

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

The Board of Supervisors of the Fiddler’s Creek Community Development District #1 held a Regular Meeting on Wednesday, June 27, 2018 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:

Phil Brougham (via telephone)	Chair
Robert Slater	Assistant Secretary
Charles Turner	Assistant Secretary
Joseph Schmitt	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Adams	Assistant Regional Manager
Jason Olson	Assistant Regional Manager
Tony Pires	District Counsel
Valerie Lord	Counsel – The Foundation
Terry Cole	District Engineer
Ron Albeit	General Manager – The Foundation
Robert Dieckmann	Interim Project Manager – The Foundation
Jesse Fritz	Resident
Nancy Michaels	Resident
Frank Weinberg	Resident
Torben Christensen	Resident
Marie Puckett	Fiddler’s Creek Security

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mrs. Adams called the meeting to order at 8:00 a.m. Mr. Slater facilitated the meeting in Mr. Brougham’s absence and stated that Supervisor Bergmoser had resigned, effective the date of the last meeting. Supervisors Turner, Schmitt and Slater were present, in person. Supervisor Brougham was not present at roll call. One seat was vacant.

SECOND ORDER OF BUSINESS

Public Comments: Non-Agenda Items (3 minutes per speaker)

There being no public comments, the next item followed.

THIRD ORDER OF BUSINESS

Special Counsel Update

This item was presented during the Ninth Order of Business.

FOURTH ORDER OF BUSINESS Developer's Report

There being no report, the next item followed.

FIFTH ORDER OF BUSINESS Engineer's Report: *Hole Montes, Inc.*

Mr. Cole presented the Monthly Engineer's Report. He highlighted the following:

➤ Asphalt repairs: One of the two potholes on Fiddler's Creek Parkway was repaired and the other is scheduled to be completed within the next two weeks.

Mr. Cole stated the longer the asphalt repaving project is delayed the more he expects to see these types of issues. He would continue to monitor potential potholes.

▪ **Continued Discussion/Update: Hurricane Irma Recovery**

******This item, previously the Eighth Order of Business, was presented out of order.******

Mr. Cole stated that he and Mr. Dieckmann jointly prepared the Hurricane Irma Report being presented. The following was reported:

➤ Tree Removal: BrightView Landscapes, LLC (BrightView) is completing the remaining hurricane cleanup punch list items. The additional areas, not covered under BrightView's scope of work, were mostly in CDD #2.

➤ Landscape Restoration: Juniper Landscaping (Juniper) has completed 95% of the grading in CDD #1 and 80% of the plantings and was currently focusing on Championship Drive.

In response to a question on grading, planting and cleanup, Mr. Cole stated that sod installation was delayed but would occur soon.

➤ Streetlight Repairs: Bentley Electric Company Inc. (Bentley) is nearing completion of the streetlight repairs. Mr. Dieckman will perform a final walkthrough with Bentley.

➤ Signage: Lykins-Signtek (Lykins) has completed 75% of the repairs.

➤ CDD #1 Wall/Fence Repairs: The fences installed on the north side of Championship Drive, Pepper Tree and Bent Creek were completed and punch list items would be addressed. The new fence on the west side of Mulberry Lane would be installed later this week.

Mr. Cole stated that fencing materials for the area along the Championship Drive right-of-way (ROW), on the north side of Hawk's Nest were ordered. County approval of the revised permit was pending. Mr. Cole will provide Mr. Adams with the C&C Fence Builders LLC proposal.

******Mr. Brougham joined the meeting at 8:05 a.m., via telephone.******

On MOTION by Mr. Turner and seconded by Mr. Slater, with all in favor, authorizing Mr. Brougham's attendance and full participation, via telephone, due to exceptional circumstances, was approved.

Mr. Cole continued his Report:

➤ Sidewalk Repairs: The Fiddler's Creek Parkway sidewalk repairs between Majorca Lane and Mulberry Lane would be completed soon.

A Resident stated that repairs to the bottom post of the fence at Copper Cove, off Championship Drive, were needed. Also, the fence near the Hawk's Nest entrance was not level. Mr. Cole will tour both areas to review these fence issues.

Mr. Jesse Fritz, a resident, stated that erosion is causing the road and sidewalk to not be level in the area used by emergency vehicles and a portion of the area belongs to the CDD, between Championship Drive and Montreux Lane. Discussion ensued regarding the location and which entity is responsible for maintaining it. Mr. Cole indicated that he believed this is The Rookery access road and he would look into it and provide an update at next month's meeting.

