

**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 December 13, 2023 at 10:00 a.m., at the Fiddler’s Creek Club and Spa, 3470 Club Center Boulevard, Naples, Florida 34114.

Present were:

Elliott Miller	Chair
Linda Viegas	Assistant Secretary
Bill Klug	Assistant Secretary
John Nuzzo	Assistant Secretary

Also present:

Chuck Adams	District Manager
Cleo Adams	District Manager
Tony Pires	District Counsel
Cole Prium	Hole Montes, a Bowman Company
Aaron Haak	Fiddler’s Creek Deputy General Counsel
Joe Parisi	Developer’s Representative
Jon Phillips	Director, Foundation Operations
Ryan Hennessey	Fiddler’s Creek Director of Community Services
Jody Benet	Fiddler’s Creek Irrigation Manager
Andy Nott	Superior Waterway Services, Inc.
Mike Barrow	GulfScapes Landscape Management
Shannon Benedetti	Resident
Russell Barry	Resident
Sue Leone	Resident
Rob Culver	Resident
Maryann Benigno	Resident
Nicole Culver	Resident

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mrs. Adams called the meeting to order at 10:00 a.m.

Supervisors Miller, Nuzzo, Viegas and Klug were present. Supervisor DiNardo was not present.

SECOND ORDER OF BUSINESS

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

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, with regard to the litigation against CDD #1 for its anticipatory breach of the Interlocal Agreement, CDD #2 filed a Motion for Summary Judgment; copies were provided to each Board Member. He thinks it is a very persuasive document and that CDD #2 will prevail. CDD #1 filed a request for mediation, as they have the right to do. CDD #1 agreed to the mediator that Mr. Miller recommended. The mediation session is scheduled for January 9, 2024 at 1:00 p.m. He stated his perspective is rather firm and he has seen nothing to persuade him otherwise. A report regarding the mediation will be provided at the January meeting, if not before.

Mr. Klug believes that the mediator will ask the parties to settle to save attorney and legal expenses. Mr. Miller stated, to preclude that argument, he filed the motion for Summary Judgment before the mediation request. The burden is now on CDD #1, so, if they want to contest the motion, CDD #1 will be the one to expend the money.

Ms. Viegas stated that CDD #2 has spent \$20,495.54 on the litigation for work through October 31, 2023. As noted in Mrs. Adams’ Operations Report, it was necessary to contact the law firm because the September and October invoices were not received promptly.

Invoicing delays from CDD #2’s firm versus CDD #1’s firm were discussed.

FOURTH ORDER OF BUSINESS

Update: Superior Waterway Services, Inc. Treatment Report (Andy Nott)

Mr. Nott noted the following:

- Lake Technicians: In November, eight visits with multiple technicians occurred. Cool weather slows plant growth and uptake of herbicide and can also delay results.

Mr. Miller asked if the blank areas on the “target” treatment chart indicate no work was required. Mr. Nott stated that indicates that no treatment of the area inspected was done at

that time; after surveys are completed, the information is forwarded to the lake technicians who will address the issues after inspection reports are reviewed.

- The larger lakes have a lot of shoreline; torpedograss is growing strong and much energy is going into addressing that. Technicians will perform additional visits in January and get ahead of the torpedograss. Multiple treatments are expected due to the abundance of seed pods and the tendency for rapid regrowth.
- The SOLitude replanted areas were inspected; it is still early to observe growth but, as the water levels decrease, growth will likely be observable. Monitoring will continue.

Mr. Miller asked Mr. Nott to include his impressions of areas inspected under the “Notes” section.

Resident Russell Barry asked if crews will be weed whacking the weeds. Mr. Nott stated tall weeds will be trimmed, if needed, after the spray treatments have produced results.

FIFTH ORDER OF BUSINESS

Health, Safety and Environment Report

Mr. Hennessey presented the PowerPoint and reported the following:

- Tree Canopy Trimming: Juniper trimmed fruited palm trees and hardwoods in October and November. Dead fronds were removed from The Club.
- Trees at the entrances were trimmed for holiday light installation.

