

**MINUTES OF MEETING
FIDDLER'S CREEK COMMUNITY DEVELOPMENT DISTRICT #1 &
FIDDLER'S CREEK COMMUNITY DEVELOPMENT DISTRICT #2**

A Joint Regular Meeting of the Boards of Supervisors of the Fiddler's Creek Community Development District #1 and Fiddler's Creek Community Development District #2 was held on **Wednesday, September 22, 2010 at 8:00 a.m., at the Fiddler's Creek Club and Spa, 3470 Club Center Boulevard, Naples, Florida 34114.**

Present at the meeting were:

For Fiddler's Creek CDD #1:

Phillip Brougham	Chairman
James Curland	Vice Chairman
Jim Schutt	Assistant Secretary
James Robertson	Assistant Secretary
Robert Slater (via telephone)	Assistant Secretary

For Fiddler's Creek CDD #2:

James Robertson	Chair
Manuel Correia	Vice Chair
Victoria DiNardo	Assistant Secretary
Gretchen Scott	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Crismond	Operations Manager
Terry Cole	District Engineer
Tony Pires	District Counsel
Dan Abbott	Special Counsel
Aleida Martinez Molina	Weiss Serota, CDD #1 Special Counsel
Hank Morgan	Gray Robinson, CDD #1 Bond Counsel
Ken Artin (via telephone)	Bryant Miller Olive, CDD #2 Bond Counsel
Robert DeMarco	Treiser Collins, CDD #2 Special Counsel
Chris Wieback (via telephone)	Muni Bank, Bondholder Representative
Tony DiNardo	Gulf Bay, Developer
Elliott Miller	Resident
Mr. Fritz	Resident

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mr. Adams called the meeting to order at 8:00 a.m., and noted, for the record, that Supervisors Brougham, Robertson, Schutt and Curland were present, in person, for Fiddler's Creek CDD #1. Supervisor Slater was attending by telephone. Supervisors Robertson, DiNardo, Scott and Correia were present, in person, for Fiddler's Creek CDD #2. Supervisor Schmitt was not present.

JOINT MEETING ITEMS

SECOND ORDER OF BUSINESS

Engineer's Report

Mr. Cole reported Mr. Adams received an email on September 7th that he forwarded to him regarding the fact that, until issues regarding bankruptcy court proceedings are resolved, the construction capital funds accounts cannot be used; therefore, they were unable to proceed with any additional work and they owe approximately \$100,000 to contractors and vendors that they cannot pay. He stated that amount does not include work that has been done that they have not processed in the next draws, or any FPL monies.

Mr. Adams stated the response from the trustee, as well as Mr. Bloom, who was copied on the communication, and several others, indicated that an argument or some comment was placed on the record that the money belonged to the developer and their position is, until the court has ruled on those statements, they are not willing to release any additional money for construction activities. He questioned where that statement came from because it was never made in a Board Meeting and he was not advised that it was actually made in the court hearing by their counsel, who participated.

Mr. DiNardo stated they responded to the bondholders and the trustee and told them that the money is in the accounts in the name of the Districts and belongs to the Districts. They are saying the money belongs to the bondholders. He advised there was an issue, from an accounting perspective. He explained that he has to consolidate the bonds and the restricted cash into his financial statements and that is a regulation by General Accepted Accounting Principles. In his audited financial statements it states it is restricted money, so he does not know how the trustee came to that conclusion. Mr. DiNardo noted the only way the developer has received

money, from the inception of the Districts, through today, was by approval from the Board. He stated it is an unequivocal lie that the developer said the money was theirs. Mr. Adams stated that was his response, as well, that in the Districts' opinion, those are the Districts' funds.

Mr. Brougham asked Mr. DiNardo if he knew where the quote came from. Mr. DiNardo advised he did not know. He received an email from U.S. Bank indicating the trustee advised that they said this. He said they never would have made that statement. He felt perhaps they were interpreting the financial statements and he explained to the trustee that the statements are required by accounting procedures.

Ms. Scott asked what the judge said about it and when they will receive an answer. Mr. DiNardo indicated it has not gone to the judge yet. Ms. Scott asked when this occurred. Mr. DiNardo advised it was the hearing on the 17th. Mr. Adams indicated all activities have ceased and he has advised the bondholders that they have no choice but to stop ongoing projects, at this point. He stated some sensitive projects are only partially completed, one in particular being the backflow prevention project, which provides fire safety, and he put them on notice that they have to cease and desist. Ms. Scott asked how they get the judge to help them through this. Mr. Adams stated that is a question for legal counsel. He indicated an Executive Session discussion is in place for that.

THIRD ORDER OF BUSINESS

**Approval of Minutes of August 25, 2010
Joint Public Hearing and Regular
Meeting**

Mr. Adams presented the August 25, 2010 Joint Public Hearing and Regular Meeting minutes for the Board's approval. The following changes were made:

Line 33 and throughout: Change "Gonzalez" to "Gonzales"

Mr. Slater formally apologized to Mr. Adams for using bad verbiage. He also noted that he does not change his opinion.

