

**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 June 28, 2023 at 10:00 a.m., at the Fiddler’s Creek Club and Spa, 3470 Club Center Boulevard, Naples, Florida 34114.

Present were:

Elliot Miller	Chair
Victoria DiNardo	Vice Chair
Linda Viegas	Assistant Secretary
Bill Klug	Assistant Secretary
John Nuzzo (via telephone)	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Adams	District Manager
Tony Pires	District Counsel
Terry Cole	Hole Montes, a Bowman Company
Joe Parisi	Developer’s Representative
Markus Rentzing	Foundation General Manager
Valerie Lord	Foundation Representative
Ryan Hennessey	Fiddler’s Creek Director of Community Services
Jody Benet	Fiddler’s Creek Irrigation Manager
Mike Barrow	GulfScapes Landscape Management
Craig Hipp	Resident
Robert Dellentash	Resident

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mrs. Adams called the meeting to order at 10:00 a.m. Supervisors Miller, DiNardo, Viegas and Klug were present. Supervisor Nuzzo attended via telephone.

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

No members of the public spoke.

THIRD ORDER OF BUSINESS

**Continued Discussion: Claim Against
Fiddler's Creek CDD #1 Regarding
Anticipatory Breach of Interlocal
Agreement [Traffic Signal Cost Sharing]**

Mr. Miller stated that, two weeks ago, CDD #2 filed an amended complaint with additional details. CDD #1 motioned to extend its time to answer the complaint. Both CDDs agreed that CDD #1 will have until July 7, 2023 to answer the amended complaint; an update will be provided at the next meeting.

Ms. Viegas asked Mr. Miller to contact Mr. Reyes, Special Counsel for this litigation, to expedite submission of his invoices. Mr. Miller will contact Mr. Reyes accordingly.

Ms. Viegas asked Mr. Miller when he thinks this litigation will be completed. Mr. Miller estimated it should be finalized within a couple of months.

FOURTH ORDER OF BUSINESS

Health, Safety and Environment Report

Mr. Hennessey reviewed the PowerPoint presentation and reported the following:

➤ Inquiries and photos can be emailed to Irrigation@Fiddlerscreek.com or Pressurewashing@Fiddlerscreek.com.

Mr. Miller noted that the numbers shown above Total Water Usage were much lower in May and asked why. Mr. Hennessey stated the total is for all of Fiddler's Creek; the numbers above the total are just for CDD #2. Mr. Miller asked for future reports for the month to specify "as of" versus "in".

➤ Tree Canopy Trimming: Juniper trimmed the hardwoods in Marsh Cove; this month palm trees will be trimmed from the Sandpiper entrance to Cranberry Crossing.

➤ GulfScapes might have taken on removal of tree stumps in CDD #2, unbeknownst to Mr. Hennessey. Juniper stated, upon receipt of the GulfScapes' invoices, they will compensate GulfScapes based on the CDD's contract with The Foundation. Juniper's arborist stated their new software, Juniper Sync, will facilitate dispatching tree and landscape requests. Information will be provided at the next meeting.

A. Irrigation and Pressure Washing Efforts

- Irrigation: There were two rain holds in the Villages and none in the common areas.
- Irrigation Projected Usage: Water usage is expected to decrease in the coming months, as it did from July through October 2022.
- Pumphouse #2 is being fixed. There should not be any roadway problems or detours while repairs are being made.
- Pressure Washing: Veneta and Aviamar are completed; Cherry Oaks is in progress. The sign outside the Championship gate was also pressure washed.
- It was noted that sidewalks are not 100% cleaned in certain areas; crews were advised to be attentive and perform complete cleanings. The crews will address those areas and areas with safety concerns or monuments.

