

**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 October 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
Linda Viegas	Assistant Secretary
Bill Klug	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
Ron Albeit	Foundation General Manager
Valerie Lord	Foundation Counsel
Shane Willis	Fiddler's Creek Security
Gerry Gorman	Resident
Michael Buck	Resident
Michael Laurence	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

There were no public comments.

THIRD ORDER OF BUSINESS

Special Counsel Update

There was no Special Counsel update.

Disclaimer: These minutes are a summary of the meeting and are intended to provide highlights of the topics discussed, items considered and actions taken.

Mr. Miller discussed the interpleader litigation, which was the subject of several settlement agreements. The settlement of the interpleader litigation case involving the CDD was contingent upon refunding the 2003A bonds, which was underway. The bond refunding pre-closing would be held Monday, with the closing on Wednesday; after which, the interpleader litigation should be settled. He stated that, as part of the litigation settlement, the District would pay a total of approximately \$92,000 of Wilmington Trust's legal fees; however, the Developer previously agreed to forgive \$100,000 of an "account payable" amount owed to them by the District, so payment of the legal fees would not impact the District financially.

Mr. Miller asked Mr. Adams to make certain the auditors know that the \$100,000 Accounts Payable liability comes off the District's books. Mr. Adams stated the signed agreement was in hand; the bond closing would trigger it and the transfer out should be reflected in the October financials.

Mr. Miller stated that he had a major issue with the description of the interpleader case in the Preliminary Limited Offering Memorandum (PLOM), which stated there was a default in the payment of the bonds that was attributable to the District. He stressed that the District did not default; rather, it was the Trustee that defaulted, and, after many discussions with the lawyers and all parties involved, the language was changed.

Mr. Miller discussed Statutes related to the use of bond funds, certification of the work completed using bond funds, the discovery that Mr. Cole had prepared a report confirming that the 2003A bond work was substantially completed and the Board accepted the report but it was not officially certified and concerns of the Underwriter that some homeowners would pay off their bond payments within 30 days after the refunding, which would be allowed by Statute but could result in less interest if the completion of the work was not previously certified by the District Engineer. Furthermore, if money is left in the construction account after the work is certified, the remaining money could be used to pay off the bond, which was done as though the work had been certified. Due to this situation, a Certification would be presented by Mr. Cole confirming the information in the report and Mr. Pires would present a Resolution stating that the work related to the 2003A bonds was completed, which would allow homeowners 30 days to prepay their bond debt without interest. Also approximately \$50,000 would be transferred to the interest account from the revenue account in case any homeowners pay off their bond debt so no interest will be lost. Mr. Adams stated that was already done and Wilmington Trust already transmitted funds of about \$47,092.

Mr. Miller discussed the success of the refunding, despite the need to close by November 1, 2019 making it not possible to seek a rating from Standard & Poors (S&P). He detailed the bond structure, maturity dates, interest rates and the amounts that the bonds sold for. Overall, the new interest rate would be a decrease of approximately 2% over the prior interest rate, resulting in savings of about 15% for each homeowner who did not pay off their bond debt, equating to \$200 to \$500 per household.

Mr. Miller noted that, due to the timing, the upcoming tax bills would reflect the bond debt portion of the assessment at the prior, higher interest rate. Mr. Pires explained that, in the future, there would be an adjustment in the debt service portion of the assessment for the property owners affected by the bond. Mr. Adams stated that this situation typically generates a one-time reduction to the debt service portion of the assessment for the affected property owners, which offsets the interest "overpayment"; unfortunately, those that paid off their debt service assessments do not benefit from the refunding. Mr. Pires stated that this is the only way to handle this and it is the way other Districts have done it.

- **Resolution 2020-1, Accepting the Certification of the District Engineer Finding that the Phase 1 Project Funded by the 2003 Series Bond is Complete; Determining a Date of Completion Declaring the 2003 Series Project Complete; and, Providing for Severability, Conflicts and an Effective Date**

This item was an addition to the agenda.

