

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

The Continued Meeting of the Board of Supervisors of the Fiddler's Creek Community Development District #1 was held on **Wednesday, September 9, 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 (via telephone)	Chairman
James Curland	Vice Chairman
Jim Schutt	Assistant Secretary
James Robertson	Assistant Secretary
Robert Slater	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Terry Cole	District Engineer
Julio Aponte (via telephone)	Trustee Counsel, Greenberg Traurig Foundation
Ron Albeit	Weiss, Serota, et al.
Carla Barrow (via telephone)	Resident
Al Love	Resident
Mrs. Meyer	Resident
Mr. Charles Turner	Resident

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mr. Adams called the meeting to order at 9:47 a.m., and announced that all Supervisors were present at Roll Call, with Supervisor Brougham attending via telephone.

SECOND ORDER OF BUSINESS

Consideration of Forbearance Agreement

Mr. Adams indicated that the primary purpose of this continuation was consideration of a Forbearance Agreement. He stated that almost everyone was present at the Fiddler's Creek CDD #2 meeting and heard that a Forbearance Agreement is currently not an option.

Mr. Julio Aponte, of Greenberg Traurig, expressed appreciation for everyone's time and efforts in trying to work through this matter. He stated they continued to work on putting together a Forbearance Agreement, under acceptable terms, since the last meeting and, in the

interim, have provided a draft of that agreement to Mr. Gonzalez and to Chuck and, as of late last Friday, they had what was thought to be a final agreement, with all changes made to it. He indicated that, late yesterday, he received additional, substantive comments to the Agreement, which were a "deal-breaker" for the Bondholders. He discussed the conversations between the Bondholders, Developer and the Developer's Counsel. He stated they are now at the point where there is no meeting of the minds and no Forbearance Agreement; therefore, they are now asking that the Board, in accordance with their fiduciary and contractual obligations in the Master Indenture, proceed forward with authorizing and filing a foreclosure action against delinquent parcels.

Mr. Adams asked if the Developer's Counsel was present via telephone, but they were not present. He asked if there were any questions from the Board.

At this time, a motion was made in favor of authorizing Staff to proceed with the preparation of a Foreclosure Complaint and filing it on behalf of the District and the Bondholders.

Discussion ensued, prior to a vote on the motion.

Mr. Curland asked Mr. Cole, for CDD #1, what property is encompassed in the foreclosure. Mr. Cole stated he could not speak, specifically, to which undeveloped properties are included. Discussion continued regarding which areas were included. Mr. Adams stated, by and large, it is the off-roll, the direct-billed, generally undeveloped parcels, but there may be some pockets of platted lots that are part of sections of neighborhoods that are still being billed in the off-roll scenario. Mr. Adams stated he would provide the Board with a spreadsheet, resembling the Lien Roll, which breaks out all of the units that are currently delinquent and would be subject to this foreclosure. He stated everything on-roll is not delinquent because the Tax Certificates were all purchased, so they would not be a part of this.

Discussion continued regarding whether any payments might be received from the Developer, given the fact that they are going into a foreclosure. Mr. Adams stated it was a reasonable assumption that there wouldn't be any future payments.

Mr. Brougham asked who was standing in at the meeting for Mr. Gonzalez. Ms. Carla Barrow, of Weiss Serota, introduced herself. Discussion ensued regarding the possible actions of the Developer and Ms. Barrow explained possible situations regarding the Forbearance Agreement, the delays or problems holding it up and possible outcomes. She stated, delaying the

foreclosure and continuing attempts at a Forbearance Agreement, which may not happen, may put the District back to this same point; however, by then, they would have lost more time. She concluded that proceeding and taking action could drive the Developer into action.

Mr. Brougham stated, as he saw it, the Board has no choice other than to move forward with the foreclosure process, as requested by the Bondholders.

Mr. Aponte reiterated there is no choice, at this point, because the District, by virtue of the Master Trust Indenture, has both contractual and fiduciary obligation to pursue foreclosure action against off-roll properties that are not being directly collected, in order to satisfy delinquent assessments.

