

**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 Virtual Public Meeting on April 22, 2020 at 10:00 a.m., by visiting <https://us02web.zoom.us/j/84392452311> or by calling 1 929-205-6099, followed by the meeting number 843 9245 2311.

Present at the meeting, via teleconference or telephone, were:

Elliot Miller	Chair
Victoria DiNardo	Vice Chair
Linda Viegas	Assistant Secretary
Bill Klug	Assistant Secretary
John Nuzzo	Assistant Secretary

Also present, via teleconference or telephone, were:

Chuck Adams	District Manager
Cleo Adams	Assistant Regional Manager
Tony Pires	District Counsel
Terry Cole	District Engineer
Sandi Stern	Resident
Joe Vaccaro	Foundation Board Representative

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mrs. Adams called the meeting to order at 10:00 a.m. All Supervisors were attending via teleconference or telephone.

SECOND ORDER OF BUSINESS

Consideration of Resolution 2020-07, Acknowledging the COVID-19 State of Emergency and the Requirements for Social Distancing; Waiving All Procedural Rules of the District Requiring: A. The Physical Presence of a Majority of the Board of Supervisors to Constitute a Quorum; B. That at Least One Access Point Be in a Location Which is Ordinarily Open to the Public; Adopting an Emergency

Procedural Rule for the Conduct of Meetings Using Communications Media Technology, Providing for the Termination of the Emergency Rules Upon Expiration of Executive Order 20-69; Providing for Severability and Providing an Effective Date

Mr. Miller stated that he found Item 5 objectionable, specifically, the part about the District Manager facilitating the virtual meeting instead of the Chair. He also wanted Item 8, regarding the effective date, to be retroactive to the date of the Governor’s Executive Order. Mr. Pires explained the reasoning behind Item 5 and further stated that he was not comfortable changing the effective date, due to the validity.

The following changes would be made to Resolution 2020-07:

Page 3, Section 5, Item 5B: Change to “The Chair will conduct the meeting in accordance with the District’s ordinary and customary meeting procedures and protocols.”

Page 3, Section 5: Delete Items 5C through 5J

On MOTION by Mr. Klug and seconded by Ms. DiNardo, with all in favor, amending Resolution 2020-07, was approved.

On MOTION by Mr. Klug and seconded by Ms. DiNardo, with all in favor, Resolution 2020-07, Acknowledging the COVID-19 State of Emergency and the Requirements for Social Distancing; Waiving All Procedural Rules of the District Requiring: A. The Physical Presence of a Majority of the Board of Supervisors to Constitute a Quorum; B. That at Least One Access Point Be in a Location Which is Ordinarily Open to the Public; Adopting an Emergency Procedural Rule for the Conduct of Meetings Using Communications Media Technology, Providing for the Termination of the Emergency Rules Upon Expiration of Executive Order 20-69; Providing for Severability and Providing an Effective Date, as amended, was adopted.

THIRD ORDER OF BUSINESS

Public Comments: Non-Agenda Items

Mrs. Adams presented the following emails from residents:

- Mr. Steve Sawin thanked the Board for having the park bench installed.

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➤ Ms. Rebecca Ericson requested installation of two more benches near Chiasso Court and Carmini Court, on Campanile Circle. The cost would be approximately \$5,000.

Regarding Ms. Viegas’ email about safety concerns she had with the newly installed bench, Mrs. Adams stated that the contractor was adding one more row of pavers to the bench pad, allowing for the bench to be properly secured; LandCare was adding more sod to help eliminate concerns about it becoming a trip hazard.

Mr. Klug asked if the request for additional benches was because walkers could not make it around Campanile Circle without resting. Mr. Miller suggested inviting residents to the next meeting to present the request in person.

Resident Sandi Stern stated that she observed people using the benches to sit and look at the water and use their phones, rather than to rest on during their walks, and residents were leaving trash behind. Ms. Viegas concurred. Discussion ensued regarding whether the Design Review Committee (DRC) must approve benches, at what point should the CDD stop approving requests for more benches, questions that were raised after the first request, and whether there was a policy or procedure for making these determinations. The consensus was for Mrs. Adams to invite Ms. Ericson to the next meeting to make her request in person.

FOURTH ORDER OF BUSINESS

Health, Safety and Environment Report

There was no report, as Mr. Willis was not present.

FIFTH ORDER OF BUSINESS

Traffic Hawk Report

This item was not discussed.

SIXTH ORDER OF BUSINESS

Developer’s Report/Update

There was no report or update, as Mr. DiNardo and Mr. Albeit were not present.

