adams recalled the only issue the District had with STS was with the accounting. Mr. Pires confirmed to his knowledge, there were currently no further claims against STS or issues with regards to any late reporting to the depositories as required under the disclosure requirements or late audits.

**On MOTION by Mr. Brougham and seconded by Mr. Love with all in favor the settlement to the District's claim for credit of field management services paid for by the District but never provided by Severn Trent Services for March, April and May of 2005 in the amount of \$4,000 was approved.**

Mr. Brougham requested a motion from the Board for authorization for the Chairman to execute the Mutual General Release Form, which will be provided to Mr. Pires accepting STS' offer of settlement and releasing the District from filing any additional claims. Mr. Brougham questioned the statement "*For and in consideration of the sum of \$10...*" as it did not speak to the settlement. Mr. Pires confirmed the Mutual General Release Form was in the usual form and content and did not have to state an exact dollar amount.

Upon execution of the Mutual General Release Form, Mr. Pires offered to remit the release to the Attorney for STS and request the funds be held in escrow pending execution, release and delivery of the check to the District Manager in the amount of \$4,000. Mr. Adams requested a copy of the final Mutual General Release Form for the District files.

**On MOTION by Ms. Schmitt and seconded by Mr. Robertson with all in favor the Board authorized the Chairman to execute the Mutual General Release Form, accepting Severn Trent Services offer of settlement and releasing the District from filing any additional claims and upon execution provide to Mr. Pires for remittance to the Attorney for Severn Trent Services, requesting the funds be held in escrow pending execution, release and delivery of the check to the District Manager in the amount of \$4,000.**

### **FEMA Reimbursement**

Mr. Adams reported receipt of a check from FEMA in the amount of \$4,800 for 100% reimbursement of the initial claim of expenses incurred from Hurricane Wilma. Mr. Love questioned whether the claim was for debris removal. Mr. Adams confirmed the claim was for the initial response with regards to public safety, health and welfare; which qualified under the FEMA program.

### **Gator Grill Restaurant Staff Handling of Emergencies**

Mr. Love commented a resident approached him regarding an unfortunate incident occurring in the restaurant with staff not knowing what to do when a resident needed emergency

treatment. A resident had to call 911 because the restaurant staff did not know how to handle the emergency.

Mr. Charbonneau explained this situation could be rectified by further training; however, there were always going to be unexpected situations. He recalled the employee behind the bar calling 911 but not realizing until he heard five rings that he may have miss-dialed. When he hung up and tried again, he received the same response. Mr. Charbonneau confirmed he finally reached a dispatcher who asked many questions. He felt this worked out better because the employee was unable to get next to the victim and Mr. Charbonneau was better able to describe to 911 what actually occurred. Mr. Charbonneau felt this was a good training exercise for staff as he was able to best gauge the reactions of his staff. He felt under the circumstances, the situation was handled extremely well by the restaurant staff. Mr. Albeit felt the immediate reaction by staff appeared to be right and as a follow-up, the Safety Officer conducted a meeting with the employees to address these issues.

Mr. Albeit confirmed Mr. Charbonneau addressed staff at the Gator Grill and discussed the incident in detail to get their input. Fortunately Mr. Charbonneau was on the scene and the resident was okay.

**NINTH ORDER OF BUSINESS****Staff Reports****a) Attorney**

Mr. Brougham reported at the last meeting, a suggestion was made to post the Security report on the District website, which was done. However, upon his review of the on-line report, Mr. Brougham felt the incident reports contained too much detail. Mr. Charbonneau confirmed the incident reports should not have been posted. Mr. Brougham immediately contacted Mr. Adams and Mr. Pires to request they remove the incident reports from the website as he felt it was an invasion of privacy. Mr. Brougham discussed the merit of having high level statistics of the security operation on the website.

Mr. Pires advised from the perspective of the records being confidential and an invasion of privacy, they were public records, however, they also qualified as an exemption under the Public Records Law from the perspective of security system plans and amendments were made to the Public Records Law after September 11, 2001.

Mr. Brougham felt the GPS reports addressing the Patrol Officer spending more than 10 minutes at a given location for breaks was appropriate but he did not feel the actual incident report should be presented to the Board and become a part of the actual public record.

Mr. Pires advised since these were vendors performing services for the District for access control, the records were considered public records. However, security reports could be considered confidential and exempt under the Public Records Law but they would have to be viewed by agency personnel and personnel of other government agencies so they did not lose their exempt or confidential status. He recalled situations in other districts where several years into the future, they received claims against the District for slip and falls caused by lack of maintenance by the District and Counsel then having to recreate what happened, which was difficult to do.

Mr. Brougham confirmed it was the Board's option as to whether or not the incident reports should be posted on the website. Mr. Pires suggested the incident reports not be posted as they were confidential and exempt. Mr. Adams recommended the statistical report be posted as it gives a myriad of statistics regarding security patrol, gate operations and volume of vehicles for the month without giving the specific names and locations.

