

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

The Board of Supervisors of the Fiddler’s Creek Community Development District #2 held Multiple Public Hearings and a Regular Meeting on August 31, 2022 at 10:00 a.m., at the Fiddler’s Creek Club and Spa, 3470 Club Center Boulevard, Naples, Florida 34114. Members of the public were able to listen and participate telephonically at 1-888-354-0094, Participant Passcode: 709 724 7992.

Present were:

Elliot Miller (via Zoom)	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	District Manager
Tony Pires	District Counsel
Terry Cole	District Engineer
Joe Parisi	Developer’s Representative
Ed Jasiocki	Fiddler’s Creek Director of Safety
Richard Renaud	Fiddler’s Creek Security
Jody Benet	Fiddler’s Creek Irrigation Manager
Darryll Adams	Foundation General Manager
Ron Albeit	Foundation General Manager
Joan Smith	Resident

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mrs. Adams called the meeting to order at 10:00 a.m. Supervisors DiNardo, Viegas, Klug and Nuzzo were present in person. Supervisor Miller was attending via Zoom.

On MOTION by Ms. DiNardo and seconded by Mr. Klug, with all in favor, authorizing Mr. Miller's attendance and full participation, via Zoom, due to exceptional circumstances, was approved.

SECOND ORDER OF BUSINESS**Public Comments: Non-Agenda Items (3
minutes per speaker)**

No members of the public spoke.

▪ Chair's Remarks

This item was an addition to the agenda.

Mr. Miller noted his continuing, ongoing concern about what he considers CDD #1's breach of the Interlocal Agreement, as discussed at length at the last meeting and transcribed on Page 4 of the Meeting Minutes. He is concerned that the CDD #1 budget would, if effectuated, violate the terms of the Interlocal Agreement to share the cost of the new traffic signal equally. He is worried that CDD #2 might waive its rights by doing nothing to address this and noted that the timing could be such that, when the Agreement is enforced, the payments might be due. He does not want CDD #1 to make less than half the payment and then have to collect the rest of the payment from them. He would rather have a determination in advance confirming that CDD #1 owes the money. He wants to review the Interlocal Agreement with Mr. Rick Reyes and then have an Executive Session to discuss the findings. Mr. Pires stated, in general, an Executive Session is permitted if litigation is pending. He recommended Mr. Miller ask Mr. Reyes for his opinion.

Mr. Miller asked Mr. Adams to email the Interlocal Agreement so he can review it with Mr. Reyes.

Mr. Klug asked if the Fiscal Year 2023 budget adopted by CDD #1 does not include any provision for the required payment relating to the signal, in accordance with the Interlocal Agreement. Mr. Miller stated CDD #1's Fiscal Year 2023 budget provides for a payment, but it assumes that the full \$200,000 from Halvorsen will come off the top and is not deducted only from CDD #2's share of the expense, essentially giving CDD #1 a \$100,000 benefit from the funds that CDD #2 is receiving from Halvorsen.

Mr. Miller questioned the legal fees for time spent on Amaranda. He asked Mr. Pires for the total amount of legal fees incurred. Mr. Pires estimated the fees total \$700. Mr. Miller did not believe it is worth pursuing. The Board agreed that it is not worth pursuing.

Mr. Miller referred to the revolving loan agreement and stated that, last night he responded to ongoing communications regarding the terms and conditions on the First Horizon Bank term sheet, with Mr. Daniel Ferrao’s help. He felt that it will work out fine; he is just waiting to hear from Mr. Ferrao about whether the bank will accept the language proposed. In his opinion, if the bank does not accept the proposed language, the CDD might not want to go through with the deal because the CDD has to be able to issue bonds to create funds for development and enhancement of physical assets. Mr. Miller stated he set forth some specific definitions, as the bank requested, and is hopeful that will be approved. If the desired language is approved, which approves issuing bonds, he will request a new agreement.

Ms. Viegas stated that she has been intricately involved in many of the communications and she was going to suggest that the Board needs to review the final version because, in the past, the bank has added language to every draft, that was not discussed. She noted that Section 6.16 refers to a different entity and that section must be deleted. Mr. Miller agreed that the Board needs to see the final draft and that section 6.16 should be deleted.

Mr. Miller left the meeting at 10:11 a.m.

THIRD ORDER OF BUSINESS

Health, Safety and Environment Report

A. Irrigation and Pressure Washing Efforts: *Jose Castillo*

In Mr. Castillo’s absence, Mr. Jasiocki reported the following:

- Pressure Washing: The new machine is operational and working properly. Yesterday it was in service in Cherry Oaks.
- Tree Canopy Trimming: Palm tree and hardwood trimming along Fiddler’s Creek Parkway and Club Center Drive is proceeding according to schedule.