Mr. Pires distributed and presented Resolution 2020-01.

Mr. Pires asked for questions or comments related to Resolution 2020-01.

There were no questions or comments from the public.

Mr. Klug asked if the delayed Certification of Completion was a singular event or if it happened with other bonds. Mr. Miller stated that it had not happened any other time with this District and explained what this Resolution accomplishes.

On MOTION by Mr. Klug and seconded by Ms. DiNardo, with all in favor, Resolution 2020-1, Accepting the Certification of the District Engineer Finding that the Phase 1 Project Funded by the 2003 Series Bond is Complete; Determining a Date of Completion Declaring the 2003 Series Project Complete; and, Providing for Severability, Conflicts and an Effective Date, was adopted.

Mr. Miller stated that Taylor Morrison (TM) paid off the 2014 bonds on property that was transferred to them, on which TM formed a new CDD. Mr. Pires distributed a Notice of Extraordinary Mandatory Redemption related to the Series 2014-4 bonds and discussed the release agreement, receipt of the funds by the Trustee and the redemption notification. The bonds were redeemed on October 18, 2019. He presented, for informational purposes, an ordinance adopted by the County correcting a scrivener's error on the original ordinance contracting the District.

Mr. Klug asked if all open and outstanding items regarding the bond refunding and interpleader case are now resolved. Mr. Miller replied affirmatively.

FOURTH ORDER OF BUSINESS

Health, Safety and Environment Report

Mr. Willis discussed an issue at the Championship gate exit related to the bar code reader used by employees, which was struck by lightning and no longer working. The reader is no longer produced and it would cost approximately \$8,000 to replace it so The Foundation would implement another option for employees; this was not a CDD issue or expense. Until the issue is resolved, the gate would be on a safety loop and would open when a vehicle approaches.

Mr. Willis distributed the Report and gave a PowerPoint presentation highlighting the following:

- Gatehouse entries averaged over 6,000 per week, totaling about 30,000 for September.
- Occupancy was about 255 homes higher per week than last year.

Mr. Klug asked how occupancy is determined. Mr. Willis stated that when a clicker assigned to a home is used, it is counted as the home being occupied that week. Mr. Klug asked how a guest that is using a pass is counted. Mr. Willis stated they would be counted as a guest, not as an occupant.

- Patrol Mileage: Approximately 200 miles per day, equating to about 54,000 miles, year-to-date.
- Incidents: The number went down compared to the prior month, possibly because of less illegal parking.
- Nuisance Animals: Ten pythons and over 1,000 cane toads were caught, year-to-date.

Mr. Miller asked for an explanation of the "Medical" incidents. Mr. Willis stated they are when the gate is notified of a medical event or called about an accident, such as a slip, trip or fall, etc.

Mr. Nuzzo asked about the increased presence of sheriff patrols in Oyster Harbor. Mr. Willis stated it was related to construction issues; it is not directed towards homeowners.

Ms. Viegas asked for the detailed list of parts and costs for the irrigation management agreement that she requested at the last meeting. Mr. Willis said he would send it. Ms. Viegas asked for the status of the software issue at the main gate. Mr. Willis stated that it was a relay issue, which was resolved. Ms. Viegas asked about the meeting regarding refurbishment of the front gate. Mr. Albeit stated the opportunity to do the refurbishment this year had passed, due to the impact of the work replacing the roof, so it would probably not be done until after season.

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

Mr. Albeit stated that the storage building near the intersection of Sandpiper and Fiddler's Creek Parkway would be removed; it was previously used by the Developer and then by Cardinal Management. Homes or condos might be built on the property in the future.

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

Mr. Cole distributed an updated Engineer's Report for the 2005 bond, which addressed the comments submitted by Ms. Viegas. The exhibits were changed to reflect the extraction of the TM land. The Report would be considered for final approval at the next meeting. Mr. Miller asked if the minor issues, such as pavers, streets, sewers were resolved. Mr. Cole replied no, those items were encompassed in the remaining work; an update from GradyMinor on final acceptance within both Aviamar and Veneta would be obtained. Mr. Miller asked for an estimate of the costs of the outstanding items. Mr. Cole estimated \$100,000 for both. Mr. Miller asked how much was left in the construction account. Mr. Cole and Mr. Adams estimated about \$50,000.