Mr. Love questioned whether Mr. Charbonneau provides a monthly executive summary. Mr. Albeit confirmed he meets once a week with Mr. Charbonneau to go through the GPS and incident reports.

Mr. Brougham recalled the purpose of the GPS report was to manage the patrol officers and prevent miss-usage of the vehicles.

Conversation ensued regarding the benefit to posing the statistical report on the website.

Mr. Robertson requested the statistical report have a disclaimer saying "*Confidential exempt material*". Mr. Brougham requested Mr. Adams prepare a prototype reflecting the mileage on the patrol cars and the volume of vehicles entering and exiting the gate. Mr. Adams suggested Mr. Charbonneau move the requested data from an excel spreadsheet to a separate report and provide as a GPS Exception Report to the Board for discussion at the next meeting.

Mr. Love requested photographs, schematic diagrams, surveys, recommendations, anything dealing with security systems and the Post Orders not be posted on the website. Mr. Adams questioned whether the Board wanted to remove the Post Orders from the website as they were originally posted at the Board's request.

There was Board consensus to not post anything regarding security on the website including the incident and GPS reports and Post Orders.

Ms. Schmitt felt any shifts in trend should be addressed to the Foundation.

**b) Manager**

**1. Unaudited Financials as of December 31, 2007**

Mr. Adams confirmed his review of the financials in detail and there being nothing out of the ordinary. He addressed the fact after it was noted the District had not been collecting a proportionate share of assessments from Fiddler's Creek II, the money was moved on January 10<sup>th</sup>.

Mr. Brougham questioned why Engineering Fees was up by 78% from the budgeted amount. Mr. Adams confirmed this was related to the additional work performed by the Engineer for Championship Drive. Mr. Brougham questioned whether Office Supplies was related to the website. Mr. Adams confirmed this was the case.

Mr. Brougham noticed when a correction was made by the Accountant to a miss-posting, there was no change made to the reconciliation. Mr. Adams confirmed he noticed when money was moved out of the contingencies into the Tree Trimming line item, there should have been a credit and offered to have the Accountant make this change.

**2. Annual Continuing Disclosure Report**

Mr. Adams reported the Disclosure Report was for the Board's information and explained under the Trust Indenture for each bond issue, the District was required to provide an annual Disclosure Report, providing the bond market with a synopsis on the bond issue and update on the community's progresses. Mr. Adams felt this was a standard report and was provided to the Board for informational purposes.

Mr. Brougham affirmed this was good information and a benefit to the District as it identified an update on the lots completed and the number of single family and multiple units.

**c) Operations Manager**

Ms. Crismond provided the following report:

- **Boardwalk Repairs.** This item was discussed earlier in the meeting.
- **Directional Signage.** The paddle adjustments commenced the week of January 7<sup>th</sup> and will be completed this week. Mr. Brougham was informed by Mr. Bob Slater

one of the signs was damaged upon installation but felt the remainder of the signs were appropriate.

- **Florida Highway Patrol.** Ms. Crismond confirmed the FHP did not set their radar traps in December and when she questioned Mr. Charbonneau on Monday to see how they were doing, he informed her they never showed. She contacted the Sergeant in Charge on Monday afternoon and in the early evening yesterday. Mr. Brougham questioned whether the FHP made any commitments. Ms. Crismond confirmed the FHP committed to the schedule Mr. Charbonneau prepared. Mr. Brougham commented the Board did not care about the actual agency performing the radar checks as the community was without a Sheriff for most of 2007 because the Sheriffs were not interested in working overtime. Mr. Adams recommended the Board retain contracts with the Collier County Sheriff's Department and the FHP, in case someone wants to work overtime. Mr. Love questioned how the overtime was paid for. Mr. Adams confirmed their salary of time and a half of their actual salary plus fuel and car costs were paid through the agency. Mr. Brougham directed Ms. Crismond and Mr. Charbonneau to contact the Sheriff's office and request an agreement. Ms. Crismond offered to have Mr. Charbonneau work out the details. Mr. Brougham commented the Board budgeted to have law enforcement twice a month for four hours.
- **Fire Hydrant.** Mr. Brougham reported the East Naples Fire Rescue Department was informed by the developer "they want white fire hydrants". East Naples felt this was acceptable so long as the developer agreed to maintain them but informed Ms. Crismond they were willing to paint the existing ones yellow at their expense if they obtained a letter of acceptance from the developer. Mr. Love questioned whether the Fire Department was responsible for maintaining the raised markers in front of the fire hydrants. Mr. Brougham confirmed this was the case for each village and District roadway. He advised the residents to contact their association if any raised markers were missing. Ms. Schmitt commented on a fire hydrant hidden by landscaping. Mr. Adams confirmed District employers were making sure there was a 3' clearance around the fire hydrants. Ms. Crismond acknowledged she requested a location map of the existing fire hydrants. Mr. Brougham requested

Ms. Crismond provide a copy of the map to Mr. Albeit so Cardinal can identify the hydrants in the villages.

