

**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, July 27, 2011 at 8:00 a.m.**, at the **Fiddler's Club and Spa, 3470 Club Center Boulevard, Naples, Florida 34114.**

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

|                               |                     |
|-------------------------------|---------------------|
| Phil Brougham                 | Chair               |
| James Curland (via telephone) | Vice Chair          |
| Gerald Bergmoser              | Assistant Secretary |
| Jim Schutt                    | Assistant Secretary |
| Robert Slater (via telephone) | Assistant Secretary |

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

|                  |                     |
|------------------|---------------------|
| James Robertson  | 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                 | Assistant Regional Manager              |
| Tony Pires                    | District Counsel                        |
| Terry Cole (via telephone)    | District Engineer                       |
| George Hermanson              | Hole Montes                             |
| Daniel Abbott                 | CDD #1 Special Counsel                  |
| Robert DeMarco                | Treiser Collins, CDD #2 Special Counsel |
| Aleida Martinez Molina        | Weiss Serota, CDD #1 Special Counsel    |
| Alice Carlson                 | AJC Associates, Inc.                    |
| Bill Reagan                   | Raymond James & Associates, Inc.        |
| Mike Williams (via telephone) | Bond Counsel                            |
| Paul Battista (via telephone) | Debtor's Counsel                        |
| Tony DiNardo                  | Gulf Bay                                |
| Mark Strain                   | Gulf Bay Consultant                     |
| Andrew Sanford                | ITG Holdings                            |
| Amy Lowen                     | Greenberg Traurig                       |
| Elliot Miller                 | Resident                                |

Torbin Christensen

Resident

**FIRST ORDER OF BUSINESS**

**Call to Order/Roll Call**

Mr. Adams called the meeting to order at 8:00 a.m., and called the roll. Supervisors Brougham, Bergmoser, and Schutt were present, in person, for CDD #1. Supervisors Curland and Slater were attending via telephone. Supervisors Robertson, DiNardo, Schmitt, Correia and Scott were present, in person, for CDD #2

**SECOND ORDER OF BUSINESS**

**Discussion: Corrections/Additions to the Agenda**

- **Approval of July 27, 2011 Joint Regular Meeting Agenda, CDD #1**
- **Approval of July 27, 2011 Joint Regular Meeting Agenda, CDD #2**

Mr. Brougham asked for any changes to the July 27, 2011 Joint Regular Meeting agenda. There were no changes by CDD #1 or CDD #2 and it was approved as written.

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

**THIRD ORDER OF BUSINESS**

**Update: Bankruptcy Proceedings - Aleida Martinez Molina**

- **Discussion: Revised Proofs of Claims**

Ms. Martinez Molina reported the bankruptcy confirmation hearings were continued and concluded. She stated the decision will be announced by the judge on Friday, July 29.

Ms. Martinez Molina summarized the previous trial. She stated the previously held confirmation hearings pertained to the debtors' reorganization plans and the objections propounded by the bondholder and indenture trustee. She stated the contested issues included whether the bankruptcy plans professed good faith, whether the plans were appropriate with respect to technical bankruptcy issues, feasibility of the plans and whether the plans were forbidden by law. She stated approximately a dozen witnesses provided testimony.

In addition to the testimony and hearing time, the parties were told to submit closing briefs, which were completed on time. She stated the bondholder group provided a report to the

court, which the debtors objected to because it was procedurally improper and contained additional allegations that were deemed to be inappropriate.

Mr. Brougham asked if there is a distinct difference between the judge's oral ruling and written ruling. Ms. Martinez Molina explained the judge will provide an oral and written decision. She stated the interim debtor-in-possession (DIP) financing motion and order is scheduled for tomorrow and she was not aware of any objections. She stated the debtors and creditors committee, and other parties, submitted supplemental applications for attorney's fees and costs. The debtor's attorney submitted a supplemental fee application for April 1 through June 30, three (3) days before trial, in the amount of \$998,796 for fees and another \$200,000 in expenses. The creditors committee's supplemental fee application is about \$30,000 in fees and \$2,000 in expenses. The creditors committee's financial consultant's supplemental fee application includes about \$11,000 in fees and less than \$1,000 in expenses.

