

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

The Board of Supervisors of the Fiddler’s Creek Community Development District #2 held a Regular Meeting on September 26, 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
Bill Klug	Assistant Secretary
Linda Viegas	Assistant Secretary
John Nuzzo	Assistant Secretary

**Also present were:**

Chuck Adams	District Manager
Cleo Adams	Assistant Regional Manager
Jason Olson	Assistant Regional Manager
Tony Pires	District Counsel
Terry Cole	District Engineer
Carrie Robinson (via telephone)	Special Counsel
Ron Albeit	The Foundation
Valerie Lord	Developer Counsel
Robert Dieckmann	Project Manager
Marie Puckett	Fiddler's Creek Security
Shane Willis	Fiddler’s Creek Security
Bill Bury	Resident
Shannon Benedetti	Resident

**FIRST ORDER OF BUSINESS**

**Call to Order/Roll Call**

Mrs. 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 and if anyone in the audience had questions or issues. There were none.

▪ **Developer's Report/Update**

Mr. Miller stated that Mr. Albeit requested to speak first, as he had another commitment and must leave the meeting.

Mr. Albeit stated that there was no Developer's Report but he wanted to speak about the pressure washing business that The Foundation took over because he would like to hear feedback and address comments made at the CDD #1 meeting regarding the schedule, mildew in areas, etc. He discussed the following:

- The machine runs five days per week, eight hours a day, every week and has not stopped, unless the machine was down.
- The roads and monuments, throughout the community, were pressure washed twice, if not three times each year; it is an ongoing process.
- The machine has a GPS monitor so they can track where it has been and where it is when it is out.
- The entire community has been pressure washed once and they are starting on the second round.
- If a particular area is of concern, due to mold or mildew that may be causing the area to be slippery, Security should be called and the machine would be sent to that area immediately.

Mrs. Adams asked Mr. Albeit for a schedule for the rest of the year, including the areas to be pressure washed, as decorations would be put up soon and then those areas cannot be pressure washed. Mr. Albeit stated Mrs. Adams should advise him of when certain things would be done; however, there is no predetermined schedule. Since this was the first year, how long each area takes could probably be better estimated next year and they would be able to create a schedule then. Ms. Puckett stated that Mrs. Adams should provide The Foundation with a schedule and they would fit the pressure washing into Mrs. Adams' plans. Mrs. Adams would provide a list of areas that she wants addressed first.

Mr. Miller asked Mr. Albeit about The Foundation previously stating they would consider trimming and pruning the trees. Mr. Albeit stated The Foundation is not prepared to take on any more businesses; the Districts should continue with their own vendors.

Ms. Viegas asked if the sidewalks are pressure washed at the same time as the streets in each area. Mr. Albeit stated that the work is completed by area; first the sidewalk is pressure washed and then they return to do the curbs. Ms. Puckett stated that the machine has two

different attachments, one for curbs and the other for sidewalks, so they may be pressure washed a day or two apart. Ms. Viegas noted several areas in Millbrook that have mold or mildew and are unsightly but none are dangerous at this time. Mr. Albeit stated that Security should be notified of those areas and they will be addressed immediately. Ms. Viegas stated that the District wants Lennar to fix the sidewalk pavers first because some of the moldy areas are due to water pooling on sunken pavers so it would also be better to pressure wash after rainy season.

**THIRD ORDER OF BUSINESS****Special Counsel Update**

Ms. Robinson stated that the depositions were well underway. Mr. Miller's deposition lasted two days for CDD #2 and Mr. Adams was deposed for one day for CDD #1 and scheduled for a second day in October. Many other witnesses have been deposed and more witnesses are due to be deposed. The next court date is a hearing on October 29 on U.S. Bank's motion to bifurcate the cases, meaning separate the trials for CDD #1 and CDD #2. Opposition to that motion will be filed.

