

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

The regular business meeting of the Board of Supervisors of the Fiddler's Creek Community Development District #1 was held on **Wednesday, December 27, 2006 at 10:05 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
Peggy Schmitt	Assistant Chairperson
James Robertson	Assistant Secretary
James Curland	Assistant Secretary
Alexander Love	Assistant Secretary – via telephone

Also present were:

Chuck Adams	District Manager
Corinne Norton	Assistant Regional Manager
Frank Feeney	District Engineer
Anthony Pires, Esq.	District Counsel

Others present:

Ron Albeit	Fiddler's Creek Foundation
Mike Charbonneau	Fiddler's Creek Foundation

CALL TO ORDER

Mr. Adams called to order the meeting of the Fiddler's Creek Community Development District #1 at 10:00 a.m. on Wednesday, December 27, 2006 at the Fiddler's Creek Club and Spa, 3470 Club Center Drive, Naples, Florida 34114.

Mr. Adams advised that all supervisors were present with Supervisor Love participating via telephone.

Mr. Adams requested the Board's consent to adding the following items to the Agenda:

- The Oath of Office for Mr. Curland
- The Re-affirmation of Oath for Mr. Robertson
- Consideration of Surplusing the Security Vehicle
- Discussion of Security Access Control Program and Equipment.

There were no objections from the Board to adding these items.

OATH OF OFFICE FOR JIM CURLAND AND JAMES ROBERTSON

Mr. Adams stated that he was a Notary of the state of Florida and was duly authorized to administer this oath. Led by Mr. Adams, Mr. Curland and Mr. Robertson recited the Oath of Office. Mr. Adams requested that both Supervisors sign these documents which he would then place in the public record.

Mr. Adams explained the nature and purpose of supporting documents he had provided to Mr. Curland as a new Board member. He also advised of the rules and cautions concerning Sunshine Law.

It was asked whether reorganization of the Board should be considered. Mr. Adams agreed to this and advised that currently Mr. Brougham served as Chairman; Ms. Schmitt served as Assistant Chairperson; and the remaining Board members served as Assistant Secretaries. Mr. Adams also advised that he and Mr. Wrathell served as Treasurer and Assistant Treasurer. Mr. Adams added that he also served as Secretary.

Ms. Schmitt was in favor of retaining Mr. Brougham as Chairman.

Ms. Schmitt nominated Alexander Love for the position of Vice Chairman.

Mr. Adams stated that these results would be brought back before the Board as a resolution for future ratification.

On MOTION by Mr. Brougham and seconded by Ms. Schmitt, all were in favor of approving the reorganization of the Board as follows: Mr. Brougham serving as Chairman; Mr. Love serving as Vice Chairman; Mr. Robertson, Mr. Curland and Ms. Schmitt serving as Assistant Secretaries; Mr. Adams serving as Secretary and Assistant Treasurer; and Mr. Wrathell serving as Treasurer and Assistant Secretary.

APPROVAL OF MINUTES FOR NOVEMBER 15, 2006 MEETING

Corrections were made to page 4 as follows: "Mr. Cox" on lines 119 and 124 should be changed to "Mr. Pires." Also, on line 135, a comma should be inserted after "water".

Corrections were made to page 5 as follows: line 164, the spelling of Mr. Albeit's name was provided.

On MOTION by Ms. Schmitt and seconded by Mr. Brougham, all were in favor of approving the November 15, 2006 minutes as amended.

OTHER BUSINESS

- **Consideration of Surplusing the 1999 Security Vehicles and Retaining 2004 Vehicle as Back-Up**

Mr. Adams spoke of the history of this item and stated that the primary vehicle was now a 2006 Crown Victoria purchased in October and placed into circulation in November. He stated that the other two vehicles currently in the District's possession were 1999 and 2003 vehicles with significant mileage. He further stated that the Foundation had learned of the Board's discussions and was interested in the secondary vehicle in terms of its reliability and immediate availability to the community. Mr. Adams deferred to representatives of the Foundation to address the Board on their position.

Mr. Robertson made the following motion: "Now that the 2007 police vehicle has been received and placed into service, that the 1999 Cruiser be retired and disposed of in accordance with the state's excess property law. It is also proposed that the 2004 Cruiser be retained in service for at least one year until the next fiscal year, at which time the Board could consider a budget alternative to replacing this with a new Cruiser at such time."

The motion was seconded by Mr. Brougham.

Mr. Adams opened the discussion to the public and deferred to Mr. Albeit, General Manager for the Club and Spa, for his presentation before the Board.