SEVENTH ORDER OF BUSINESS

Consideration of Resolution 2020-08, Implementing Section 190.006(3), Florida Statutes, and Requesting that the Collier County Supervisor of Elections Begin

Conducting the District’s General Elections; Providing for Compensation; Setting for the Terms of Office; Authorizing Notice of the Qualifying Period; and Providing for Severability and an Effective Date

Mr. Adams presented Resolution 2020-08.

On MOTION by Mr. Klug and seconded by Ms. DiNardo, with all in favor, Resolution 2020-08, Implementing Section 190.006(3), Florida Statutes, and Requesting that the Collier County Supervisor of Elections Begin Conducting the District’s General Elections; Providing for Compensation; Setting for the Terms of Office; Authorizing Notice of the Qualifying Period; and Providing for Severability and an Effective Date, was adopted.

EIGHTH ORDER OF BUSINESS

Consideration of Resolution 2020-09, Adopting an Internal Controls Policy Consistent with Section 218.33, Florida Statutes; Providing an Effective Date

Mr. Miller asked for the term “Abuse”, in Section 2.1, to be defined and for the addition of a provision instructing the District Manager to report any instances of improprieties or implementations of procedures to the Board. Mr. Adams stated this Policy has always been part of the annual audit process; however, due to the recent changes in legislation, governmental entities are now required to formally adopt the Policy. He and Mr. Pires concurred with Ms. Viegas’ comment that the definition of “Abuse” mirrored that defined in the Florida Statutes.

On MOTION by Ms. DiNardo and seconded by Mr. Klug, with all in favor, Resolution 2020-09, Adopting an Internal Controls Policy Consistent with Section 218.33, Florida Statutes; Providing an Effective Date, as amended, subject to District Counsel adding a provision in Exhibit “A” of the Resolution instructing the District Manager to report any instances of improprieties or implementations of procedures to the Board, was adopted.

On MOTION by Mr. Miller and seconded by Ms. DiNardo, with all in favor, authorizing District Counsel to amend Exhibit “A” of Resolution 2020-09, inserting a provision in Section 5.2 or 6, as he deemed appropriate, was adopted.

FIDDLER'S CREEK CDD #2**April 22, 2020****NINTH ORDER OF BUSINESS****Engineer's Report: *Hole Montes, Inc.***

Mr. Cole reported the following and responded to questions, as follows:

- Fiddler's Creek Plaza: Bids for the infrastructure construction project to reconstruct the Sandpiper Drive entrance and improvements to US 41 are due May 14, 2020.
- Sandpiper Drive lane closures would begin in June and continue through October.
- Emergency Medical Services (EMS) Access: Notified that Mr. Willis would continue discussions with EMS regarding alternate access routes to Aviamar and Oyster Harbor entrances during the lane closure, which are shorter in distance than the original route.
- The bid results, done in coordination with GradyMinor, and award recommendation would be included on the May agenda.
- Fannie Bay Lane Lake Bank Erosion: The Collier County Utilities Work Order to repair the malfunctioning automatic flushing device was pending.
- Juniper Landscaping would provide a proposal to repair the lake bank area, as needed, once the repairs are made.

Mr. Klug asked if the erosion was because the device malfunctioned or its position. Mr. Cole stated that the photographs revealed that the cover was knocked off the device causing the water to shoot upward instead of downward into the gravel.

Mr. Miller asked if Mr. Cole was aware of the Oyster Harbor fountain lights issue. Mrs. Adams stated that a response to the repair Work Order she submitted was pending.

Mr. Miller asked if the Veneta fountain repair costs were recoverable through insurance and, if not, could they be insured. Mr. Adams stated the fountains were insured for property damages only, such as if a vehicle ran into them; repairing leaks was not covered and would be costly, since this typically occurs due to the age of the equipment or workmanship issues. Mr. Adams was instructed to obtain proposals for insurance that would cover leaks.

Mr. Klug asked if Mrs. Adams was notified that the Veneta fountain, north quadrant was not working. Mrs. Adams stated that the repairs would most likely be completed today or this week; this item was in her Field Operations Report.

- New Bench at Campanile Circle: Mr. Cole would coordinate the installation of additional pavers around the pad and sod adjustments to resolve trip hazard concerns. The requests for more benches would remain pending until he receives direction from the Board.

FIDDLER'S CREEK CDD #2**April 22, 2020**

➤ Taylor Morrison (TM) Update: Met in January with Mr. Keith Norton, of TM, to discuss the repairs needed at Oyster Harbor. The list of outstanding punch list items, with back up material, was being compiled and would be sent to Mr. Pires. A meeting with Mr. Charles Cook, TM's consultant, was being scheduled.