Mr. Benet reported the following:

- Irrigation Projected Usage: 20 programmable satellites within the villages are programmed to run Monday, Wednesday, and Saturday, from 9:00 p.m. to 8:00 a.m. There

were 13 possible run days last month; seven watering cycles were completed, with six rain holds.

➤ In the common areas of CDD #2, nine programmable satellites are programmed to run Tuesday, Thursday, and Sunday. Last month, seven watering cycles were completed, with six rain holds.

➤ In July, approximately 6.5 million gallons of water were used in the villages. The common areas in CDD #2 used about 3.6 million gallons of water. Total July water usage from the pumphouses was 42 million gallons, as compared to 51.5 million gallons used in July 2021.

Mr. Klug asked if the 20 programmable village satellites represent all water usage and if there are still any unregulated villages. Mr. Benet stated battery timers still present are an ongoing issue. Oyster Harbor, in CDD #2, and Marsh Cove in CDD#1, are in manual mode; their data is only included in total pumphouse water usage. Mr. Klug asked if those can be brought into the satellite program. Mr. Benet stated a software upgrade would be necessary.

Mr. Klug asked what was done with the old pressure washing machine. Mr. Jasiiecki stated the old machine was kept as a backup, to be deployed as needed.

B. Security and Safety Update: *Ed Jasiiecki*

Mr. Jasiiecki discussed the following:

➤ Community Patrol officers are not emergency first responders; 911 should always be called for an emergency, and then call Community Patrol to report the incident.

➤ Occupancy Report: July occupancy is currently at approximately 973 units out of 3,100.

➤ Gatehouses and Patrols: All three gatehouses are operational and manned 24 hours a day, seven days a week. Some minor gate repairs are underway.

➤ Two Community Safety Patrols respond to calls 24 hours a day, seven days a week.

➤ The two permanent radar speed detection devices and one portable detection unit are in use around the community. Speeding and other violations are being addressed accordingly.

Mr. Jasiiecki stated that Ms. Viegas pointed out discrepancies in the numbers previously reported. He explained that the numbers previously reported only included owners and individuals with RFID passes; visitors, vendors and contractors with paper passes were inadvertently excluded. Going forward, the numbers will increase significantly.

➤ Incidents were displayed. Parking and open garage doors continue to be the most common incidents.

Mr. Klug noted that parking was broken out, but there is no category for speeding violations. Mr. Jasiiecki stated he will incorporate them into the report.

Ms. Viegas noted the increase in medical incidents and asked if it was due to the heat. Mr. Jasiiecki stated he does not receive or compile medical information, due to the Health Insurance Portability and Accountability Act (HIPAA) laws.

FOURTH ORDER OF BUSINESS

Developer's Report/Update

Mr. Parisi reported the following:

➤ The architect's plans for the Championship Drive gatehouse should be completed within the week. He hopes to present them at the next meeting. The intent is to make the design similar to the Collier and Sandpiper gatehouses.

Mr. Klug asked if the gatehouse will close during renovations. Mr. Parisi hoped to keep the gatehouse open.

➤ The construction compound at the intersection of Sandpiper Drive and Fiddler's Creek Parkway was cleaned out. Construction will start soon on the foundation, underground work, lighting, fencing, landscaping, and then installation of manufactured structures is scheduled to start in mid-September.

➤ Construction at the golf clubhouse is ongoing. Revisions were made to the lake between Hidden Cove and the golf course. The lake shrunk slightly; he did not think it affects the CDD.

➤ Irrigation questions and concerns and changes to the irrigation plan will be shared with the villages.

Ms. Viegas asked about construction on the Aviamar Circle end of Dorado Lane, away from the model. She asked if that is the pool and mailbox area. Mr. Parisi stated that area will be a temporary parking area and mailbox location while development is finished. Once construction is completed, the poolhouse will house the mailboxes. Mr. Parisi stated there are two ongoing development areas; Fanny Bay, Belon, and Kumamoto in Oyster Harbor, and six buildings in Dorado Village.

Resident Joan Smith asked how long Dorado Lane will be closed. Mr. Parisi noted it closed yesterday. Mr. Renaud believed it will be closed through Monday, September 5, 2022.

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

Mr. Cole distributed Draw 179, for approximately \$6,500, for soft costs related to inspections in Aviamar Phase 5, Unit 2, and another bond renewal. He noted that the CDD spent close to \$50,000 renewing the bonds and money spent on renewing bonds reduces the amount that can be spent on actual construction items. He stated that contractors need to finish their punchlist items. A Developer's meeting with Grady Minor will be held on Friday in the hopes of resolving these issues.