Mrs. Adams noted that trimming was not completed in CDD #2, Veneta, in particular; she requested the schedule. Mr. Hennessey stated he repeatedly asked Juniper for the 2024 schedule, as it should have been provided in November. He will keep asking and will email it to Mrs. Adams when received.

- Overgrown shrubs were cut back to remedy a safety concern reported at the intersection of Museo Circle and Campanile Circle.

A. Irrigation and Pressure Washing Efforts

- A new Assistant Manager, Paul Lupo, was hired to assist Mr. Benet.

Mr. Miller asked for the definition of the “rain hold” noted in the report. Mr. Hennessey stated, when a substantial amount of rain is received for the day, the irrigation system will be turned off in the area. As some areas receive more rain than others, rain holds are applied as needed and might be implemented in one area and not another at the same time.

➤ Irrigation Projected Usage: Approximately 4.7" of rain was received in November, and 1.8" of rain was received in October, which is near the average levels. There was one rain hold in the villages and there were none in the common areas. Due to lack of rain, total water usage was just under 60 million gallons in November, which is approximately 9% more than the previous November.

➤ Irrigation Report: There were no repairs in November. In October, Bentley Electric (Bentley) repaired a bad power supply on Satellite 1-15. The breaker panel was rebuilt, and both distribution boards were replaced, at a cost of \$385.63.

Mr. Miller asked if Bentley generally does such repairs, in addition to streetlights. Mrs. Adams stated Bentley is the CDD's electrical contractor. Mr. Miller asked if that is pursuant to the same agreement. Mrs. Adams replied affirmatively.

➤ Bentley repaired a communication failure on Satellite 1-27 caused by a bad modem; the repair was covered under warranty.

➤ Pressure Washing: Fiddler's Creek Parkway and CDD #1 areas on the southwest portion of the property were completed. The map was updated to show the progress.

B. Security and Safety Update

Mr. Hennessey reported the following:

➤ Gate Access Control: Community Patrol's number is 239-919-3705; Community Patrol should be called for assistance with Security. In an emergency, 911 should be called first, followed by Community Patrol. The automated gatehouse number is 239-529-4139; that number should be called to add vendors or visitors to the list.

➤ Occupancy Report: Occupancy totals averaged 1,772 homes occupied in November and 1,412 in October, a 25% increase from one month to the next.

➤ Gatehouses and Patrols: A complaint was received regarding commercial trucks using Cherry Oaks Trail. At the Sandpiper Gate, visitors' passes now include a bold line at the top stating "Do Not Take Cherry Oaks" to reduce complaints. It seems to be working.

➤ Gatehouse Activity: The issue with the software provider, ISN, miscalculating activity due to the system being set to only check for visitors, not RFID stickers issued to residents, was rectified. Totals reflect a 21% increase from October to November.

➤ Incidents: There are more parking complaints due to greater occupancy. Parking incidents increased from 51 in October to 60 in November. Resident complaints and medical complaints also increased.

➤ Speed Detection and Enforcement: Portable and fixed speed detection devices are in use; the portable device is deployed at random. There were nine violations in October and eight violations in November, resulting in five warnings in each month. Four violations were referred to the Fining Committee in October and three were referred in November.

Mr. Miller asked if it is known if vendors or residents are generally to blame for gate arm damages. Mr. Hennessey believes it is 50/50. Staff collect data and collect payment for repairs as best they can; generally, excellent video documents the incidents, usually because vehicles attempt to follow the vehicle ahead of them.

➤ The Collier County Sheriff's Office (CCSO) advised that there were 57 extra patrols; there were 22 alarms, 13 911 hangups, seven suspicious activity incidents which might be very minor, and five traffic stops in November. There have been 22 traffic stops over the past three months.

