

**MINUTES OF MEETING
FIDDLER’S CREEK COMMUNITY DEVELOPMENT DISTRICT #2**

A Regular Meeting of the Board of Supervisors of the Fiddler’s Creek Community Development District #2 was held on Wednesday, April 25, 2018 at 10:00 a.m., at the Fiddler’s Creek Club and Spa, 3470 Club Center Boulevard, Naples, Florida 34114.

Present at the meeting were:

Elliot Miller	Chair
Victoria DiNardo	Vice Chair
Joseph Mayer	Assistant Secretary
Linda Viegas	Assistant Secretary
Bill Klug	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Adams	Assistant Regional Manager
Tony Pires	District Counsel
Terry Cole	District Engineer
Ron Albeit	The Foundation
Valerie Lord	Developer Counsel
Marie Puckett	Fiddler's Creek Security
Robert Dieckmann	Project Manager
Dave Monterry	Resident
Shannon Benedetti	Resident

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mr. Adams called the meeting to order at 10:00 a.m. All Supervisors were present, in person.

SECOND ORDER OF BUSINESS

Public Comments: Non-Agenda Items

Mr. Miller asked if there were any public comment cards. Mr. Adams stated that no one had signed up to speak. Mr. Miller asked if any audience members wished to comment.

Mr. Dave Monterry, a resident, asked what it meant to the CDD if they win or lose the lawsuit against U.S. Bank National Association (U.S. Bank). Mr. Miller stated that this question would be dealt with during the Third Order of Business.

THIRD ORDER OF BUSINESS**Special Counsel Update**

Mr. Miller answered Mr. Monterey's question, as follows:

- The CDD is suing U.S. Bank for \$1,250,000, in addition to seeking punitive damages, to compensate for legal fees. U.S. Bank's legal defense was that the CDD was suing them in their capacity as Trustee and, if the District recovers against them, in their capacity as Trustee, the CDD could only be paid from the Trust's assets, which are already the CDD's own assets.
- Mr. Harvey Pitt, Former Chairman of the U.S. Securities and Exchange Commission (SEC) and the CDD's expert witness, was deposed. Mr. Pitt administered the Trust Indenture Act, which deals with the conduct of Indenture Trustees, which was the same standard applied to U.S. Bank's role. Mr. Pitt testified that U.S. Bank breached their fiduciary duty by not conducting their duties to the required standard.
- U.S. Bank requested Mr. Pitt be re-deposed in his capacity, as an expert, dealing with U.S. Bank, individually and not as trustee.
- The CDD is currently negotiating a stipulation with U.S. Bank to assert punitive damages, individually, which would result in the CDD being able to assert a claim for punitive damages to recover its legal fees.
- Regarding where the funds recovered would be allocated, any funds would be distributed among a variety of things and, since it affected construction accounts after construction is completed, to pay off bonds and to build a new gate house on Sandpiper.
- Regarding whether the funds could be used for Capital or Operating expenses, the funds could not be applied to operating expenses.
- The bonds related to the litigation were the only bonds that were not refinanced.

Mr. Adams stated the bond would be bifurcated as the original bondholder wants to sell a portion of the bonds and create a reserve account. Market interest rates have increased.

FOURTH ORDER OF BUSINESS**Developer's Report/Update**

Mr. Albeit stated there were no updates.

Ms. Viegas asked Mr. Albeit and Ms. Puckett if either received any calls about a low flying helicopter, from the Sheriff's Office, flying over Runaway Bay on Monday afternoon. Ms. Puckett replied no. Mr. Miller asked Ms. Puckett if there were updates to the irrigation system. Ms. Puckett stated there were eight CDD satellites not working but she did not have a

breakdown between CDD #1 and CDD #2. She also said that Bellagio and Whisper Trace's systems were not performing. In response to the question of whether any of the Villages' issues were caused by the CDD's system, she could not say. She said the landscapers would have that information. Communication issues between the satellite and the CDD's system were fixed. She confirmed Wesco has completed their second review of the irrigation system.

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

Mr. Cole distributed an updated Development map and email regarding the Hurricane Irma Restoration Project and provided the following overview:

➤ District's Development Map April, 2018: Detailed the location of all Villages and included the CDD's amended boundaries.

