

**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 26, 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	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
Jose Castillo	Fiddler’s Creek Director of Facilities
Ed Jasiiecki	Fiddler’s Creek Director of Safety
Richard Renaud	Fiddler’s Creek Security
Jody Benet	Fiddler’s Creek Irrigation Manager
Valerie Lord	Foundation Representative
Darryll Adams	Foundation General Manager
Ron Albeit	Foundation General Manager
Mike Barrow	GulfScapes Landscape Management
Patrick Garvey	Resident
Michael Buck	Resident
Steve Schwartz	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.

**SECOND ORDER OF BUSINESS**

**Public Comments: Non-Agenda Items (3 minutes per speaker)**

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

Mussorie resident Patrick Garvey voiced his opinion that the waterway behind his home looks terrible. He removes items from it daily, including a garden hose, branches, and lanai screens. Per Mr. and Mrs. Adams, it will be addressed. He is concerned about the wildlife and stated he saw a large fish in the waterway. He felt that sludge from the storm surge is much worse than after Irma. He wanted to know what to expect and how he can help.

Mr. Miller stated cleanup will not take months and months and noted that the response has been better than in the past and Fiddler's Creek was very fortunate in the hurricane.

Mr. Adams stated, in response to Mr. Garvey's text, he advised that he would have SOLitude evaluate the waterways and provide proposals for cleanup. Mrs. Adams stated it is a work in progress; there is massive devastation to the north and SOLitude is addressing priority issues first. Mr. Miller hoped it will be addressed by the December meeting.

Mr. Garvey asked what the contractor will do. Mrs. Adams stated a work order will be submitted for removal of debris in the waterways; more debris will be visible after the water continues to recede.

Ms. DiNardo asked how often SOLitude maintains the lakes. Mrs. Adams stated the technicians are on site weekly. Ms. DiNardo noted that, as they are on site weekly, cleanup will be a work in progress.

Mr. Adams asked Mr. Garvey to stop entering the lake and removing things as no one knows what might be in the water.

▪ **Museo Circle Natural Landscape Barrier Damage from Hurricane Ian**

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

Ms. DiNardo stated the natural landscape barrier on Museo Circle was destroyed on September 28, 2022. This barrier separates Creative Lane, an open area without a paved road, from an entrance off State Road 41 that enables easy access to Vercane. Creative Lane is used as a staging area for Developer construction.

The area of concern was shown on a graphic displayed on screen. Ms. DiNardo stated the natural ficus barrier behind homes at 9209 through 9233 Museo Circle was damaged so residents no longer have protection from intruders, trespassers, noise, and dust from traffic on Creative Lane.

Ms. DiNardo provided pictures of the area and voiced her opinion that landscaping is degrading and dying. She noted the CDD is paying to have the hedges trimmed, per the contract, but they are dead and dying. She would like them replaced or a wall installed.

Mr. Miller asked for quotes to be obtained.

Ms. DiNardo asked if the bench and the palm tree at the Veneta fountain will be replaced. Mrs. Adams replied affirmatively.

Ms. DiNardo asked if the stumps along Fiddler’s Creek Parkway, before Sandpiper, will be removed. Mrs. Adams stated that is part of The Foundation’s cleanup.

Ms. DiNardo felt that the Veneta monument signs should be better maintained. Areas de-void of landscaping were discussed. Mr. Barrow stated there were open areas when they took over those areas; recommendations for those areas and the monument beds will be provided.

Ms. DiNardo asked if all the lost trees will be replaced and if an audit was done. Mrs. Adams stated there was no audit before the hurricane, but Staff can tell where trees are missing. Mr. Barrow will work with Staff in this regard.

Resident Michael Buck thought Juniper might have records because they did a complete audit after Hurricane Irma. Mrs. Adams stated the CDD contract is with The Foundation and The Foundation has a contract with Juniper. The consensus was that The Foundation might be able to provide the information.

Mr. Garvey asked when the Veneta fountain is turned on. Mrs. Adams stated it is on a timer and should turn on at 8:00 a.m. Mr. Garvey stated the lighting in the fountain is off. Mrs. Adams stated the fountain is being repaired and the issue will be addressed.

**THIRD ORDER OF BUSINESS**

**Discussion/Consideration of Notice of Anticipatory Breach by CDD #1**

**Mr. Pires left the meeting at 10:21 a.m.**

Mr. Miller stated he wants the Notice of Anticipatory Breach to be signed and sent.