Additionally, the debtors filed a complaint against Pepe Capital for a breach of contract, for approximately \$1,000,000 in damages, for reimbursement of expenses. Pepe Capital was the entity that was to provide DIP financing, at the beginning of the bankruptcy case, and it fell through shortly before the filing.

Mr. Correia asked about the finality of the judge's decision with respect to possible appeals. Ms. Martinez Molina stated if a party has an issue with the ruling, they can appeal it to the district courts. She explained that there is a 14-day period before the ruling becomes binding and the debtors have requested that be waived. She noted issues of jurisdiction and whether a non-bankruptcy court will interfere with a bankruptcy court's decision, especially after having heard so much evidence.

Mr. Brougham noted it has been a long 18 months and that many residents inquire as to how long the process will continue but an answer is not available. Ms. Martinez Molina noted the adversary processes that occurred and recalled various lawsuits associated with the bankruptcy. She noted the ruling is one component of the reorganization process.

Mr. Elliot Miller, a resident, noted, unless there is a stay, an appeal will not impact the effectuation of a judge's order. To obtain a stay, typically, a bond has to be posted. He explained, unless there is a stay and a bond posted, the plan can be effectuated, pending the appeal.

Ms. Martinez Molina reported that of the proofs of claims filed on behalf of CDD #1, last summer, about six (6) are being amended to correct the allocation of debt. Mr. Brougham asked if the adjustments had to be filed prior to the ruling. Ms. Martinez Molina replied not necessarily. Mr. Brougham asked if the amounts have to be filed before the lien roll is certified. Mr. Adams believed the amounts for the current fiscal year would have to be completed prior to the certification in September.

Ms. Scott asked what was scheduled for a hearing tomorrow. Ms. Martinez Molina stated the debtors interim finance order. Ms. Scott asked if the approval of the contract is pushed to Friday. Ms. Martinez Molina stated Mr. DeMarco can respond regarding CDD #2.

○ **Update: Civil Case Remand Back to State Court - Daniel Abbott**

Mr. Abbott discussed the ability to hold a private session to discuss any litigation strategies. He recalled the lawsuit filed against CDD #1 was filed in Collier County in April. The complaint is filed as an action of declaratory judgment, which means that U.S. Bank asked the court to define the legal obligations between U.S. Bank and CDD #1, according to the trust indenture. He noted the complaints are vaguely written and do not specify a specific part of the agreement. He recalled that the District prevailed on its right to vote on the reorganization plan in the bankruptcy court. Mr. Abbott noted the U.S. Bank lawsuit was removed to federal court. He explained there is a procedure that allows the move, in particular, when there is a state court lawsuit in which the estate of an entity in bankruptcy may be affected.

Mr. Abbott stated U.S. Bank filed a motion to remand the case to state court, from federal court. He stated the District opposed the claim and recalled that Judge May ruled on the motion and entered an order granting the motion to remand.

Mr. Brougham asked for Mr. Battista's opinion on the remand.

Mr. Battista preferred to speak to Districts counsel separately, as the meeting is a public meeting.

Mr. Abbott stated the reason that the case was remanded is not an indication that the move to federal court was inappropriate. He explained the suit is not technically in state court, until a certified copy of the order of remand is filed in the Collier County Circuit Court. He stated the filing has not occurred.

Mr. Abbott recalled a motion to dismiss was filed in federal court and suggested it be amended for state court. He noted the U.S. Bank complaint was too vague and that a lawsuit

cannot be defended when no particular decisions are at stake. He explained the motion to dismiss will be redrafted as applicable under the Florida Rules of Civil Procedure. When the case is remanded and, if the complaint is not amended, the District's motion to dismiss will be amended accordingly. He stated he received indications that U.S. Bank intends to amend the complaint based upon the judge's rulings in bankruptcy. If amended, the complaint will be reviewed and the District will respond appropriately. Beyond that, the lawsuit is a regular lawsuit and the District will participate in discovery.

Mr. Brougham asked what would happen if the District did nothing in the lawsuit. Mr. Abbott explained the District would suffer a default, which means the District would not be heard in the hearings. He stated judge would enter a declaration as to how the indenture should be interpreted.