Mr. Cole reported the following:

- \$1,840 of the Draw was inadvertently paid from the General Fund rather than the Construction Fund so it will be necessary to pay back the General Fund.
- He received several emails from Mrs. Adams regarding rear yard drainage next to the county canal, which is along the north side of Aviamar and bisects between CDDs #1 and #2. It is not part of the CDD's master system for internal development. The lots adjacent to that area drain into a rear swale, into a pipe, and into an internal water management lake that treats the water and then discharges back into the canal. Sometimes, during larger rain events, there will be standing water in the rear drainage swales for a few hours before the water drains into the lakes for eventual discharge into the canal. These areas in Oyster Harbor and Aviamar will be inspected to make sure nothing is blocking the flow.

Mr. Klug asked if inspections are done periodically or if this is the first occurrence. Mr. Cole stated it was checked in prior years and no blockages were found. While some puddles are normal, it discharges and drains within a few hours. This is common for an area in proximity to a water body that is not part of the master water management system. Mr. Klug asked if the water backup indicates a problem or if it is being inspected purely out of caution. Mr. Cole stated the inspection would be done out of caution. Ms. DiNardo asked if there is a remedy. Mr. Cole stated the remedy is time to allow the system to drain as it is designed to do.

➤ Periodic sidewalk inspections are underway; there are a few known areas in need of repair in CDD #1. Anything over ¼” is considered a trip hazard warranting repair. Those areas may be ground down or the entire sidewalk panel might need to be replaced, depending on the severity of the hazard.

➤ The traffic signal plans are being reviewed by the Florida Department of Transportation (FDOT). He hoped to receive a response within the next week or two. Concerns raised by the FDOT will be addressed by Trebilcock Consulting Solutions accordingly and then 90% of the plans would be submitted, in accordance with the schedule discussed.

Ms. DiNardo asked if this is being done in a timely manner. Mr. Cole stated, if the comments are received within the next week, the project will be on schedule. Mr. Klug asked if that means there will be two more submittals, at 90% and 100%. Mr. Cole replied affirmatively.

Mr. Parisi suggested, since Mr. Cole will have the sidewalks reviewed, he should review lines of sight so Juniper can address any issues. Mr. Cole stated he will address it accordingly.

SIXTH ORDER OF BUSINESS

**Public Hearing on Adoption of Fiscal Year
2022/2023 Budget**

A. Proof/Affidavit of Publication

The proof of publication was included for informational purposes.

B. Consideration of Resolution 2022-05, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2022, and Ending September 30, 2023; Authorizing Budget Amendments; and Providing an Effective Date

Mr. Adams presented Resolution 2022-05. He reviewed the proposed Fiscal Year 2023 budget, which was unchanged since last presented. The proposed budget includes an Operation & Maintenance (O&M) assessment increase of approximately \$68 per unit. The primary reason for the increase is the planned upgrades to the pumphouses during Fiscal Year 2023.

Ms. DiNardo opened the Public Hearing.

No members of the public spoke.

Mr. Pires asked if any letters, emails, or faxes were received with any comments or objections to the budget. Mrs. Adams stated none were received.

Ms. DiNardo closed the Public Hearing.

Ms. Viegas asked for clarification on the corrections she raised, specifically increasing the amount in Section 3B from \$10,000 and 10% to \$15,000 and 15%. Mr. Adams stated that number is at the Board’s discretion. The consensus was that the increase was added due to inflation and that the increase is acceptable.

Ms. Viegas stated that the addition of the terminology that Mr. Miller requested last year will be added. The following other changes will be made to Resolution 2022-05:

Page 2, Section 2, Line 3: Change “\$6,697,718” to “\$6,715,627”

Page 2, Section 2, TOTAL ALL FUNDS: Change “\$6,715627” to “\$6,715,627”

On MOTION by Mr. Klug and seconded by Mr. Nuzzo, with all in favor, Resolution 2022-05, as amended, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2022, and Ending September 30, 2023; Authorizing Budget Amendments; and Providing an Effective Date, was adopted.

SEVENTH ORDER OF BUSINESS

Public Hearing to Hear Comments and Objections on the Imposition of Special Assessments for Operations and Maintenance for Fiscal Year 2022/2023, Pursuant to Florida Law

- A. Proof/Affidavit of Publication**
- B. Mailed Notice(s)**

These items were provided for informational purposes.

- C. Consideration of Resolution 2022-06, Making a Determination of Benefit and Imposing Special Assessments for Fiscal Year 2022/2023; Providing for the Collection and Enforcement of Special Assessments; Certifying an Assessment Roll; Providing for Amendments to the Assessment Roll; Providing a Severability Clause; and Providing an Effective Date**

Mr. Adams presented Resolution 2022-06.