Mr. Cole reviewed an aerial view of a CDD-owned buffer area at US 41 and the Sandpiper entrance. Mr. DiNardo was having Juniper prepare a planting plan for that area that would be completed in conjunction with the Sandpiper entrance construction. Mrs. Adams

stated that the builder has been bush hogging the grass but wants the CDD to start doing it; the area has not been developed or turned over yet. She asked if the Developer was planning to install irrigation and landscaping and then turn it over to the District. Mr. Cole replied affirmatively.

In response to Mr. Klug's question about a body of water on the aerial view, Mr. Cole explained the flow ways in the CDD, canals, etc.

Ms. DiNardo reminded Mrs. Adams to include maintenance of the buffer area in the landscape Request for Proposals (RFP), the next time the contract goes out to bid.

Mr. Cole recalled discussion at the last meeting regarding damage to trees and an electrical line being cut during construction of homes in the areas south of the Veneta fountain. He noted that the District paid approximately \$6,400 to relocate the line and the matter of reimbursement was being discussed with Mr. DiNardo and Ms. Lord. The builder was not aware of the electrical line and it was not in any easements or documents. Mr. DiNardo was of the opinion that the expense is the CDD's responsibility. Discussion ensued regarding how the cut line was discovered, relocation of the line, whether it is the CDD's responsibility, etc. Mr. Cole felt that it was not TM's responsibility, as they did not know the line was in that location, as there was not an easement; the line was constructed over 12 years ago. Discussion ensued regarding finding out who originally installed the line, what notice was given, whether permits were obtained, etc. Mr. Cole stated it would take numerous hours trying to find the information or an invoice for the expense of installing the line; he could ask Bentley. It was determined that it would cost more to have Mr. Cole research this issue than the \$6,400 expense. Ms. Viegas asked if TM was willing to reimburse the District since they cut the line. Mr. Cole stated that TM was not willing to reimburse the District because they were not provided with anything showing the line.

Mr. Klug asked if there was any issue with where the line was relocated to. Mr. Cole stated that he was not aware of any, but would confirm with Bentley. Mr. Pires wondered about the need for an easement in favor of Florida Power & Light (FPL) or if FPL would require an easement.

On MOTION by Ms. DiNardo and seconded by Mr. Klug, with all in favor, not pursuing reimbursement of the \$6,400 expense to relocate the cut electrical line, was approved.

Mr. Cole referred to an aerial view of a land bridge which is a water control structure that he believed the CDD would maintain. Mrs. Adams stated that this was an undeveloped parcel and years ago the Board approved installation of cordgrass. TM owns the land and was planning on turning it over to Mussorie, which prompted her to question why the CDD was maintaining it, as it is not CDD property.

Mr. Gerry Gorman, a Mussorie resident, identified the villages on the aerial view and the land bridge that connects them.

Mr. Pires noted that it is an open space tract of platted land and is part of the Mussorie plat. Mr. Klug asked if the CDD should continue maintaining it or if Mussorie should take over maintenance. Mr. Adams stated that it is a water control structure so the District has an interest in the integrity of the property, so all that is needed is an easement for the District's interests. Whether the District should be concerned with the aesthetics was a different question. Mr. Miller felt that, no matter what the District does, it would not satisfy Mussorie aesthetically.

Mr. Pires stated the land bridge was dedicated to the CDD for open space for the purpose of installation and maintenance of landscaping and irrigation by TM in August 2014. Discussion ensued regarding TM being the current fee owner of the property, whether the CDD accepted the dedication, the tract having drainage easements dedicated to the District, the District's current aesthetic maintenance responsibility for the tract, etc.