B. Security and Safety Update

- Gate Access Control: Residents are doing a good job of using the members' website rather than sending emails or calling about guests and vendors. The automated gatehouse number is 239-529-4139. Community Patrol's number is 239-919-3705.
- Staff members are directing trucks going to Marsh Cove, Oyster Harbor, and the golf clubhouse to use the construction roads rather than private roads.
- Occupancy Report: Occupancy in May was an average of 1,655 out of 3,105 units, a decrease of approximately 16% since last month. Last month, he was asked how that corresponds to the height of the season; compared to February's occupancy of 2,349 it represents a 30% drop in the occupancy rate.
- Gatehouses and Patrols: Championship Drive renovations will begin soon, and efforts will be made to ease the impact on residents.
- Activity by Gatehouse: Total entries dropped from 87,000 in April to 64,000 in May, equating to a 26% drop. There were 109,000 entries in February, equating to a 40% drop in May. The gatehouses and two road patrols are operational 24/7.
- Incidents: Officer observations, such as illegal dumping or streetlights out, increased.
- Speed Detection and Enforcement: Portable and fixed speed detection devices are in use. In May, 24 violations were recorded; none were repeat offenders, so none were referred to the Fining Committee. Some repeat offenders were recorded in June and will be referred to the Fining Committee.

In response to a question from Mr. Miller, Ms. Viegas stated the Cranberry Crossing HOA pays for the fixed speed detection device.

Mr. Hennessey discussed an incident in which a homeowner reported that three males, between the approximate ages of 16 and 18, were seen on the homeowner's camera at 11:40 p.m. on Wednesday June 14, 2023. It was not reported to Security until 10:30 a.m. on Thursday, June 15, 2023. The homeowner advised that one of the three men appeared to be holding an air horn. Mr. Hennessey immediately advised the caller to contact the Sheriff's Department. Sheriff Deputies canvassed the neighborhood on Friday, June 16, 2023. It was also reported that a door was knocked on in Chiasso. This is thought to be a TikTok prank involving knocking on doors and running away. There was no invasion, robbery, burglary, violence, or vandalism.

Mr. Miller asked if a complaint was received from a woman who was upset. Mr. Hennessey stated he is sure it was upsetting but he is not aware of such a call. No crime occurred. He wants to alleviate any unnecessary alarm, as residents were sharing thoughts about the incident and sharing the video by email. He issued an email advising that people were knocking on doors trying to cause alarm. The Sheriff's Department believes they have identified two of the three but there is a lack of evidence. It appears that one individual is a Fiddler's Creek resident which is likely how the other two individuals gained access. The juvenile and his parents were spoken to, and he denied it. As soon as Staff learned of the incident and saw the video, road patrols were increased by Staff and the Sheriff's Department and will continue. It is not believed to be a threat to the community; rather, it seems to have been a prank.

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

Mr. Parisi reported the following:

- Oyster Harbor and Dorado are the two communities under construction; 18 homes on Fanny Bay North are sold, and most are under construction. Seven buildings in Dorado are under construction.
- Construction Compound: Landscaping and hydroseeding were completed. There have been some fencing issues, due to a fire hydrant, but the fence should be completed next week.
- Championship Gatehouse: The plan will be submitted next week; it will look similar to the other gatehouses. CDD #1 will sign the Notice of Commencement (NOC) as it is on CDD #1

land. Construction might begin on August 1, 2023, and be completed at the end of October. Mr. Jonathan Walsh, who used to work for the County, is working on the project.

- The County suggested closing Championship Drive during the construction. The road will be closed near the Championship gatehouse, where there is a turnaround for traffic, and discussions with the County will address signage on 951 and within Fiddler's Creek.
- Emails will be sent in mid-July, August, and September to remind drivers to avoid Championship Drive. Internal signs will be put on Fiddler's Creek Parkway to prevent turning onto Championship Drive and having to turn back.
- Gatehouse construction will include inside and outside; construction is expected to be completed at the end of October 2023.
- The Golf Clubhouse is under construction and should be completed by the end of January 2024. Grass for the driving range and practice facility is being installed. The walls are up, and the trusses will be delivered in mid-July.
- The Golf Clubhouse is independent of the Gator Grille and must be finished first. The design is underway and Gator Grille 2 will be near the pickleball courts. Pickleball courts will be added to the other end of the parking lot and additional parking spaces will be added when the cart barn is removed. Timing will go into next summer; completion is estimated to be a year or more from now.
- Work on the dog park will hopefully commence in October or November 2023; planning is ongoing.
- Once the golf cart barn and driving range leave, construction will begin at Parcel 6, where the driving range outside Runaway Bay is located; it will be called Hidden Cove. Site development plans and plats to designate the land as a development parcel are underway.