Mr. Miller instructed Ms. Robinson to review the bond, as he was questioned about two documents during his deposition. Specifically, Page 13 of the bond stated that all Trustee costs will be paid out of the reserve account. Another document, prepared by Mr. Pires in 2003 for the \$120 million bonds, stated, in Paragraph 8, that all monies must be used for construction accounts. Mr. Pires stated that was the bond validation final judgment. Mr. Miller stated when Mr. Reyes deposes the representative for U.S. Bank that authorized Ms. Kathy Broecker, of U.S. Bank, to use the construction account funds to pay U.S. Bank's legal fees; he will have to explain why fees were paid out of the construction account. Mr. Miller asked for the status of that deposition. Ms. Robinson did not know but, this morning, Mr. Spivey, of U.S. Bank, acknowledged receipt of the emails and stated that he would work with Special Counsel to reschedule his deposition.

Mr. Miller asked Mr. Adams about the public document request made to CDD #2, after his deposition testimony. Mr. Miller asked the following questions:

- Does the District start the production of documents where it left off with the last production or start from the beginning?

Mr. Pires asked if the request specified a date range. Mr. Adams replied affirmatively; the date ranges differ, depending on the documents requested.

➤ What is the nature and extent of the District's obligation today?

Mr. Adams stated that the District must respond specifically to the items requested, for the date range specified.

Discussion ensued about the documents requested, Board Member emails about the litigation, what is considered confidential, what is considered public, etc. It was determined that Board Members do not need to do anything or submit any emails, unless Mr. Adams was somehow not included on an email regarding the litigation. Mr. Adams will gather all documents requested and send the email portions to Ms. Robinson and Mr. Reyes. Ms. Robinson noted they would state that many of the emails were privileged information.

Mr. Miller asked Ms. Robinson about a line of questioning during his deposition with ITG; specifically, about the present value of the principal amount of the 2003A bonds. The District's belief is, if payment was made to U.S. Bank, as Trustee, or Wilmington Trust, the current Trustee, and the Trustee did not pay the bondholders, it should be deducted from the balance and the District should not be responsible for the interest.

Mr. Klug asked what the argument was to have the case bifurcated. Ms. Robinson stated the argument included many items, such as there is no common party other than U.S. Bank, ITG is only in the CDD #2 case, it would be shorter if trials are separate, and disinterested parties not involved in both cases would not have their time wasted, the jury could become confused if the cases are not bifurcated, and if it is bifurcated it would obviate the need for a nonbinding arbitration, which is required if the trial would exceed five days, etc. Mr. Miller believes U.S. Bank believes having ITG with them would be prejudicial to their case in CDD #1.

Ms. DiNardo recalled a previous motion which combined the cases and questioned if it would be more difficult to have it reversed. Ms. Robinson stated that something notable changed since the beginning of the case, which would warrant the Court reviewing their motion to bifurcate. When the cases were originally consolidated, in 2013, CDD #1 had joined the declaratory judgment case, as an intervener. U.S. Bank, CDD #2 and CDD #1 were in the declaratory judgment case and, notwithstanding, in that case, CDD #2 was the party to both actions and U.S. Bank is now arguing that, since their removal as Trustee, the declaratory judgment action against CDD #2 is now moot so now CDD #2 is no longer a party to that

particular action. Special Counsel disagrees with that analysis and intends to bring that to the court.

**Ms. Robinson left the meeting.**

**FOURTH ORDER OF BUSINESS**

**Developer's Report/Update**

This item was presented following the Second Order of Business.

**FIFTH ORDER OF BUSINESS**

**Engineer's Report: *Hole Montes, Inc.***

Mr. Cole distributed an update on Hurricane Irma and noted the following:

- He would attend the landscape inspection for CDD #2 tomorrow, as the Board's representative, and a punch list would be created.
- All other areas are finishing up, such as signage, street lights, fences and sidewalks.
- Some accounting with The Foundation and CDD #1 is necessary because fencing that was purchased by CDD #2 was used in CDD #1 because there was excess. He will work with Mr. Dieckmann to make sure CDD #2 receives a credit.

Ms. Viegas asked if Juniper is only installing straw mulch around the new plantings. Mr. Dieckmann replied affirmatively. Ms. Viegas asked if GulfScapes and LandCare would fill in the areas not done by Juniper. Mrs. Adams replied affirmatively but she was waiting for Juniper to finish. Ms. Viegas asked Mr. Cole to note, during the inspection tomorrow, the three dead coco plum bushes along Sandpiper Drive that should be replaced before CDD #2 accepts that area.

