

**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 January 23, 2019 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
Tony DiNardo	Developer
Ron Albeit	The Foundation
Valerie Lord	Developer Counsel
Robert Dieckmann	Project Manager
Shane Willis	Fiddler's Creek Security
Monique Irmen	Resident
John Campbell	Resident
Michael Buck	Resident
Ronald Holmes	Resident
Christine Brubaker	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 submitted. There were none.

- **FC Dorado, LLC Signage Request at Aviamar Entrance**

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

Mr. DiNardo stated that FC Dorado, LLC would like to install a sign on Sandpiper, at the entrance to Aviamar, promoting the new luxury coach homes being built in Dorado village. Ms. Viegas asked if the sign would be similar to the ones already on Dorado Lane. Mr. DiNardo stated it would have the same information but would be larger. He showed a picture of the sign placement and stated it would bring attention to the model, since the model is not built yet. In response to Mr. Klug's question, Mr. DiNardo stated this is similar to signage in Marsh Cove; he estimated it would be up for two years. He stated that it behooves the District for the homes to be built and sold in the District.

Mr. Pires stated that, since the Board is being asked to take action and this item was an addition to the agenda, it should be opened for audience questions. He noted that a two-year license agreement and easement agreement will be needed.

There were no audience questions.

**On MOTION by Mr. Klug and seconded by Ms. DiNardo, with all in favor, FC Dorado, LLC's request to install a sign at the Aviamar entrance and authorizing Staff to prepare a License Agreement and Easement Agreement, if necessary, were approved.**

Ms. Lord was asked to send the required agreements to Mr. Pires.

- **Manatee Park Zoning Matter**

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

Mr. Miller recalled that the Board of County Commissioners (BOCC) recently declined changing Manatee Park into affordable housing, but many remain concerned that this proposal may come up again. He suggested to the BOCC and the Parks and Recreation Advisory Board (PARAB) to turn Manatee Park into gardens, to raise money for it voluntarily, and to have volunteers from the area man the park. A budget and design to do this would be necessary. When he was asked at one of the meetings how much it would cost, he estimated \$2 million and was surprised when the County estimated \$10 million. The PARAB directed its staff to develop proposals and Mr. Miller offered them his assistance.

Mr. Klug asked for confirmation that there would be no recreational component to the gardens and that it would just be walking paths. He asked if there would be a parking lot. Mr.

Miller replied affirmatively; there would be no recreational component and there would be a parking lot, as well as restrooms, which would increase the cost.

Ms. Monique Irmen, a resident, felt that the proposals would be costly and asked if the District should find an alternative group to provide a less costly proposal. Mr. Miller stated that could be done after reviewing the initial proposals. Ms. Irmen asked about involving Naples Botanical Gardens. Mr. Miller stated he raised that possibility but the PARAB believed they would not be helpful.

Ms. DiNardo asked if the gardens would be open to the public or if there would be a charge to enter. Mr. Miller replied that it would be open to the public, at no charge.

**THIRD ORDER OF BUSINESS**

**Special Counsel Update**

Ms. Robinson stated that there was a hearing yesterday before the new judge at which the judge denied the District's request to be excused from non-binding arbitration and go to mediation. She stated that the judge believes in the arbitration process so she denied the request. The case is now headed for arbitration for the consolidated cases with CDD #1. The parties have ten days to select an arbiter. Mr. Miller stated his understanding that the new judge is a smart, no nonsense judge. Ms. Robinson stated that the judge is very strong in her belief about the importance of arbitration. Mr. Miller stated his understanding that actual live witnesses will not have to attend the arbitration and that depositions and testimonies can be used. Ms. Robinson confirmed Mr. Miller's understanding.

Ms. Robinson requested an Executive Session for tomorrow, at 9:30 a.m., to discuss ongoing litigation matters that are not appropriate for discussion during an open meeting. Today's meeting would be continued to Thursday, January 24.

**Ms. Robinson left the meeting.**

**FOURTH ORDER OF BUSINESS**

**Developer's Report/Update**

Mr. DiNardo provided the following update:

- The Foundation's Hurricane Irma work was 99% completed. They negotiated some extra work with Juniper, such as additional bougainvillea around the Veneta fountain, out of their funding. They are allocating extras to the Districts appropriately.

➤ The Developer is behind on the construction of the wall on Sandpiper, which will match the US 41 wall; permits were pending.

➤ The Developer is planning single-family home products in Oyster Harbor this year.

Mr. DiNardo asked if the Creative Lane trimming was completed. Mrs. Adams replied affirmatively. Mr. DiNardo stated the area was not cleared out by Juniper yet.