Mr. Klug opined that the cupola at the top of the Championship Gatehouse does not appear to be painted to match the present paint scheme. Mr. Parisi stated he saw the cupola today; in his opinion, the flashing came out fantastic and he did not notice an issue with the paint. He will look at it again.

SIXTH ORDER OF BUSINESS

Developer's Report/Update

Mr. Parisi reported and discussed the following:

➤ Development continues in both Oyster Harbor and Dorado.

➤ They are in final discussions with the irrigation construction manager for the Baseline system. He hopes to meet with the manager and with Mr. Cole next week to develop the scope of work, scheduling, materials, etc. They will try to compress as many villages as possible onto one satellite to help save costs. Once they obtain pricing they will meet with the villages and the CDDs for budgeting purposes.

Mr. Miller asked how many homes have been sold in Oyster Harbor. Mr. Parisi believes they are still 100 homes away from the 400 homes needed for the second wellness center. At the next meeting, he will report the number of homes sold, or send an email. They are planning lake blasting in the remaining areas of Oyster Harbor.

The locations of specific homes under construction were discussed.

Ms. Viegas asked if, with the departure of Valerie Lord, Mr. Haak will be the new person to receive Design Review Committee (DRC) questions. Mr. Haak replied yes, for the time being.

Resident Rob Culver asked how many home sites are planned in Oyster Harbor. Mr. Parisi did not know.

Resident Sue Leone stated the total is 461.

SEVENTH ORDER OF BUSINESS

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

Mr. Prium distributed and read the following updates:

1. Lake erosion repair areas are being identified for the 2024 project. They will include an area in the lake east of Laguna.
2. A paving proposal is being obtained for repaving Chiasso Court; pavement is spalling off. Asked from how many sources proposals will be requested, Mr. Prium was unsure.
3. Phase 2 equipment was replaced, and all pumps are operating properly. The chemical injection system is being reconnected after being disconnected for the pumping system replacement. The Phase 1 and Phase 2 locks need to be replaced; they are working to get a proposal approved.
4. The proposed Irrigation Pumphouse #2 roof replacement contract needs to be approved by both CDD #1 and CDD #2 in order to keep the building permit review on track. The contractor will need to submit truss drawings by the manufacturer for County review and approval.

Discussion ensued regarding the number of proposals requested.

Mr. Prium stated only one proposal was obtained.

5. U.S. 41 and Sandpiper Drive Traffic Signal: The construction bond has been sent to the Florida Department of Transportation (FDOT) for approval. FDOT should be issuing the permit within the next couple of weeks. The contractor has submitted shop drawings for the mast arms and the signal control cabinet. These long lead items will be ordered once the shop drawings are approved. The materials will take several months to obtain. The anticipated signal completion will be in the fall of 2024.

Mr. Miller noted that, when the permit is issued, another \$25,000 payment will be made to CDD #2. Mr. Parisi concurred. Mr. Miller asked for Hole Montes to push for that permit to expedite the payment.

6. A possible hydraulic spill on Museo Circle is being cleaned by Waste Management (WM). A cleaning agent was applied. They will re-inspect and advise after WM does the final pressure washing.

Mr. Klug asked why the word "possible" was used with regard to the hydraulic spill. Mr. Prium believes WM did not assume responsibility for the spill, but still WM agreed to clean it.

Ms. Viegas discussed a series of emails on the day of the spill and stated Mr. Cole contacted WM, who agreed to clean it. In her opinion, this implies that WM is taking responsibility. Mr. Klug asked how large the spill was and if WM will cut out the spill area if the cleaning agent does not help. Ms. Viegas voiced her opinion that, based on the photos, and the reasonably quick response, she does not think further efforts will be needed.

7. Museo Circle: Elevations are being obtained for a section of valley gutter that is holding water due to tree roots raising the valley gutter and roadway. A solution will be determined, and a proposal will be obtained to repair the valley gutter and roadway to correct the drainage problem.

