

**MINUTES OF MEETING  
FIDDLER'S CREEK COMMUNITY DEVELOPMENT DISTRICT #1 &  
FIDDLER'S CREEK COMMUNITY DEVELOPMENT DISTRICT #2**

A Joint Regular Meeting of the Boards of Supervisors of the Fiddler's Creek Community Development District #1 and Fiddler's Creek Community Development District #2 was held on **Wednesday, June 23, 2010 at 8:00 a.m.**, at the **Fiddler's Creek Club and Spa, 3470 Club Center Boulevard, Naples, Florida 34114.**

**Present at the meeting were:**

**For Fiddler's Creek CDD #1:**

Phillip Brougham	Chairman
James Curland	Vice Chairman
Jim Schutt	Assistant Secretary
James Robertson (via telephone)	Assistant Secretary

**For Fiddler's Creek CDD #2:**

James Robertson (via telephone)	Chair
Manuel Correia	Vice Chair
Victoria DiNardo	Assistant Secretary
Gretchen Scott	Assistant Secretary
Peggy Schmitt	Assistant Secretary

**Also present were:**

Chuck Adams	District Manager
Cleo Crismond	Operations Manager
Terry Cole	District Engineer
Tony Pires	District Counsel
Dan Abbott	Special Counsel

**FIRST ORDER OF BUSINESS**

**Call to Order/Roll Call**

Mr. Adams called the meeting to order at 8:00 a.m. For District #2, Supervisors Correia, DiNardo, Scott and Schmitt were present, in person, and Supervisor Robertson attended via telephone. For District #1, Supervisors Brougham, Curland and Schutt were present, in person and Supervisor Robertson attended via telephone. Supervisor Slater was not present.

**JOINT MEETING ITEMS**

**SECOND ORDER OF BUSINESS**

**Update: Foreclosure Claim/Bankruptcy  
Filing**

Mr. Abbott explained that Ms. Carla Barrow is no longer with Weiss, Serota. He informed the Board that he has been involved in the filing from the beginning and Mr. Gonzalez remains in charge of the bankruptcy practice.

Mr. Abbott explained that landowners were assessed assessments and the developer has not paid their obligation. He summarized the developer's bankruptcy filing and the Districts' current position in the bankruptcy. He stated past due debts will be addressed in the reorganization plan. He recalled the bondholders' previous request for the Districts to object to the interim plan; however, the Boards decided to withdraw their objection for the June hearing. He reported that the judge approved the interim order; however, he reserved ruling as to the standing of the bondholders and their right to object. The judge stated the determination will have to be made when the reorganization plan is presented. Mr. Abbott reported that the written ruling has not been completed.

Mr. Brougham recalled that the judge responded to Mr. Hutton's request for standing, stating that Mr. Hutton was not a creditor but represents a creditor of the creditor and if one were to allow creditors of a creditor to have standing, problems may arise.

Mr. Abbott recalled that the judge issued ways to potentially gain standing, including bringing suit against the Districts. He noted that the issue of standing is not resolved and the bondholders clearly want to assert the claim that the obligations should be paid in connection with the reorganization plan. He noted lesser rulings that the judge entered. Mr. Abbott stated a continued status conference was set for September 2, 2010; which is the next time the Districts will be before the judge.

Mr. Abbott reported on the developments since the June meeting, stating the debtor filed a motion to extend the deadline to file their proposed reorganization plan to December 3, 2010. He explained that the nature of Chapter 11 bankruptcy gives the debtor four (4) months to be the exclusive person to propose a reorganization plan. Mr. Abbott noted that, after the proposed reorganization is made, there is an exclusive period of time for the debtor to begin negotiating with their creditors. A Board Member questioned if a suit was served to the Districts on behalf of the bondholders. Mr. Abbott replied that any lawsuit action has not been served.

Mr. Curland questioned if it is common practice for an extension to be granted to the developer for a reorganization plan. Mr. Abbott replied that due to the scale, it is often times requested and granted. He noted the concern is that if time is not given to the debtor for a reorganization plan, the Chapter 11 reorganization is transferred to Chapter 7 liquidation. Mr. Curland questioned if there was consistency in the time between the request for extension and the judge's preference in a reorganization plan. Mr. Abbott anticipated that the request of extended time is not unreasonable, as it is not an enormously long extension; the Board just authorized not objecting to motion for an investment banker. He stated he can not anticipate when the judge will rule on the motion; however, the time to respond to motions is ten (10) days, not counting weekends.

Discussion ensued on the Boards' position. Mr. Brougham stated his belief that the Boards should not object to the motion. Mr. Abbott stated there is not a legal distinction by not objecting. A Board Member questioned if the Boards are endorsing the debtor, if an objection is not filed. Mr. Abbott responded that, implicitly, the Boards would be endorsing the debtor.