Mr. Miller asked when the linear park would be built. Mr. DiNardo stated they are working on that now, along with coming up with concepts for the gate houses. They are planning on spending about \$500,000 from the capital acquisition fund and the capital reserve fund for new pickleball courts, paving around the pickleball courts, and bulkhead work. That work would occur before the linear park, which will be phased in and is estimated to cost \$2.5 to \$3 million.

Ms. Viegas asked about the street light at Amaranda and Aviamar that was knocked down and if Pulte agreed to pay for it yet, since Mr. Albeit had not responded to her November email showing Pulte agreed that they caused the damage and would replace it. Mr. Pires stated that he sent a letter to Ms. Lord asking for Pulte's deposit to be held and for the street light to be paid for out of those funds. Mr. DiNardo stated that Mr. Pires and Ms. Lord should coordinate to advise Pulte that funds will be taken out of their escrow account if they do not pay for the street light; although, he thought it might be necessary to sue Pulte before the funds can be taken. Mr. Miller recommended advising Pulte of the claim and the cost of the claim. Mr. Pires stated that he would contact Pulte and confirmed that he had a copy of Ms. Viegas' Pulte email.

Ms. Viegas asked about the new gate arms, which do not appear to be working well and are in the up position often. Mr. DiNardo stated that the software and hardware were being updated and asked for patience; they are working on getting parts for the gates. He assured the Board that the camera system and the patrols are working and the drone is being implemented, which will be used during the day checking on construction sites and lakes that have gators. ISN is the software company for the gate access system and AV-Tech is doing the hardware.

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

Mr. Miller asked if one of the previously discussed lake erosion issues was about the lake that backs up to Menaggio, as a resident approached him about the exposed geotubes and

asked if plantings would retard erosion as much as geotubes. Mr. Cole presented a map and outlined where erosion issues were previously noted. Mr. DiNardo stated that plantings were installed before but homeowners destroy them or complain because it ruins their view. Regarding plantings, Mrs. Adams stated it is dry season so water levels are lower but, in rainy season, any new plantings will drown because they would be underwater. Mr. Cole stated that 7% of the lake areas must have littoral plantings. He identified areas with littoral plantings.

Ms. Irmen asked if plantings are trimmed in the dry season. Mrs. Adams and Mr. DiNardo replied no; it is all natural, as the plantings cannot be touched, per the County requirements.

Mr. Cole presented Requisition #148 for the Series 2005 Bonds, for approximately \$17,000. \$12,500 was to close up the Veneta construction entrance and add landscape plantings, etc.; GradyMinor construction inspections and some soft costs accounted for the rest of the requisition.

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

- Everything within CDD #2 was basically completed.
- Some warranty issues related to trees and plants were raised.

Mrs. Adams stated that some trees are being replaced and some are being monitored.

- The paver blocks for the Lake 88 bench were completed.

Mr. Klug asked if there would be another year warranty on new trees that are planted to replace trees that were under warranty. Mr. DiNardo replied affirmatively.

Ms. Viegas asked how often items would be reviewed, as she sent a number of photos of dead or dying trees that started this review. Mrs. Adams stated it would be part of the ongoing review by GulfScapes and LandCare as they performed their regular maintenance. Mrs. Adams asked Ms. Viegas to send more photos, whenever she saw anything. Ms. DiNardo noted that there were ant hills all around. Mrs. Adams would notify the landscape providers of these issues.

Mrs. Adams recalled the discussion at the last meeting about benches and stated that Mr. Dieckmann ordered the bench for Lake 88 and suggested that it be placed at the Veneta fountain, since it has a back, until they determine if benches with no backs will be used at the lakes. Mr. Miller preferred benches with backs. Mr. Klug stated that he raised the idea to look at back and backless benches but, since the cost difference is low, he felt that it was okay to purchase the benches with backs.

➤ Proposals are being obtained for the Amaranda street lights that are not working, brick pavers around the Veneta fountain, sidewalk and road repairs, etc. There was difficulty getting bidders and proposals; some contractors are very busy, which makes it tough to get projects completed.

Ms. Viegas recalled it being noted a while ago that a transformer was taken out by Pulte, due to replatting, which caused the street lights on Amaranda to not work, and the District should not pay anything to get them back on. Ms. Viegas suggested Mr. Cole follow up with Pulte for the status on the transformer that had been removed.

Ms. Viegas asked Mr. Cole if he followed up on the signage request made by Mr. Leroy Smith at the last meeting. Mr. Cole replied no and stated that he would follow up.