Mr. Nuzzo asked if the monument sign or landscaping at the Championship gate will change. Mr. Parisi stated the gatehouse will be landscaped and the monument sign will be cleaned; at some point, the brand marketing firm will provide new font style designs for the community and the monument signs will be updated. The Sandpiper entrance currently has no monument sign, but land is set aside for one; a monument sign will be designed in the future.

Resident Craig Hipp asked if there will be better lighting at the Championship entrance. Mr. Parisi stated no changes are planned, as the lights meet County requirements.

Mrs. Adams stated lights are regularly checked and bulbs are replaced by Bentley Electric.

Ms. Viegas asked if the Hidden Cove Mr. Parisi referred to will be called Live Oaks, as noted at the last meeting. Mr. Parisi stated the old Hidden Cove, behind Oyster Harbor, will now be called Live Oaks. The Hidden Cove, by Runaway, will remain as Hidden Cove.

SIXTH ORDER OF BUSINESS

**Engineer's Report: /Update: Hole Montes,
a Bowman Company**

- **Consideration of Encroachment Agreement**

Mr. Cole stated he reviewed the document, and he has no objections; however, he and Mr. Pires noted that the document must be in all black and white, for recording purposes. The Agreement shows the generator pad and some existing pool equipment. He previously asked that the pool equipment be shown so that it is covered in the Agreement.

Mrs. Adams noted the presence of a pipe in the easement.

Mr. Pires stated the Agreement works, from the standpoint of describing the nature of the encroachment and improvements and reiterated that the plan must be in black and white.

Mr. Pires asked Mr. Cole where the pipe is located, relative to the improvements. Mr. Cole stated the pipe is on the property line. Mr. Pires asked Mr. Cole if, in his expert opinion from the standpoint of potential impact to the drainage pipe, he believes there is enough horizontal offset that the proposed encroachment will not impact the drainage pipe. Mr. Cole stated, if the pipe ever has to be replaced, the homeowner will be responsible for removing the encroaching items.

Mr. Pires noted, if there is any damage to the pipe during construction of the improvements, the homeowner is responsible; he will ensure it is included in the Agreement.

Possible issues with the drainage pipe were discussed.

Mr. Adams stated localized leaks can generally be cemented from inside; if the CDD must excavate and remove some of the improvements in the process, the CDD will be held harmless for that portion of the work unrelated to the improvements.

Resident Robert Dellentash, who is installing the generator in the drainage easement, asked how far down the drainage pipe is since the pad for the equipment is being installed. Mr. Parisi stated, when the owner applies to the County for a permit, the County will require a letter indemnifying them for anything in the easement related to the improvement.

Necessary approvals, permits, the Agreement, indemnification, etc., were discussed.

Mr. Pires advised Mr. Dellentash that, if the Board approves the encroachment today, he will prepare the Encroachment Agreement and send it to him for signature. Mr. Miller stated the Agreement will spell out Mr. Dellentash’s obligations and responsibilities. Mr. Pires stated payment of the County filing fees will be Mr. Dellentash’s responsibility.

On MOTION by Ms. DiNardo and seconded by Ms. Viegas, with all in favor, the Encroachment Agreement for the Dellentash residence, was approved.

Mr. Cole distributed and presented the following:

- Revised Requisition 184, in the amount of \$9,286.25, was originally submitted in April by Hole Montes for work with the traffic signal, Fiddler’s Creek Plaza and Phase 5 Unit 2.
- Revised Requisition 185, in the amount of \$2,760, was originally submitted by Woodward, Pires and Lombardo, for review of a variety of draws.
- New Requisition 186, totaling \$5,121.81, includes the bond renewal for Marsh, Inc. for Aviamar Phase 5. CDD #2 has been funding part of the bond for many years and the Developer agreed to fund future bond renewals rather than forward them to CDD #2 for funding. Mr. Parisi stated he was unaware of the discussion and asked Mr. Cole to send him an email so he could confirm. This Requisition is in order for approval.