Mr. Pires stated he was preparing the letter to TM's Counsel, which would list the outstanding items, to date, without waiving any rights and specifically reserving the right to raise additional issues, as they are identified. Mr. Miller asked if anyone knew how much TM had in escrow with The Foundation and suggested that the letter include that the escrow funds could be used to remedy defects. Ms. Viegas recalled Lennar had \$10,000 in escrow, which, when they left, barely covered expenses to repair Aviamar Circle. She was not sure if TM's escrow amount was the same.

➤ Amador Swale Issues: Follow-up with TM about several lots in Amador with swale issues was ongoing; a summary of events would be sent to Mr. Pires to include in the letter to TM.

➤ Sidewalk inspections to identify tripping hazards and loose Americans with Disability Act (ADA) mats commenced. Some were identified in CDD #1. The photographs Ms. Viegas provided would be included in the report to TM.

➤ Roadway inspections to identify re-striping needs commenced; it was hoped that proposals could be obtained next month.

➤ Series 2005 Bond Requisition #159, for approximately \$8,500: Engineering services for Fiddler's Creek Plaza for construction plans and plat approval through Collier County.

➤ RFP for Irrigation Lake Maintenance and Repairs: Geotubes in areas of Lake 88 need repair due to erosion caused by Hurricane Irma removing a row of ficus trees. This was in addition to the work already performed in previous years.

➤ Aviamar Road Paving Depression Repairs in Millbrook: A proposal for about \$8,000 was sent to Lennar. Lennar's response was that they could not consider doing any repairs due to the current economic conditions. The email would be forwarded to Mr. Pires. It was suggested that Mr. Pires send a letter similar to the one to TM.

Ms. Viegas asked for the status of presenting the revised plats for Tracts A, A-1 and B for approval. Mr. Cole stated Grady Minor was resubmitting the plans and plats to respond to the

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County's latest comments, which both he and Mr. Pires reviewed; changes were made to add the sidewalk easement in Tract A-1.

To avoid further revisions, Mr. Pires suggested that Staff provide their comments on the revised plats, before submittal to the County. The 30-day response deadline was coming up soon. He asked Mr. Cole to notify GradyMinor that the Board requests sufficient time to review the documents before they are presented at the County Commissioners' meeting.

Mr. Nuzzo requested that Mr. Pires' letter to TM include a request for consent to send a copy of the letter to the TM Regional Vice Presidents. Mr. Pires stated that, due to legal constraints, he was not able to do so; he can only send the letter to TM's counsel.

TENTH ORDER OF BUSINESS**Acceptance of Unaudited Financial Statements as of March 31, 2020**

Mr. Adams or Mrs. Adams responded to questions about the Unaudited Financial Statements as of March 31, 2020, as follows:

- Regarding financials for February, due to the COVID-19 pandemic, February financials were prepared only for those Districts that held a meeting in March. The financials are part of the annual auditing process that would be presented to the Board.
- Regarding transferring the funds remaining in the "Legal-litigation" line item to the contingency fund, as part of the year end process, any unspent funds would end up in the surplus fund balance, which is essentially considered contingency. Those funds would carry over to the Fiscal Year 2021 budget.
- Staff's review of the charges in the "Access control" line item, discussed at the last meeting, and whether they will be reimbursed, found that everything was paid through December 31st. Accounting was working on correcting one utility account that was inadvertently charged to CDD #2, as it was believed to be shared between the CDDs, but it actually belonged entirely to CDD #1.

Ms. Viegas asked Mr. Cole why "Engineering" exceeded budget, as the prorated expenses should be at 50% but they were at 128%. She asked if the expenses would continue and if the increase was related to addressing TM issues; if so, she believed TM should pay those costs. If it was for reviewing materials for the Fiddler's Creek Plaza, she believed those costs

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should be charged to the “Construction Fund” budget, rather than the “Operations and Maintenance” (O&M) budget. Mr. Cole stated that the work performed in the first part of the year was review of the Fiddler’s Creek Plaza documents, items related to bidding, construction inspection, etc., which would be paid through the bond proceeds. Mr. Miller suggested incorporating Mr. Cole’s and Mr. Pires’ costs into a claim against TM. Mr. Pires was directed to include those costs in the letter to TM.

Ms. Viegas recalled that, per Mr. Adams, the correction of a missed bond payment would be reflected in the May financials and she surmised that the CDD would not have “clean” financials until June. She suggested considering obtaining a line of credit (LOC) after June, since hurricane season is expected to be very active.

The financials were accepted.