Mr. Klug noted the letter is dated October 17, 2022.

Mr. Miller stated the date will be updated after approval. He wants to act quickly to preclude any waiver of CDD #2’s rights. He met with CDD #2’s Attorney Rick Reyes and brought

the Halvorsen contract requiring CDD #2 to take the lead on the traffic signal, the Access Agreement which imposed obligations on CDD #2 for the gatehouse and compensates CDD #2 \$200,000, to which CDD #1 has no right. He showed Mr. Reyes the Interlocal Agreement which explicitly requires CDD #1 to pay half of the total gross amount of the cost of the traffic signal on State Road 41. He noted that CDD #1 is refusing to do it. He had requested preparation of a letter and that letter is included in the agenda.

Mr. Klug asked if CDD #2 can obtain a summary judgment on an anticipatory breach. Mr. Miller replied affirmatively.

**On MOTION by Mr. Klug and seconded by Ms. DiNardo, with all in favor, the Notice of Anticipatory Breach, as discussed and to be amended with the correct date, was approved.**

**Mr. Pires returned to the meeting at 10:25 a.m.**

**FOURTH ORDER OF BUSINESS**

**Update/Discussion: Settlement Agreement with Taylor Morrison**

Mr. Miller stated Mr. Pires is negotiating changes to the Settlement Agreement with the attorney for Taylor Morrison (TM). While some of his changes were made, he also wants the CDD's indemnification of TM to be limited to the amount the CDD will be paid under the contract, which is \$72,883.23. Mr. Pires stated that revision was added but not approved yet. Mr. Miller suggested the Agreement be adopted subject to that change.

**On MOTION by Ms. DiNardo and seconded by Mr. Klug, with all in favor, the Settlement Agreement with Taylor Morrison, subject to the change discussed and editorial corrections, was approved.**

Mr. Pires stated he is working on the draft Temporary License Agreement and Access Agreement for Oyster Harbor, with the assistance of resident Steve Schwartz. Mr. Pires stated

he will send the Agreements to TM’s attorney and to Mr. Schwartz; a Zoom call will be scheduled to address property owner concerns.

Mr. Klug asked if Exhibit B was revised. Mr. Pires stated no revisions were made.

Mr. Schwartz stated other impacted residents would ask him for a timetable. Mr. Miller stated he will be notified when all signatures are obtained.

Ms. Viegas asked where the funds to be received from TM will be credited. Mr. Adams stated the funds will be credited to “Miscellaneous Income”.

**FIFTH ORDER OF BUSINESS**

**Update: Revised First Horizon Loan Documents**

**A. Consideration of Term Sheet for Revolving Line of Credit (Renewal)**

This item was presented following Item 5B.

**B. Consideration of Revolving Loan Agreement**

Mr. Miller stated the initial draft of the Revolving Loan Agreement was inappropriate as it was written for a corporation and not a CDD. Many deletions of inappropriate items were negotiated, including deletion of a prohibition against the issuance of debt, as the CDD funds projects by issuing bonds. Section 3.3, dealing with the source of payments, was also negotiated as the CDD’s source of payments is the Operation & Maintenance (O&M) assessments collected.

Mr. Miller stated one thing not resolved was the matter of the “interest payment date” on Page 3 which stated payments would begin in October 2022; this is obviously wrong as no monies have been received. After extensive negotiations, the bank’s attorney stated he was tired of negotiating changes and no further edits to the document would be made. Mr. Miller stated he does not believe the matter is substantive enough to cause an issue. Mr. Pires concurred and recommended the Board adopt a Resolution approving the Loan Agreement and Term Sheet and for them to be signed by the Chair.

**On MOTION by Ms. DiNardo and seconded by Mr. Klug, with all in favor, the Revolving Loan Agreement, authorizing Staff to draft a Resolution and authorizing the Chair to execute, was approved.**

▪ **Consideration of Term Sheet for Revolving Line of Credit (Renewal)**

**This item, previously Item 5A, was presented out of order.**

Mr. Pires presented the "Revolving Credit Note" and stated the date of the Note and the "Termination Date" on Page 1 will be changed from September to October.

Regarding the right of setoff addressed on Page 2, Mr. Pires asked if the CDD has any other accounts with First Horizon. Mr. Adams stated it does not.