On MOTION by Ms. DiNardo and seconded by Mr. Klug, with all in favor, Requisitions 184, 185, and 186, were approved.

Mr. Cole reported the following:

- Traffic Signal Status: The Florida Department of Transportation (FDOT) had more comments and requested additional modifications to the mast arms. Trebilcock already responded. Many contractors expressed frustration with the lengthy FDOT approval process. Revised pricing was received and, with the addition of another \$30,000, the total budget is now \$1.42 million; it is hoped that approval will be received next month.

Difficulty obtaining bids, cost increases, and frustration with the process were discussed.

Mr. Cole stated this project is complex because it is an intersection with four streets and US41 is wider.

➤ Timo Brothers submitted a proposal for extension of the pads for the recently purchased park benches that were too long for the existing concrete pads.

Mrs. Adams stated the contract was executed.

➤ Regarding the Amaranda landscape revisions, Mr. Barrow has the temporary construction easements from the homeowners, and he needs a signed proposal. He will forward the documentation so the process can begin.

Mr. Klug asked why the benches received were too long. Mrs. Adams stated she used the same specifications from a previous order, but the benches delivered were longer than specified. Mr. Klug voiced his opinion that, if the same benches were ordered, the company should pay for the extension of the pads. Mrs. Adams believes the cost is \$1,000 per bench to extend the pads; there are two benches. Mr. Klug suggested deducting the amount from the remittance. Mr. Miller asked Mrs. Adams to call the company and state that the company did not comply with the order and explain that, as a result, the CDD will incur a \$2,000 additional expense due to the company's error and that the \$2,000 will be deducted from the payment. Mrs. Adams will check to see if the payment was already sent.

➤ Regarding a "Yield" sign that was reportedly upside down, inspection revealed that numerous pedestrian crossings have no signage. He will check with Mr. Mark Minor to see why signs were not shown on the plan. There are approximately 30 locations in need of a sign and striping indicating the presence of a pedestrian crossing. Mr. Cole believes it is a County requirement; he will ask Mr. Mark Minor why they were not included. At a cost of \$1,500 to \$1,700 per sign, the costs might total \$50,000.

Mr. Klug asked if the CDD could be liable if installation of signs is discretionary and the CDD installed some signs but chose not to install others and an accident occurs. Mr. Pires stated there is exposure if signs are required in the Manual on Uniform Traffic Control Devices (MUTCD) and the signs are not in place. If they are not required, there are arguments that can be made, but there are always opportunities for exposure. It is important to find out if the signs were required at the time of the plan; the CDD may look to Mr. Mark Minor to pay if the signs were required at the time. Mr. Cole will ascertain the status and Mr. Pires will offer an opinion. Mr. Cole stated the County inspected the area and approval was issued. Mr. Pires stated, in Florida, if there is no duty, there is no liability.

➤ The contractor ordered the equipment for Pumphouse #2; it will take some time to arrive. The architect hopes to submit the permits in July. The roof will be replaced with a similar color. The cost has not increased since the bid was received.

SEVENTH ORDER OF BUSINESS

Continued Discussion/Consideration of Proposals to Install Landscape Buffers

A. GulfScapes Landscape Management Services, Proposal #3993

B. Juniper Landscaping of Florida, LLC, No. 214072

Mrs. Adams distributed Juniper’s revised proposal which included irrigation repairs for over \$100,000. The Board Members confirmed that, as requested at the last meeting, they viewed the area.

Mr. Miller noted the GulfScapes proposal will apply to Fiscal Year 2024.

Ms. Viegas stated she viewed the area and has questions and observations. She asked if the only plants being replaced are the split-leaf philodendron which are not that tall and in good shape. Mr. Barrow confirmed that is the only material proposed to be replaced. Ms. Viegas asked why another type of plant would be introduced. She discussed the view looking out from the second floor and noted that the dirt road mentioned at a prior meeting is only used during a hurricane. Mr. Barrow stated the only other uses of the road are during trimming and dumping of debris. Ms. Viegas noted that traffic only infrequently uses the road and stated she agrees with Mr. Klug and does not think the work proposed is needed.