- **Lake Fountains.** Ms. Crismond advised the lake fountains were being removed this week due to low water levels. She confirmed receipt of a proposal for \$218,600 for shoreline mounting and reminded the Board if the fountains were re-located, they were still going to require maintenance. The flows and piping system will require continuous cleaning due to barnacle, snails and algae. The cables were still connected due to the lighting fixtures and the wet wells continuing to draw the same water quality, which will require maintenance as well.

Mr. Brougham questioned when the lease expires. Ms. Crismond confirmed the lease expires in December of 2008 as the installation occurred in December of 2003. She reported the cost to date on repairs and maintenance was \$37,398 but there was a current agreement in place for maintenance.

Mr. Brougham suggested since the District will own the existing equipment when the lease expires, the fountains could be utilized at a maintenance cost of \$7,000 per year (\$37,398 over five years). He felt the \$218,600 proposal was extremely high. Mr. Adams agreed the cost was excessive but acknowledged this program would move the intake to where the fountains could be operated year round.

Mr. Brougham spoke to many residents in the community who feel the fountains were a nice feature as they provided a landmark but they provided just as many complaints when the fountains were inoperable. Conversation ensued regarding the operation of the fountains.

Mr. Adams felt the Board was moving in the right direction with the new design and understood the Board's reluctance on the price. However, he felt in order to get the fountains running during low water levels, this approach needed to be addressed. Mr. Brougham commented they could finance the \$218,600 over time.

Ms. Crismond continued:

- **Lake Maintenance.** Ms. Crismond reported the Board requested an update on the Hydrilla at the last meeting and addressed concerns with Lake 7 in Pepper Tree, the 65 canal system in Fiddlers Creek II and Lakes 50 & 58 along the golf course. Lake Masters treated the lakes with Sonar as they received good results in the past with the Hydrilla; however, Lakes 50 and 58 appear to have Southern Naiad, which

was surprising since the Sonar was more effective on the Naiad than on the Hydrilla. They recently took over maintenance of The Rookery.

- **Landscaping.** Ms. Crismond reported the restoration project has been progressing. The contractor feels they completed the project; however Ms. Crismond disagrees as they took down the boards and left the straps in several areas. She offered to schedule a walk-through. Mr. Brougham questioned whether the contractor removed the stakes off of the palms along Mulberry. Mr. Love confirmed some were removed yesterday but there were several trees with stakes on them. Ms. Crismond confirmed she was in Fiddler's Creek all day Friday and noticed straps on the back of several berms.
- **Lift Station.** Ms. Crismond apologized for not having the lift station proposal as she was meeting with the contractor today. Gulf Bay was supposed to provide the drawing to be submitted to Wastewater Collections. Ms. Schmitt questioned the reason for the double gate. Ms. Crismond confirmed the double gate will accommodate trucks. There will also be a Ficus Hedge on both sides and two gates extending fence post to fence post. Ms. Crismond hoped to have the proposal by the next meeting.

## TENTH ORDER OF BUSINESS

### Supervisors Requests and Audience Comments

Ms. Schmitt questioned whether the dead palm trees were removed. Ms. Crismond confirmed there were several more trees to be removed and reported two trees were removed on Championship due to root rot.

Mr. Brougham addressed the following:

- **Remote Printer Update.** Mr. Adams confirmed the system was still being tested but per the Board's direction at the last meeting, TEM will proceed quickly in

ordering and installing the equipment. Mr. Adams expressed concern over finding out the testing had not been completed prior to receipt of the proposal, although he received a commitment from TEM that the testing was completed. He could not understand how they could submit a proposal without completing the testing.

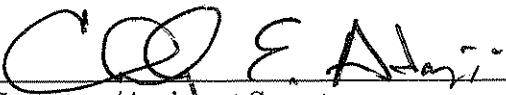
- **Issue addressed at CDD #2 on a potential upgrade to the desktop.** Mr. Albeit explained the upgrade pertained to the server at the main gate, which was seven years old. Mr. Brougham thought Mr. Charbonneau referred to the desktop at the Championship gate, which needed an upgrade. Mr. Adams clarified this was an older operating system, which did not operate as quickly as the newer technology.
- **Street Sweeper Schedule.** Mr. Brougham questioned when the street sweeper was scheduled to sweep. Mr. Love confirmed he saw the street sweeper going down the parkway last weekend. Mr. Adams suggested the Security Guards put in their log when the street sweeper comes in.
- **Phone outage at main gate.** Mr. Brougham suggested a cell phone be purchased for emergencies. Mr. Adams felt the number of outages were relatively small and did not warrant a cell phone. Mr. Albeit suggested giving out Mr. Charbonneau's cell phone number. Mr. Brougham confirmed the availability of the automated system. Mr. Adams acknowledged the automated system will work even if there were on-site issues. Mr. Brougham requested an e-mail transmitted as quickly as possible in the event of outages.

**ELEVENTH ORDER OF BUSINESS**

**Adjournment**

There being no further business,

**On MOTION by Ms. Schmitt and seconded by Mr. Love with all in favor the meeting was adjourned at 12:10 p.m.**

  
 Secretary/Assistant Secretary

  
 Chairman/Vice Chairman