Ms. Viegas questioned an area in Millbrook which did not appear to be color coded correctly. Mr. Cole will review Millbrook's boundaries on the map, before making any corrections to the color coding. The map is on the CDD's website.

➤ Mr. Cole passed out Requisition #142 for \$18,526.26 for the final follow up items for the outstanding projects that included signage, roads, sidewalks, and landscape.

The Board asked Mr. Cole for more detail in the future. The Board also questioned why he had stopped including the detail. He said he will include it again in the future.

➤ Ms. Viegas asked Mr. Cole if Lennar responded to him yet regarding the damage in Millbrook. Mr. Cole stated that he has not heard from Lennar. Ms. Viegas asked Ms. Valerie Lord if Lennar's \$10,000 deposit was still being held. Ms. Lord replied affirmatively.

➤ Mr. Cole reviewed his Hurricane Irma Update Report. BrightView should be done in the next two weeks. Mr. Miller asked Mr. Robert Dieckmann if he heard from every Village yet to confirm everything was done. Mr. Dieckmann stated not all. Mr. Miller asked Mr. Dieckmann to pursue the Villages he had not heard from.

Mrs. Adams advised that she spoke with Mr. Dieckmann this morning and there are trees down and hurricane debris that BrightView is not taking care of so she will come back to the Board with a price to remove them. There was immediate concern from the Board asking a number of questions and noting that Waldrop did not identify these trees or the hurricane debris, but that was part of what Waldrop was supposed to do. Mr. Klug stated if Waldrop did not identify them then Waldrop should pay not the District. Mrs. Adams felt that it will be an extensive area and could be a large expense.

Mr. Pires was asked to draft a letter putting Waldrop on notice. Mr. Pires stated The Foundation is the one in contract with Waldrop so the District would have to notify them to notify Waldrop that they are on notice. Mr. Miller directed Mr. Pires to send a letter to The Foundation, addressed to Ms. Lord.

Mr. Albeit stated he was confused, as Waldrop had a scope, BrightView did the work, and the District was not charged for anything not done. Mr. Miller explained that Mr. Albeit was missing a piece. Waldrop was engaged to identify all the hurricane damage, which they apparently did not do. Mr. Miller asked Mr. Pires and Ms. Lord if either of them remembered if the Agreement between Waldrop and The Foundation required Waldrop to identify every dead tree. They did not recall, but Ms. Lord would check.

Mrs. Adams was asked to list the areas she spoke to Mr. Dieckmann about, and whether there were areas in both Districts. Mrs. Adams stated she toured the area that morning; fallen trees were located from Sandpiper to the Veneta entry, Creative Lane, opposite Lake #88 by the pump station, etc. She stated District #1 did not have as much of an issue as District #2; she was waiting on GulfScapes and LandCare's final, last sweep to see what remains to be done.

Ms. Viegas stated that there is a cost issue here because The Foundation was able to get a volume discount on the contract with BrightView, but the District would have to pay more for just the area that was not identified. A lengthy discussion ensued. The Board all agreed it should not be a District expense.

Mr. Cole continued with his Report:

- > Juniper Landscaping (Juniper) has started grading in CDD #1. CDD #2 grading work will start next month.
- > Bentley Electric (Bentley) has received a lot of their parts, but there are still a lot on order, especially full poles. They are doing repairs as they can with what they have for parts.
- > Lykins-Signtek (Lykins) still says they should be done with the signage work at the end of May.
- > The wall contractor hired to do Creative Lane and the other CDD #2 walls said the concrete repairs are at least a few months away. They have months and months of backlogged work. They are the only concrete restoration company in Southwest Florida. The District just entered into a contract with them so a lot of people are ahead of the District.

Mr. Miller asked if the wall could be taken down on Fiddler's Creek Parkway that is such an eyesore at Veneta. Mr. Cole stated that the District cannot take down the wall because it is part of their contracted work. Mr. Cole said they may not be able to get to it until July. Mr. Klug asked if the wall contractors, doing the wall on Championship, can do it. Mr. Dieckmann said that is not the same type of wall so they could not do the replacement. It was suggested the demo portion be pulled out of the contract so the District could hire someone else, perhaps the CDD #1 contractor working on Championship, to do the demolition and amend the contract. Mr. Dieckmann will look into it.