Mr. Brougham noted there are various other CDDs and preferred to have the giants fight it out, rather than have residents money spent to fight it. He noted the District was placed in the fight and noted the large expense of the lawsuit.

Mr. Abbott noted the lawsuit does not challenge the government; rather, it is more about the terms of the indenture that the District entered.

A Board Member asked what happens if the indenture trustee prevails.

Mr. Abbott replied it depends on the declaration and the judge will address the interpretation of the agreement. He discussed possible outcomes and details that a judge may address.

Discussion followed on the declarations of the trust indenture and possibility of a future executive session.

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

### **FOURTH ORDER OF BUSINESS**

**Update: Bankruptcy Proceedings -  
Robert DeMarco**

Mr. DeMarco noted the pending motion related to the sale of 91 Venetta lots to DR Horton. He stated the motion will be heard on Friday and recalled the indenture trustee filed an objection to the sale. Their reasons for the objection include the belief that the sale is premature due to the acceleration of debt related to the defaulted bonds. He recalled, after the default in payment by the debtors, to the CDDs, the CDDs defaulted in payment to the indenture trustee.

The indenture trustee then declared the entire balance due on the defaulted bonds. At this point, those debts due on the specific bonds are accelerated and due in their entirety. Mr. DeMarco explained the confirmation order would result in a deceleration of the amount due; the appropriate buydown amounts would apply, along with regular closing fees. He explained that he advocated that the hearing related to the objection not be heard on Friday because, even if the judge rules that the plans are confirmed, there is no written order and there are other objections filed by the indenture trustee. After the court rules, he proposed going back to the indenture trustee to consider the issues relating to the amounts being paid on the debt, when the lots sell.

Mr. Battista believed the hearing, related to the DR Horton purchase, was going to be requested to be heard after the final hearing. He stated the final judgment will eliminate some issues raised by the indenture trustee and confirmation will decelerate the debt.

Mr. DeMarco recalled the proofs of claims filed on behalf of CDD #2 will be amended to reflect appropriate allocations and stated Ms. Carlson is working with Dr. Fishkind.

Mr. DeMarco noted the indenture trustee filed an action in Collier County Circuit Court and CDD #2 did not remand it back to the bankruptcy court. He believed it was not a court proceeding and the judge, under federal law, was required to abstain from hearing it. He stated a motion to dismiss was filed and scheduled for September. Mr. DeMarco anticipated the filing of an amended complaint, by the indenture trustee. He explained that a declaratory judgment action requires a present case or controversy to be decided by the court. Unless there is a present case or controversy, the judge should dismiss the case. He believed the claims made in the declaratory judgment are effectively moot.

Mr. DeMarco recalled the report entitled, "Trustee Indenture's Report and Memorandum of Law Regarding Effect of Debtors' Proposed Plans on Bondholders". He believed the document was gratuitous and did not believe it was something the judge requested. He stated the document was #1408 and filed on July 22, 2011, in bankruptcy court. Mr. DeMarco recalled Dr. Fishkind's belief that the treatment of the past due assessments, in the reorganization plan, will require a supplemental assessment process. He noted the formal process of assessing the property and noted he did not agree with the trustee's position that an additional assessment is constituted. With respect to the issue, Page 9 of the report says that "*in terms of the assessments themselves Florida law requires that for assessments to be valid each property subject to such assessments must receive a corresponding special benefit commensurate with the amount of the*

*assessment being imposed*". Mr. DeMarco believed that was already done and Dr. Fishkind believes that a process is needed. The trustee continues, *"in the instant case the capitalization of the past due assessments will result in a dollar for dollar increase in the amount of the assessments on the property, which in order to be valid, would require there be a corresponding special benefit to the property against which the additional assessment is being imposed"*. The process is being addressed by Dr. Fishkind. He recalled discussions on holding a special meeting on Friday but it will not take place until an order is completed. Mr. DeMarco recommended hesitating to engage in the process suggested by Dr. Fishkind, in the absence of a written court order.