Mr. Albeit stated that over the one-year period from September 2005-September 2006, there were forty-one 911 calls with 36 from residents and 5 from contractors. He explained that the average response time for the security department was 2.9 minutes while the East Naples Fire Rescue's response time was 4.9 minutes; the Isles of Capri was 8 minutes, and the Collier County Sheriff's Office was 13.9 minutes. He pointed out that the American Heart Association advised that the critical time for CPR or defibrillation was in the first 4-6 minutes. He spoke of a recent emergency incident where the first responder was the District's roving vehicle.

Mr. Albeit spoke of costs for the new vehicle which included \$1,200 for insurance and \$1,500 for gas. He stated that the total cost of maintaining this vehicle for the first year with maintenance, gas and insurance was about \$6,000. He suggested that if the Board would look at this expense and put it on a per unit basis in District 1, which had 2,039 units, the breakdown would be less than \$3.50 per unit per year; on a monthly basis this was less than 25 cents per month per unit. Mr. Albeit requested that the Board re-consider surplusizing the 2004 vehicle in light of these costs, response times and the uncertainty of when a vehicle might break down.

It was stated that the Board understood the concern about having qualified help for 911 responses. It was asked whether the Foundation had considered acquiring the 2004 vehicle for this purpose and paying for the maintenance. Mr. Albeit replied that the Foundation had not discussed this.

A Board member stated that maintenance costs on a secondary vehicle would be borne by the residents either through an assessment from the Foundation in the form of dues, or from an assessment from the District. Mr. Albeit felt that a secondary vehicle was warranted based on the circumstances outlined and the continued growth of the community.

A Board member pointed out that it was cheaper and more efficient for the District to fund and maintain the vehicle itself as the CDD assessments were tax deductible.

Mr. Adams advised that the Board of Supervisors for CDD #2 had met prior to this meeting and had voiced concerns that the backup vehicle would be surplusized by CDD #1. He stated that the Board for CDD #2 had requested keeping one of the two vehicles that were the subject of surplusizing.

Ms. Schmitt asked Mr. Albeit for his definition of "first responder." Mr. Albeit stated his definition for this was "the first person to reach the home where the 911 call was made." He

stated that the Foundation had employees in the safety department who were competently trained to use a defibrillator and provide CPR service immediately.

Chairman Brougham opened the discussion to the public.

Mr. George Ohye, a resident, voiced his disappointment that this item had not been included in the agenda published on the website for this meeting. He also complained that the meeting time had been posted on the website for 1 p.m. rather than 10 a.m. He stated that the opinions of the Board members for CDD #2 should be taken into consideration. He also felt that the issue of first responder and cardiac events was not an emotional issue but rather a safety and medical issue. He urged the adoption of Mr. Robertson's proposal. He requested that the Board not act as proprietors of a small company but as a Board of Directors.

Russ Hugh, a resident, agreed with Mr. Ohye's comments and questioned where one would get a car at 1 a.m. if the main vehicle became disabled. He stated that as a six-year resident he had a quality of life expectation that he did not want to see reduced. He criticized the response times of outside agencies which he felt were atrocious compared to the excellent service provided by the District's patrol team.

A question was raised about the "federal income tax deductibility of the CDD assessments." It was stated that on the real estate tax bill, this was not a separate bill that could be paid individually.

Russ Hume, a resident, spoke in support of Mr. Robertson's proposal. He spoke of his comfort over the past 7 years with the District's security patrol and felt it was important to considering having a second vehicle.

Mr. Pires stated that regarding the provision of emergency medical response services, he could find no authority under Chapter 190's General Powers or Special Powers for the District to engage in such powers or authority. He added that by contract, the Foundation was responsible for providing access control and security but not medical or first responder services. He opined that the District might not be able to contract for such services under Chapter 190.

Mr. Adams affirmed that this was not within the scope of services of the District's contract for the reasons Mr. Pires outlined. He added that the Foundation had contracted out this service as a separate entity on its own and not through its contract with the District.

Mr. Ohye stated there were several groups that taught CPR and defibrillator usage to members of the community. He felt it did not make sense that such community services made

these groups liable. Mr. Pires stated that there might be statutory schemes in place for such providers to engage in these services without being liable; however Section 190, the District's Charter did not have this authority.

(End of Tape 1, Side A)

(Start of Tape 1, Side B)

Ms. Schmitt asked how the Foundation got involved with 911 calls. Mr. Albeit explained that the Foundation was in the system of the Collier County EMS dispatch center. He added that after a resident called 911, the Collier County dispatch team placed a secondary call to the main gatehouse staff.