Line 40: Delete "Warren Curland"

Line 44: Change "Mr." to "Jim"

Line 139: Change "A Board Member" to "Mr. Slater"

Line 367: Change "no" to "he did not"

Line 448: Change "Costner" to "Club Center"

Line 535: Change "what" to "which parcels"

On MOTION for Fiddler's Creek CDD #1 by Mr. Curland and seconded by Mr. Schutt, with all in favor, the August 25, 2010 Joint Public Hearing and Regular Meeting Minutes, as corrected, were approved.

On MOTION for Fiddler's Creek CDD #2 by Mr. Robertson and seconded by Ms. DiNardo, with all in favor, the August 25, 2010 Joint Public Hearing and Regular Meeting Minutes, as corrected, were approved.

FOURTH ORDER OF BUSINESS

Other Business

There being no Other Business, the next item followed.

FIFTH ORDER OF BUSINESS

Staff Reports

a. Attorney

Mr. Pires advised that the question was raised as to whether or not the Board Members, individually, have any liability regarding the issue concerning withdrawal of funds in the construction account used to redeem bonds. He asked to defer this question until Bond Counsel is present.

Mr. Pires stated with regard to the question pertaining to the obligations, under the Army Corp of Engineers permit, for the Belle Meade Preserve conservation area, the Army Corp of Engineers permit issued to 951 Land Holdings Joint Venture incorporates all of the special conditions of the South Florida Water Management District (SFWMD) permit. There is an area in the Army Corp permit that is not part of the SFWMD permit, with regard to environmental enhancement and mitigation of the Belle Meade Preserve. He indicated there is a conservation easement that was provided to SFWMD, signed in October, 2006 and recorded in November, 2006, from 951 to SFWMD, that encumbers property as a condition of the Army Corp permit. Mr. Pires advised there is an Army Corp permit that has a mitigation plan and a conservation easement that was given to SFWMD which outlines that this is part of compliance with the

permit and mitigation plan. He stated, pursuant to the terms of the conservation easement, the grantor, 951 Land Holdings, is responsible for the management and maintenance obligations for the area imposed by the Army Corp of Engineers Mitigation Plan, which is the continued enhancement, going forward. He further advised there is a water management function and the District maintains the water management facilities. In addition, there are environmental considerations with regards to the management and maintenance activities under the mitigation plan with the Army Corp of Engineers' permit. Mr. Pires advised those obligations that 951 had may be assigned to another entity, upon SFWMD's approval or acceptance, and any assignment requires an acceptance by an assignee. He noted he is not aware of any assignment that has been provided, delivered, executed or presented to these Districts with regard to the mitigation plan under the Army Corp permit. Mr. Pires indicated he has not completed his research but he has reviewed portions of the Army Corp permit, the SFWMD permit, the DRI Development Order and the PUD and he is not aware of the existence of any assignment of the Army Corp permit obligations being presented to either Board for acceptance, nor has he found any documents that would require the Districts to accept the assignment of the management and maintenance obligations, under the mitigation plan, as opposed by the Army Corp permit. He stated while this area may be part of the approved drainage, design or water management plan, he has not found any obligation for the Districts to own, operate or maintain the preserve area, as a preserve area.

Mr. Schutt inquired about an article in the newspaper regarding an agreement between SFWMD and the conservancy, specifically on the Belle Meade preserve. He asked if the portion of the Belle Meade Preserve that the Districts own is a part of that agreement. Mr. Pires responded he does not believe it is. He advised he will provide a memorandum to the Board formalizing what he has related to them.

Mr. Brougham explained that this research was initiated by a request from the Boards as to the two (2) Districts being responsible for the ongoing maintenance of the preserve area. He asked Mr. Pires if their responsibilities to go in and start maintaining are on hold. Mr. Pires responded they have the opinion to maintain the area for water management purposes. As far as complying with any permit conditions or requirements, or being obligated to perform any environmental enhancement or mitigation, the Districts do not have any obligation. Mr.

Brougham asked Mr. Pires to distinguish one from the other and clarified that “preserve” is making sure that the exotics do not grow back. He asked what the maintenance activities are for water management. Mr. Adams stated they have regulatory obligations with regard to exotic plant removal and abatement and the reason for these criteria is the health of the preserve and the ability for it to operate as designed, in terms of water flow-through.

Mr. Brougham asked if any activities will be initiated that will expend the funds allocated in the next fiscal year's budget. Mr. Adams advised they are going to do maintenance; beyond that, they have a monitoring requirement and other things that are regulatory in nature. He stated Mr. Pires is saying he is not able to find anywhere where the Districts have accepted any of those responsibilities and those responsibilities and obligations still remain with the developer.