Mr. Mike Williams agreed that the District Boards should not proceed forward, until a court order is issued and reviewed.

Mr. Brougham discussed the purpose of the previously proposed special meeting. He believed the purpose of the meeting was to review and discuss a new supplemental methodology, supplementing the 1996 methodology that would define the pass-through and buydown amounts on bond debt, as per the proposed reorganization plan. Mr. Adams and Mr. Williams were in agreement with Mr. Brougham's statement. Mr. Brougham noted the methodology will have to be discussed and adopted, at some point, after the confirmation order is complete.

Mr. Adams noted the District has a contractual obligation, under the original assessment methodology, until the final court order is issued.

Mr. DeMarco believed there are two (2) ways the Districts can consider an item. He noted the court could issue a ruling and request debtor's counsel to draft an order of confirmation for review. He noted the order should follow the transcript and parties may not agree on the order. Mr. DeMarco indicated the order may have an express provision that specifically says the CDDs shall take such measures as are required to implement the provisions of the plans of reorganization. The court order would have to be followed by the Districts. Mr. DeMarco noted the bankruptcy is a separate and distinct process in which the debt is being restructured, not the bonds. The court does not have the power to restructure the bonds and the Districts cannot do it unilaterally. If the plans of reorganization fail, then the Districts and indenture trustee documents remain in effect and the Districts are stayed from taking any action that would not be in compliance with the bankruptcy court order. He stated any action made by the District should not be construed as some voluntary undertaking to unilaterally change the indentures.

Mr. DeMarco noted, if Dr. Fishkind specifically opines to the Districts, even in the absence of expressed instructions in the court order that, as a condition precedent to the compliance with the bankruptcy court order, in compliance with Florida law to effectuate the required processes, the CDDs would have to undertake to observe the required...

**\*\*\*Audio recorder stopped.\*\*\***

**JOINT MEETING ITEMS**

**FIFTH ORDER OF BUSINESS**

**Developer's Report/Update**

**\*\*\**There being no audio, this section was not transcribed.*\*\*\***

**SIXTH ORDER OF BUSINESS**

**Engineer's Report**

o **Continued Discussion: Lake Bank Erosion Report – Mark Strain Opinion**

Mr. Strain reviewed the Lake Bank Erosion Report.

**\*\*\*Audio recorder restarted.\*\*\***

Discussion followed on the lake bank erosion in the middle of Venetta. Mr. Cole stated he reviewed the lake and found no erosion issues. Mr. Strain noted that certain development areas are not completed and anticipated future development.

Mr. Schutt recalled that the District requested that the contractor consider cost savings for work on all lake areas.

Mr. Strain discussed the process of erosion and explained that if erosion occurs over years and will eventually stop. He noted the purpose of reinforcement is to stop the erosion in its current place and discussed the available options, including riprap and geotube.

Mr. Strain noted there are multiple contractors that install geotube and anticipated the possibility of competitive pricing, as well as a 15-year warranty. He provided photographs of a community in which geotubing was installed.

Discussion followed on the time of year the work will be completed and how long the process will take. Ms. Scott noted the work may not be able to begin in April or May, due to the rain. Mr. Strain stated he will discuss the timing with the contractors.

Mr. Brougham recommended a request for proposals (RFP) be completed and discussion followed on the proposed prices. Mr. Pires recommended completing specifications that include the requirement for the contractor to review the site.

Mr. Brougham noted the issue of sod replacement and recommended the District take advantage of the ability to purchase sod directly. He stated he is uncomfortable with a 10% engineering fee on the project and recommended further discussions. Mr. Strain noted the need for direction on the areas for the work and potential payment issues. He stated the supplier of sod needs to work closely with the installer. Discussion followed on the installation of geotube at surrounding communities and the need for additional engineering services. Mr. Strain stated he will offer a beneficial solution. Mr. Correia agreed that costs and estimates are needed.

Mr. Brougham noted he wanted to start the project as soon as possible. Mr. Torbin Christensen recommended advising the homeowner associations of the project, when the details are completed.

Mr. Correia noted his plans to contact certain villages within the community.