**On MOTION for Fiddler's Creek CDD #2 by Mr. Robertson and seconded by Ms. Scott, with all in favor, not objecting to the motion for extension for the submittal of a reorganization plan, was approved.**

An audience member questioned what happens if a judge does not rule on the motion. Mr. Abbott explained that the motion never dies but remains pending; no relief is given until a judge grants a motion.

**On MOTION for Fiddler's Creek CDD #1 by Mr. Brougham and seconded by Mr. Curland, with all in favor, not objecting to the motion for extension for the submittal of a reorganization plan, was approved.**

Discussion ensued regarding the role of the bond counsel and bondholders in the bankruptcy filing.

**THIRD ORDER OF BUSINESS**

**Approval of Minutes**

• **May 26, 2010 Joint Regular Meeting**

Mr. Adams presented the May 26, 2010 Joint Regular Meeting Minutes for the Boards' approval. The following changes were made:

Change Batista to Battista throughout.

Line 131: Change "parody" to "parity"

Line 171: Change "investor" to "investment banker"

Line 203: Change "budget" to "project"

Line 206: Insert "loan" after "million"

Line 211: Change "legally" to "legal"

Line 266: Change "roll" to "role"

Line 260: Insert "Miller" after "Elliot"

Line 246: Insert Ms. Scott's question regarding the exact amount.

Line 273: Change "p.m." to "a.m."

Line 344: Change "perimeters" to "parameters"

Line 357: Insert "ten" before "10"

Line 450: Change "second" to "first"

Line 475: Change "stated" to "recommended"

Line 475: Change "return" to "response"

**On MOTION for Fiddler's Creek CDD #1 by Mr. Schutt and seconded by Mr. Brougham, with all in favor, the May 26, 2010 Joint Regular Meeting Minutes, as amended, were approved.**

**On MOTION for Fiddler's Creek CDD #2 by Mr. Correia and seconded by Ms. DiNardo, with all in favor, the May 26, 2010 Joint Regular Meeting Minutes, as amended, were approved.**

• **June 2, 2010 Joint Continued Meeting**

The June 2, 2010 Joint Continued Meeting Minutes were presented for the Boards' consideration. The following changes were made:

Line 49: Insert Mr. Robertson as present

- Line 49: Move the last sentence to Second Order of Business
- Line 54: Change "Batista" to "Battista"
- Line 70: Delete "the"
- Line 75: Change "withdrawal" to "withdraw"
- Line 88: Change "may fund" to "have funded"
- Line 106: Change "Districts" to "Districts"
- Line 124: Delete apostrophe in "District's"
- Line 124: Delete apostrophe in "bondholders"
- Line 174: Delete "property"
- Line 203: Insert "not" after "Board"

**On MOTION for Fiddler's Creek CDD #1 by Mr. Brougham and seconded by Mr. Schutt, with all in favor, the June 2, 2010 Joint Continued Meeting Minutes, as amended, were approved.**

**On MOTION for Fiddler's Creek CDD #2 by Mr. Correia and seconded by Ms. DiNardo, with all in favor, the June 2, 2010 Joint Continued Meeting Minutes, as amended, were approved.**

**FOURTH ORDER OF BUSINESS**

**Other Business**

Mr. Brougham discussed the broken fence along Mulberry Lane and provided a handout of the incident report and the trespassing violation to the District Manager that was issued to three (3) people. Mr. Brougham proposed providing the residents information regarding actions to take when suspicious activity occurs.

Mr. Charbonneau summarized the event. He stated Mr. Jim Vajen notified him that a tee marker was missing on the third hole and the tee was inspected on June 10<sup>th</sup>, as well as a hole in the wall. He stated he contacted the sheriff's office to provide notification of the incident. Mr. Charbonneau recalled an incident on June 10<sup>th</sup> where he was riding down Mulberry and saw two (2) males teetering on the fence. Mr. Charbonneau stated he told the individuals to not come over the wall and, if they did, the sheriff would be contacted. Mr. Charbonneau reported to the lieutenant about the incident and, on June 15<sup>th</sup>, the lieutenant contacted Mr. Charbonneau and

stated one (1) individual can be issued a trespass warning, only if the identification is confirmed. Mr. Charbonneau confirmed the identification and the trespass warnings were issued.

A resident from Mulberry stated an incident occurred around April, when the slabs on the top of the wall were removed. She stated she saw a young man with a skateboard going over the wall. A Collier County officer talked to him and he stated he was coming over to see friends and used Mulberry as a shortcut. The officer stated that, as long as the individual is not doing any harm, he was okay with the individual. Discussion ensued regarding the repairs of the wall.

Mr. Pires recommended advising the sheriff's office that there is no authorized entry through a fence.