Mr. Miller stated there was a discussion at the CDD #1 meeting where Mr. Willis stated that cameras could be added at traffic circles to catch people who go around the roundabouts the wrong way. Ms. Viegas asked Mr. Willis if cameras were being installed at the roundabouts. Mr. Willis replied no. Mr. DiNardo stated that the issue with installing cameras in that location is that there is no internet access. Ms. Viegas stated that it would be very expensive based on a previous review at Veneta. Mr. DiNardo discussed other instances where cameras were installed. The tapes of those locations are periodically reviewed but are not very effective; therefore, The Foundation would not pay to install a camera in that location. Mr. Miller stated that the Aviamar fountain should also be monitored because people go around the circle the wrong way. Mr. Willis stated he was referring to Traffic Hawk in the CDD #1 meeting. Ms. Viegas asked for clarification, since she believed Traffic Hawk would catch speeders but most drivers slow down around traffic circles. Mr. DiNardo stated that Traffic Hawk would capture all vehicles, but someone must watch the film and find the vehicles going the wrong way.

Mr. Michael Buck, a resident, noted that GPS says to take a left turn at Veneta because it does not recognize the fountain/traffic circle. It was stated that the CDD cannot do anything about the GPS directions.

**SIXTH ORDER OF BUSINESS**

**Presentation/Discussion: Drainage Easements and Encroachments at 3126 and 3130 Aviamar Circle (Overhead Exhibits to be Provided by Mr. Cole at Meeting)**

Mr. Cole presented an aerial photo of Millbrook Lots 1 and 2, at 3126 and 3130 Aviamar Circle and stated that he was notified of a generator and pad in the drainage easement, between Lots 1 and 2. Mr. Pires sent a notice to the Lot 2 property owners instructing them to remove the generator. Mr. Cole stated that it was discovered that there is no drainage pipe between Lots 1 and 2, even though it is a drainage easement. The pipe is on the south side of Lot 1, near the Millbrook monument sign and is actually located in Tract E. Currently there is no pipe in Lot 1 but a drainage easement on the south side of the lot is needed to cover future maintenance of the pipe in Tract E. Mr. Pires stated that this discussion is about Lot 1 but Lot 2 is what started this; the pipe is in Tract E. CDD #2 has a maintenance easement over Tract E but it is still owned by the Developer; it is one of many areas that have not been turned over to the District.

Mr. DiNardo stated that the Developer will turn over Tract E to the District so, once the District has Tract E, it would not need to enter onto anyone's property to repair the pipe. Mr. Cole stated that the District would need an easement into Lot 1 because the pipe is right on the property line, in case the pipe ever needs to be repaired. Discussion ensued and the following points were made:

- Even though there is no piping between Lots 1 and 2, there is an easement and there is pool equipment and A/C equipment on the easement from both 3126 and 3130 Aviamar; both property owners are currently encroaching on the District's drainage easement.
- If the District does not have a need for the easement between Lots 1 and 2, the District could vacate the easement and get a 5' easement on the south side of Lot 1, if the property owners are willing to give it to the District.

Mr. DiNardo asked if Lennar knew about the easements when they built the homes because, if they did, they should not have put the A/C units or pool equipment there and should have requested an encroachment agreement, as they did in other parts of Millbrook.

Since there is no pipe between Lots 1 and 2, Mr. Pires stated that, even though the District has a drainage easement, it could vacate the easement. If the pipe is in Tract E and work may require encroaching onto Lot 1, the District would need an easement from the Lot 1 property owners but the District must first acquire Tract E from the Developer.

Mr. Miller surmised that the options were for the District to install a pipe in the easement between Lots 1 and 2, or to obtain an easement on Lot 1 for the pipe in Tract E.

If the District opted for Tract E, Mr. Klug asked why the District would not simply vacate the easement between Lots 1 and 2. Mr. Miller stated that is one alternative. Mr. Pires stated the only issue about asking for an easement over the southern portion of Lot 1 is the potential issues if the pipe needs to be replaced and repaired. Mr. Klug asked if there are currently encroachments on the southern portion of Lot 1, where the District would be seeking an easement. Mr. Cole replied that there is pool equipment there but it is not encroaching on a CDD easement because there is currently not an easement there. If the District proceeded with an easement, the District could recognize it and require the equipment to be moved, at the District's cost.

Mr. Ronald Holmes, 3130 Aviamar Circle, stated it would cost thousands of dollars to move the pool equipment. Mr. Miller stated that the cost should not be Mr. Holmes'.