Chairman Brougham stated that Gulf Bay Security was a contractor to the CDD. He explained that the contract covered a two-year period after which it would go out for bids again. He stated that it was not a given that this security firm would be the successful bidder in 2008. He pointed out that in the future, another company could be providing gate and patrol security. He stated that this raised the question of how first responder services would be handled by that firm. Chairman Brougham further stated that the operating budget was adopted by the Board based upon surplus two cars. Regarding future contracts, Mr. Brougham asked Mr. Pires whether future contracts with the security provider should include an indemnification to the District. Mr. Adams advised this indemnification currently existed in the District's contract with Gulf Bay Security. Chairman Brougham felt it was important to sit with the Board for CDD #2 to discuss an efficient way of contracting for security services in light of the anticipated growth needs of the community.

On MOTION by Mr. Robertson and seconded by Mr. Brougham, all were in favor of surplus the 1999 security vehicle and retaining the 2004 vehicle as back-up, with the exception of Ms. Schmitt and Mr. Love. (Motion carried 3-2)

Mr. Adams requested a separate motion to authorize staff to proceed with the advertising and bidding process for the surplus of the 1999 Crown Victoria, which staff would bring back in a formal resolution for ratification at the next meeting.

On MOTION by Mr. Brougham and seconded by Mr. Robertson, all were in favor of authorizing staff to go forward with surplusing the 1999 vehicle through advertising and bidding procedures to provide the maximum flexibility for the sale and/or disposal of the property.

Discussion of Security Access Control Program and Equipment

Chairman Brougham questioned whether the District had its sensitive equipment protected in the best way possible and whether the community had the best equipment in the marketplace. He pointed out that over the last year it had cost \$25,000 to maintain the front gate hardware and software.

Mr. Adams advised that staff had held conversations with Lee Herman of TEM, the firm that provided this equipment and its maintenance. He stated according to TEM, the life expectancy for this equipment was 5-10 years depending on climate conditions and power surges. He added that Mr. Herman had spoken of new equipment coming out on the market in 2007 that may serve the District's needs.

[Mr. Adams advised that Supervisor Love was no longer participating via telephone.]

Mr. Adams explained the functionality of the gate equipment and how it was phased based on work groups on site during construction.

Chairman Brougham asked whether staff received information indicating that something was being done about people being on the property who should not be there. In response, it was explained that with this additional software, the credentials of support staff could be time stamped. It was also stated that this gate system would not allow employees on the property beyond their work times.

Chairman Brougham asked if staff had some way to know if employees were on site after hours. It was stated that final work had not been done on the egress system; therefore the loop was not fully closed in this regard. However, Mr. Albiet expected this would be finished in the next 14-21 days. It was also stated that residents would need to use their clickers to leave the property.

Chairman Brougham asked when the lease of the equipment had started. Mr. Adams stated the lease program started "last August." He added that staff had hoped to put the

equipment in last October but had to deal with Hurricane Wilma cleanup. Chairman Brougham stated there was a fine line between controlling and prohibiting the public. He cautioned that the District could not prohibit the public who presented the proper credentials as this would cause the District to lose its tax exempt status. He added that he wanted the community to receive the full benefit of all the hardware and software the District had invested in.

Chairman Brougham stated there was a distinction between reading a report the day after and learning about an alert in real time. He wanted the hardware system to demonstrate its capability to function in real time during Phase 2.

Mr. Adams advised that according to TEM, new equipment scheduled to come out in 2007 had not yet been tracked as to its reliability. He stated that TEM recommended monitoring this new equipment and how it could apply to the District's future needs for upgraded equipment. Mr. Adams stated that according to TEM, there were no guarantees regarding power surges, especially resulting from lightning.

Chairman Brougham asked for further information on the make and model of the existing power surge protectors. He asked whether there was a reasonable way to spend money for better lightning and surge protection to preclude \$11,000 for replacement expenses. Mr. Adams stated that it was beyond TEM's ability to do anything beyond what was already in place.

Chairman Brougham asked Mr. Adams or Mr. Casey to contact an outside consultant or get quotes for a consultant experienced in assessing surge protection adequacy and make recommendations. Mr. Adams agreed to this request.

Pelican Pressure Washing Sidewalks

Mr. Adams advised that in response to a previous request, Mr. Casey had gone out and gotten a proposal to pressure wash all sidewalks down Fiddler's Creek Boulevard, Championship Drive, Sandpiper to the bridge and Club Center Drive, and the two entrances into Mulberry. He advised that the quote for this work was \$8,900 for a heated pressure wash with 200-degree water along with chemicals to remove algae and mildew.