## **FIFTH ORDER OF BUSINESS**

### **Staff Reports**

#### **a. Attorney**

Mr. Pires reported that the upcoming public hearing to adopt the Rules of Procedures will allow for any additions, deletions or corrections.

#### **b. Engineer**

For Fiddler's Creek CDD #1, Mr. Cole stated the Championship Drive sidewalk work, associated with Draw 47, is complete. A resident noted that the crosswalk at Mulberry is not painted. Mr. Cole stated the work related to the Belle Meade Grade clearing, spraying and inspection is complete. Mr. Brougham questioned the turn over time of the preserve. Mr. Cole stated he will work with Mr. Pires. Mr. Pires stated the permit is currently held in the developer's name, which makes the developer responsible for the area prior to transfer. Mr. Pires stated that the transfer, possibly, could be handled in the bankruptcy proceedings and stated he will confer with Mr. Abbott.

Mr. Curland stated that, when the transfer of the preserve occurs, it should be the responsibility of both Districts. Discussion ensued on the Districts' water management system. Mr. Pires discussed the possibility of contacting the permitting agency regarding the filing of a proof of claim. Discussion ensued on the legal obligations to accept the preserve. Mr. Adams noted the obligation to the bondholders to ensure that the integrity of the Districts' improvements remain intact.

For Fiddler's Creek CDD #2, Mr. Cole discussed Draw 54 for soft costs associated with water level and withdrawal monitoring. Mr. Adams discussed the importance of future monitoring of resident usage to keep the District in line with permit requirements.

Mr. Cole reported that on June 4<sup>th</sup>, the South Florida Water Management District (SFWMD) issued a letter to 951 Land Holding Venture concerning Fiddler's Creek Unit 4; a construction certification completion was submitted to SFWMD and SFWMD found lake erosion issues on several lakes. Mr. Cole summarized the lake bank drop offs in the area, noting that all lakes had more than the allowable 9-inch drop. The irrigation lake, Lake 88, had two (2) to three (3) feet more of a drop. Discussion ensued on the treatment of the erosion. Mr. Pires recommended discussing the issues with Mr. Abbott.

Mr. Adams recommended a response stating that the District is in receipt of the notification and evaluating the financial impact. Mr. Cole stated the erosion issue is significant on the irrigation lake because the water level goes up and down. Discussion continued as to possible treatments. Mr. Robertson requested possible alternatives and costs to repair.

**c. Manager**

**i. NEXT MEETING DATE: July 28, 2010 at 8:00 A.M.**

Mr. Adams stated the next meeting is scheduled for July 28, 2010.

**d. Operations Manager**

Ms. Crismond reported that the party responsible for the damage at the gate requested a payment plan, with full payment to be received by September 30, 2010. She noted an incident with the gate arm hitting a vehicle and the repairs are \$760. Ms. Crismond confirmed it was a malfunction of the gate arm. She stated a camera was ordered for the Championship Gate and reported an incident where individuals took the arm off to be able to exit. She reported that areas of sod will be replaced and reminded the Boards about the need to include tree trimming costs in the budgets. The patrol stats included 21 stops: 11 residents, five (5) contractors, two (2) guests and three (3) unknown individuals. There were 20 warnings and one (1) citation. There were 14 stops for speeding.

Ms. Crismond stated sidewalk repairs were complete, except for areas where grinding will be completed. Ms. Scott questioned if the charge for trimming a ficus tree was \$260. Ms. Crismond stated JRL Design assisted with the specifications and quotes were submitted, reviewed and the most qualified company was A & D.

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

**SIXTH ORDER OF BUSINESS**

**Continued Discussion: Fiscal Year 2011  
Proposed Budget**

Mr. Schutt questioned if the budget anticipates complete payment of on-roll assessments. Mr. Adams stated that the budget anticipates revenue from the off-roll and on-roll assessments. Mr. Schutt questioned the amount of anticipated funds that are on-roll. Discussion continued on anticipated assessments.

Mr. Adams requested review of District expenditures. Discussion ensued on the developer's commitment to pay the on-roll assessments and the District's current shortfall. Mr. Brougham noted the developer's commitment is only for a 13-week period and the on-roll assessments are not due until November, 2010. Mr. Adams noted the current cash flow issue.

Mr. Adams stated the budget reflects the second year contract hourly rate for the access control services. Mr. Brougham questioned the insurance amount under Access Control. Mr. Adams explained that the insurance covers the vehicles, gate houses, temporary trailer, gate arm and the electronics.

Mr. Schutt questioned if the irrigation expenses should be appropriated on the basis of irrigated area. Mr. Adams explained that it is currently assigned on a per-unit basis for usage and shared benefit, for the common areas, that the entire community benefits from.