## **SEVENTH ORDER OF BUSINESS**

### **Discussion: Outstanding Requisitions**

Mr. Adams noted the provided email outlines the unpaid requisitions. He noted the items in blue are awaiting legal letters so that the trustee can process; however, the yellow items are delinquent.

Mr. George Hermanson stated the CDD #1, 2005 requisitions were going to be paid, as of a few days ago.

Mr. Pires asked if Woodward Pires will be paid. Mr. Adams noted the email in which the trustee stated Woodward Pires fees would not be paid. Discussion followed on the payment of the Woodward Pires requisitions. Mr. Pires stated he will research why he is not being paid and will not charge the District for the correspondence. Mr. Brougham thanked Mr. Pires.

Mr. Hermanson presented CDD #1, Draw #59, related to the Belle Meade Preserve work and DRI monitoring. Mr. Adams explained the fees related to the wetland mitigation are for the initial exotic clearing to bring the area in compliance.

Mr. Hermanson presented CDD #2, 2005 Series, Draws #67 and #68, including fees related to landscaping and engineering. He explained Draw #68 relates to keeping a subdivision bond active for an additional year. He presented Draw #71, for the Board's review, and included

fees related to lake conveyance. Mr. Cole stated he will work with Staff on the RFP for the geotube.

**EIGHTH ORDER OF BUSINESS**

**Discussion: Investment of District Funds  
Memorandum**

The Boards acknowledged the memorandum provided by District Management.

**NINTH ORDER OF BUSINESS**

**Approval of June 22, 2011 Joint Regular  
Meeting Minutes**

Mr. Adams presented the June 22, 2011 Joint Regular Meeting Minutes and asked for any additions, deletions or corrections.

The following changes were made:

Line 240: Change "Brougham" to "Correia"

Line 253: Change "phase" to "phased"

**On MOTION for Fiddler's Creek CDD #1 by Mr. Bergmoser and seconded by Mr. Schutt, with all in favor, the June 22, 2011 Joint Regular Meeting Minutes, as amended, were approved.**

**On MOTION for Fiddler's Creek CDD #2 by Mr. Robertson and seconded by Ms. DiNardo, with all in favor, the June 22, 2011 Joint Regular Meeting Minutes, as amended, were approved.**

**TENTH ORDER OF BUSINESS**

**Other Business**

There being no other business, the next item followed.

**ELEVENTH ORDER OF BUSINESS**

**Staff Reports**

**a. Attorney**

There being no report, the next item followed.

**b. Manager**

**i. NEXT MEETING DATES**

- o **July 29, 2011 at 8:00 A.M.**

Mr. Adams noted the July 29, 2011 meeting will be cancelled and the corresponding notice will be posted.

- o **August 24, 2011 at 8:00 A.M.**

The next meeting is scheduled for August 24, 2011.

**c. Operations Manager**

Ms. Crismond presented the operations report. She stated the tree replacements will be completed in August and she is reviewing areas for right-of-way clearance with the tree trimming project. Mr. Brougham noted an oak tree hanging over the street by the uplift station on Mulberry Drive. She stated the refurbishments of the lampposts and street signs are on-going. She recalled lighting issues on Venetta that have been resolved.

Ms. Scott noted the lights at the entrance were nice but the fountains are low. Discussion followed on the height of the fountains. She stated the south fountain motor was replaced on Thursday and it was the second replacement. Mr. Brougham noted the company is honoring the warranty, as the purchase was made with the belief that the pump was appropriate for salt water. Ms. Crismond indicated the north fountain has not had any problems. Mr. Brougham noted the warranty expires in one (1) year and recommended reviewing the warranty and seeking additional input as to the cause of the failure.

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

**TWELFTH ORDER OF BUSINESS**

**Discussion/Consideration of Resolution  
2011-5, Regarding an Annual  
Presentation of the Lien Roll to the Board  
of Supervisors**

Mr. Brougham recalled that, historically, the Board of Supervisors did not have an active role in the bond debt allocation or the lien roll preparation or certification. He noted the Board bears the responsibility of the lien roll and if there are errors in the lien roll, they are the responsibility of the CDD. Mr. Brougham stated he requested the Board be included in a review of the annual lien roll, including having certification of the accuracy of the lien roll, in terms of applying the assessment methodology, as signed off by District Staff.