Mrs. Adams stated, since walls were being discussed, she wanted to report vandalism on the US41 wall at Sandpiper and Aviamar, which will take a while to fix. She stated that she received an incident report from Fiddler's Creek Security saying the vandalism was by kids breaking through to fish. There was a lengthy discussion with numerous questions asking about a police report being filed, the location of the damaged panels, Mr. Dieckmann having extra panels in the Sandpiper warehouse that could be used to fix it, etc. Ms. Puckett could not find the incident report and was not aware of the vandalism. Mr. Dieckmann knew about it and said it was at the point where the 8' tall wall on US41 dropped down to the shorter wall that The Foundation installed. Mr. Miller asked for more information.

Mr. Miller asked if Mr. Dieckmann had anything to add to Mr. Cole's Report. Mr. Dieckmann mentioned the sidewalks were being put down. Mr. Mayer asked about the possible damage to the plantings in that area while sidewalks are being repaired. Mr. Dieckmann said they would take preventative measures.

Ms. Viegas asked if Ms. Lord or Mr. Dieckmann could put the Juniper contract in the drop box so it could be reviewed. All other contracts were there but not Juniper and since they are doing work, the contract must be completed and should be there.

Ms. Viegas asked Mr. Cole if his Report could be part of the agenda book rather than distributed at the meeting. Mr. Cole stated that he does not prepare the Report until the night before the meeting so it would not be possible.

SIXTH ORDER OF BUSINESS**Consideration of LandCare Proposals for
2018 Mosquito Control****A. Roadways**

Mr. Adams stated the LandCare proposals, located in the Agenda package, were revised. The following changes were made:

Frequency: Changed to biweekly spraying, lowering it to 11 applications.

Date Range: May 4, 2018 through September 21, 2018

CDD #2 Roadways Cost: \$23,076

B. Villages

CDD #2 Villages Cost: \$425

The Total Revised Cost was \$23,501 for both the Roadways and the Villages. The County will continue its Mosquito Control program; the CDD is supplementing the difference. Mr. Adams will coordinate the application schedule with the County. Mr. Adams will contact the Village to confirm their intent either to continue or opt-out of the program.

On MOTION by Mr. Mayer and seconded by Ms. DiNardo, with all in favor, the LandCare proposals for CDD #2 Roadways and CDD #2 Villages 2018 Mosquito Control Program, as amended, were approved.

Mr. Klug asked if the correct proposals could be attached to these minutes. Mr. Adams replied affirmatively; the revised proposal will be attached to the minutes.

SEVENTH ORDER OF BUSINESS

Update: Hurricane Irma Recovery

This item was presented during the Fifth Order of Business.

EIGHTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of March 31, 2018

Mr. Adams presented the Unaudited Financial Statements as of March 31, 2018.

➤ Legal – General Administrative Expenditures: Mr. Miller asked why the budget reached 70%, being that it was only halfway into the fiscal year. Mr. Pires believed those charges were mostly related to Hurricane Irma and the Coordination Services Agreement.

➤ Fountain – Water Management Expenditures: Mr. Miller was concerned about the budget already reaching 71%, with nothing to show for it, especially since the fountain, specifically the Aviamar fountain, continues to be an ongoing issue, and questioned if the contractors were

bilking the CDD. Ms. DiNardo asked if the leaking issue at the Aviamar fountain was resolved. Mrs. Adams stated that the pipes were capped, but the expense to install two submersibles pumps inside the fountain has not yet happened. Mr. Mayer asked what it would cost to hire The Foundation to maintain the fountains. Mr. Adams stated the CDD already made that suggestion; however, it would not help the situation since all of The Foundation's major projects are also outsourced. Discussion ensued regarding whether the CDD and The Foundation were using the same outsourcing company; they were not. According to Mrs. Adams, she was told by The Foundation's company who built the Marsh Cove fountain that, once the fountain is completed and turned over to the CDD, they will not service CDD fountains. The only reason they maintain The Foundation's Marsh Cove fountain is because it is still under Developer control. Mr. Miller asked Mr. Albeit if he would ask their contractor if they would service the CDD's fountains. Ms. Viegas stated the Board should not set their expectations too high that The Foundation's contractor would be better than the CDD's contractor, or be able to repair the District's issues, because she has noticed multiple instances of Marsh Cove's fountain being down for long periods and not working correctly. Discussion of the fountains would continue later in the meeting.