Mr. Klug believes that an area of sidewalk, where Mussorie and Campanile meet and a pond of water covers the entire sidewalk, should be raised to eliminate the standing water. Mr. Cole noted that Collier Paving is no longer doing sidewalk repairs so he will obtain contact information from Mr. Dieckmann for another vendor that can perform the work.

- Lennar confirmed they will complete the repairs to the Millbrook sidewalk pavers this week.
- As Mr. Michael Laurence, a Millbrook resident, claimed in previous CDD #2 meetings, the Amaranda Court street light was not knocked over by Pulte. Pulte has a photo of the Lennar subcontractor truck that caused the damage. Mrs. Adams pointed out that the amount

of time spent having the District Engineer involved in this could have paid for three light poles. Mr. Cole will follow up with Lennar.

## SIXTH ORDER OF BUSINESS

### Consideration of Revised Post Orders

Ms. Puckett gave an overview of the Revised Post Orders, discussed the following and responded to questions:

- Post Orders are the basic rules and regulations followed by the gate officers and safety personnel.
- The Post Orders were updated because the existing ones were very outdated.

Mr. Miller asked if Ms. Puckett decided to update them on her own. Ms. Puckett stated that they were due to be updated. Ms. Viegas noted that Mr. Charbonneau committed years ago to updating the Post Orders. Ms. Puckett stated that Mr. Albeit had to review them, which took a while. Mr. Miller asked what was changed. Ms. Puckett stated personnel changes and access information.

Mr. Miller asked Ms. Viegas to discuss her review of the Post Orders. Ms. Viegas noted the items changed as a result of her multiple reviews and that she and Ms. Puckett worked together for several weeks on changes. Discussion ensued regarding the sections they worked on and what the changes entailed, including the following:

- Contact information was updated.
- Formatting, grammar, etc.
- More detail was added to references to alcohol, smoking, etc., to avoid any confusion.
- Public access information was updated.

Mr. Pires stated that he reviewed the Revised Post Orders and made some changes during the CDD #1 meeting. He suggested Ms. Puckett include a redlined version of all the changes being made in the next agenda package for the Board to review at the next meeting. Mr. Pires gave a few examples of the changes he made. Regarding providing a redlined document, Ms. Puckett stated that this is a completely new document in a different format. It was suggested that a redlined version of this version be presented. Ms. Viegas confirmed that she did a side-by-side comparison of the old and new version. The changes involved formatting, major clarifications, etc.; nothing was taken out per se but a lot was added to make

it clearer and more concise. Mr. Miller asked what information was added. Ms. Viegas stated the following was added:

- Items under the responsibilities of any security personnel.
- Access processes at each gate, updates to security systems, etc.

Mr. Pires stated that he was comfortable with the changes in the Post Orders.

Mr. Klug noted that Item 1, on Page 4, refers to a contract that he requested but he only received an amendment that expired November 2013. He asked if there was a contract and if it was up to date. It was confirmed by multiple Staff and Board Members that the contract was up to date. Mr. Adams stated that the contract is on an auto-renewal program; the contract renews unless terminated. Mr. Adams would provide the most recent amendment.

Mr. Klug referred to Item 13 and asked what are the CDD Rules and Regulations. Mr. Pires stated that the primary one is related to public access requirements. Mr. Klug asked if there were written Rules and Regulations upon which Item 13 is based. Mr. Pires stated this came up when a bondholder was detained at the gate when trying to get in for a meeting so he made an amendment to the arbitration document about public access at that time. Mr. Adams thought that might have been related to CDD #1. Discussion ensued regarding the Revised Post Orders, access, etc. It was noted that visitors receive a map, when they enter.

Mr. Miller asked Ms. Puckett how the safety officers are trained. Ms. Puckett discussed the Standard Operating Procedures (SOPs), which is another document she is updating, and the Gated Community Security Specialist Certification all officers are obtaining. All officers completed the five days of classes and are now taking their exams. Officers that do not pass will retake the exams. Mr. Miller asked Ms. Puckett to send the exam results to Mrs. Adams to disseminate to the Board. There is no continuing education for the certification.