Mr. Pires recommended the Board be advised of any platting or re-platting that occurred during the course of the year. He recommended the Board adopt a rule or policy to have the developer, prior to a plat application with Collier County, advising the Board of any filings for plat changes.

Mr. Brougham asked if it could be included in the resolution. Mr. Pires stated he can expand upon it and recommended having a separate policy of the Board. He stated it requires the developer's concurrence to provide the information.

Discussion followed on the way to make sure the Board is informed of plat changes. Mr. Brougham noted his concern for making sure there is a well-defined process that ensures proper notifications were made and the notifications were implemented in the lien roll. Mr. Bergmoser asked who is in the position to review the lien roll changes. Mr. Brougham recommended, periodically, having an independent professional audit the lien rolls.

Discussion ensued on the ways to address the lien roll issues. He noted the resolution defines a process in which the professionals sign off on the lien rolls prior to the completion. Mr. Pires discussed other programs that are similar, such as the NPDES program. Mr. Pires believed the resolution is a good vehicle to address the issue.

Mr. Schutt asked if there is a document that articulates the method for assigning bond debt. Ms. Carlson replied that CDD #1 has a supplemental methodology that combines the 2002 and 2005 bond series and says they are to be allocated on a per acre basis, until plats occur.

Mr. Correia noted the need for the Board to be included in the lien roll process, in order to be informed.

Mr. Brougham requested a seminar like session with Ms. Carlson, after the current roll is amended.

**On MOTION for Fiddler's Creek CDD #1 by Mr. Slater and seconded by Mr. Brougham, with all in favor, Resolution 2011-5, Regarding an Annual Presentation of the Lien Roll to the Board of Supervisors, was adopted.**

Mr. Brougham requested Mr. Pires draft a rule for how to handle the procedures, beyond the resolution. Mr. Pires noted that if a rule is adopted, it has the ability to go to court and he will provide a draft for a future meeting.

**THIRTEENTH ORDER OF BUSINESS**

**Discussion: Indemnification Agreement  
with AJC Associates, Inc.**

Mr. Brougham requested information on demand for indemnification from AJC Associates, Inc., for potential damages or costs. Mr. Pires explained the issue is about the corrections that need to be made to the lien roll and whether the District incurred any expense, liability or damage, as a result of the corrections. He summarized the indemnification process, including the request sent to the party that identifies the issue that the Board will be indemnified against. The District can demand that an additional amount of money be held to either engage counsel or a consultant to address the issue and request a copy of the insurance. A separate indemnification letter would then be entered by AJC Associates, Inc., and the District.

Mr. Brougham noted that no party is claiming any damages; however, there are additional fees from Dr. Fishkind involved. Mr. Brougham did not believe the Board should be responsible for those fees.

Mr. Pires explained the indemnification letter puts the professional on notice that the District is looking to be compensated or made whole.

Ms. Carlson stated she had discussions with Mr. Adams and forwarded the agreement to her attorney for review. She noted her desire to remedy the situation and move forward.

**FOURTEENTH ORDER OF BUSINESS**

**Ratification of Proposal from Fishkind &  
Associates for Financial Consultant  
Services**

Mr. Adams noted Dr. Fishkind provided a proposal to provide a supplemental methodology, in accordance with the proposed reorganization plan. He stated a final draft is not prepared for the Board and reviewed the fees for the work. He noted the liability associated with providing the opinion. Mr. Adams requested the Board ratify the proposal.

Mr. Brougham recalled Mr. DeMarco's advice to not pursue a supplemental methodology. He recalled the direction of the developer to complete the document and that, if the document is not utilized, the District should not pay for the service.

Mr. Bergmoser agreed and noted that the developer requested the service. He requested that Dr. Fishkind not proceed any further on the work.

Mr. Adams stated he will advise Dr. Fishkind to cease working on the methodology.

Mr. Slater noted that the document was signed by the District Manager and asked if the District was culpable. Mr. Adams noted the document was to be the topic for discussion at the previously set special meeting. He stated he will discuss the issue with Dr. Fishkind.

