

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

The Regular Meeting of the Board of Supervisors of the Fiddler's Creek Community Development District #1 was held on **Wednesday, July 22, 2009 at 9:30 a.m.**, at the **Fiddler's Creek Club and Spa, 3470 Club Center Boulevard, Naples, Florida 34114.**

Present at the meeting and constituting a quorum were:

Phillip Brougham	Chairman
James Curland	Vice Chairman
Jim Schutt	Assistant Secretary
James Robertson	Assistant Secretary
Robert Slater	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Crismond	Operations Manager
Terry Cole	District Engineer
Doug Gonzalez (via telephone)	Special Counsel
Julio Aponte (via telephone)	Trustee Counsel
Leigh Fletcher (via telephone)	Stearns, Weaver, Miller
Warren Bloom(via telephone)	Trustee Counsel
Ron Albeit	Foundation
Mike Charbonneau	Foundation
Tony Pires	District Counsel
Jack Perrin	Resident

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

The meeting was called to order at 10:07 a.m. Mr. Adams announced that all Supervisors were present at Roll Call.

SECOND ORDER OF BUSINESS

Continued Discussion: Foreclosure Action

******This item was originally the Third Order of Business.******

Ms. Fletcher stated the Developer proposed a Forbearance Agreement to the Bondholders. Mr. Bloom stated he received a Forbearance Agreement from the Developer's Counsel. He requested the Board be prepared to consider a Forbearance Agreement or,

alternatively, initiate foreclosure proceedings at the August 26th Board meeting. Mr. Gonzalez suggested, since headway is being made by the Developer and the Trustee, the Board be prepared to make a decision at their next meeting.

Mr. Slater inquired as to a possible third alternative, such as the Developer making a payment between now and the next meeting. Mr. Gonzalez stated, should the Developer pay in full, the delinquency would be cleared. Mr. Schutt inquired as to the receipt of the Forbearance Agreement before the next Board meeting. Mr. Bloom clarified that the Board will receive a form of the Forbearance Agreement, should an agreement be reached between the Trustee and Bondholder. Mr. Brougham requested the Forbearance Agreement be made available to Mr. Gonzalez as soon as possible and that Mr. Gonzalez notifies the Board members, individually, when a draft has been received. Mr. Bloom clarified the District is the foreclosure entity and serves as the signatory. Mr. Gonzalez confirmed such stance. Mr. Schutt inquired as to who would own the property, should foreclosure action proceed. Mr. Bloom stated that, if the bondholders agreed, as to a sufficient bid, the property could go to a third party; however, it is more likely there will not be a high bidder and the property would end up with the District. The District would then establish a single purpose entity to shield the District from liability issues. The District, with the bondholders and Trustee, would work on selling the property. He explained the District is the foreclosing entity and forecloses for the benefit of the bondholders. Mr. Schutt questioned whether the taxes are the responsibility of the District. Mr. Bloom stated the Bondholders would have to work with the District to find ways to pay the taxes. Mr. Brougham questioned whether the residents would be shielded from any fees associated with foreclosure. Mr. Bloom confirmed the residents would not have to pay any assessments other than their own.

On MOTION by Mr. Brougham and seconded by Mr. Curland, with all Board members agreeing to either a Foreclosure Action or a Forbearance Agreement at the August 26, 2009 Meeting.

THIRD ORDER OF BUSINESS

Staff Report: Engineer

****This item was originally the Second Order of Business.****

Mr. Cole presented three (3) pay draws. Pay Draws 34 and 35 were recently presented, but the amount had changed. Draw 35's check summary was changed to pay the vendor directly, along with a \$3,000 decrease, as an invoice was removed because the invoice was already paid. Draw 34 decreased by \$100 because an item was removed and placed on a different draw. Mr. Brougham inquired as to who validates the Pay Draws. Mr. Adams stated the Indenture outlines, in detail, how the Draws are to be processed, which includes a certification from the District Engineer. Mr. Cole presented Pay Draw 36, for \$86,000, for the Belle Meade Grade Preserve Clearing and professional fees associated with bond costs and engineering costs.

Mr. Cole had a correction to the June 24, 2009 minutes; line 94, should read \$182,000.

Mr. Brougham inquired as to the status of the Championship sidewalk. Mr. Cole stated he resubmitted to address comments and expected approval in a few weeks. He stated the handicap mats were completed.

FOURTH ORDER OF BUSINESS

**Continued Discussion: Proposed Budget
for Fiscal Year 2010**

Mr. Adams recommended the insurance be raised to \$13,500, as a true-up in the insurable asset values, completed earlier this year, required a modification increase to the property insurance premium. Mr. Adams stated there are two (2) major firms in the state that provide municipal or government type insurance; Florida League of Cities and Preferred Governmental Insurance Trust (PGIT). He stated WHHA shops all its clients' insurance needs and, as a result of the "bulk shopping", the pricing came in lowest with PGIT.