Regarding the last paragraph on Page 4, Mr. Pires stated "or federal court" needs to be deleted.

Mr. Miller asked Mr. Pires what gives him comfort about the integration of the conditions of the Agreement into the Note. Mr. Pires noted that Page 1, Paragraphs 2 and 3, refer to the Agreement.

**On MOTION by Mr. Klug and seconded by Ms. DiNardo, with all in favor, the Revolving Credit Note, as amended, and authorizing the Chair to execute, was approved.**

**SIXTH ORDER OF BUSINESS**

**Health, Safety and Environment Report**

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

Mr. Castillo reported the following:

- Pressure Washing: The new machine is operational and working properly.
- Tree Canopy Trimming: Storm cleanup is 90% completed and the recovery plan is underway. Broken and clipped fronds are being removed from the high palms and broken branches are being removed from the hardwood trees.

Mr. Miller asked if Juniper maintained equipment on site as the contract requires. Mr. Castillo replied affirmatively; one set of equipment is stationed at the end of Fiddler's Creek Parkway by Veneta, and another set is kept across from the sales center. Juniper's staff was fully on site by Friday; most of Juniper's staff lives in Fort Myers and could not get to Fiddler's Creek the day after the hurricane but a supervisor surveyed the property on Thursday to ensure that no roadways were blocked.

- The remaining 10% of storm cleanup will take approximately 30 days to complete.
- 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 12 possible run days last month; six 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 there were 13 possible run cycles; five watering cycles were completed, with eight rain holds.
- In September, the villages used approximately 5 million gallons of water. The common areas in CDD #2 used about 2.5 million gallons of water. Total September water usage from the pumphouses was 34 million gallons, as compared to 48.7 million gallons used in September 2021. Average precipitation for September was 12.18". As required, there is no irrigation done on Fridays.
- Pressure Washing: During the past 30 days, work was completed in Oyster Harbor, including the monument signs. Work is underway on the Sandpiper Drive curbs and sidewalks; the time is being split with Fiddler's Creek Parkway in CDD #1.
- Staff will try to maintain the same schedule next year. The new machine works quicker giving additional flexibility.
- The old equipment was kept to use if the new equipment is out of service or additional work is requested.
- There is a one-year warranty on the new machine which is very unique.

**B. Security and Safety Update: *Ed JasiECKi***

Mr. JasiECKi 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: August and September occupancy was at approximately 1,054 units out of 3,114 deeded units, as the season begins.
- Gatehouses and Patrols: All three gatehouses are operational and manned 24 hours a day, seven days a week.
- Two Community Safety Patrols respond to calls 24 hours a day, seven days a week.

➤ Incidents were displayed. Parking and open garage doors continue to be the most common incidents. A fire engine was in the community recently for a medical emergency.

➤ Traffic enforcement is ongoing, with permanent and portable speed detection devices. There was downtime due to the storms. Violations and repeat violations have decreased since the devices were implemented. Repeat violators are sent to the Fining Committee.

Mr. Miller asked for the status of the gate arm repairs. Mr. Jasiocki stated some circuit boards were damaged; vendors are aware and awaiting parts and approval for repairs.

Mr. Darryll Adams stated he is working with The Foundation to document damage for insurance claims; he will meet with Mr. Parisi tomorrow to obtain approvals and prioritize and schedule repairs.

➤ Collier County Sheriff Activities: Additional patrols were requested, resulting in 18 traffic stops in August and 12 in September. Patrols are scheduled, warnings and citations are issued at Sheriff’s discretion.

Ms. DiNardo asked how often Sheriff patrols enter the community. Mr. Jasiocki stated it is at their discretion or in response to calls from residents or Staff. There is no formal written agreement between the CDD and the Sheriff’s Department.

**SEVENTH ORDER OF BUSINESS**

**Developer’s Report/Update**

• **Architect’s Plans for Championship Drive Gatehouse**

Mr. Albeit conveyed Mr. Parisi’s apologies for not being in attendance and stated there is no update. Mr. Parisi will attend the next meeting and should have the architectural plans for the Championship Drive Gatehouse at that time.

**EIGHTH ORDER OF BUSINESS**

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

Mr. Cole distributed Draw 180 for about \$9,000. Approximately \$1,400 was for renewal of the Fiddler’s Creek Plaza bond for the Sandpiper Drive Gatehouse; the Developer is working to have all work completed and accepted by the County. Approximately \$7,500 was for Lykins-Signtek for the installed Museo Circle crosswalk signs.