Mr. Brougham indicated he feels they need to be assured of that, before any contractors are retained to go in there for maintenance purposes, they are doing maintenance on areas that they have responsibility to maintain and not performing maintenance on other areas. Mr. Adams agreed. He reiterated that exotic removal is a regulatory requirement, but also a functional requirement. Maintenance and removal of exotics are appropriate because they have a maintenance obligation to the property itself, to ensure it is maintained properly so that it functions as it should, as part of the storm water system.

Mr. Robertson stated they need to speak with the Army Corp of Engineers to determine the SFWMD requirements, because the understanding of what water management flow really means is critical to determining whether the Districts or 951 Land Holdings are obligated to do it. Mr. Adams advised he will ask Mr. Cole to review this and bring a report back at the October meeting. Mr. Brougham asked for a consolidated report that also reflects Mr. Pires' legal opinion. Mr. Pires indicated he will obtain an official position from SFWMD and the Army Corp of Engineers.

b. Manager

No report was given and the next item followed.

i. NEXT MEETING DATE: October 27, 2010 at 8:00 A.M.

The next meeting is scheduled for October 27, 2010 at 8:00 a.m.

c. Operations Manager

Ms. Crismond reported they were able to secure some fence panels for the replacements on Mulberry, which were delivered last week. She noted the Veneta and the Aviamar fountains were acid washed and the decorative fountains abutting 951 will be acid washed this week. Mulch is also being replaced.

Ms. Crismond advised that Management continues to tour the lakes for compliance, with Ms. DiNardo and LakeMasters. She indicated Management tours the property weekly with TruGreen and replacement of sod, due to chinch damage, continues.

With regard to patrol statistics, Ms. Crismond indicated they had two (2) traffic details this month. She noted Management is in the process of obtaining quotes to pressure clean numerous sidewalks in Mahogany, as well as Mulberry, due to excessive mildew.

Mr. Robertson asked if the sidewalk trip hazard project is done. Ms. Crismond responded affirmatively. Mr. Robertson advised there is orange spray paint on Mulberry. Ms. Crismond advised she will ask Mr. Cole why it is still there.

FIDDLER'S CREEK CDD #2 ITEMS

SIXTH ORDER OF BUSINESS

**Update: Bankruptcy Proceedings –
Robert Demarco**

Mr. Adams stated the Board engaged Mr. Demarco's firm and they authorized him and the Chairman to do so, following the last meeting. He indicated the transition takes some time and there is a lot of catching up to do. He noted they continued to have Weiss Serota represent CDD #2 at the two (2) hearings that were held since the last meeting, so it might be appropriate to have Weiss Serota give an update on the bankruptcy proceedings. He advised Ms. Martinez that he forwarded her detailed summaries on the hearing proceedings to both Boards. He then introduced Mr. Dan Abbott.

Mr. Abbott briefly outlined Ms. Martinez' background and asked her to provide an update. Ms. Martinez explained that the debtor has the exclusive right to come up with a plan of reorganization. According to the judge's ruling, December 3rd is their deadline to come up with a plan. After that date, they have until February to solicit votes for that plan and, if they drop the ball, any interested party can file a plan of reorganization or liquidation. She indicated the debtor is represented by very competent counsel.

Mr. Brougham asked if there is a possibility that the judge could extend the period of exclusivity beyond December. Ms. Martinez responded there is a possibility but the judge made it clear that this is the time they have and the creditors and other parties will not give the debtor much more slack. In addition to the exclusivity period, a number of claims between hearings have to be resolved by then.

Ms. Martinez stated the next item resolved in the last few weeks is the debtor's request for additional interim finance, which is called DIP finance. She indicated the judge had very good questions about how much equity is in all of the different properties. At the September 2nd hearing, the judge sent the attorneys and professionals running for two (2) weeks to get figures to see whether or not the debtor has equity and how much there is. Appraisals were updated and showed that the values have increased since March.

Ms. Martinez stated another "large ticket" item is the Single Asset Real Estate (SARE) Motion. She stated this motion would have triggered a number of legal technicalities that could have sped up this process. Last Friday, the judge ruled that this is not a SARE debtor. He found that U.S. Bank, trustee for the bondholders, did not have standing to bring this motion. He went on to say even if there was standing to bring the motion, in his opinion, based on the facts of this case, this is not a SARE.

Mr. Robertson asked if the bank that was told that they do not have legal standing to raise the SARE issue was the same bank that came before the Board and demanded that they go to the hearing to support his SARE. He also asked if, by doing that, the bank was telling the Board to do something illegal.

Ms. Martinez responded that bondholders threats to the CDDs to do that was also pushing the envelope and not necessarily warranted.