ELEVENTH ORDER OF BUSINESS

Consideration of February 26, 2020 Regular Meeting Minutes

Ms. Viegas stated that her edits were sent to Mrs. Adams, which were substantial, and asked if they wanted her to go over them. Mrs. Adams was directed to relay only the page numbers of Ms. Viegas’ edits as each page was reviewed.

Mrs. Adams presented the February 26, 2020 Regular Meeting Minutes and noted that Ms. Viegas had edits on Pages 2 through 9.

The following changes, in addition to Ms. Viegas’ edits, would be made:

Line 92: Change “land” to “excavated material”

Discussion ensued regarding Line 269. Mrs. Adams clarified the directive was related to obtaining DRC approval for the Amaranda landscape project.

Line 269: Change “follow on an Assignment Agreement” to “follow up on an assignment agreement”

On MOTION by Mr. Klug and seconded by Ms. Viegas, with all in favor, the February 26, 2020 Regular Meeting Minutes, as amended today and to include edits previously submitted to Management, were approved.

TWELFTH ORDER OF BUSINESS

Staff Reports

FIDDLER'S CREEK CDD #2**April 22, 2020****A. District Counsel: *Woodward, Pires and Lombardo, P.A.***

Mr. Pires reported the following:

- TM sent the Mussorie land bridge documents for conveyance to the District.

Mr. Pires asked if the Board wanted to continue the process, given the ongoing issues with TM. Mr. Pires would review the documents and present this at the next meeting.

- The District should identify the locations of blue raised pavement markers (RPMs) on CDD roadways that Fire Districts routinely install near fire hydrants, as a lawsuit was recently filed against Lee County by a bicyclist who was injured riding over RPMs. The litigation was dismissed, but was on appeal and was now back in trial court. The Engineer's affidavit related to where the bicyclist's attorneys filed to oppose the Motion to Dismiss Summary Judgment would be forwarded to Mr. Cole.

Mr. Pires suggested implementing a program, asking the Fire Department where the RPMs are placed, to ensure installation is in an area compatible with the manual on uniform traffic control devices, and creating a policy. Regarding what entity determines the RPM locations, Mr. Cole stated that sub-division plans show that placement is typically in the center of the lane adjacent to the hydrant. The RPMs are installed by the Developer, as part of the approval of the construction plans, as this is a review item and requirement of Collier County and the Fire Districts. Discussion ensued regarding negligence and whether the cause was related to the design or placement locations. Various Board Members identified areas with loose or missing RPMs and reflectors. Mr. Cole stated that the inspections are part of the CDD's restriping project and that missing items are installed in their original locations.

In response to Ms. Viegas' question, Mr. Cole stated he would check the sign installed at the Gulf Bay models in Oyster Harbor for possible "line of sight" issues.

Ms. Viegas asked if Mr. Woodward executed the Tract E Agreement yet. Mr. Pires stated that it was not. Since it was not executed yet, Mr. Miller asked Mr. Pires to mention it at his law firm's next partners' meeting.

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

- **NEXT MEETING DATE: May 27, 2020 at 10:00 A.M.**
 - **QUORUM CHECK**

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All Supervisors confirmed their attendance at the May 27, 2020 meeting.

Ms. DiNardo asked for additional tables to be set up so everyone could sit further apart, if the next meeting is held in person.

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

Mrs. Adams asked if there were any questions or comments on the Field Operations Report and reported the following:

➤ Access Control Fuel Card: As the credit card was used in error by Security and charged to CDD #2, the card was voided. Management would invoice The Foundation for reimbursement of those charges. Mr. Willis had apologized for the error.

Discussion ensued regarding issuance of the credit card, the Internal Controls Policy, etc.

Ms. Viegas asked Mrs. Adams for updates on the following items:

- Aviamar Fountain: The fountain contractor has not responded to the impeller issue.
- Tree Trimming: There was no comment on whether Juniper would be reinstated or if another contractor was going to start work before hurricane season starts.
- pH and Other Chemical Weekly Reports Transmitted to the Board: Based on the success of having the proper pH/chlorine levels and no longer damaging plants, weekly testing would continue, with only Staff to receive the reports.

Ms. DiNardo asked for Mrs. Adams to continue sending the weekly reports to her.

THIRTEENTH ORDER OF BUSINESS

Supervisors’ Requests

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

FOURTEENTH ORDER OF BUSINESS

Adjournment

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

On MOTION by Mr. Klug and seconded by Mr. Nuzzo, with all in favor, the meeting adjourned at 11:27 a.m.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

FIDDLER'S CREEK CDD #2

April 22, 2020

DocuSigned by:
Chuck Adams
1567A2305DF3492...

Secretary/Assistant Secretary

DocuSigned by:
Elliot Miller
757ACBAF5AF7492

Chair/Vice Chair