Mr. Klug stated he believes the proposal represents more than is necessary. He recommended more steps be taken to identify specific areas to be addressed.

Mr. Barrow was asked to revisit the area and provide a revised proposal.

Mr. Nuzzo concurred with the decision to fill in the gaps.

EIGHTH ORDER OF BUSINESS

Discussion: Landscape Improvements for Fiscal Year 2024

Mrs. Adams distributed an \$18,910 GulfScapes proposal to replace bougainvillea at the Veneta entrance.

Mr. Miller suggested deferring this item until Ms. Benedetti is in attendance.

Ms. Viegas asked Mr. Barrow if the pricing was from the East Coast nursery, since he was able to reduce the cost of the Museo buffer proposal. Mr. Barrow replied affirmatively and stated he will look to the East Coast nursery for all proposals if he can get the same quality.

NINTH ORDER OF BUSINESS**Discussion: Fiscal Year 2024 Budget**

Ms. Viegas and Mr. Miller both stated they had comments on the draft Fiscal Year 2024 budget.

Regarding the "Interest & Miscellaneous" line item, Mr. Miller asked what new banking arrangements can be made. Mr. Adams stated Synovus Bank has a government lending and investment division that only deals with governmental entities; any CDD that keeps a balance over \$500,000 can get an interest rate that is indexed against the Federal Funds rate, which is currently 5.25%, minus 75 basis points, for a 4.5% rate.

Mr. Miller asked why the "other contractual" line item under "water management" increased so much. Mr. Adams stated it is related to the lake bank repairs.

Mr. Miller noted that "Other contractual" under "Landscaping services" decreased from \$1 million to \$875,000. Ms. Viegas stated that GulfScapes took over landscaping areas from LandCare.

Mr. Miller asked about "Controller repairs and maintenance" under "Irrigation supply services". Mr. Adams stated it increased because Mr. Cole added an amount for the new Baseline irrigation system that has been discussed.

Mr. Miller asked if the \$700,000 for the "US 41 traffic signal shared cost" assumes that CDD #1 complies with the Interlocal Agreement. Mr. Adams stated CDD #1 has the same amount in its budget, reflected the same way, recognizing the full 50% of the obligation as it was written into the Agreement without any net-outs of any other alternative funding sources. Mr. Cole advised that, as of this morning, the amount has grown to \$1,420,000. He suggested increasing the budgeted amount to \$710,000. Mr. Miller noted that this should not at all prejudice CDD #2's position in the litigation because their position is that the \$200,000 that comes from Halvorsen will be applied to CDD #2's share; he explicitly stated he does not want there to be any waivers.

The consensus was to increase the amount to \$710,000.

Mr. Miller asked how many Equivalent Residential Units (ERUs) are assumed in the breakdown. Mr. Adams stated 1,543 ERUs are included. Asked why that does not assume any growth, Mr. Adams stated he will ensure that platted and unplatted lots are trued up.

Ms. Viegas reminded Mr. Miller that, last year, she did an in-depth review of ERUs with Mr. Adams and Ms. Carlson. All the land still to be built on is in the ERUs because they are all platted so the number would not show any growth. Mr. Adams stated Staff will also do a reconciliation against the Property Appraiser's records.

Ms. Viegas noted the line under Revenues "Settlements-Reduction in Legal Fees" should be renamed "Settlements-Taylor" to match the Unaudited Financials.

Ms. Viegas recalled Mr. Miller noting earlier that the CDD #1 litigation should be finished within the next few months and stated that CDD #2 incurred \$5,500 in related costs through February. She suggested deleting the \$25,000 "Legal-Litigation" line item if Mr. Reyes is timely in his invoicing. Mr. Miller felt anything can happen to delay the conclusion of the litigation so some amount should be included in the Fiscal Year 2024 budget. It was agreed to reduce the line-item amount to \$5,000.

Ms. Viegas asked if the "Capital Outlay" under "Street lighting services" can be reduced, based on the prior year actuals. Mrs. Adams wants to keep it at \$10,000 because a streetlight could need to be replaced at any time.