Mr. Robertson asked who the debtor would solicit votes from to support his plan of reorganization. Ms. Martinez explained in bankruptcy, the creditors are classified by whether they are secured or unsecured, priority, etc., and, within those, whether their interests are impaired. She stated those that are not impaired do not get to vote because it is presumed they will go for the plan; those whose claims are impaired are those whose votes are necessary and they must meet a certain threshold. She advised the plan sets forth classes of claims, such as secured creditor #1, #2, #3, #4 or unsecured creditor #1, #2, #3, #4 and so on. She stated it takes

some skill, from the debtor's perspective, to figure out how to lump the creditors so that he will get favorable votes.

Mr. Brougham stated ultimately, the judge will decide what is in the best interests of the case. He advised if they do not have unanimity amongst everyone to a plan, it will end up before the judge and he will make a ruling. Ms. Martinez stated, playing into that is whether the debtor makes appropriate disclosures of whether a plan is feasible or not and this is a key component.

Ms. Martinez noted several additional issues that were dealt with by the judge in the last couple of hearings. She indicated the debtors have incurred over \$1 million in fees, to date, and they were approved.

Ms. Scott inquired about a CDD buydown when property is sold. Mr. DiNardo explained that buydown is voluntary, not mandatory; they can elect to buy down some of the debt so the cost of ownership is less. Ms. Scott asked if that has occurred in some of the sales. Mr. DiNardo stated in the units that have closed so far, they agreed to the buydown and when this occurs, it pays down the principal. Discussion ensued regarding why the bondholders would object to sales of the property. Mr. DiNardo indicated Regions Bank and Fifth Third supported the extension of the DIP and the only one who disagreed with the developer was the bondholders' trustee.

With regard to the appraisals, Ms. Martinez advised they were ordered by the debtor, pursuant to the judge's request. They are appraisals of unencumbered properties and show that values actually went up. She confirmed that the Board Members should not expect to receive any subpoenas. Mr. Miller asked Ms. Martinez if, in her opinion, the subpoenas were valid, given the distance between Tampa and Naples. Ms. Martinez indicated they were deficient. Further discussion ensued.

Mr. Adams advised in order to transition counsel, there is a formal process that runs through the court and that filing was made approximately ten (10) days ago.

Mr. Demarco advised he was recently engaged by CDD #2 and expressed that he hoped to be working closely with CDD #1's counsel to coordinate their efforts with respect to the bankruptcy proceedings. He indicated he was engaged about ten (10) days ago and filed a Consent Order to Substitution of Counsel, which was signed by Mr. Gonzales, Mr. Adams and himself and filed with the court. He stated, as of yesterday afternoon, the indication was that the

order was still being reviewed. Mr. Demarco gave a brief explanation of his background and indicated he had much reading to do, including the master indenture.

Mr. Adams stated, although the Boards authorized the Manager and the Chairman to proceed with engaging Treiser Collins and Mr. Demarco, he asked that they ratify that action, on the record, by motion.

On MOTION for Fiddler's Creek CDD #2 by Mr. Robertson and seconded by Ms. DiNardo, with all in favor, engagement of Treiser Collins and Mr. Demarco, by the Manager and Chair, was ratified.

SEVENTH ORDER OF BUSINESS

Ratification of Engagement of Bond Counsel

Mr. Adams indicated at the direction of the Board in granting the authority to the Manager and the Chair, Bryant Miller Olive has been engaged and Mr. Ken Artin will serve as Bond Counsel. He asked that the Board ratify that action, by motion.

On MOTION for Fiddler's Creek CDD #2 by Ms. Scott and seconded by Ms. DiNardo, with all in favor, engagement of Bryant Miller Olive, by the Manager and Chair, was ratified.

Mr. Adams indicated that Mr. Artin was attending the meeting by telephone and noted he was given the letter that was provided to trustee's counsel and the trustee, with regard to their concerns about the funds being removed from the construction fund and utilized for optional redemption purposes.

Mr. Artin advised his firm was charged to respond to the inquiries set out in the letter. He stated the analysis was broken down to two (2) levels, the first being, from a tax standpoint, does the use of the proceeds to redeem bonds have an adverse affect on the tax exempt status of the bonds. In order to provide a formal opinion, they will review the various bond indentures and the amendments that are in the record. Mr. Artin indicated, in general terms, the use of excess construction fund monies to redeem bonds does not have an adverse affect on the tax exempt status of the bonds. He explained that the way trust indentures are typically set up, once

a project is completed and placed in service, any excess money is flushed from the construction fund and is used to redeem bonds, at par. He indicated typically, CDD bonds were issued with call protection, meaning for the first ten (10) years of maturity of a bond issue, bonds are not subject to optional call. Some were not subject to optional call at all and, after the ten (10)-year period, there was a premium charge for several years. Mr. Artin stated an excess construction fund call was a mechanism built into the documents that allowed the flushing of the construction fund, allowing the excess money to pay down the debt on the property and, thus, reduce the assessments on the benefited land. He advised, if that was the process used to redeem the bonds, there will be no affect on the tax exempt status of the bonds and it is not considered private business use.