Ms. Nancy Michaels, a resident, explained where the area was located. Mr. Fritz stated that two different issues were being discussed and the area Ms. Michaels was describing was an access easement belonging to The Rookery. Mr. Cole will research which entities own it and is responsible in maintaining it and, once determined, the repair costs would be split between Montreux and the CDD. Discussion ensued regarding the area, locating it on the map, providing Mr. Cole with detailed directions of the area and this being the same area where the main irrigation break occurred two years ago, which might be causing it to sink.

Mr. Fritz stated an area of Fiddler's Creek Parkway was not being maintained. He identified it on the map and requested that area be toured as well. Mr. Dieckmann explained that the plants in the area bordering the boundary that falls across that berm were divided between the CDD and HOA and that Juniper would address any HOA areas.

SIXTH ORDER OF BUSINESS

Discussion/Consideration: Appointment to SEAT 2 (Term Expires November, 2018)

- A. Administration of Oath of Office (the following to be provided in separate package)**
 - i. Guide to Sunshine Amendment and Code of Ethics for Public Officers and Employees**
 - ii. Membership, Obligations and Responsibilities**

iii. Financial Disclosure Forms

- **Form 1: Statement of Financial Interests**
- **Form 1X: Amendment to Form 1, Statement of Financial Interests**
- **Form 1F: Final Statement of Financial Interests**

iv. Form 8B – Memorandum of Voting Conflict

Mr. Slater recommended tabling this item, in light of Mr. Bergmoser’s recent resignation. Mr. Brougham stated that resident candidate Mr. Torben Christensen and Mr. Richard Peterson filed to run for Seat 2, previously held by Mr. Bergmoser. Mr. Joe Badessa filed to run for Seat #1, currently held by Mr. Turner and was unopposed. He recalled that, during the continued meeting, a comment was made to the effect that, if the Board chose to appoint anyone to fill Seat 2, for the remainder of the unexpired term, the Board was, essentially endorsing that particular candidate. After the meeting, he discussed this with Mr. Pires and was told the Board is not officially required to take any action; therefore, he agreed with Mr. Slater’s suggestion to table this item and operate with the four remaining members, until the election.

A Board Member suggested appointing Mr. Joe Badessa to vacant Seat 2 until the election since he is already a candidate running for Seat 1. Mr. Brougham asked Mr. Pires, if the Board could appoint Mr. Badessa to another seat, since he is, in effect, an elected Supervisor. Mr. Pires would research this matter and provide an update at the next meeting. Mr. Slater felt that it would be best to proceed with just four Board Members.

On MOTION by Mr. Brougham and seconded by Mr. Schmitt, with all in favor, tabling the appointment to Seat 2, was approved.

B. Consideration of Resolution 2018-03, Electing the Officers of the District

Mr. Adams presented Resolution 2018-03. Mr. Brougham nominated Mr. Slater as Vice Chair, with the remaining slate of officers unchanged, as follows:

Chair	_____ Phil Brougham _____
Vice Chair	_____ Robert Slater _____
Secretary	_____ Chuck Adams _____
Treasurer	_____ Craig Wrathell _____
Assistant Treasurer	_____ Jeff Pinder _____
Assistant Secretary	_____ Joseph Schmitt _____
Assistant Secretary	_____ Charles Turner _____

Assistant Secretary	_____	Vacant
Assistant Secretary	_____	Craig Wrathell

On MOTION by Mr. Brougham and seconded by Mr. Schmitt, with all in favor, Resolution 2018-03, Electing the Officers of the District, as nominated and stated, was adopted.

SEVENTH ORDER OF BUSINESS

Continued Discussion: Fiscal Year 2018/2019 Proposed Budget

Mr. Adams reviewed the Fiscal Year 2019 Proposed Budget line item increases and decreases.

Mr. Slater asked if the District received any compensation back from LandCare, since they were not able to fully perform their duties during the hurricane cleanup process. Mr. Adams stated some credits, such as tree trimming, were received; however, LandCare was working on smaller items that required adding extra crews to cut and remove trees from the ROW. Landscape restoration and tree trimming returned to normal. Mr. Adams requested The Foundation’s true-up figures for “Contractual services”, under “Access Control”.

Mr. Slater asked Ms. Puckett if all the communities were running off the central line, since her last correspondence did not mention Bent Creek. Ms. Puckett stated she would provide that information in her next report. Mr. Albeit asked Mr. Slater why he thought an email from Ms. Puckett would change Brent Creek’s actions. Mr. Slater stated that Ms. Puckett’s last communication as over one month ago and it stated “DO NOT” connect up to the central computer. Mr. Slater will forward Ms. Puckett and Mr. Albeit Ms. Puckett’s last communication directing them not to connect to the central line.