Mr. Miller asked about Collier County Sheriff Office (CCSO) interaction with the Fiddler's Creek community. Mr. Shane Willis, Safety Lieutenant, stated that CCSO usually lets them know when they come in and what they are doing but not always. Mr. Pires believed all traffic control by CCSO was suspended. Ms. Puckett stated they have been in the community every day. Mr. Willis added that all the safety officers in Fiddler's Creek are certified through the State in order to receive their D licenses. Mr. Nuzzo asked if all Fiddler's Creek safety officers are Florida residents. Ms. Puckett replied affirmatively and stated that they must have a Florida driver's license.

**On MOTION by Ms. DiNardo and seconded by Mr. Nuzzo, with all in favor, the Revised Post Orders, as amended, were approved.**

**SEVENTH ORDER OF BUSINESS**

**Acceptance of Unaudited Financial Statements as of August 31, 2018**

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

Ms. Viegas asked about the new COI line item added on the Balance Sheet, since COI usually means Certificate of Insurance. Mr. Adams stated it is the Costs of Issuance for the bifurcation of the 2014 bonds; all COIs related to that were fully expensed so the \$13 would probably be liquidated into the revenue account of the bond.

Mr. Miller stated the footnote approved at the last meeting must be added to the financials. Mr. Adams stated it will be done.

Ms. Viegas noted the ADA Website Compliance line item that was added and asked if it would be a monthly fee. Mr. Adams replied that it is an annual fee. Management hired ADA Site Compliance (ADASC) to update the websites for all its clients.

**EIGHTH ORDER OF BUSINESS**

**Consideration of August 22, 2018 Special Meeting, Regular Meeting and Public Hearing Minutes**

Mr. Adams presented the August 22, 2018 Special Meeting, Regular Meeting and Public Hearing Minutes and asked for any additions, deletions or corrections. The following changes were made:

Line 218: Change "Consumption" to "Consumptive"

Line 282: Change "water" to "tax"

Mr. Miller thanked Mr. Pires, Mr. Cole, and Mr. Joe Schmitt, a CDD #1 Board Member, for their work and the great product they produced regarding the storm water fee.

Line 357: Change "approved" to "discussed"

Line 399: Delete "all"

**On MOTION by Ms. DiNardo and seconded by Ms. Viegas, with all in favor, the August 22, 2018 Special Meeting, Regular Meeting and Public Hearing Minutes, as amended, were approved.**



## NINTH ORDER OF BUSINESS

## Staff Reports

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

Mr. Miller asked Mr. Pires to go over the canal issue in the Memorandum he distributed to the Board yesterday. Mr. Pires stated that the question of ownership and responsibility for the canal that runs between Cranberry Crossing and Oyster Harbor came under question based on the Restoration Plan and replacement of trees along the canal. He reviewed exhibits and sections from the memo and discussed who is responsible for what. Historically, CDD #1 has maintained the canal and the canal should not have been dedicated to CDD #2, as it is within the physical boundaries of CDD #1; however, it was inadvertently dedicated to CDD #2. CDD #1 is responsible for maintaining the lake banks but then the question arose of who would maintain the vegetation along the west and who would maintain it on the east side of the canal. The concept was that CDD #1 would continue maintaining the landscaping vegetation on the west side of the canal and CDD #2 would continue maintaining the vegetation on the east side. Mr. Miller asked for an explanation of why CDD #2 has any maintenance responsibility if it should have been dedicated to CDD #1. Mr. Pires pointed out that, technically, despite the error, CDD #2 has responsibility under the plat because it was dedicated to CDD #2. The concept was the assignment of the CDD #2 dedication to CDD #1 but to have an Interlocal Agreement between the two CDDs regarding maintenance of the vegetation and who would maintain the canal. Mr. Miller reiterated his question of why CDD #2 had any responsibility, other than to ensure conveyance to CDD #1. Discussion ensued regarding historically which CDD maintained which parts. CDD #1 has maintained the canal on the Oyster Harbor side, which was platted as a part of Oyster Harbor but within the boundaries of CDD #2. Mr. Miller asked again why CDD #2 is maintaining any of the area. Mr. Cole stated because it was dedicated to CDD #2 for maintenance of open space tracts, in the Oyster Harbor plats and, now, it is suggested that CDD #2 maintain the east side of the canal bank, while it maintains the open space at the top of the bank. Mr. Miller asked why it was originally intended that it would be CDD #1. Mr. Adams stated it was because CDD #1 maintained it before CDD #2 was ever created.