Discussion followed on the reason the developer requested the document. Mr. Brougham recalled that Mount Kellett will not approve exit financing without the Board adopting a supplemental methodology that implements the buydowns and pass-throughs, as outlined in the reorganization plan.

**On MOTION for Fiddler's Creek CDD #1 by Mr. Brougham seconded by Mr. Schutt, with Mr. Curland and Mr. Bergmoser in favor and Mr. Slater dissenting, the ratification of the proposal from Fishkind & Associates, for Financial Consultation Services, was not approved. (Motion passed 4-1)**

**FIFTEENTH ORDER OF BUSINESS**

**Continued Discussion: Fiscal Year 2012  
Proposed Budget**

Mr. Adams confirmed that the changes requested last month were made and the year-end projections were updated. Mr. Brougham stated the District expects to get paid for the past due, on-roll and off-roll assessments and asked where it is reflected in the budget. Mr. Adams noted it is in an asterisk and posted as restructuring proceeds, on Page 3. He noted the anticipation of the on-roll assessments that are a part of the bankruptcy, in the amount of \$424,482.

Mr. Slater recalled budgeting the legal expense and asked why the amount was for \$110,000. Mr. Brougham stated the goal is to make sure that the District is under budget by about \$80,000, with funds going toward the lawsuit litigation.

Mr. Adams requested the Board approve the proposed Fiscal Year 2012 budget for the purpose of completing a mailed notice, for an increase in the assessment. The current projection is a \$1,294.05 on-roll resident assessment and \$1,197 off-roll assessment. He requested rounding the assessment amounts up for noticing purposes only.

Discussion followed on the assessment notice amount. Mr. Adams stated the letter will have to be mailed within the next four (4) or five (5) days.

**On MOTION for Fiddler's Creek CDD #1 by Mr. Schutt and seconded by Mr. Bergmoser, with all in favor, authorization for Staff to complete mailed notices, with a not-to-exceed amount of \$1,300 for on-roll assessments and \$1,200 for off-roll assessments, was approved.**

Mr. Schutt inquired as to Mr. Curland's report regarding access control bid specifications. Mr. Adams stated the information will be presented in September.

**SIXTEENTH ORDER OF BUSINESS**

**Unaudited Financial Statements as of  
June 30, 2011**

Mr. Adams presented the Unaudited Financial Statements as of June 30, 2011. Mr. Brougham inquired as to the foreclosure legal fees expended in the last month. Mr. Adams explained the indenture trustee paid the legal foreclosure fees.

Mr. Bergmoser recalled a list of access control operating supply expenses and asked if the funds were received. Mr. Adams stated, with regard to the remotes, the funds have always been received and explained the location of the offsetting revenue on the financials.

**SEVENTEENTH ORDER OF BUSINESS**

**Audience  
Requests**

**Comments/Supervisors'**

Mr. Miller, a resident, discussed the tax exempt status of the bonds and noted possible impairment of the government entity that could affect the tax exempt status. He noted additional issues if the District does not fight the lawsuit that the Board does not have discretion.

**EIGHTEENTH ORDER OF BUSINESS**

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

**On MOTION for Fiddler's Creek CDD #1 by Mr. Brougham and seconded by Mr. Slater, with all in favor, the meeting adjourned at 11:20 a.m.**

**NINETEENTH ORDER OF BUSINESS**

**Discussion/Consideration of Resolution  
2011-4, Regarding an Annual  
Presentation of the Lien Roll to the Board  
of Supervisors**

Mr. Correia discussed Resolution 2011-4 and did not believe the Board should micromanage the work of Ms. Carlson or District Staff. Mr. Pires noted the resolution helps the Board and District stay informed of ongoing events.

Discussion followed on the review of Staff work by the Board. Mr. Adams noted the process is already completed but the Board would be given an explanation of the process and changes, on an annual basis. He further noted that the District Engineer would certify, along with Ms. Carlson, that the product types, etc., were accurate.