➤ Assessments: On-roll and off-roll assessments were decreasing slightly.

Mr. Brougham stated that the overall assessments would decrease significantly, in the future, since this was the last year of the Series 1996 bond, which would be paid off.

➤ Shared Services: AJC Associates, Inc. (AJC) would perform a true-up in July.

EIGHTH ORDER OF BUSINESS

Continued Discussion/Update: Hurricane Irma Recovery

This item was also discussed during the Fifth and Seventh Order of Business.

Mr. Slater asked for the status of the Federal Emergency Management Agency (FEMA) claim. Mr. Adams stated he spoke to the FEMA Manager assigned to the District and, so far, the

funding side has not requested additional information; the claim is slowly progressing through FEMA’S system. FEMA claims are typically processed within a two-year period. Mr. Adams expects reimbursement of about 50% of the \$600,000 claim, based on his prior experiences.

NINTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of May 31, 2018

Mr. Adams presented the Unaudited Financial Statements as of May 31, 2018. Assessment revenue collections were at 96%, with on-roll at 100% and off-roll at 75%. Overall, expenditures were at 59%, slightly lower than the 67% prorated projections, which was due to the asphalt and landscaping projects being delayed.

▪ **Special Counsel Update**

****This item, previously the Third Order of Business, was presented out of order.****

Mr. Brougham stated his last communication with Ms. Robinson was to schedule a pre-deposition meeting. Mr. Adams stated his office was inundated with public records requests from Greenberg Traurig, LLP, which necessitated increasing the professional administrative budget to cover additional activities associated with the case and for payment to Mr. Harvey Pitt for his testimony; Mr. Adams’ pre-deposition meeting and deposition were also scheduled.

Mr. Adams continued reviewing the proposed Fiscal Year 2019 budget, as follows:

A Board Member asked why the “Irrigation Supply”, “Repair and maintenance” line item was allotted the same amount for Fiscal Year 2019, when it was already at 168% of budget for Fiscal Year 2018. Mr. Adams stated he did not expect the replacement or repair of the satellite clocks, to the degree that they experienced this year due to Hurricane. The supply system jumped slightly, due to watering new material; however, the pump stations usage will drop in the rainy season. In response to a question of if the District had to repair a water main break, Mr. Adams stated that expense would come from the “Supply system” line item and any overage would come from fund balance, if there were no savings elsewhere within the budget. The year-to-date expenses are below budget and fund balances would increase each month not used.

TENTH ORDER OF BUSINESS

Consideration of May 23, 2018 Regular Meeting Minutes

Mr. Slater presented the May 23, 2018 Regular Meeting Minutes and asked for any additions, deletions or corrections. The following change was made:

Line 273: Change “Adjournment” to “Meeting Continuation”

On MOTION by Mr. Schmitt and seconded by Mr. Turner, with all in favor, the May 23, 2018 Regular Meeting Minutes, as amended, were approved.

ELEVENTH ORDER OF BUSINESS

Action Items

This item was not discussed.

TWELFTH ORDER OF BUSINESS

Staff Reports

A. District Counsel: *Woodward, Pires and Lombardo, P.A.*

Mr. Pires referred to Action Item #12 and stated he had not received the information necessary to prepare the Licensing Agreement with Q. Grady Minor & Associates, P.A. (GradyMinor) for the ROW pavement restoration project at Isla Del Sol.

Mr. Pires stated that CDD #1 was named as a Defendant in a lawsuit alleging that its website is not compliant with the Americans with Disabilities Act (ADA). Mr. Adams contacted the District's insurance carrier who retained representation to defend the CDD #1. The Plaintiff filed 78 lawsuits, beginning with suing private entities and progressing to CDDs. Management engaged a consultant to review the website and provide instructions to bring it into ADA compliance. In response to the question of how a website is made ADA compliant, Mr. Adams explained the process, including formatting documents and saving as a PDF file that enables users to select text-to-speech. Regarding those municipalities sued, the court rules state there are no official rules of law; however, there is some guidance available through technical assistant materials that would enable a District to be readily ADA compliant. There will be an initial cost to initiate this process and new document postings on the website will be ADA compliant; however, if older documents must be made ADA compliant, significant costs were anticipated. The legal retention period for each specific document was being researched. Management engaged ADA Site Compliance (ADASC), for \$200 per client, to review each website and make recommendations for bringing the websites into ADA compliance and train staff on posting ADA-compliant documents to CDD websites. The District will receive an ADA Compliance Certification each year, which will be posted on the website home page.