Mr. Pires stated that he will draft an Agreement between the two CDDs with a proposed assignment of the dedications, along with a draft Interlocal Agreement for the maintenance of

the canal, based on the recommendations in the Memorandum, which he, Mr. Cole and Mr. Adams worked on.

Ms. Viegas asked if that canal becomes CDD #2's responsibility, after the Sandpiper bridge or under the bridge. Mrs. Adams stated that the water was already designated. Mr. Cole stated that, from the jog on the north side of the bridge, it becomes CDD #2's responsibility. Mrs. Adams stated that the contractor receives maps that clearly specify which areas are CDD #1 and CDD #2.

Mr. Pires thanked Mr. Miller for his earlier recognition of the work on the storm water memos and presentation to the Board of County Commissioners and noted the great job by Mr. Schmitt. It should be monitored, as some County Commissioners want to bring the fee back. There were 125 registered speakers at the meeting and 90 spoke. The County spent a lot of money on the notices to home owners and the resolutions that passed. Mr. Miller felt that, if the fee was reinstated, there would be a good case to sue the County.

Mr. Miller discussed affordable housing and a meeting tomorrow and urged everyone to attend due to discussion regarding the Manatee area. The Board of County Commissioner's meeting on October 9 would have discussion regarding allowing staff to downgrade zoning of commercial property to affordable housing, without approval. Discussion ensued regarding the County, affordable housing, traffic impact, impact on schools, zoning, fighting the proposed rezoning, etc.

Mr. Pires stated that Mr. Govil, the homeowner who, at the last meeting, requested approval to install a generator on the side of his home in the District's easement, signed the agreement that the Board reviewed.

Ms. Shannon Benedetti, a Chiasso resident, stated that Mr. Phil Brougham, CDD #1 Chair, stated at the CDD #1 meeting that there is no funding for Manatee Park. Mr. Miller stated that he was aware of that; the County used the money originally earmarked for Manatee Park for Eagle Creek Park and the County found funds to build a sports park.

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

**i. NEXT MEETING DATE: October 24, 2018 at 10:00 A.M.**

The next meeting will be held on October 24, 2018 at 10:00 a.m.

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

Mrs. Adams distributed and reviewed the Operations Report. She reported the following:

- Veneta entry monument repairs were completed a few weeks ago and the repairing of the nameplates has been requested.
- Several residents requested that the lights on the Veneta fountain be kept on until midnight, rather than 11:00 p.m. Since the lights are LED, the cost should be minimal.

The Board consensus was to keep the lights on until midnight and, cut the time back, in the future, if the cost was too much.

- A contractor has not been found to repair the broken Aviamar stone bench knocked over months ago but Lykins-Signtek (Lykins) agreed to look at it to see if they can make necessary repairs.
- Letters were sent to residents impacted by the lake erosion repairs.
- Staff continues to review landscaping throughout the entire property.
- Mulching will be completed in November, prior to the Thanksgiving holiday.
- The Developer approached Staff to schedule and cut the ficus trees abutting Creative Lane, opposite the Museo buffer, which will be abutting the future linear park planned by the Developer, on a three-year rotation, taking 25% off the top of the trees each of the three years, to bring them down to a hedge. Mrs. Adams requested a proposal from Davey Tree (Davey).

Discussion ensued regarding the area and how the trees would be accessed. Mr. Klug questioned if the trailer park, on the other side of Creative Lane, will be visible to second floor residents in Veneta if the trees are trimmed. Mrs. Adams stated the hedges will be 12' tall at the final cut and a 4' to 5' berm below the hedges will raise it even higher.