The item would be included on the next agenda. Prior to the meeting, Mr. Pires would provide a report detailing whether the District accepted the dedication, the District's responsibilities beyond the easement, etc.

Mr. Cole recalled concerns raised by Ms. Viegas regarding street depressions in two locations in the Millbrook section of Aviamar Circle where water was pooling after heavy rains. He inspected and determined that the depressions were in areas where Lennar cut into the street to access the utilities to modify them for the lots constructed along the south side. He would contact Lennar to fix the depressions since they caused them, rather than having the District pay for the repairs. There are no funds left from Lennar's deposit but this is considered a structural issue so Lennar should still be responsible.

Mrs. Adams stated that the landscape contract would expire in January; the pre-bid meeting for the RFP is scheduled for November 13, 2019.

FIDDLER'S CREEK CDD #2
SEVENTH ORDER OF BUSINESS

October 23, 2019
Acceptance of Unaudited Financial
Statements as of September 30, 2019

Mrs. Adams distributed the Financial Highlights page and presented the Unaudited Financial Statements as of September 30, 2019. She noted the Developer had not paid their September off-roll assessments; Mr. Albeit stated that the check was in the mail.

Mrs. Adams responded to Ms. Viegas' questions as follows:

- The credit, under "Streetlighting", "Contractual services", was likely a miscoding.
- Reimbursement for the two street light poles that were hit was likely received; confirmation would be emailed.
- Mr. Olson would research why the fountains account had expenses of \$24,615 and whether it was for repairs to the Aviamar fountain; the answer would be emailed.
- The \$29,702 irrigation expense was for pump and motor repairs.

Ms. Viegas asked about the \$17,959 "Due to CDD1" amount. Mr. Adams stated that it was probably related to the District's portion of the irrigation or access control shared costs.

EIGHTH ORDER OF BUSINESS

Consideration of September 25, 2019
Regular Meeting Minutes

The following changes were made:

Line 86: Delete "was"

Line 298: Change "district" to "District"

Line 379: Change "Mrs." to "Ms."

Line 165: Insert "and to be delivered in escrow" after "execute,"

Ms. DiNardo referred to Line 379 and stated that she advised the resident that the nozzles were the issue at the Aviamar fountain, with regard to the question of the quality of the water.

On MOTION by Mr. Miller and seconded by Ms. DiNardo, with all in favor, the September 25, 2019 Regular Meeting Minutes, as amended, were approved.

NINTH ORDER OF BUSINESS

Staff Reports

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

Mr. Pires stated the letter to the trucking company that had caused the oil spill from Sandpiper, into Oyster Harbor, would be sent today; TM would be copied on the letter.

Ms. Viegas asked about the Tract E agreement. It still has not been signed.

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

- **NEXT MEETING DATE: November 13, 2019 at 10:00 A.M.**

- **QUORUM CHECK**

Supervisors Miller, DiNardo, Klug and Nuzzo confirmed their attendance at the November 13, 2019 meeting. Supervisor Viegas could not confirm her attendance.

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

Mr. Olson presented his Field Operations report, which was included in the agenda, and responded to questions.

Mr. Albeit relayed the Developer's opinion that the Aviamar Circle fountain landscaping is an eyesore and, if necessary, the Developer would replace it and bill the District. Discussion ensued regarding the planned replacement of plants at the Aviamar Fountain that were under warranty, as well as plantings along the hedge section along Sandpiper between the Aviamar entrance and the entrance to Cranberry Crossing and Cherry Oaks Trail, and why plants at some fountains sustained chlorine damage but they did not at another fountain.

TENTH ORDER OF BUSINESS

Supervisors' Requests

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

ELEVENTH ORDER OF BUSINESS

Adjournment

Mr. Pires distributed documents related to the bond refunding.

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

On MOTION by Ms. DiNardo and seconded by Mr. Nuzzo, with all in favor, the meeting adjourned at 11:18 a.m.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]


Secretary/Assistant Secretary


Chair/Vice Chair