8. Pedestrian Crossing signs will be ordered once the proposal is approved. Mr. Cole is working to get the proposal from Lykins-Signtek.

Ms. Viegas asked if Florida Painters also paints pedestrian crossing signs. Mrs. Adams stated they do not. Mr. Miller asked if these proposals will be for the more ornamental signs discussed. Mrs. Adams replied affirmatively.

9. Amador swale and re-landscaping work is anticipated to be completed within the next few weeks.

10. Amaranda paver block areas need to be repaired where they have settled. They are working to have Timo Brothers provide a proposal.

Regarding the Amador swale landscaping work, Mr. Pires stated that, when he presents his report, he will ask for the temporary license agreements that expired in November to be extended again. He will ask for authorization to extend them to March 1, 2024.

Mr. Miller was in agreement.

EIGHTH ORDER OF BUSINESS

Discussion/Consideration of Sophistico Floors Corp, D/B/A Sophistico Construction Proposal and Draft Contract Regarding Irrigation Pump House #2 Roof Replacement

Mr. Miller discussed his many issues with the Agreement.

Mr. Pires stated he pared down two longer documents, which caused several errors. He received a list of scrivener's errors from Ms. Viegas to be corrected. He offered to prepare a short-form agreement.

Mr. Miller stated his questions and comments are too exhaustive to discuss, including questions regarding warranty, liability and items not addressed in the contract; he believes all concur that the Agreement is ambiguous and poorly drafted.

Mr. Pires stated Staff suggested approving the contract today. Mr. Prium noted that materials cannot be ordered until the contract is signed.

Mr. Miller noted that Sophistico is not in attendance and stated he is not comfortable approving the contract due to the amount and his numerous questions. He suggested, rather than reviewing all his and Ms. Viegas' questions about the contract, Mr. Pires draft a short, simple Agreement that provides protections for the CDD relating to warranties, etc.

Mr. Klug suggested tabling consideration of the Agreement to the next meeting.

Mrs. Adams stated, if the contract is not approved today, it might delay the pumphouse work. Mr. Prium stated Mr. Cole suggested seeing if the contract can be approved today, with some sort of stipulation so that the project is not delayed, and it can keep moving forward.

Mr. Miller stated he will not vote to approve this contract. Ms. Viegas stated she will not vote to approve it either due to her numerous issues and questions.

On MOTION by Mr. Klug and seconded by Ms. Viegas, with all in favor, tabling consideration of the Sophistico Floors Corp, D/B/A Sophistico Construction Proposal and Draft Contract Regarding Irrigation Pump House #2 Roof Replacement, and authorizing District Counsel to prepare a short-form Agreement, was approved.

NINTH ORDER OF BUSINESS

Continued Discussion/Consideration of Replacement of Seventeen (17) Temporary

Signs in Aviamar and Veneta with Permanent Decorative Signs

This item was discussed during the Seventh Order of Business.

Mrs. Adams suggested tabling any further discussion until the Lykins-Signtek proposal is submitted and Mr. Cole is in attendance.

TENTH ORDER OF BUSINESS

Continued Discussion/Consideration of Proposals for Street Light Posts and Signpost Painting Projects

Mrs. Adams distributed an updated Florida Painters proposal for \$82,375.00. The project is presented in three phases, but it can be approved in its entirety. While it is an unbudgeted expense, \$100,000 is budgeted for roadway maintenance, which also includes the pressure cleaning contract with The Foundation, at a cost of approximately \$50,000.

Ms. Viegas recalled this item was discussed before. In her opinion, it is not urgently needed, given the conditions she observed and ongoing construction in Phases 2 and 3. She suggested approving Phase 1 only, or deferring the entire project to Fiscal Year 2025 and budgeting for it, given that the temporary signs were deferred to the next meeting and that will be a high expense.

The consensus was to defer this item and include it in the Fiscal Year 2025 budget.