The first 715' in from US 41 does not belong to CDD #2; it is owned by the Developer so she will obtain two proposals from Davey, one for each area. Mr. Dieckmann stated that the gate in the staging area used by Juniper would stay but could be opened if needed to access that area.

Ms. Benedetti felt that the Board will receive complaints and stated that the hard cut should be communicated to residents. Mrs. Adams stated that the Board agreed, at past meetings, to communicate to HOA Board Presidents, via e-blasts, any hard cuts that would impact resident views. Ms. DiNardo asked Mrs. Adams to make sure the e-blast stated it is a three-year project.

Mr. Klug stated the standard should be that nothing is cut as low as the cuts made in Mussorie. Mrs. Adams stated the comparison is not the same; ficus tree and ficus hedge trimming are very different. Discussion ensued.

Mr. Bill Bury, a Bent Creek resident, voiced his opinion that the problem is the lack of communication to residents, such as with the Antilles project. Residents should be told if their view will change. Mr. Miller noted that CDD #2 made a commitment to notify residents. Ms. Viegas asked Mr. Bury if he contacted CDD #1, since he lives in CDD #1, as she was not sure if CDD #1 made the same commitment to contact residents. Mr. Bury replied affirmatively; he contacted CDD #1.

Mrs. Adams continued her report:

- Juniper is almost completed with their work and once completed, mulching will commence.
- Specifications for tree pruning were still pending from the Landscape Architect.
- Irrigation Design Group (IDG) would attend next month's meeting, as they could not attend today because they did not receive the irrigation CAD files until September 19, which did not give them enough time to prepare.
- Street lights and street signage are being inventoried to determine where repainting is necessary.

Ms. Viegas asked if that was why they have pink or blue tags. Mrs. Adams replied affirmatively. Ms. Viegas asked what the colors signified. Mrs. Adams did not know. Proposals for the repainting will be presented, once they are received.

- District-owned street signage inserts are being inventoried to determine which ones are faded and need to be replaced.
- The curbs and streets have numerous rust stains caused by iron oxide. During the summer rains, the bottom of the irrigation ponds are stirred up and the oxide is drawn up through the pump stations and into the irrigation lines. Staff requested quotes from SOLitude to install aeration systems in the irrigation ponds to help break down the rotting vegetation at the bottom of the ponds. The proposal will be presented at a future meeting.

Ms. Viegas asked about the current staining. Mrs. Adams stated she gave three products to Mr. Albeit to try to clean the current stains with the pressure washer. In response to Ms. DiNardo's question, Mr. Adams stated that the current rust stains must be chemically treated.

**TENTH ORDER OF BUSINESS**

**Supervisors' Requests**

Ms. Viegas stated that a realtor brought to her attention that a Millbrook resale was not showing that the CDD bond portion was paid off by Lennar; this was the second time this happened. She asked if there was an issue with the bond payoffs being accurately reflected. Mr. Adams stated that they must obtain an estoppel letter from AJC Associates, Inc. (AJC). Ms. Viegas stated that they did and it had errors. Mr. Adams stated that, regardless of what the budget says, the estoppel letter will have the true figure.

Ms. Benedetti stated she is currently reporting irrigation issues to Security. Mrs. Adams stated that is the correct procedure.

**ELEVENTH ORDER OF BUSINESS**

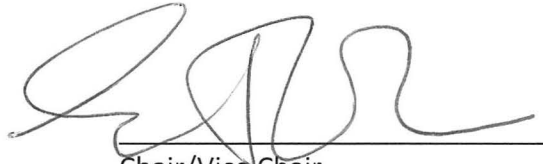
**Adjournment**

There being nothing further to discuss, the meeting recessed.

**On MOTION by Mr. Klug and seconded by Ms. DiNardo, with all in favor, the meeting adjourned at 11:55 a.m.**

[SIGNATURES APPEAR ON THE FOLLOWING PAGE

  
Secretary/Assistant Secretary

  
Chair/Vice Chair