- Debt Service Series 2003: Mr. Miller asked why the Report showed the Prepayment interest for the A and B bonds as an asset. Mr. Adams stated the cash is in the prepayment account and is an asset for that fund.
- CDD #1 Liabilities: Costs are associated with the Interlocal Agreement relating to access control for irrigation.
- Due to Developer Liabilities: This amount will be written off.

Ms. Viegas asked a number of questions as to why no charges were applied to the Electricity, Landscaping, and Other Contractual Services line items, and why the Irrigation Supply system line item was already at 73% of budget. Mr. Adams stated the first two were related to a timing issue of when the report was prepared and irrigation costs were associated with the pumps, filter, etc.; it was typical for the majority of expenses to occur in the first six to seven months of the fiscal year and less often during the rainy season, when the pumps are not used as much.

Ms. Viegas asked why there was a new "Legal Fees" line item, under "Other fees & charges", for Debt Service Series 2003. Mr. Miller stated the additional line was related to the Interpleader litigation. Discussion ensued regarding where the previous litigation invoices were

booked. Mr. Adams stated prior invoices were booked to the "Legal – Litigation" line item, under "Expenditures", in the General Fund. Mr. Adams will confirm whether the charge in the new line item was associated with Wilmington Trust.

Ms. Viegas raised an issue with a formula on the Series 2004 Bond Report. Mr. Adams will have the formula in the last column of the Debt Service Fund Series 2004 Report, the "Principal" line item under "Debt Service Expenditures", corrected.

NINTH ORDER OF BUSINESS**Staff Reports****A. District Counsel: *Woodward, Pires and Lombardo, P.A.***

Mr. Pires said he had photos of the cleared Argo Manatee development site for the 225 home sites.

Mr. Miller stated that he and Mr. Mayer attended the Board of County Commissioners meeting regarding public relations and marketing of affordable housing and spoke about the County's lack of public relations. Discussion ensued regarding the County's current plans to construct a lift station, known as a waste facility, in the middle of a residential community, without notifying those residents, which could have built it in an area abutting the existing sewer treatment plant, and that this could happen to the CDD regarding the Park conversion, the dissatisfaction of the County Manager's performance in notifying residents, and even the Commissioners being surprised by the item at the meeting.

Ms. Viegas asked when Mr. Pires thought the Argo development would begin building homes because the land had been cleared a while ago and there has been no activity since. Mr. Pires stated that Ms. Viegas would be able to track the planning to build process information by entering in a portion of the i.d. number through the Collier County View Portal. Ms. Shannon Benedetti, a resident, stated the delay happened because the community was supposed to have access to a lake on Henderson, but now that is in dispute. The price point was unknown; however, it was published that affordable housing would be available to teachers working in the nearby school.

Mr. Albeit stated that The Foundation's fountain in Marsh Cove was maintained by Artesian Environs. Mrs. Adams clarified that Sweetwater maintains all the fountains in CDD #1, except for the lake floating fountains, which is the same company that CDD #2 has used to maintain its pumps and for motor repairs, since Vista Pools (Vista) was terminated. Mrs. Adams is very pleased with the contractor's communication and performance.

Mr. Albeit stated that The Foundation searched for an incident report regarding the vandalized wall on US41, mentioned earlier, and found a call from an Aviamar resident on March 13 regarding boys fishing in the creek behind Millbrook, and that the resident noticed a piece of the wall that was broken. Mr. Albeit said there was no need for a police report which is why one was not done. There was no vandalism noted. It was suggested that, once the wall is fixed, patrols should check the area on a regular basis. Mr. Miller requested the wall be repaired. Mrs. Adams will obtain quotes to get the panel fixed. Mr. Dieckmann stated that he may have some extra panels in the warehouse that will work.

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

i. 784 Registered Voters in District as of April 15, 2018.

There were 784 registered voters residing within the boundaries of the District as of April 15, 2018.

ii. NEXT MEETING DATE: May 23, 2018 at 10:00 A.M.

Due to schedule conflicts, the next meeting will be held on June 6, 2018 at 10:00 a.m., at this location, rather than on May 23, as originally scheduled.