Mrs. Adams suggested scheduling the project for fall of 2024, beginning in October, since Fiscal Year 2025 commences October 1, 2024. Asked how many proposals were received, Mrs. Adams stated she was able to obtain two proposals. It was noted that the Lykins-Signtek proposal was very expensive at \$221,180.00.

Mrs. Adams stated no motion is needed; an Action Item will be created, as discussed.

ELEVENTH ORDER OF BUSINESS

Consideration of Accepting Various Special Warranty Deeds for Various Buffer Tracts, Previously Recorded in the Official Records of Collier County, Florida

Mr. Pires presented the documents, which were discussed at length at previous meetings. Ms. Viegas noted that the documents are from 2021 and asked if the language issues Mr. Miller raised were addressed. Mr. Pires responded affirmatively.

Mr. Miller confirmed that no additional changes to language are needed.

On MOTION by Ms. Viegas and seconded by Mr. Nuzzo, with all in favor, the various Special Warranty Deeds for various buffer tracts previously recorded in the official records of Collier Couty, Florida, as presented, were approved.

TWELFTH ORDER OF BUSINESS

Discussion: Cane Toads

The Board and Staff discussed the unpleasant nature of cane toads and the danger that cane toads present to pets.

Ms. Viegas believes that Mr. DiNardo set a precedent by giving safety officers \$5 for each cane toad they captured, which, in her opinion, implies The Foundation’s responsibility for cane toads.

Mrs. Adams stated the resident was advised that the CDD will not enter private property. She stated a coordinated effort would be necessary; the CDD is only responsible for up to the high-water mark into the lake. The HOAs would need to be involved because the HOAs need to do their part as well.

Mr. Miller noted that The Foundation would need to do its part as well.

Mr. Adams offered to have an expert do a presentation and noted that a PowerPoint presentation can be shared with other entities.

Mr. Miller suggested the Board review the presentation and then share it with the Village Council; he thinks the CDD’s endorsement would be relevant to the villages adopting it.

Ms. Leone stated it was presented to the Village Council and no action was taken.

Mr. Miller stated a proposal will be included for joint work between the villages and the CDD.

Staff will schedule the presentation.

THIRTEENTH ORDER OF BUSINESS

Consideration of Proposals for CDD Insurance

Mr. Adams stated proposals for consideration are pending; he has not received any response to his requests for proposals. The CDD is currently covered by Egis. Three additional companies offer this type of insurance; he also requested proposals from the Florida League of

Cities, Preferred Governmental Insurance and Florida Municipal Insurance Trust, but none of them responded. He noted that CDDs have grown at a tremendous rate.

Mr. Klug voiced his opinion that the CDD essentially has a single source to go to, so it is just a matter of obtaining competitive proposals. Mr. Adams stated he has attempted to obtain additional proposals. He thinks the companies suspect that the CDD is shopping price and that the companies do not have time to respond.

FOURTEENTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of October 31, 2023

Mr. Adams stated that \$1 million of the unassigned surplus fund balance was moved to Synovus Bank; starting with the December financials, some interest earnings should be noted. He believes the interest rate is 4.75%.

Mr. Miller noted that an income of \$70,000 is budgeted, but his expectation is that the CDD should earn \$100,000. Mr. Adams thinks the CDD should earn the amount budgeted, as he estimated conservatively.

Mr. Adams stated, as noted on Page 3, \$41,200 of the unassigned surplus fund balance was utilized to avoid a Fiscal Year 2024 assessment increase.

Ms. Viegas noted that Mrs. Adams responded to her questions about the financials prior to the meeting.

The financials were accepted.

FIFTEENTH ORDER OF BUSINESS

Approval of October 25, 2023 Regular Meeting Minutes

The following change was made to the October 25, 2023 Regular Meeting Minutes:

Line 172: Change “lineal” to “linear”

On MOTION by Mr. Klug and seconded by Mr. Nuzzo, with all in favor, the October 25, 2023 Regular Meeting Minutes, as amended, were approved.