Discussion ensued regarding whether a new pipe could be installed, rather than repairing the existing pipe, if it breaks. Mr. Cole confirmed that was an option. Ms. Viegas asked for the potential cost of a repair versus installing a whole new pipe. Mr. Cole estimated \$25,000 to \$40,000 to install a new pipe. Multiple options were discussed. Ms. Viegas asked, if the homeowners would give the District an easement, would the District let the homeowners keep their pool equipment where it is, similar to how the District allowed the homeowner in Oyster Harbor to keep their generator, that encroached on the District's easement, via an encroachment agreement that indemnified the District.

Mr. DiNardo suggested that the homeowners write to Lennar telling them they put their equipment on a CDD easement. Mr. Miller asked how this happened. Mr. DiNardo stated mistakes are made and Lennar is the one at fault here.

Ms. Christine Brubaker, 3130 Aviamar Circle, stated Lennar knew because 3126 and 3130 are both Maria models and they had 3' cut off from the sides because of the District's drainage easements.

In response to a discussion, Mr. Holmes, stated that they were not willing to give the District an easement.

Ms. Irmen stated that there are generator requests in her village and asked who is responsible for making sure they are not being placed on an easement. Mr. Pires stated it is the contractor's responsibility, while obtaining the permits. The problem with the situation under discussion is the contractor never obtained permits. Mr. Pires recapped what an encroachment agreement entails, conditions of how encroachments would be addressed in the agreement,

etc. Mr. Pires stated that, if the District does not vacate the easement and the encroachments remain, when the owners of Lots 1 and 2 sell or refinance, it will appear as an encroachment and the owners will not be able to consummate the sale or refinancing transaction unless they have a vacation of the easement, or a non disturbance and encroachment agreement.

Discussion ensued regarding the easements needed by the District, whether the District needs an easement, encroachment agreements, the potential future sale issues to the homeowners if there is no encroachment agreement or the District does not vacate the current easement, the issue being between the homeowners and Lennar, etc. Mr. Miller stated that the benefit of an encroachment agreement is that the homeowners can take that agreement to Lennar to get an indemnification. Discussion continued.

Ms. Viegas asked if the District would ever install a pipe between Lots 1 and 2 for any foreseeable reason. Mr. Cole replied no.

Mr. Klug asked what type of warranty deed is on the lots. Mr. Pires stated that he was trying to find that information; depending on the warranty deed, homeowners could put Lennar on notice.

Mr. Pires stated if the District vacated the easement, it would provide an opportunity for Lot 2 to place equipment on that south side of Lot 2, such as a generator, but that is not an issue for the CDD; it would be an issue for the Millbrook Association.

Regarding what happens if the District vacates the easement, Mr. Pires stated that it might need to go to the County; he needs to research it further. He discussed the process, if the easement must be vacated on the plat if it involved the County. The District could consent in advance to vacate for the home owners to get the easement vacation of the plat on record.

**On MOTION by Mr. Klug and seconded by Ms. DiNardo, with all in favor, directing District Counsel to research the procedures for vacation of the easement between Lots 1 and 2, contingent upon and to take effect after the grant to the District of Tract E by the Developer, was approved.**

Ms. Viegas asked for clarification, as it sounded like, if the District consents to vacate, it is up to the home owner to pursue it but they have stated they do not want to pursue it and do not want the District to vacate the easement. Mr. Miller speculated that, if the District vacates, it becomes a County, or Village Association issue.

Mr. DiNardo stated that the District owes Oyster Harbor \$13,137, as the District accepted the Oyster Harbor fountain in May, 2015 but the Oyster Harbor Association kept paying the water and electric bills. Mr. Albeit stated that he already sent the bills and backup to Mrs. Adams. Mrs. Adams stated that she has not finished reviewing them, but some bills are not the District's responsibility, such as the lift station bills.

**On MOTION by Ms. DiNardo and seconded by Mr. Klug, with all in favor, reimbursement of water and electric bills for the Oyster Harbor fountain, subject to staff review, was approved.**

**SEVENTH ORDER OF BUSINESS**

**Presentation/Consideration: Passarella & Associates, Inc., Proposal for GIS Map Services**

Mr. Adams requested to defer this item to the next month.

Mr. Miller and Ms. Viegas both stated they had concerns about the Agreement. Mr. Adams agreed and said the only thing in the Agreement that was relevant to the Board was the Scope of Services.

Mr. Klug asked what GIS stands for. Mr. Adams explained that it means Geographic Information Systems, which is a mapping system that shows tracts, plats, easements, etc.; it is digital and cloud-based. CDD #1 has been using the system and was about 90% complete.