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

Mrs. Adams highlighted the following items:

- Light Replacement Proposals: Three proposals were submitted to change all the incandescent lights at Veneta, Aviamar, and Oyster Harbor fountains to LED lights. This would be the time to make this change since the CDD had savings within their budget to complete this project. Mr. Adams stated the CDD will have a return on its investment of approximately \$20,000 per year, through savings on electricity expenses, and a full return within five years. Discussion ensued regarding receiving only a three-year warranty, how often the LED lights would need to be replaced, and LEDs having a longer life expectancy of about 10 years. Mr. Adams stated the CDD would recover its investment in five years and, with the three-year warranty, the CDD would not have any costs associated with light bulb replacements.

On MOTION by Mr. Klug and seconded by Ms. DiNardo, with all in favor, the Architectural Fountains, Inc., Veneta, Aviamar and Oyster Harbor Fountain Proposals to convert incandescent lights to LED lights, were approved.

➤ **Aviamar Fountain:** In response to a few questions, Mrs. Adams stated that, after the leaking pipe was capped, the nozzle broke off and the fountain was turned off. The piece has been replaced and was no longer an issue and, once the submersible pumps are installed, the fountain will return to its original intensity. In response to Ms. Viegas' question of whether there was still an issue under the fountain; Mrs. Adam stated that the cap fixed that leak. Mr. Adams explained that, after the leaking pipes were capped, the next step would be to modify the plumbing inside the fountain and tie into the submersibles, bypassing the original plumbing.

TENTH ORDER OF BUSINESS

Consideration of March 28, 2018 Regular Meeting Minutes

Mr. Adams presented the March 28, 2018 Regular Meeting Minutes and asked for any additions, deletions, or corrections. The following changes were made:

Line 82: Delete “down”

- **Chair Discussion of the CDD’s Invitation to the Board of County Commissioners to Attend Meeting to Discuss the HUD Program**

****This item was an addition to the agenda.****

Mr. Miller stated that Mr. Phillip Brougham, Fiddler’s Creek CDD #1 Chair, and he met with Commissioner Burt Saunders, regarding the Manatee Park Conversion to Workforce Housing Units. He was not sure if Commissioner Saunders would support the Districts’ positions. Commissioner William McDaniel, Jr., confirmed he would be attending the Fiddler's Creek April 30, 2018, 3:00 p.m. meeting. Mr. Miller asked attendees to inform other residents to attend this meeting and invite others; he hopes Commissioner McDaniel will be the second vote, on the side of the Districts, to stop the rezoning of that park. A total of four Commissioner votes are needed to rezone a property. He expects Commissioner Fiala, and possibly McDaniel to vote on the side of the Districts.

Mr. Miller also mentioned that, at the meeting he attended yesterday, it was voted to bring a referendum to the November ballot to raise the tax by 1%. \$20 million of the projected taxes to be received from that increase would go towards affordable housing. The Board Members stressed they were not for or against it; they just wanted it to go before the voters.

Meeting Minutes Continued

Line 100: Insert “high” before “schools”

Mr. Miller discussed the following:

- Argo is zoned for 225 units; it is unknown whether single or multi-family, this depends on the Developer.
- Mr. Miller attended two separate meetings on April 9 and April 10, regarding the Community Housing Plan.
- June 12, 2018 County Commissioners Meeting, to discuss the Community Housing Plan, to allow County Staff to down zone any commercial property into affordable housing property without input from the community, or approval of the Commissioners.

Meeting Minutes Continued

Line 259: Insert “of defect or disease” after “knowledge”

Line 368: Change "maybe" to “may be”

On MOTION by Ms. DiNardo and seconded by Mr. Mayer, with all in favor, the March 28, 2018 Regular Meeting Minutes, as amended, were approved.

ELEVENTH ORDER OF BUSINESS

Supervisors' Requests

There being no Supervisors' requests, the next item followed.

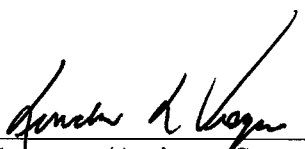
TWELFTH ORDER OF BUSINESS


Adjournment

There being no further business to discuss, the meeting adjourned.

On MOTION by Ms. DiNardo and seconded by Mr. Mayer, with all in favor, the meeting adjourned at 11:35 a.m.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]


Secretary/Assistant Secretary


Chair/Vice Chair