Mr. DiNardo asked Mr. Artin if he looked at the construction fund to pay legal fees and debt service. Mr. Artin stated they still have to review the record to see what was used and how it was used. Mr. DiNardo suggested that he check the debt service issue, noting they have an opinion that there is a limited amount of debt service that can be taken out of the construction account. Mr. Artin explained that there are IRS rules as to what can and cannot be used with respect to bond proceeds and the records need to be reviewed in order to analyze each of the uses under the various rules.

Mr. DiNardo inquired about the definition of "excess construction funds" and felt the record should be checked to see if the Boards adopted the concept that it was excess construction. Mr. Artin indicated that is one of the things they have been retained to investigate and determine.

Mr. DiNardo advised the monies were taken out in June, 2010 and the bankruptcy was filed in February, 2010. He asked if the monies were required to go to the bankruptcy court, if they were taken. Mr. Artin explained that the bond proceeds are part of a trust estate that was established for the benefit of the bondholders. He noted he needs to determine when the initial default occurred because that triggers several different powers of the trustee over the amount on deposit in the trust estate. He stated as long as payments are being made to the bondholders, the documents are very clear as to how the money comes out of the trust estate and can be expended on improvements of the project; however, once an event of default has occurred, there is a monumental shift in power and authority to the trustee over the trust estate.

Mr. Artin indicated the amounts in the funds and accounts established under the trust indenture are part of the trust estate. He stated monies in the trust estate were not the developer's and he does not feel the developer's bankruptcy will have much affect on their analysis of what the trustee can and cannot do with the trust monies.

Mr. Robertson asked who determines when construction funds are excess. Mr. Artin stated he has to look at the trust indentures and amendments; typically, that is in the realm of the District itself. He stressed that what happens pre-event of default and post-event of default will have different results and all of that needs to be taken into account.

Ms. Scott indicated they have a large project that they need to take care of with some lake mitigation expenses and that should come out of construction funds. She advised, they, as a Board, would never approve any draw of any "excess construction funds" until projects such as this are dealt with. She questioned that the trust indenture would state that the Board has no approval for withdrawal of "excess construction funds". Mr. Artin indicated this will be determined for the Board.

Mr. Pires indicated, under general Florida law, the fact that the Board took no actions resulting in the removal of the funds from the construction account, his opinion is that the individual Board Members have no liability from any asserted acts because there were no actions taken by the Board with regard to withdrawal of the funds. Mr. Artin concurred, subject to review of the record.

Ms. Scott asked on what authority the bank released the funds. Mr. Artin indicated he suspects that the bond trustee acted at bondholder direction. Mr. Pires advised that a letter went to the trustee asking for the basis for that request and they have not received a response. Mr. Adams stated they were not sure they would receive a response. Ms. Scott asked if they have an action against anyone. Mr. Adams advised that is something Mr. Artin will review to see what kinds of authorities might be available in the trust indentures for the trustee to make those direct withdrawals. Mr. DiNardo stated they are monies that were taken into debt service and were taken to pay legal fees. Mr. Adams confirmed that CDD #2 was for debt service in November, 2009 and the optional redemption item, on CDD #1, was in mid-June. Mr. Artin asked if the money for debt service was taken from the reserve accounts. Mr. Adams indicated that it was taken out of construction.

Mr. Artin stated the way the bond indenture is drafted, once an event of default occurs, the bondholders holding 51% of the outstanding bonds get to control the decisions and advise the trustee what to do. He stated everything depends upon the terms of the trust indenture and when the event of default occurred.

Mr. Correia asked if it is fair to assume that the funds are lost. Mr. Artin stated access to the funds by the CDD is probably restricted and the bondholders will not be inclined to expend their money because the amount in the construction fund represents money that could pay down the debt on the project. He indicated that the bondholders will be looking at whether it will increase the value of their collateral, which is the land, and make the CDD a better place to buy homes, by letting the CDD spend this money on the project. Mr. Artin advised, if the answer is "yes", some bondholders have surmised it is a good value for their money. If it is determined that no more development will occur, no matter how much more is put into the infrastructure within the CDD, and they will not get the money out, the analysis of any lender would be, why put good money after bad.

Regarding whether they will be able to convince the bondholders to spend the money, Mr. Artin stated if the CDD has a plan showing how the bondholders' collateral will be improved by spending the money in the construction fund, to complete the project, it will hold a lot of weight. He explained in the past, agreements were put in place with the developer whereby the CDD indicated they knew they would not be able to borrow all of the money to complete the entire infrastructure. He advised there is a point at which they will never be able to sell a lot within a CDD if it is burdened with an assessment that takes the cost of the lot above market. Mr. Artin indicated everyone recognized such when bonds were being issued. The bondholders agreed to finance a certain amount, provided the developer agreed that any monies needed by the CDD to complete the project, after the bond money is gone, will be provided by the developer. He stated these were usually called completion agreements or acquisition agreements and the developer was contractually obligated to the CDD to complete any improvements that were left over after the bond money was spent. Mr. Artin explained that is how the bondholders protected themselves because they knew that when the bonds were issued, they did not issue the bonds in an amount equal to the entire capital improvement plan of the

CDD. He stated if that is the case here, the bondholders will be looking at whether it will increase the value of their collateral by letting the CDD spend this money on the project.