This item was tabled to the next meeting.

**EIGHTH ORDER OF BUSINESS**

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

Mr. Adams presented the Unaudited Financial Statements as of December 31, 2018. Mr. Miller asked what the field management services were for. Mr. Adams stated it was the work performed by Mrs. Adam in controlling and overseeing the vendors that service the District. Mr. Miller asked about the supply system charge, under irrigation, and if it would be part of the workshop. Mrs. Adams stated it would be; they are compiling a lot of information in preparation for the workshop. She briefly described what would be discussed at the workshop, who would be attending, etc.

Mr. John Campbell, a resident, asked if the public is invited and when the workshop was being held. Mr. Adams stated the workshop will be February 27, 2019 at 1:30 p.m., after the

CDD meetings; just as with every CDD meeting, the public is also welcome to attend the workshop. Mr. Miller asked if the landscape companies would be involved. Mr. Adams stated not at this time.

Ms. Irmen asked if the workshop will only deal with the main CDD lines. Mr. Adams stated no; village information will also be covered by the Aqua-Matics representative gathering the information.

**NINTH ORDER OF BUSINESS**

**Consideration of Minutes**

**A. November 14, 2018 Regular Meeting**

Mrs. Adams presented the November 14, 2018 Regular Meeting Minutes.

The following changes were made:

Lines 53 and 70: Change "Hart" to "Hardt"

Line 181: Change "Certificate" to "Grant" and "COE" to "GOE"

Line 239: Change "was" to "were"

Line 374: Change "FOURTEENTH" to "NINTH"

Line 378: Change "FIFTEENTH" to "TENTH"

**On MOTION by Ms. DiNardo and seconded by Mr. Miller, with all in favor, the November 14, 2018 Regular Meeting Minutes, as amended, were approved.**

**B. December 12, 2018 Regular Meeting**

Mrs. Adams presented the December 12, 2018 Regular Meeting Minutes.

The following changes were made:

Lines 231 and 232: Change "Aquamatics Irrigation" to "Aqua-Matics Irrigation Systems, Inc."

Line 306: Change "principle" to "principal"

**On MOTION by Ms. DiNardo and seconded by Mr. Miller, with all in favor, the December 12, 2018 Regular Meeting Minutes, as amended, were approved.**

**C. December 14, 2018 Continued Meeting**

Mrs. Adams presented the December 14, 2018 Continued Meeting Minutes.

The following change was made:

Line 51: Change "Reyes and Ms. Robinson" to "Reyes, Ms. Robinson, and the Court Reporter"

On MOTION by Ms. DiNardo and seconded by Mr. Miller, with all in favor, the December 14, 2018 Continued Meeting Minutes, as amended, were approved.

**TENTH ORDER OF BUSINESS**

**Staff Reports**

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

Mr. Pires reported the following:

➤ The storm water utility fee was discussed at the Productivity Committee meeting. Other funding sources and the need for the fee were the two main discussion points. The meeting was much better attended.

Mr. Miller asked about the other committee that was supposed to be formed. Mr. Pires stated it was never established because the Productivity Committee was tasked with looking at the fee program.

Mr. Pires reviewed the discussions and the history of the fee, previous funding sources, other funding options, lease versus buying equipment, etc.

Mr. Miller asked if Mr. Pires supplied his documentation to the Committee. Mr. Pires stated he had but it was not time to discuss it yet. Mr. Miller asked when it would be time. Mr. Pires stated that the next meeting is supposed to be in February, but he projected it would not be until March. Mr. Miller asked Mr. Pires to attend the BOCC meeting when it is discussed. Ms. DiNardo asked when that meeting would be. Mr. Pires estimated April or May and stated that he will attend.

Mr. Miller asked if any of the 1% sales tax increase was allocated to the storm water fee. Mr. Pires stated not that he recalled but it could be a source because it is infrastructure.

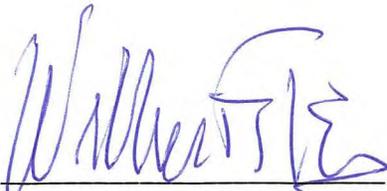
**B. District Manager: *Wrathell, Hunt and Associates, LLC***

**i. NEXT MEETING DATE: February 26, 2019 at 10:00 A.M.**

It was clarified that the next meeting will be held on February 27, 2019 at 10:00 a.m.; the irrigation workshop would also be held on that day.

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

Mrs. Adams distributed her report.



Secretary/Assistant Secretary



Chair/Vice Chair