Ms. Viegas asked for an update on the Developer meeting with Grady Minor regarding punchlist items. Mr. Cole stated he was not part of the meeting, but he will follow up on it. Ms. Viegas noted that the CDD is paying a lot for bond renewals on which punchlist items are not done. Mr. Cole will follow up on it.

Mr. Cole reported the following:

➤ Hurricane Ian Inspection. The CDD was spared tremendously compared to Hurricane Irma. An inspector was able to confirm that the stormwater control structures are flowing correctly, without blockages. Inspectors have been working on Sanibel and they are expected to continue inspections at Fiddler's Creek within the next week. There is minimal landscape debris, and some signs need to be straightened. Sidewalks will be inspected to determine any need to grind down to alleviate any trip hazards.

Ms. DiNardo asked if sidewalks requiring repair will be classified as a hurricane insurance claim. Mr. Cole stated he will review needed repairs to determine if any are potential hurricane-related claims.

➤ Mr. Cole and Mr. Barrow were asked to investigate landscape sight line issues. One area has been identified and corrected; the project is ongoing.

➤ Staff is compiling a bid and design package for the budgeted replacement of one irrigation pumphouse next year. A meeting will be scheduled with Mr. Benet.

After the meeting, Mr. Cole will follow up with Mr. Barrow and Ms. DiNardo regarding the possible need for a wall in Museo.

- **Update: Traffic Signal Plans**

Mr. Cole stated the Traffic Signal schedule developed in July anticipated the Florida Department of Transportation (FDOT) 60% review comments would be received on September 1, 2022, but the response was received one week late. Staff indicated they would respond to those comments and submit a response on November 1, 2022; however, in addition to the week lost due to the late response by the FDOT, another week was lost due to Hurricane Ian so the consultant will now submit the 90% plans in mid-November.

Mr. Klug asked if the lost time can be made up. Mr. Cole stated it depends on the FDOT's response. He noted that the FDOT will have also been delayed due to hurricane-related issues.

Mr. Miller expressed his hope that costs do not increase. Mr. Cole stated he cannot address costs until bids are received. It is still anticipated that the light will be installed and operational in January 2024.

Ms. Viegas asked about the timing of installation of the new irrigation system given that the villages are starting to prepare their 2023 budgets. Mr. Cole stated he will try to have an update for the next meeting.

**NINTH ORDER OF BUSINESS****Acceptance of Unaudited Financial Statements as of September 30, 2022**

Mrs. Adams presented the Unaudited Financial Statements as of September 30, 2022.

Mr. Miller asked why the "Postage" line item was up to 185%. Ms. Viegas recalled that the Mailed Notices for the assessment increase were sent. Mrs. Adams noted that the postage rates increased.

Mr. Miller pointed out the "Fountains" line item at 147% and noted the fountains are always a source of expenses. Mrs. Adams concurred and stated the costs fluctuate widely.

Mr. Adams stated that Ms. Viegas emailed him regarding the Debt Service reports which had the same information as from August 31, 2022; U.S. Bank had difficulty providing trust statements due to storm-related shutdown days. The figures will be updated before year-end.

Mr. Miller asked where the CDD's funds are kept and the interest rate being received on the funds. Mr. Adams stated, due to the requirement to have funds accessible, the CDD cannot put its money in short term bonds; he suggested a cash sweep account as a possible option. Mr. Miller asked Mr. Adams to research short-term treasury notes.

Ms. Viegas asked if the credit in "Street lighting- Contractual services" was due to the reimbursement for the streetlight that was knocked over, as referenced in the Operations Report. Mrs. Adams stated, as she is not sure, she will request the General Ledger. Ms. Viegas asked for General Ledgers to be emailed to her as well.

The financials were accepted.

**TENTH ORDER OF BUSINESS**

**Approval of August 31, 2022 Public Hearings and Regular Meeting Minutes**

Mrs. Adams presented the August 31, 2022 Public Hearings and Regular Meeting Minutes.

The following change was made:

Line 155: Delete "and maintain"

**On MOTION by Ms. DiNardo and seconded by Ms. Viegas, with all in favor, the August 31, 2022 Public Hearings and Regular Meeting Minutes, as amended, were approved.**

• **Action/Agenda or Completed Items**

Items 7 and 9 were completed.