Ms. Scott asked if it is anybody's understanding that the total value of the bonds was not enough to finish the project and that the developer was going to have to contribute more funds at the tail end of the project. She stated her understanding is that the budget was equal to the amount of the bonds. Mr. Artin stated that will all be set out in the offering statement that was used to sell the bonds. He advised that generally, the bondholders are not duty bound to finish the project and let the CDD spend all of their money.

Mr. Robertson advised Ms. Scott to ask Mr. Cole that question at the next meeting.

Mr. Miller stated this scenario is that there were inadequate funds and asked if that precludes a claim that there were excess funds. Mr. Artin asked if there is undeveloped land in the CDD. The Board responded affirmatively. Mr. Artin stated if the money was left over to put in infrastructure needed to build out the balance of the project, it could have been determined, by the Engineer, that the project, with respect to the finished lots they have right now, was done. Ms. Scott indicated that is definitely not the case.

Mr. Wieback asked which Board Member was asking the questions. He was advised it was Ms. Scott.

Mr. Robertson asked Mr. Artin if he will be pursuing a response from the trustee to their letter inquiring about the use of the funds. Mr. Artin stated he did not understand that was part of his engagement. It was only to look at the documents in the record and determine if the bondholders had the authority to direct the trustee to perform certain actions. He further noted he did not think this would be fruitful.

EIGHTH ORDER OF BUSINESS

**Unaudited Financial Statements as of
August 31, 2010**

Mr. Adams presented the Unaudited Financial Statements as of August 31, 2010. He stated the financials, on the operating side, indicate the Districts are 100% reliant on debtors' funding. The funding includes off-roll assessments, which the debtor continues to make on a monthly basis, as well as the shortfall funding that the debtors have continued to commit to and was also continued to be approved in the latest hearing a week ago.

NINTH ORDER OF BUSINESS

**Audience
Requests**

Comments/Supervisors'

There were no Audience Comments.

Mr. Robertson referred to the August 25, 2010 minutes and inquired about the correct procedure to follow in an emergency situation. Mr. Adams stated, with regards to delegation of authority for issues requiring immediate attention, in April, the authority was delegated to Special Counsel, in combination with the District Manager and, as appropriate, in consultation with the Chair and, if circumstances warranted, through independent conversations with each Board Member, advising the direction they will be moving in and that those actions would be ratified at the next meeting.

Mr. Correia advised he was not at the last meeting, so there is a lot of background that he does not have. He stated, when he read the minutes, they did not flow into the motions, where CDD #1 basically said, "only changes will occur within a meeting of the Board". For CDD #2, it looked to him like there was a back door approach into the CDD #2 process. He stressed that he is very sensitive to the Sunshine Law and he also believes very highly that the CDD Boards must maintain their integrity. He indicated he likes open meetings, all the players, it is recorded, minutes are taken and the Board Members have a chance to engage each other. He stated this other process, which they went through a little while ago, did not feel good and he did not like it and this is not the way to do business. He questioned whether Mr. Pires said that this is totally within the concept of the Sunshine Law. Ms. Scott advised that counsel decided the Manager could act on their behalf on this issue. She stated the Board did not take the action; the Manager took the action. Mr. Correia advised Mr. Pires that he wants his answer, on record, that this does not violate the Sunshine Law.

Mr. Pires stated, in this particular instance and issue, they have Special Counsel that was consulted and provided guidance on this particular transaction and method in which it took place and occurred. He indicated it is best for Special Counsel to advise them whether he believes that it is consistent with the Sunshine Law. He stated because he is not involved in the bankruptcy proceedings and not involved in the foreclosure proceedings, for the activities that occurred with regard to CDD #2, guidance best comes from their Special Counsel. Mr. Correia indicated he felt so strongly about this that he was prepared to resign if they do not get a very strong

statement from Special Counsel that says this is not in violation of the Sunshine Law. Ms. Scott advised him that they had that at the last meeting. Mr. Correia advised he did not see any statements in the minutes to that affect.