Mr. Pires explained that, by Statute, Special Districts are required to have a website and post the agenda seven days in advance of meetings. The ADA requirement will potentially lead to removing old items that were only required to be posted for a specified time. Mr. Adams noted that a minimal website was counterproductive to the goal for governmental entities to be

more transparent, as the costs to convert older documents will result in minimal postings. The District's insurance carrier provided an acknowledgement of claim. Mr. Adams stated Roper & Roper, P.A., will defend the claim and already filed Motions to Dismiss for other Districts, pointing out that there are currently no rules or laws governing website ADA compliance.

B. District Manager: *Wrathell, Hunt and Associates, LLC*

i. NEXT MEETING DATE: July 25, 2018 at 8:00 A.M.

The next regular meeting will be held on July 25, 2018 at 8:00 a.m., at this location.

C. Operations Manager: *Wrathell, Hunt and Associates, LLC*

Mrs. Adams presented the Field Operations Report and highlighted the following:

- Asphalt Repairs: As reported by Mr. Cole earlier in the meeting, these repairs should be completed within the next two weeks.
- Lake 65-A: SOLitude Lake Management (SOLitude) completed replanting the lake bank and will revisit the opposite golf course side.
- Landscape: Staff continues to tour the property with LandCare to address removal of weeds in a timely fashion and continue to follow up.
- Irma Restoration: LandCare to provide the final punch list of items that have not been addressed to Mr. Dieckmann and Mr. Cole.
- Hardwood Crown Reduction: The final draft Opinion Letter, from McGee & Associates, was pending. The proposal to revise the detailed specs was pending.
- Mosquito Control: Applications began on May 4th, twice per month, through September.
- Shrub Pruning/Hard Cutting: Ongoing; completion expected by the end of the week.
- Flowers Rotation: Commences in August. Red and green Coleus and Campfire (red) and Alabama (green with red) would be planted.
- Plant Renovation Project: Philodendron removal project was completed. Waldrop is revising their proposal due to being excessive. Windham Studio, Inc., the landscape architect, is touring the site next week and would submit a proposal.
- Vehicle/Landscape Damages: \$8,200 check from the Insurance Company was received.
- Street Light/Road Damages: \$4,980 check was received.
- Patrol Services: The Florida Fish and Wildlife Conservation Commission (FWC) and Florida Highway Patrol (FHP) were contacted and expressed interest. Mr. Olson is working with the FWC and FHP in obtaining proposals to present at next month's meeting.

Mr. Slater asked if the front gate that remained open for a week was completely broken. Ms. Puckett stated that the vendor is waiting for the parts, which are expected to arrive today. A

suggestion to include parts into the contract was made. Ms. Puckett stated Mr. DiNardo executed the new software package and upgrades will occur this summer. She suggested discussing whether to change the physical gate contract. Discussion of this item was deferred.

➤ Signage: Lykins is repairing the downed pedestrian sign. The culprit was unknown.

Mr. Schmitt asked about the dead palm tree on Cherry Oaks Trail. Mrs. Adams stated that the results of the tissue samples were pending and, if bud rot caused the illness, the CDD would be responsible for tree removal and replacement.

Mr. Schmitt stated that Isla Del Sol was giving away the four Royal Palm trees at their entrance, which were being removed for the pavement restoration project. Mr. Brougham directed Mrs. Adams to contact Mr. Frank Marco, President of Isla Del Sol, directly. Ms. Lord will provide Mrs. Adams with Mr. Jon Portonoff’s contact information.

THIRTEENTH ORDER OF BUSINESS Supervisors’ Requests

Mr. Brougham suggested considering adding additional mulch to areas that were not addressed this year, due to hurricane clean up, such as the back side of the buffers and the new fence along Peppertree Bent Creek Whisper Trace, while replanting the areas that split leaf was removed. Mrs. Adams was directed to contact LandCare to make a list of the areas where mulch was not added in over a year.

Mr. Turner suggested developing a timeline for the grading and paving of Fiddler’s Creek Parkway, from 951 to Championship, because of its current deterioration. He asked if Club Center Parkway was part of the milling, from Fiddler’s Creek to The Rookery. Mr. Cole will review his notes and prepare a timeline that includes all areas. It was noted that work commences before residents return and the line of credit should be used until assessments are received, since the project was scheduled and included in the Fiscal Year 2019 budget.


FOURTEENTH ORDER OF BUSINESS Public Comments

There being no public comments, the next item followed.

FIFTEENTH ORDER OF BUSINESS Adjournment

There being nothing further to discuss, the meeting adjourned.

**On MOTION by Mr. Turner and seconded by Mr. Schmitt,
with all in favor, the meeting adjourned at 9:04 a.m.**


Secretary/Assistant Secretary


Chair/Vice Chair