

**MINUTES OF MEETING
BAYSIDE IMPROVEMENT AND BAY CREEK
COMMUNITY DEVELOPMENT DISTRICTS**

A Joint Regular Meeting of the Boards of Supervisors of the Bayside Improvement Community Development District and Bay Creek Community Development District was held on **Monday, December 12, 2011 at 2:00 p.m.**, at the **Pelican Landing Community Center, 24501 Walden Center Drive, Bonita Springs, Florida 34134.**

For Bayside Improvement CDD:

James Patterson	Chair
Walter McCarthy	Vice Chair
Jack Lienesch	Assistant Secretary
Bernie Cramer	Assistant Secretary
T. Marvin Hancock	Assistant Secretary

For Bay Creek CDD:

Frederick McAuley	Chair
Nelson Glueck	Vice Chair
Keith Huffman	Assistant Secretary
Robert Pritt	Assistant Secretary
James Janek (via telephone)	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Dan Cox	District Counsel
Carl Barraco	District Engineer
Jim Murphy	PLCA Liaison

FIRST ORDER OF BUSINESS

Call to Order/Pledge of Allegiance

Mr. Patterson called the meeting to order at 2:00 p.m., and all present recited the Pledge of Allegiance.

SECOND ORDER OF BUSINESS

Roll Call

Supervisors McAuley, Pritt, Huffman and Glueck were present, in person, for Bay Creek CDD. Supervisor Janek was attending via telephone. Supervisors Cramer, Hancock, Lienesch, McCarthy and Patterson were present, in person, for Bayside Improvement CDD.

THIRD ORDER OF BUSINESS

Public Forum

Mr. Patterson asked if anyone in the audience wished to speak to any of the items on the agenda.

Mr. Jim Murphy, PLCA liaison, indicated that he wished to address the continued discussion item regarding combining both CDDs into one, the action item regarding the catch basins and the new agreement between the PLCA and the Districts. He advised that he will speak to each item at the appropriate time.

JOINT MEETING ITEMS

FOURTH ORDER OF BUSINESS

Presentation of Appreciation Award to Mrs. Gilliland for George Gilliland's Service to Bayside Improvement CDD

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

Mr. Patterson introduced Mrs. Kathy Gilliland. He discussed Mr. Gilliland's history and service to the community.

Mr. Patterson presented an appreciation award to Mrs. Gilliland for Mr. Gilliland's service to the Bayside Improvement Community Development District.

FIFTH ORDER OF BUSINESS

Staff Report: Engineer

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

With regard to the NPDES permit, Mr. Barraco reported that a proposal was submitted to Mr. Adams outlining the first two requirements. He stated once the proposal is reviewed by Mr. Adams and the details are worked out, it will be presented to the Boards.

Mr. Barraco stated, at the last meeting, he was authorized to finish the inventory map. The map was completed and is being reviewed by Mr. Adams. He noted that the map is based upon permit information and shows the lakes, interconnects and control structures. Mr. Barraco

indicated that the control structure information is surveyed because it had to be surveyed for the Districts; however, some of the information is “ground truthed” and some is not. Mr. Barraco was asked about ground truthing. He explained that the compiled information comes from South Florida Water Management District (SFWMD) files and the approved plans. It does not necessarily mean that everything was built in accordance to those plan90s. Mr. Barraco advised this will be discussed in detail once the map is presented to the Boards. He noted that ground truthing can be expensive and the Boards can decide to what level they wish to go.

Mr. Barraco reported on the certification process. He stated the information for the majority of the structures and permits was submitted and is being reviewed by SFWMD. He suggested not rushing them unless the process becomes too slow. Mr. Barraco indicated that WCI is looking into the records to help determine why the two (2) control structures do not match the plans in SFWMD’s files. Mr. Patterson commented that he is not too optimistic that they will be able to find anything. Mr. Barraco advised that for another community similar in size, the correct drawing was found through the developer. They showed it to SFWMD and it was accepted in full.

Mr. Pritt noted that Gulf Harbor is having a big problem because, at the last minute of their bankruptcy proceeding, WCI was released from most of their responsibility related underground facilities, etc. He advised there is a new company that, most assuredly, will say that they have no responsibility but will be glad to help as much as they can. Mr. Lienesch asked Mr. Barraco if WCI may have a record of who the contractor was, if WCI does not have the drawings. Mr. Barraco advised there is a lot of research that can be done.

Mr. McCarthy requested that Mr. Barraco email him details on those in question and he will look in the county files for a plan that corresponds with what Mr. Barraco has. He pointed out that it is a different situation with WCI, with respect to Pelican Landing, because it is still an ongoing permit. Mr. McCarthy advised that SFWMD was very clear, when he and Mr. Barraco met with them; unless all of the matters related to the certifications are in order, they will not issue more permits. He noted that WCI has development rights there and he is sure that they are interested in protecting their development rights.

Mr. Lienesch stated last week, WCI petitioned the county to extend their build-out date for their DRI for the Pelican Landing development. He did not attend the hearing; however, a county employee informed him that the only thing the county disagreed with was WCI’s desire

to quit monitoring the wells on the outside of the golf course. The county agreed with some things but said WCI must keep monitoring the metals. Mr. Barraco stated he received a call from Mr. Tony Pellicier, at the county, who reviews the NPDES permits, and he said that WCI was representing that the CDD already has these responsibilities.