On MOTION by Ms. Schmitt and seconded by Mr. Brougham, all were in favor of proceeding with Pelican Pressure Cleaning LLC work in the amount of \$8,900 for the roadway sidewalks previously stated, with the exception of Mr. Robertson. (Motion passed 3-1)

STAFF REPORTS**a) Attorney**

Mr. Pires stated he had not heard back from the Sheriff's secretary.

Mr. Pires advised that the District was going through the process to get an inventory map finalized. He explained that each time a bond was issued, a number of documents were executed to ensure the District would have the necessary easements, rights-of-way dedications and interests in real estate for the construction, re-construction or maintenance of their facilities. He explained that each time construction occurred, different documents applied. He indicated that he had compiled a number of these into a booklet for the Board's review and summarized the purpose of some of these instruments. Mr. Pires explained that as a record, all parcels would be transferred via quit claim deeds over to the District.

Mr. Brougham asked how Gulf Bay would be affected if the District did not get a deed. Mr. Adams stated that the Foundation could be an owner of the property that the District had an easement on. Mr. Brougham stated that this topic stemmed from research that indicated certain issues had not been addressed in terms of deeds.

Mr. Adams advised that everything had gone to the CDD through the acquisition process which required the attorney to physically look at a document conveying certain property use rights.

Conversation ensued on this topic.

Mr. Pires advised he would have the booklet for the next meeting.

[End of Tape 1, Side B]

[Start of Tape 2, Side A]

b) Engineer

Frank Feeney, representing Terry Cole, District Engineer, advised that staff had received the SDP amendment for the park benches and were installing these by mid-March. He stated that staff estimated it would cost \$35,000 for all the improvements not to include landscaping.

Mr. Feeney advised that regarding the FDOT entrance to US-41, FDOT was still reviewing the permit.

Mr. Ohye asked whether his Homeowners Association had been consulted about the installation of benches along Mulberry. Chairman Brougham stated that the benches would not be placed on anyone's private yard but on District ownership along Mulberry.

Mr. Feeney stated that he had been informed it would take four months to complete the US-41 entrance once the permits were received.

Ms. Schmitt asked whether the District had influence with anyone in the organization. Mr. Feeney stated staff had pushed as much as it could.

It was stated that FDOT was currently reviewing the configuration of US-41 going to the east. Mr. Feeney stated this may not affect the District as it was trying to get its permit approved based on the current configuration.

Conversation ensued on this topic.

c) Manager – Unaudited Financials as of November 30, 2006

Mr. Adams advised that he had provided a revised version of the financials. He indicated that on the final "Notes" page, several invoices needed to be re-classed to the Gate category recently added to the budget.

Mr. Adams referred to the second line item, to TEM, in the amount of \$2,985. He advised that was not being re-classed to Access Control but should be placed under Operating Supplies for clickers. He stated that after these adjustments were made, the financials would be final for presentation.

Mr. Brougham asked whether the Access Control figure would then be \$17,000. Mr. Adams responded affirmatively; he added that this was for 200 clickers at the cost of about \$6,000. Mr. Brougham stated that he had sat in on the Board meeting for CDD #2 where a discussion had been held on access control expenses for the vehicles. He advised that Board members of CDD #2 had stated that if the CDD #1 Board decided not to maintain a backup vehicle, then CDD #2 might re-consider their contribution to CDD #1's security for this fiscal year. He felt this was not the way to do business between two Boards. He felt the \$87,000 contribution from CDD #2 to CDD #1 was appropriate given the distribution of new units in CDD #2 versus the units in CDD #1. He felt this contribution would still be appropriate even if this Board had decided to get rid of both active vehicles. He expressed the hope that both Boards would do business in a more civil process in the future without threats.

Mr. Adams suggested that going forward into the budget season, it might be appropriate to bring the Boards together to discuss items of mutual interest with shared expenses. Chairman Brougham felt this was appropriate.

Mr. Brougham requested that agendas be posted to the website earlier. Mr. Adams agreed with this request and stated they would be posted the same day the agendas went out to Board members.

SUPERVISOR REQUESTS AND AUDIENCE COMMENTS

It was stated that since the water management contractor had been changed to Lake Masters, there had been inconsistent operation of the fountains at the front lakes. Mr. Adams advised that Lake Masters did not operate the fountains, but handled lake and wetland maintenance. He stated that the District was changing contractors on the fountains themselves.

Ms. Schmitt commented that the street sweeper swept the streets so quickly that the work was not being done thoroughly. Mr. Adams indicated he would address this.