Ms. Viegas noted the \$3,000 "Holiday lighting" expense has not been added. Mrs. Adams stated it will be added; the CDD is already under contract.

Ms. Viegas asked why Landscaping "Improvements and renovations" increased by \$100,000. Mrs. Adams stated the community is aging so more landscaping might need to be replaced. Current and capital expenses were discussed. Mrs. Adams stated the entire line item is for capital improvements. Ms. Viegas voiced her opinion that, without specifics, an increase of \$100,000 cannot be justified. She suggested reducing it to \$50,000 and noted that there is "Contingency" of \$25,000. Mrs. Adams stated that the \$80,000 Museo buffer might have been included in the total amount budgeted. The consensus was to reduce the line-item amount to \$50,000.

Ms. Viegas asked Mr. Rentzing to research the percentage of Irrigation Manager Mr. Jody Benet's salary that CDD #2 is being charged for, since Mr. Benet also services the villages, The Foundation, and perhaps the golf course, as well. Mr. Miller feels that it is a question of

how much of Mr. Benet’s salary should be allocated to each area; then the question of whether it is proper should be addressed. Mr. Rentzing will research it and provide his findings.

Ms. Viegas recalled that the Operations & Maintenance (O&M) assessment increased by \$184.62 in Fiscal Year 2022, and it increased by \$67.95 in Fiscal Year 2023. The current draft Fiscal Year 2024 budget, before the changes discussed, proposed an increase of \$91.99 which equates to a combined total increase of \$344.56 over three years.

Mr. Miller voiced his opinion that the proposed Fiscal Year 2024 increase will be dramatically reduced.

Mr. Adams stated, with what he entered so far, \$71,800 of surplus fund balance will need to be used to keep the Fiscal Year 2024 O&M assessment the same as Fiscal Year 2023; the amount could decrease based on the increased revenue from interest income to be added.

TENTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of May 31, 2023

Ms. Viegas noted the “Engineering-FC Pkway” line item will be changed to “Legal-litigation”.

The financials were accepted.

ELEVENTH ORDER OF BUSINESS

Approval of May 31, 2023 Regular Meeting Minutes

Mrs. Adams presented the May 31, 2023 Regular Meeting Minutes.

The following changes were made:

Line 21: Insert “, a Bowman Company” after “Hole Montes”

Line 158: Insert “to date totaling \$5,456.36” after “incurred”

Discussion ensued regarding the acquisition of Hole Montes and the possible need to execute a new Agreement or agree to assignment of the Agreement. Mr. Pires will research and advise regarding next steps.

Lines 325 and 326: Delete

On MOTION by Ms. DiNardo and seconded by Mr. Klug, with all in favor, the May 31, 2023 Regular Meeting Minutes, as amended, were approved.

Items 2, 10, 12, 13, 14 were completed.

Ms. Viegas stated Completed Item #4 was not completed, so it should not be considered completed.

THIRTEENTH 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: July 26, 2023 at 10:00 A.M.**
 - **QUORUM CHECK**

All Supervisors confirmed their attendance at the July 26, 2023 meeting.

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

Mrs. Adams stated the Operations Report was emailed to the Board. She reported the following:

- Littorals were installed at Lake 90; she will inspect the shelf this morning.
- Lake 65G will be inspected this morning.
- Lake 5 has not been planted yet as they are waiting for the rains.
- Lake 90 was planted but she was not informed; communication has been lacking.

SOLitude's work quality, the Defective Work Notice, and ongoing issues, were discussed.

Mrs. Adams stated the contract can be terminated at any time. The Board directed Mrs. Adams to obtain proposals to replace SOLitude.

Ms. Viegas asked if the Paver Repair Project, on Page 1, can be deleted from the Report, since it was already invoiced, based on the General Ledger detail she had reviewed. Mrs. Adams replied affirmatively.

FOURTEENTH ORDER OF BUSINESS

Adjournment

On MOTION by Ms. DiNardo and seconded by Mr. Klug, with all in favor, the meeting adjourned at 12:05 p.m.


Secretary/Assistant Secretary


Chair/Vice Chair