SIXTEENTH ORDER OF BUSINESS

Action/ Agenda or Completed Items

Item 3 was completed.

Item 16: Ms. Viegas stated the estoppel email link is not working. Mr. Adams will look into it.

Item 8: Mr. Pires discussed the letter he sent to SOLitude. He read part of the letter, and it was agreed that Mr. Pires will send a follow up letter to SOLitude demanding reimbursement in return, in the amount of \$9,302.58.

Ms. Viegas asked for the letters to be emailed to the Board.

SEVENTEENTH ORDER OF BUSINESS

Staff Reports

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

Mr. Pires stated, as previously discussed, the First Amendment to the Amador Temporary License Agreement for access and construction remains in effect until the earlier of the completion of the project or six months following the effective date of the Agreement, which was May 1, 2023. He suggested preparing a Second Amendment to the Agreement to extend the time to March 1, 2024.

On MOTION by Mr. Klug and seconded by Mr. Nuzzo, with all in favor, authorizing Staff to prepare a Second Amendment to the Amador Temporary License Agreement, and authorizing the Chair to execute, was approved.

Mr. Pires noted that Supervisors might have seen articles about City Council members being required to complete Form 6. He distributed a handout and discussed the new requirement for Supervisors to complete a four-hour ethics continuing education course every year. The course must be completed by December 31, 2024, but he recommends completing the requirement by July 1, 2024, so that, when Form 1 is filed with the Supervisor of Elections, the box can be checked to indicate the requirement was met.

Mrs. Adams noted that Ms. DiNardo’s seat, Mr. Nuzzo’s seat and Ms. Viegas’ seat are up for election in the November 2024 General Election; these Supervisors should complete the course by July 1, 2024 to submit the certificate with their candidate qualifying paperwork, if they plan to run for re-election.

Mr. Pires provided a link to two online options and noted that one course costs \$79 and another costs \$75. The CDD will pay for it as a legitimate expenditure. A free course prepared

by the Florida Association of Special Districts (FASD) might be available in January or February 2024. Updates will be provided as additional courses become available.

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

- **NEXT MEETING DATE: January 24, 2024 at 10:00 AM**
 - **QUORUM CHECK**

Supervisors Miller, Viegas, Nuzzo and Klug confirmed their attendance at the January 24, 2024 meeting.

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

Mrs. Adams stated the Operations Report was emailed to the Board.

Ms. Viegas asked about the report suggestion that a Request for Proposals (RFP) for Annual Audit Services be published, because she believes that, in all her years on the Board, an RFP for Annual Audit Services has not been advertised. Mrs. Adams stated that was just for informational purposes, for consideration next year. Mr. Adams noted that the audit process for the next audit is already underway. Mr. Miller noted that there have been no issues and that fees have been reasonable.

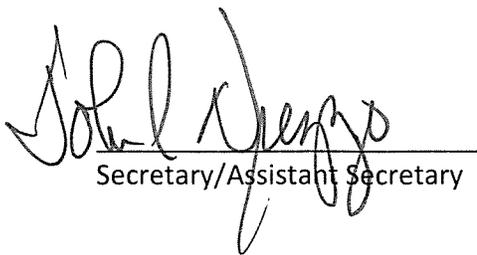
Ms. Viegas voiced her belief that the audit was presented to the Board late in recent years making it difficult to meet the statute date for submission. Mr. Adams stated that there has been growth in the industry. Ms. Viegas stated that the CDD #1 auditor provided the audit early and presented it to the Board early. Mr. Adams stated the CDD #1 audits have been presented timely, and the costs are comparable; the fees are reasonable, given the number of funds included in CDD #2’s audit.

EIGHTEENTH ORDER OF BUSINESS

Adjournment

On MOTION by Mr. Klug and seconded by Ms. Viegas, with all in favor, the meeting adjourned at 11:04 a.m.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]



Secretary/Assistant Secretary



Chair/Vice Chair