Mr. Adams stated Staff's preference is to not have to utilize this process. He noted government is about the open forum; however, they do recognize that, from time to time, an issue will arise. He indicated this was addressed in their Rules of Procedure with regards to catastrophe response and delegation of authority in those types of instances. He advised they have an issue with regard to court proceedings and bankruptcy, in particular, that can move very quickly because last minute motions may need to be filed, which puts Staff in a position of having to react quickly on the Boards' behalf; therefore, they had to find a way to work within the confines of the Sunshine Law and open government to ensure that the Boards' best interests are being addressed. That was done through dialog, last April, where the Boards delegated the authority to Special Counsel, consultation with the Manager and with the Chair/Chairman, as appropriate and, if circumstances warranted, to have a discussion with each Board Member, individually, to ensure everyone was aware of what was being done. He indicated this is the process that was implemented, on the Boards' behalf, about a month ago and that he asked the Boards to ratify or address a different approach. He stated CDD #2 liked the approach they had before, which was utilized, and it was ratified on the record. Mr. Adams felt that if it is handled properly, it is not a Sunshine Law issue and Mr. Gonzales indicated that, as well. He advised Mr. Correia that if he wants a legal opinion, he will request one from Weiss Serota. He indicated that he saw no harm in waiting until the next meeting to obtain the opinion, to give a level of comfort or the ability to rescind it and readjust the approach.

Mr. Correia referred to the Naples Daily News regarding the sensitivity to the Sunshine Law. He indicated if there is any violation, regardless of any opinions they get from Mr. Adams or someone else, the Board will pay. Mr. Adams stated they all have the same level of interest and emphasized what they are asking for is an opinion. He advised it does not necessarily mean they will be covered in all situations, going forward.

*****The CDD #2 meeting was recessed at 9:35 a.m.*****

FIDDLER'S CREEK CDD #1 ITEMS

TENTH ORDER OF BUSINESS

**Update: Bankruptcy Proceedings –
Daniel Abbott**

****This item, previously the Eleventh Order of Business, was discussed out of order.****

Mr. Brougham indicated the next item on the Agenda was an update on the bankruptcy proceedings. He felt that Mr. Abbott would give them the same update and asked if he had anything to add for CDD #1, specifically.

Ms. Martinez stated she cannot overemphasize the nuances of bankruptcy and sometimes, how quickly things can happen. She indicated she is very sensitive to what she just heard.

Mr. Brougham recalled that the flurry started about a motion that had not even appeared on the docket at the time the Boards were asked to join with the debtor. He stated there is nothing to preclude any creditor or unsecured creditors committee or the debtor from making a motion to that court, at any point, over this next period. He advised it can happen at any point and they have to be prepared that it might.

ELEVENTH ORDER OF BUSINESS

**Ratification of Engagement of Bond
Counsel**

****This item, formerly the Twelfth Order of Business, was presented out of order.****

Mr. Adams advised that Gray Robinson was engaged as Bond Counsel and Mr. Hank Morgan was present. He asked the Board to ratify that engagement, on the record.

**On MOTION for Fiddler's Creek CDD #1 by Mr. Brougham
and seconded by Mr. Curland, with all in favor, engagement of
Gray Robinson as CDD #1 Bond Counsel, was ratified.**

Mr. Brougham asked Mr. Morgan how long he has been working in advance of this ratification, with respect to where they are at with the bondholders and the release or withdrawal of money. Mr. Brougham asked if he had any preliminary opinions or questions he would like to share.

Mr. Morgan questioned whether his report to the Board on what they have done thus far should be given in the Executive Session or on the public record. Mr. Brougham advised him if

he would be more comfortable, he can report to the Board in the Executive Session. Mr. Morgan advised he had nothing inflammatory to reveal but he would like to err on the side of caution.

Mr. Robertson asked Mr. Morgan if he is going to try to get an answer from the trustee to their letter. Mr. Morgan deferred his answer to the Executive Session.

TWELFTH ORDER OF BUSINESS

**Unaudited Financial Statements as of
August 31, 2010**

****This item, previously the Thirteenth Order of Business, was presented out of order.****

Mr. Adams presented the Unaudited Financial Statements as of July 31, 2010 and asked for questions from the Board. Mr. Schutt asked if the \$91,000 "due from developer" is for the unpaid tax obligation for 2010, which was pre-petition. Mr. Adams stated a portion of that amount is the February off-roll assessment payment that did not pertain to pre-petition. Mr. Brougham stated the February off-roll is \$45,000 or \$50,000 and indicated they are running a month behind in collecting the off-roll. He speculated they have \$45,000 pre-petition and a consistent \$45,000 monthly off-roll and they are behind one (1) month. Mr. Adams will provide verification for the Board.