Mr. Adams noted, within the Roadway Services, street sweeping will be reduced to once a month, decreasing the cost from \$11,000 to \$6,500 per year.

The Access Control Services was modified to reflect the unmanning of Championship gate; reducing the Other Contractual expenditures by 12 hours a day, six (6) days per week, at \$22.05 an hour.

Mr. Brougham recommended unmanning Sandpiper, with the contingency of construction traffic. He suggested, when construction traffic increases, the Developer should be responsible for manning Sandpiper gate. Mr. Robertson commented Championship gate should be left for residents and commercial traffic only. Mr. Schutt stated the Board should be concerned about accommodating residents, not construction traffic or vendors. He stated

Championship gate should be just for residents. Mr. Curland noted the District put advanced technology into Championship gate, with the intent of unmanning the gate. He expressed concern with manning Championship gate, as it was upgraded to operate without being manned; while unmanning a gate that was meant to be manned. Mr. Albeit expressed concern of having after-hours deliveries stuck at Sandpiper, as well as associated traffic problems.

On MOTION by Mr. Schutt and seconded by Mr. Curland, with Mr. Slater in favor of unmanning Championship gate, with Mr. Brougham and Mr. Robertson dissenting. (Motion Passed 3-2)

Mr. Adams confirmed any extra legal fees associated with possible foreclosure comes out of bond money, not the O & M Assessment.

Ms. Crismond confirmed the routine maintenance of the fountains is \$12,500 per year.

Mr. Curland commented, the Landscaping Services should be less than \$800,000; somewhere around \$750,000. Mr. Adams noted the \$800,000 included tree trimming, not the ficus number. Mr. Brougham stated the base contract with TruGreen for this year was to go up \$12,000, but we kept the base contract the same.

Mr. Schutt commented that he thought the \$100,000 budgeted for Landscaping Improvements and Renovations should be cut to \$50,000. Mr. Brougham and Mr. Robertson stated they would like to keep it at \$100,000. Mr. Brougham advised the Board to keep it at \$100,000 and, throughout the year, the Board will scrutinize landscaping spending, in an attempt to lower spending and create a reserve. Mr. Schutt advised to lower the spending to \$75,000, with Mr. Curland and Mr. Slater consenting.

Mr. Slater questioned the Tax Collector and Property Appraiser's fees. Mr. Adams clarified the fees are charged for the collection of the District's assessments. Mr. Brougham questioned the current ERU's. Mr. Adams stated, per Ms. Carlson, there have been two (2) sales within the District that were on-roll.

Mr. Adams advised that, with the adjustments made at this meeting, the on-roll assessment was \$1,084 per unit; \$959 direct bill. The Fiscal Year 2009 assessment was \$1,111. Mr. Adams stated the fund balance is anticipated to be around \$370,000, with an annual budget of \$2 million. He encouraged the Board to keep the fund balance at or above 25% of the annual

budget, which would be \$500,000. He noted keeping the same assessment would create a higher fund balance. Mr. Slater questioned if the remaining money would go into the reserve. Mr. Adams confirmed the contingency line would change and any unspent monies, would go into the reserve. Mr. Schutt stated he opposed keeping the assessment the same.

Mr. Brougham discussed on-roll versus off-roll assessments. He suggested placing the Club and Spa, 50 ERUs, and the Sales Center, 25 ERUs, on on-roll assessments. Mr. Brougham suggested billing on a quarterly basis, rather than the current monthly basis. This would provide insurance for the District a quarter, at a time.

Mr. Adams expressed possible Developer funding concerns in utilizing quarterly billing; as well as Fiddler's Creek #2 needing the funds in the first three (3) months. Mr. Albeit agreed and stated a change in billing may interrupt the cash flow.

Mr. Curland suggested placing developed land with a structure on-roll, such as the Sales Center.

Mr. Schutt questioned what would happen should the District decide on off-roll assessments and the District would have to foreclose. Mr. Pires stated there might be a separate filing fee for each property, which depends on the value of the real property. Mr. Schutt noted foreclosure action could cost over \$500,000 and stated the collection would be appear less costly, if the taxes were on-roll.

Mr. Adams noted the Trust Indenture states collection will remain off-roll, direct billed, until the property is platted or ownership transfers. Mr. Pires clarified, according to the Offering Statement, for Debt Service, a separate Tax Parcel ID number must be designated.

Mr. Brougham stated the O & M can be on-roll or off-roll and the Debt Service must be off-roll, according to the Indenture. Mr. Adams stated the Bondholders want the quickest way to start foreclosure proceedings, which includes keeping Debt Service off-roll.

Mr. Slater stated he does not want to affect the possible Forbearance Agreement between the Bondholders and the Developer.

Mr. Brougham noted, given the current reserve, the District could operate for about five (5) to six (6) months.