Mr. Brougham asked what happens with regard to the November 1st principal and interest payments that are due, wondering if they just “stack up”. Mr. Aponte stated, once a District institutes a foreclosure action on delinquent assessments, then the principal amount of the delinquent assessments is accelerated.

Mr. Curland asked, since the Board has initiated this action, how will the information be made available to the homeowners, in layman’s language, so they understand what is going to happen, going forward. It was requested that Mr. Adams provide a one (1)-page synopsis of what the Board’s responses are. Mr. Slater requested that Mr. Adams read a statement, prepared by Mr. Gonzalez, regarding the purpose and pros and cons of a Forbearance Agreement. Discussion continued regarding pros and cons of waiting for a Forbearance Agreement and delays in proceeding with a foreclosure action.

Ms. Barrow confirmed her understanding of the Board’s concerns and their desire for input from Counsel giving them a one (1)-page clear, articulate statement so they can answer questions, so owners understand what is taking place. She stated she will do her best to get that to the Board quickly.

Mr. Brougham suggested disseminating this information to the residents by posting it on the website. Mr. Curland asked if the statement would address the potential implications of foreclosure and etc. Mr. Brougham replied affirmatively.

It was noted that the Fiscal Year 2010 Budget was prepared assuming normal payments by all parties. Mr. Adams stated that is the only way they could do it at that time, but should the off-roll payments not come in, the District will need to start planning for a special assessment. Mr. Brougham said he felt they should start planning for that now, as he didn’t feel the District

could go without payment. Mr. Adams suggested waiting to see what happens at the September 23rd meeting regarding the monthly payment.

Mr. Brougham addressed a question about Mr. Gonzalez's Attorney's fees in the Forbearance Agreement and if there were fees incurred that were not related to the negotiation of a Forbearance Agreement and, if so, who will pay those fees. Mr. Adams indicated those fees would come from the Construction Account.

On MOTION by Mr. Curland and seconded by Mr. Schutt, with all in favor of authorizing Staff to proceed with the preparation of a Foreclosure Complaint and filing it on behalf of the District and the Bondholders.

Mr. Adams asked Mr. Aponte to prepare the Remedial Account Agreements for the meeting on September 23rd, so he can present them then. Mr. Aponte indicated he would prepare the Agreements.

THIRD ORDER OF BUSINESS

**Audience
Requests**

Comments/Supervisors'

Mr. Terry Cole, District Engineer, stated construction activity is going on in the Preserve areas and asked what actions should be taken, at this time, in those areas. Mr. Aponte indicated, to the extent that the requisitions relate to work that has already been contracted, and to finish that work, he doesn't expect those to be a problem. He recommended just submitting them to the Trustee. Mr. Adams referenced an earlier analysis regarding the completion of infrastructures to give maximum value to adjacent properties and questioned whether, to the extent that they have these types of activities, noting this work is essentially that type, should the work continue. Mr. Aponte indicated he would need to get back to the Board on that matter, once he has the related materials.

Mr. Brougham suggested, with the consensus of the Board, the District should instruct Mr. Cole to suspend the Championship curb cuts, or at least include that on the list going to Mr. Aponte. Mr. Cole confirmed that he will include this work and an explanation.

A Board Member observed, since the Trustees for the Bondholders were very close to an agreement and, in the agreement, it covered the District continuing with the projects, it would

appear the Bondholders would want the District to continue with the projects. Mr. Adams stated he feels they just want a clear analysis. Mr. Aponte stated there are some things that probably make sense, but he cannot speak to this until he has seen exactly what it entails and has discussed it with the Bondholders. Mr. Adams confirmed he would get the analysis to Mr. Aponte for both Districts.

Mr. Al Love, a resident, inquired about the amount of the off-roll, asking is it around \$600,000, for the year. Mr. Adams stated he believes that is the approximate amount for operation and maintenance assessment. Mr. Love also asked, with regard to the CDD and PUD, if there were any issues with the County as far as things the District must complete. Mr. Cole responded that, generally, there are some certifications that they must make to all owners in a District and to the County. Mr. Love stated the Legal fees, once the District goes into foreclosure, were to be billed to the Developer, but since the Developer doesn't have any money, what will happen if this goes all the way through foreclosure. Mr. Aponte stated the Legal fees can be included as part of the foreclosure action and if there is any money generated at the foreclosure sale, those would be added on to the sale of the property. Mr. Aponte indicated that what is done for districts with defaulted assessments, they will create a special account and use Bondholders' money to pay for the legal expenses as they arise, so the District will not be paying out of its own pocket.