Mr. Curland noted that this month, the reserve decreased by \$83,000 and asked if that is a realistic expectation, going forward. He indicated that they have \$542,000 in reserves and if they expend this amount each month, their reserves will be depleted in six (6) months. Mr. Adams stated their annual appropriations are approximately \$2.1 million and their typical prorated expenses run about \$180,000 a month. He advised \$83,000 was the amount used this month but that is where they have started to dip into fund balance to meet their obligations. Mr. Brougham stated that is offset by any under budget items. Discussion ensued regarding the DIP loans, which are in 13-week increments. Mr. Brougham stated if another 13-week budget is proposed, and for whatever reason, something happens on December or November 30th and they do not have a plan of reorganization, another DIP will be proposed and Mr. Adams must give them the projected cash flow because the reserves will be in a shortfall by that time. He indicated that he is a member of the Unsecured Creditors Committee and that he will keep a close watch on any

proposed DIP budget. If necessary, the Unsecured Creditors Committee will file an objection to it, on behalf of the CDDs.

Mr. Brougham asked Ms. Crismond if she received the final check for the repairs and maintenance on the gatehouse. She advised there is one (1) payment left, which is due before the end of September. Mr. Brougham requested that she contact Mr. Gersoy and ask when they might expect his check. If he cannot give a specific answer, she should call Mr. Chris Major and tell him they want his check within the next week.

Further discussion ensued regarding the financial statements. Mr. Brougham asked for clarification on several of the expenses.

THIRTEENTH ORDER OF BUSINESS

**Audience
Requests**

Comments/Supervisors'

******This item, previously the Fourteenth Order of Business, was presented out of order.******

There were no Audience Comments or Supervisors' Requests.

******The CDD #1 meeting was recessed at 9:53 a.m.******

FIDDLER'S CREEK CDD #2 ITEMS

******The CDD #2 meeting reconvened at 10:00 a.m.******

▪ **Fiddler's Creek CDD #2 Executive Session**

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

Mr. Adams indicated that all Supervisors Robertson, Correia, DiNardo and Scott were present, in person. Ms. Schmitt was not present. Mr. Adams also noted that he was present, along with Special Counsel, Mr. Demarco.

Mr. Robertson called the Public Meeting to order, noting the time as 10:04 a.m. He advised they are about to have an Attorney-Client Session in accordance with Florida Statute 286.011 regarding litigation styled "*In Re: Fiddler's Creek, LLC.*" He estimated the session to last 30 minutes and advised that the following individuals will be in attendance: Himself, Ms. DiNardo, Mr. Correia and Ms. Scott. He indicated District Counsel Robert Demarco and Mr. Adams were present.

******The Executive Session began at 10:04 a.m.******

******The Executive Session ended at 11:36 a.m.******

Members of the public were invited to join the meeting. Mr. Adams indicated that no members of the public were present.

Mr. Adams indicated there were no Board actions required as a result of the Executive Session. He also asked Mr. Demarco if he felt there was a need to request another Executive Session to get the request on the record at a regular meeting.

FOURTEENTH ORDER OF BUSINESS Adjournment: Fiddler's Creek CDD #2

******This item, previously the Tenth Order of Business, was presented out of order.******

There being no further business, the meeting adjourned.

<p>On MOTION for Fiddler's Creek CDD #2 by Mr. Robertson and seconded by Ms. DiNardo, with all in favor, the meeting adjourned at 11:38 a.m.</p>

FIDDLER'S CREEK CDD #1 ITEMS

******The CDD #1 meeting reconvened at 11:45 a.m.******

FIFTEENTH ORDER OF BUSINESS Executive Session

Mr. Adams reconvened the meeting and noted, for the record, that Supervisors Brougham, Curland, Schutt and Robertson were present, in person and Supervisor Slater was attending by telephone.

Mr. Brougham announced that they were about to have an Attorney-Client Session, in accordance with Florida Statute 286.011, regarding the litigation styled "In RE: Fiddler's Creek, LLC". He estimated that the session would last 30 minutes and indicated the following people would be attending: Board Members Phil Brougham, Bob Slater, Jim Robertson, Jim Curland and Jim Schutt; District Attorneys Dan Abbott, Hank Morgan and Brian Binder; and District Manager, Chuck Adams. He stated the proceedings will be recorded by a certified court reporter and, at the conclusion of all litigation discussed, the transcript will be made part of the public

record. Mr. Brougham requested that any individuals not named leave the room. He then clarified that Mr. Brian Binder was not present.

******The Executive Session began at 11:45 a.m.******

*****The Executive Session ended at 1:03 p.m.*****

The public session was opened. No further business was discussed.

SIXTEENTH ORDER OF BUSINESS

**Consideration of Any Necessary Actions
Resulting From Executive Session**

There being no action, the next item followed.

SEVENTEENTH ORDER OF BUSINESS

Adjournment: Fiddler's Creek CDD #1

There being no further business to discuss, all were in agreement with adjournment.

**On MOTION for Fiddler's Creek CDD #1 by Mr. Schutt and
seconded by Mr. Curland, with all in favor, the meeting
adjourned at 1:04 p.m.**


Fiddler's Creek CDD #1


Secretary/Assistant Secretary


Chairman/Vice Chairman

Fiddler's Creek CDD #2


Secretary/Assistant Secretary


Chair/Vice Chair