**ELEVENTH ORDER OF BUSINESS**

**Staff Reports**

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

There was no report.

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

- **NEXT MEETING DATE: November 9, 2022 at 10:00 A.M.**

- **QUORUM CHECK**

The November 9, 2022 meeting was canceled. All Supervisors confirmed their attendance at the December 14, 2022 meeting.

**On MOTION by Ms. DiNardo and seconded by Mr. Nuzzo, with all in favor, canceling the November 9, 2022 meeting, was approved.**

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

Mrs. Adams stated the Monthly Status Report was emailed to the Board. She received an \$13,880 invoice from GulfScapes for hurricane debris removal and storm cleanup, which is not in the GulfScapes contract.

Mr. Miller asked how the CDD can define the work it will pay for versus the work paid for by The Foundation under its contract with Juniper.

Mrs. Adams stated The Foundation is responsible for all hurricane cleanup; the CDD is responsible for day-to-day routine maintenance. Mr. Miller asked if the invoice is for hurricane cleanup. Mrs. Adams replied affirmatively.

Ms. Viegas stated she does not believe that Juniper was on site immediately following the hurricane.

Mr. Barrow stated GulfScapes was the only landscape company on property the day after Hurricane Ian; Juniper was not. GulfScapes cleared roads for emergency vehicle response and removed other debris that could have been dangerous for residents.

Mr. Miller felt that GulfScapes should be paid for the work they did and, if the CDD approves and pays the invoices, the CDD should seek reimbursement from The Foundation.

Mr. Klug suggested GulfScapes bill The Foundation. He commended GulfScapes on the work he saw the crews performing for the CDD following Hurricane Ian.

Mr. Miller felt that, rather than putting GulfScapes in the middle of a dispute, the CDD should pay GulfScapes and then make a claim against The Foundation.

**On MOTION by Mr. Klug and seconded by Ms. DiNardo, with all in favor, GulfScapes Invoice #30591, in the amount of \$13,880, was approved.**

Mr. Nuzzo suggested Mr. Darryll Adams raise the issue with Mr. Parisi at their meeting tomorrow. Mr. Darryll Adams stated he would speak with Mr. Parisi and noted that he met with the supervisor from Juniper the day after the hurricane.

Ms. Viegas asked for confirmation of the invoice amount as the original report listed \$17,845 but today the total stated was \$13,880. Mrs. Adams stated Mr. Grimes credited the CDD for regular contract work that was not performed which lowered the invoice amount.

Ms. Viegas commended Mrs. Adams and MRI Underwater Solutions for their management of a previously discussed water pooling issue between 3122 and 3130 Aviamar Circle. She spoke with the impacted homeowners before and after the hurricane and they were very complimentary regarding Mrs. Adams and the company rep who came out three times in total before and after the hurricane.

An affected homeowner stated the service she received was excellent.

Ms. Viegas asked if any response was received from the insurance carrier regarding the Oyster Harbor fountain claim. Mrs. Adams stated she called them on Sunday and noted it had been six months; the representative left a message apologizing for the delays and stated they would get back to her in one week.

Ms. Viegas asked if Lykins-Signtek returned to address the Aviamar trellis. Mrs. Adams stated she will follow up.

Regarding Oyster Harbor landscape lighting, Ms. Viegas recalled that Bentley Electric was waiting on parts needed for the repair. She stated she emailed Mrs. Adams regarding additional lights that need to be repaired.

Mrs. Adams stated Bentley Electric advised that they have been focused on severe hurricane damage repairs; a representative will review damage in the CDD next week.

Mr. Miller asked if all of Oyster Harbor is now the CDD's responsibility, with regard to monuments and fountains. Mrs. Adams replied affirmatively and stated they have been the CDD's responsibility for some time.

Ms. Viegas stated she emailed Mrs. Adams regarding oil spills she observed in front of the pumphouses. She provided the addresses of two of the locations. Mr. Cole stated he will follow up.

Ms. Viegas asked if the motor outage at the Aviamar fountain is causing the low height. Mrs. Adams replied affirmatively.

**TWELFTH ORDER OF BUSINESS****Adjournment**

There being no further business to discuss, the meeting adjourned at 11:20 a.m.

  
Secretary/Assistant Secretary

  
Chair/Vice Chair