Ms. Schmitt requested a follow up on the sewer cover in Isla which had not yet been covered with the metal cover. Mr. Adams indicated that either the contractor or staff would address this.

Ms. Schmitt stated there were lots of irrigation boxes with open wires along Championship Boulevard and requested that these be fixed. Mr. Adams indicated that either the contractor or staff would address this.

Ms. Schmitt spoke of a call she had received regarding a security vehicle tucked away in Isla del Sol Park for approximately one hour and a half on a weekend.

Mr. Curland asked about the status of the sidewalk access program. Mr. Brougham stated he would bring this up shortly.

Mr. Curland asked if there was an ongoing program to keep down the odor coming from the sewer pumping station. Mr. Adams advised this involved direct communication with Collier County Utilities which had scrubbers to be placed on these on an as-needed basis. He suggested that multiple phone calls from residents would get a quicker response.

Mr. Brougham spoke of the history of the sidewalk ramps issue. He stated that for permitting, the county would require the District to construct sidewalks leading from the villages through the access area. He advised that the estimated cost was \$46,000 including signage. He felt it was appropriate for a motion to go forward with the construction of the sidewalks with cuts in the ramps up to the sidewalk on Championship Drive.

On MOTION by Mr. Brougham and seconded by Mr. Curland, all were in favor of directing the Engineer to proceed with sidewalk cut program with a not to exceed cost of \$50,000.

Mr. Brougham clarified the Board's direction to Engineering as follows: to construct sidewalk egress from each village not having sidewalk egress across District right-of-way to the edge of Championship Drive, put crosswalks with appropriate signage and a curb cut and ramp to the sidewalk on the other side.

Mr. Brougham spoke of irrigation pumps that had been taken out of service recently. He also spoke of Mr. Adams' previous statement that there were two wells in District 2 that supplied irrigation water through lakes and canals into the main supply lake. Mr. Adams stated there were currently agricultural wells within District #2 boundaries that supplied water currently flowing through a couple of lakes and into the holding pond.

Mr. Brougham stated that he had held a discussion with Mark Strain who had advised him that Collier County did not want non-potable water flowing back into their system. He further stated that the valving at the main pump house had been changed so that if the supply in the lake dried up, the District could pump potable water into the lake and then into the internal system. Mr. Adams agreed with this and stated Mr. Casey was not aware of this.

Mr. Brougham stated that the wells were no longer pumping and that new pump houses were on the drawing boards to be constructed out at CDD #2. He stated that all the lakes were interconnected and that the developer had plans to make more lakes with pump stations in the future.

Mr. Adams stated that to his understanding, the wells remained in place to replace the District's withdrawals. He indicated he would address this issue.

Mr. Brougham stated that a resident had asked him to raise the issue of whether fishing was permitted within District lakes. Mr. Adams advised that fishing was permitted and that the District could not post "No Fishing" signage. He stated that per opinions of attorneys he had spoken with, only the Fish and Wildlife Commission could post such signage. He explained that non-gated communities had several people wanting to drive through and fish in District lakes. As a result, the District had posted "No Parking" or "No Trespassing" signs in the right-of-way areas as this created a safety, health and welfare issue.

Mr. Pires stated that trespassing was easier to enforce. Mr. Brougham pointed out there was a maintenance easement for the District. He stated that private property butted up to this easement; therefore a homeowner could walk out onto his own property, not the CDD land, and fish if they chose to do so without trespassing.

It was stated that Homeowner Association documents from Gulf Bay stipulated that fishing was not allowed in the lakes.

Chairman Brougham stated this was stipulated in the Fiddler's Creek Foundation covenants which were part of the deed.

Mr. Adams stated that this issue concerned the individual Homeowner Associations and not the District.

Mr. Brougham asked whether Lake Masters had caught up on cleaning efforts. Mr. Adams responded affirmatively and advised that some remaining touch up work was needed.

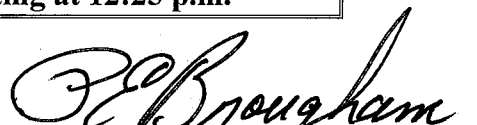
Mr. Adams requested that the Engineer forward the boundaries map in a PDF form so this could be posted on the website. Chairman Brougham provided the website address as follows: www.fiddlerscreekcdd1.net.

A resident stated that streetlights along Championship were not working. Mr. Adams advised the resident to call security who would then inform staff or the contractor.

ADJOURNMENT

**On MOTION by Mr. Brougham and seconded by Ms. Schmitt,
all were in favor of adjourning the meeting at 12:25 p.m.**


Secretary/Assistant Secretary


Chairman/Assistant Chairman