Ms. DiNardo opened the Public Hearing.

No members of the public spoke.

Ms. DiNardo closed the Public Hearing.

On MOTION by Mr. Klug and seconded by Mr. Nuzzo, with all in favor, Resolution 2022-06, Making a Determination of Benefit and Imposing Special Assessments for Fiscal Year 2022/2023; Providing for the Collection and Enforcement of Special Assessments; Certifying an Assessment Roll; Providing for Amendments to the Assessment Roll; Providing a Severability Clause; and Providing an Effective Date, was adopted.

EIGHTH ORDER OF BUSINESS

Discussion: Agreement Approving and Providing for County Traffic Control Jurisdiction Over Roads Within the Subdivision

- **Instructions for Submitting the Agreement for Traffic Control Jurisdiction Within Your Subdivision**

Mr. Parisi stated signing this proposed Agreement would not benefit the CDD any further because it may or may not affect the CDD's ability to enforce its Covenants. The police have the ability to enter the CDD and enforce traffic laws. There were 35 Sheriff's Department traffic stops last month in Fiddler's.

Mr. Klug asked what about the unit owner's comments regarding enforcement. Mr. Parisi stated the unit owner thought the CDD was enforcing traffic laws or criminal codes, but this is the HOA enforcing the HOA Covenants, which request compliance with posted speed limits on any road, public or private. Any fines are assessed per a Resolution of The Foundation. The Foundation utilizing Traffic Hawks and enforcing its Covenants, via the Fining Committee, was approved by all.

NINTH ORDER OF BUSINESS

Update: Response from the County Attorney/Commissioner Regarding the

**Foundation's Legal Authority to Issue Fines
and Enforce its Covenants**

This item was addressed during the Eighth Order of Business.

TENTH ORDER OF BUSINESS

**Update: Status of First Horizon Term Sheet
for Revolving Line of Credit (Renewal)**

- **Update/Consideration of Revolving Loan Agreement**

This item was addressed following the Second Order of Business.

ELEVENTH ORDER OF BUSINESS

**Acceptance of Unaudited Financial
Statements as of July 31, 2022**

Mrs. Adams distributed the Financial Highlights Report. She stated on-roll assessment collections were at 99%. Year-to-date, expenses should be at approximately 83%; at this time, they are at 63%. Ms. Viegas stated she emailed additional questions.

The financials were accepted.

TWELFTH ORDER OF BUSINESS

**Approval of July 27, 2022 Regular Meeting
Minutes**

Mrs. Adams presented the July 27, 2022 Regular Meeting Minutes.

The following changes were made:

Line 95: Insert "years observing and three" after "12"

Line 184: Delete "that"

Line 265: Change "Publix and" to "Publix,"

Line 266: Change "including" to "and"

Line 327: Change "repair" to "installation"

On MOTION by Mr. Klug and seconded by Mr. Nuzzo, with all in favor, the July 27, 2022 Regular Meeting Minutes, as amended, were approved.

• **Action/Agenda or Completed Items**

Items 7 and 12 were completed.

Item 7: Mr. Cole stated all six signs were installed, but three additional locations need signs. Mrs. Adams stated this item will be marked completed and a new item will be created for the new signs. Mr. Cole stated he will identify the locations and obtain a proposal from Lykins.

THIRTEENTH ORDER OF BUSINESS

Staff Reports

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

Mr. Pires stated he has been emailing Mr. Hough, attorney for Taylor Morrison (TM) , to finalize the Agreement and Mutual Release. Mr. Hough requested a global release. Mr. Pires felt that this is close to the point where everything is being addressed. Ms. Viegas asked if TM is being responsive. Mr. Pires stated TM is responsive and cordial.

Ms. Viegas asked about the status of the acceptance of deeds that is outstanding. Mr. Pires stated he needs to meet with another attorney.

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

- **NEXT MEETING DATE: September 28, 2022 at 10:00 A.M.**

- **QUORUM CHECK**

All Supervisors present confirmed their attendance at the September 28, 2022 meeting.

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

The Monthly Status Report was emailed to the Board and provided as a handout.

Ms. Viegas asked if any response was received from the insurance carrier regarding the Oyster Harbor fountain claim. Mrs. Adams stated they are following up.

Ms. Viegas asked about the Oyster Harbor landscape lighting issue that she emailed Mrs. Adams about. Mrs. Adams stated Bentley Electric will be on site next week to address multiple issues.

FOURTEENTH ORDER OF BUSINESS

Adjournment

There being no further business to discuss, the meeting adjourned at 10:53 a.m.


Secretary/Assistant Secretary


Chair/Vice Chair