Mr. Schutt questioned why landscaping increased 10%. Mr. Adams explained the budget was increased because the tree trimming obligations increased. Mr. Schutt questioned if the District was leasing the vehicles. Mr. Adams stated the District entered into a municipal lease/purchase agreement and the vehicle is owned by the District, at the end of the lease/purchase term.

Mr. Brougham explained that the July meeting will be the meeting that will determine the assessment level for the public hearing and determine if assessment notices need to be mailed. Discussion ensued on the previous assessment amount and the budget's contingency line.

Mr. Schutt and Mr. Curland voiced their concern of including a contingency amount.

**SEVENTH ORDER OF BUSINESS**

**Unaudited Financial Statements as of  
May 31, 2010**

Mr. Adams presented the Unaudited Financials Statements as of May 31, 2010. A Board Member questioned the increase in access services. Mr. Adams stated he will investigate, but suspected a payment from the prior year landed in the current year. Mr. Brougham inquired as to the operating costs. Mr. Adams noted that cameras, clickers and computers are included.

Mr. Adams noted that all off-roll assessments for both Districts were received.

**EIGHTH ORDER OF BUSINESS**

**Audience  
Requests**

**Comments/Supervisors'**

There being no Audience Comments or Supervisors' Requests, the next item followed.

**NINTH ORDER OF BUSINESS**

**Adjournment: Fiddler's Creek CDD #1**

**On MOTION for Fiddler's Creek CDD #1 by Mr. Schutt and seconded by Mr. Brougham, with all in favor, the meeting adjourned.**

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

**TENTH ORDER OF BUSINESS**

**Continued Discussion: Fiscal Year 2011  
Proposed Budget**

Mr. Adams noted the District has a low fund balance and discussion continued on the District's expenditures. Mr. Adams discussed the assessment level and planning for contingency items. He noted the need to consider the gap funding issue from October to December. Ms. Scott questioned how much of the foreclosure items the bondholders currently paid. Mr. Adams confirmed that the foreclosure action cost \$115,000, between the two (2) Districts. He explained the District has a remedial account, funded by the bondholders, for invoices/activities pertaining to the interest of the bondholders. Mr. Adams noted the fees associated with Weiss, Serota will be paid for by the District going forward, as the bondholders represent themselves through the Trustee Counsel. Mr. Adams stated there will be some activities of dual interest, such as title commitment reports, property ownership change, proof of claims, etc. Ms. Scott questioned where the revenue comes from to pay for the fees. Mr. Adams explained it has to be funded out of operations and, in the short term, that would include the contingency line item. Ms. Scott questioned when the District will be reimbursed. Mr. Adams explained the bondholders paid and it is a transfer-in reflected on Page 4; it off sets the expense, almost to the exact dollar, through the end of May. Mr. Adams explained that legal expenses associated with work on behalf of the District, in conflict with the bondholders, will be the responsibility of the District. Discussion ensued on the current legal fees.

Ms. Scott stated there is an additional \$5,000 contingency in landscaping. Mr. Adams explained those funds are for unforeseen, department related expenses.

An audience member questioned why the preserve area permitting is the responsibility of the District. Mr. Pires replied that it is part of a capital expenditure, as indicated in the Engineer's Report. Discussion ensued on the Districts' shared costs and the engineering of the Districts' system. Ms. Scott noted that some preserves have already been turned over. Mr. Adams confirmed.

**ELEVENTH ORDER OF BUSINESS**

**Unaudited Financial Statements as of  
May 31, 2010**

Mr. Adams presented the Unaudited Financial Statements as of May 31, 2010. He stated the off-roll operation and maintenance assessments were received for the month of June. He explained the additional shortfall funding of \$213,000 will be received, when the order is finalized.

Mr. Adams reported that a section of street lights was assumed by the District, from a neighborhood association, and resulted in an additional \$1,000. Ms. Crismond explained the landscaping costs were higher due to the frost damage and coco plum replacements.

**TWELFTH ORDER OF BUSINESS**

**Audience  
Requests**

**Comments/Supervisors'**

There being no Audience Comments or Supervisors' Requests, the next item followed.

**THIRTEENTH ORDER OF BUSINESS**

**Adjournment: Fiddler's Creek CDD #2**

**On MOTION for Fiddler's Creek CDD #2 by Mr. Correia and  
seconded by Ms. Scott, with all in favor, the meeting  
adjourned.**

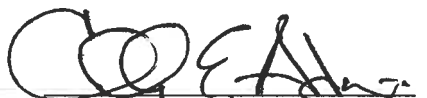
The meeting adjourned at 10:50 a.m.

**Fiddler's Creek CDD #1**

  
Secretary/Assistant Secretary

  
Chairman/Vice Chairman

**Fiddler's Creek CDD #2**

  
Secretary/Assistant Secretary

  
Chair/Vice Chair