**On MOTION for Fiddler's Creek CDD #2 by Ms. DiNardo and seconded by Mr. Correia, with all in favor, Resolution 2011-4, Regarding an Annual Presentation of the Lien Roll to the Board of Supervisors, was adopted.**

**TWENTIETH ORDER OF BUSINESS**

**Discussion: Indemnification Agreement with AJC Associates, Inc.**

The Board agreed to the draft indemnification agreement, as discussed earlier.

**TWENTY-FIRST ORDER OF BUSINESS**

**Ratification of Proposal from Fishkind & Associates for Financial Consultant Services**

Mr. Correia recalled prior discussion and noted the potential future use for the document.

Discussion followed on the reorganization plan and how it may affect the methodologies. Mr. Adams noted that if a methodology is going to be amended, either a court order is needed or the bondholders have to approve the changes. He noted the current trust indenture obligations are still applicable.

Mr. Correia requested for further work to stop until additional information is known.

Ms. Scott asked if it was possible for the judge to approve the plans, with modifications. Mr. Miller replied affirmatively.

Discussion followed on the possible outcome of the judge's ruling. The Board agreed to reconsider the proposal after the judge's ruling is completed.

**On MOTION for Fiddler's Creek CDD #2 by Ms. Scott and seconded by Mr. Correia, with all in favor, the ratification of the proposal from Fishkind & Associates, for Financial Consultant Services, was not approved.**

**TWENTY-SECOND ORDER OF BUSINESS      Continued Discussion: Fiscal Year 2012  
Proposed Budget**

Mr. Adams stated the previously discussed changes were made to the proposed budget. He noted the proposed on-roll assessment is \$1,615 and off-roll is \$1,494. He requested the Board approve the budget for purposes of completing the mailed assessment notices.

Mr. Adams noted the budget includes the collection of past due Fiscal Year 2010 assessments and is reflected as restructuring proceeds, on Page 1. The Fiscal Year 2011 assessment is reflected as \$478,816.

Ms. Scott asked where the geotube project is reflected in the budget. Mr. Adams replied it is included under water management and is a part of the \$147,000 number.

Discussion followed on the noticed assessment amount. Mr. Adams recommended including the amounts of \$1,620 and \$1,500 as the not-to-exceed amounts.

**On MOTION for Fiddler's Creek CDD #2 by Ms. Scott and seconded by Ms. DiNardo, with all in favor, authorization for Staff to complete mailed notices, with a not-to-exceed amount of \$1,620 for on-roll parcels and \$1,500 for off-roll parcels, was approved.**

**TWENTY-THIRD ORDER OF BUSINESS      Unaudited Financial Statements as of  
June 30, 2011**

Mr. Adams presented the Unaudited Financial Statements as of June 30, 2011. He noted the indenture trustee paid for the legal foreclosure expenses and explained the payment process. He noted the District is reimbursed for the payment by the trustee and is reflected in the transfer in.

Discussion followed on the role of the bondholders and trustee in the trust indenture.

**TWENTY-FOURTH ORDER OF BUSINESS    Audience    Comments/Supervisors'  
Requests**

Mr. Miller asked if anyone reviewed the insurance limits for AJC Associates, Inc., and asked the conditions for making a claim. Mr. Pires noted the District has a possible punitive claim.

Discussion was held on the joint District meetings and Mr. Miller suggested the Districts hold separate meetings. Ms. Scott recommended holding separate meetings, unless the issue is security or landscaping. Mr. Adams noted the difficulty in predicting the length of each meeting if the meetings are held back-to-back.

Discussion followed on Fiddler's Creek security, including the use of the rovers.

**TWENTY-FIFTH ORDER OF BUSINESS    Adjournment: Fiddler's Creek CDD #2**

**On MOTION for Fiddler's Creek CDD #2 by Mr. Correia and seconded by Ms. DiNardo, with all in favor, the meeting adjourned at 12:20 p.m.**

**FIDDLER'S CREEK CDD #1 &  
FIDDLER'S CREEK CDD #2**

**July 27, 2011**

**FOR FIDDLER'S CREEK #1:**

  
Secretary/Assistant Secretary

  
Chair/Vice Chair

**FOR FIDDLER'S CREEK #2:**

  
Secretary/Assistant Secretary

  
Chair/Vice Chair