Mr. Adams stated, with regard to the assessments, to the extent that the District issues a special assessment to meet O&M cash flow issues, those would continue to be layered over all properties, including those that are delinquent and, through the sale of that property, those outstanding obligations would be remedied at that time. He stated the CDD, as a governmental entity, is first in line with the County and City taxes to meet their obligations first and before any mortgage holder obligations. Brief discussion continued regarding on-roll versus off-roll.

Mrs. Meyer, a resident, asked, if there is no eminent sale of the properties soon, what happens if there is a special assessment; when people will not or cannot pay it. She asked is there a plan to make up the deficit that may, exponentially, keep growing and inquired if there might be another assessment later to make up that deficit. Mr. Adams stated there are a couple of scenarios; first is a special assessment to meet the short-term cash flow requirements and clarified short-term to be probably six (6) months, or less. He briefly discussed this process stating, if there is excess collected through a special assessment, credits may be given back to

residents. Mrs. Meyer asked if that meant there could then be another special assessment six (6) more months later. Mr. Adams replied that going into the following fiscal year, the District would better know the timing of the foreclosure, if the process had been complete and if the District is the holder of the property, where they are in terms of negotiating the sale of the property and etc. He stated depending on the status, the District would build its budget, accordingly, going into the following year, to circumvent the need for a special assessment going into the following year. He indicated, unfortunately, the Fiscal Year 2010 Budget was adopted a couple of weeks ago when it appeared everything would be okay and there would be a Forbearance Agreement; however, at this time, the District is past that and is moving towards foreclosure, which will either force the issue and get it resolved, or it will go all the way through the foreclosure process. Mrs. Meyer asked how long the foreclosure process would take. Mr. Aponte reviewed the process and stated it depends on how aggressively any stakeholders challenge the foreclosure; however, he suspected a timeframe of about one (1) year to go through the foreclosure process. Mrs. Meyer asked if the special assessment would occur after the foreclosure process was started. Mr. Adams stated it would be at some point during the year, but reiterated that the special assessment only becomes an issue if the Developer stops making his monthly off-roll payments and stated the Developer is not currently delinquent on the payments.

A Supervisor, asked for confirmation that, at the last meeting, 70 more units were put on-roll. Mr. Adams responded that 75 units went from off-roll to on-roll, with 50 being related to the Club & Spa property and 25 related to the Sales Center and Corporate Center. The Supervisor asked how many, total, are off-roll; inquiring 600, still. Mr. Adams stated the number is in the 500's and a Board Member stated the figure of 575.

Mr. Charles Turner, a resident, asked how many units in CDD #1 are on-roll, that would be subject to a special assessment and what is the percentage of default for CDD #1 for on-roll. A Board Member stated, in round numbers, there are about 1,400 in CDD #1. Mr. Brougham offered and Mr. Adams confirmed that, if done, a special assessment would be levied across all units, including on and off-roll. Mr. Adams stated 1,425 units are on-roll. Discussion ensued regarding delinquencies in CDD #1 and impacts on the possible special assessment collections.

Mr. Love asked who manages the sale of the foreclosed property, should it go through. Mr. Adams indicated the Bondholders. A Board Member questioned and Mr. Adams confirmed that anyone who purchases the property would have to pay maintenance fees to the CDDs.

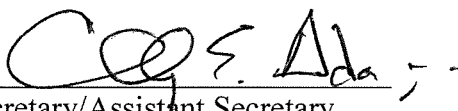
Additional discussion ensued regarding protections on what types of development can take place on purchased property.

FOURTH ORDER OF BUSINESS

Adjournment

**On MOTION by Mr. Curland and seconded by Mr. Slater,
with all in favor of adjourning.**

The meeting adjourned at 10:30 a.m.


Secretary/Assistant Secretary


Chairman/Vice Chairman