Mr. Pires clarified the filings fee could be between \$400-\$900, depending upon the amount of the debt being pursued.

FIFTH ORDER OF BUSINESS

Approval of Minutes

• **June 10, 2009 Continued Meeting**

Page 2, Line 43: insert "off-roll maintenance assessment".

Page 6, Line 171: change "issue" to "issuer".

Page 6, Line 176: change "enforce" to "enforcing".

On MOTION by Mr. Brougham and seconded by Mr. Slater, with all in favor of approving the June 10, 2009 Continued Meeting Minutes, as amended.

• **June 24, 2009 Regular Meeting**

Page 1, line 6: insert "scheduled to be held"

Page 1, Line 24: Julio Aponte attended by telephone

Page 1, Line 26: include Michelle Blackstock, with Grau and Associates, via phone

Page 3, line 86: strike "except Mr. Schutt"

Page 11, line 361: Williamson should be William

On MOTION by Mr. Schutt and seconded by Mr. Slater, with all in favor of approving the June 24, 2009 Regular Meeting Minutes, as amended.

SIXTH ORDER OF BUSINESS

Other Business

There being no Other Business, the next item followed.

SEVENTH ORDER OF BUSINESS

Staff Reports

a. **Attorney**

There being no report, the next item followed.

b. **Manager**

i. **Unaudited Financial Statements as of June 30, 2009**

Mr. Adams presented the Unaudited Financial Statements as of June 30, 2009. Mr. Adams stated, Mr. Pires has provided a potential lender, Fifth-Third Bank, to provide a line of

credit. He stated he previously contacted Bank of America, Regions, Wachovia, Orion and Suntrust, to no avail.

- ii. **NEXT MEETING DATE:** August 26, 2009 at 9:30 A.M., *or immediately following the Fiddler's Creek Community Development District #2 meeting*

c. **Operations Manager**

Ms. Crismond provided the Monthly Status Report to the Board.

Lake Aeration Project: Ms. Crismond stated, since the date of install, the lake aerators have been having frequent equipment failures. She stated the history of mechanical failures has been documented with writing a letter to the contractor and placing the contractor on notice.

Mr. Brougham requested trying to determine the manufacturer, so the Board can request a Mean Failure Analysis. He expressed concern of having purchased a deficient aerator that would continue to give problems beyond the warranty time frame.

Lake Maintenance: Ms. Crismond reported, on July 13, 2009, the lake tour was completed with Supervisor DiNardo. They found minimal signs of algae and Alligator Weed, along with Water Lilly, at Cherry Oaks. She noted, the Lake & Wetland Contract expires November 30th.

Landscape: TruGreen has not completed the hard pruning of the sea grapes along Championship Drive. She noted several palms on Fiddlers Creek Parkway, across from Cascada, are in poor condition. TruGreen indicated that they appear to be lacking in manganese or potassium and Dr. Caldwell, a Horticulture Extension Educator and Landscape Entomologist, from the University of Florida, will be meeting today. Tissue samples and soil samples were sent to the lab and the results suggested to spray fungicide and to add magnesium during the next scheduled fertilization. She noted a Royal Palm died, due to lightning, and will cost \$1,750 to replace.

Canopy Tree Reduction Program: Ms. Crismond referred to a Progress Report submitted by JRL Design. She stated a field verification meeting will be scheduled within the next couple of weeks; she will be meeting with Jim Vajen and John Rebis. The bid specifications target date is August 28th, but will probably be completed sooner.

Street Lights/Signage: Ms. Crismond stated, the project commenced on Monday, July 13th, on 951 and Fiddlers Creek Parkway. Championship Drive will be completed after the Parkway is complete.

Patrol Services: July statistics, as of July 21st were: 25 total stops: 15 residents, 5 guests, 3 vendors and 2 Staff; 13 warnings, 12 citations, 9 stop signs, 13 speeding, 3 other.

Mr. Brougham requested, with respect to JRL Design, that the company ensure that the specifications are in compliance with the County codes.

Mr. Slater requested for JRL to specify the type of ficus trees, as there are different types of ficus trees and some are protected, native trees.

EIGHTH ORDER OF BUSINESS

**Audience
Requests**

Comments/Supervisors'

Jack Perrin inquired if installing the technology at the back gate was equivalent to what exists at Championship Gate. Mr. Albeit noted there are already cameras at the gate. Mr. Adams stated he will get a quote from TEM.

Mr. Brougham discussed the status of the Adopt-a-Highway Project and stated a sign-up sheet for volunteers, once a month, will begin soon.

NINTH ORDER OF BUSINESS

Adjournment

There were no further questions or comments and the meeting was adjourned.

On MOTION by Mr. Brougham and seconded by Mr. Robertson, with all in favor, the Regular Meeting was adjourned at 11:46 a.m.


Secretary/Assistant Secretary


Chairman/Vice Chairman