Mr. Pritt referred to a similar case in Gulf Harbor where there is a \$5.1 million fix and they are looking to Gulf Harbor to take care of it. He commented that WCI got right out of it. Mr. Barraco advised that suit had to do with severe erosion and the remedies to fix it; he reminded the Boards that the lakes should be looked at at least once per year, preferably twice per year, to catch the erosion before it becomes significantly expensive to repair. Mr. Adams recalled that a report on each lake, with photographs, was previously provided by Ms. Crismond and Mr. Kurth and he advised that this annual report will continue to be provided to the Boards at no additional charge. Mr. McCarthy noted that the CDDs are not responsible for lake banks above the control elevation since there were no standards applicable when the SFWMD permits were issued.

Mr. Pritt reported that the Ascot Board held a meeting on Thursday and he asked if Mr. Barraco or Mr. Adams had any information regarding the lines located right around the lakes resembling irrigation lines or water lines. Mr. Adams requested that he have Association Manager, Mr. Solomon, touch base with District Staff directly. Mr. Pritt indicated that Mr. Solomon did not know. Mr. Adams stated the maps he has are strictly drainage but Staff would be happy to provide whatever information the District has.

SIXTH ORDER OF BUSINESS**Consideration of Resolutions Amending
the Budget for Fiscal Year 2011**

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

- **2012-4, Bayside Improvement CDD**
- **2012-3, Bay Creek CDD**

Mr. Adams referred to the resolutions located behind Tab 5 and explained that this is a common exercise at this time of year to bring the final budget in line with the actual to ensure there is not a note in the audit. He stated the Boards must adopt amended budgets, which identify any over expenditures or under revenues.

Mr. Adams reviewed the highlights of the amended budget, pointing out the areas where they were over and under budget and explaining what each item related to. He noted that in the 'budget to actual' variance column, under Miscellaneous, an additional \$18,000 in revenue was received, the vast majority of which was due to the efforts of Mr. McCarthy for taking a position with Wilson Miller and with WCI with regard to partial funding of the Las Palmas improvements and a partial funding for the overall certification program for the stormwater system.

Mr. McCarthy inquired about the \$13,000 deficiency under street sweeping. Mr. Adams explained that Pelican Marsh pays at year-end. He stated it was assumed that those funds would come in, which is why they were posted as an amendment to the budget.

Mr. McAuley questioned why the overages and shortfalls are not anticipated when the budget is put together in order to eliminate the need for budget amendments each year. Mr. Adams explained that there were several unique items, engineering being one, and that additional revenue was received that was not contemplated. He indicated that the overage of approximately \$20,000 for the 'other contractual services' line item, under Water Management, was due to the addition of the areas in The Colony that were not in the contract but needed to be addressed, as well as the water quality testing component. He stated the overage for street lighting equipment, by about \$14,000, was primarily related to the disconnect box replacement program.

On MOTION for Bayside Improvement by Mr. Hancock and seconded by Mr. Lienesch, with all in favor, Resolution 2012-4, Amending the Budget for Fiscal Year 2011, was adopted.

On MOTION for Bay Creek by Mr. Huffman and seconded by Mr. Glueck, with all in favor, Resolution 2012-3, Amending the Budget for Fiscal Year 2011, was adopted.

SEVENTH ORDER OF BUSINESS

Discussion: EverBank Ineligible Account Status

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

Mr. Adams advised the Boards that EverBank is no longer accepting public funds; thus, Staff was not able to open an account with them. He referred to the three new savings/money market account options summary sheet, located behind Tab 6.

Mr. Adams requested that the Boards approve all entities on the spreadsheet provided, authorize Staff to open accounts for each of the Districts to host their investments with the first highest yielding institution and work down, as needed, ensuring \$250,000 FDIC coverage and to authorize Staff and the Chairs to execute the appropriate documents. He noted that currently, First American Bank is the highest yielding bank, followed by Bank Atlantic, BB&T and Regions Bank.

Mr. Huffman asked Mr. Adams if he will provide monthly reports on the conditions of the investments. Mr. Adams responded affirmatively.

On MOTION for Bayside Improvement by Mr. McCarthy and seconded by Mr. Lienesch, with all in favor, approving all entities on the spreadsheet and authorizing Staff and Chair to set up and execute documents to invest with the institution offering the highest yield and work down, as needed, to ensure the \$250,000 FDIC coverage, was approved.

On MOTION for Bay Creek by Mr. Huffman and seconded by Mr. Pritt, with all in favor, approving all entities on the spreadsheet and authorizing Staff and Chair to set up and execute documents to invest with the institution offering the highest yield and work down, as needed, to ensure the \$250,000 FDIC coverage, was approved.

EIGHTH ORDER OF BUSINESS

**Update: Broward Bank of Commerce
Updated Rate Sheet**

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

Mr. Adams reported that between the time the Boards approved opening accounts with Broward Bank of Commerce, with a yield of .85%, and the time the accounts were actually opened, the interest rate dropped to .60% for accounts under \$250,000 but above \$100,000.

NINTH ORDER OF BUSINESS

**Continued Discussion: Investment
Options**

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

Mr. Adams referred to the memo from Mr. Jesse Jackson, Financial Analyst with Wrathell, Hunt and Associates, LLC, regarding trust fund reserve accounts. He noted that Mr. Jackson spent a significant amount of time researching this information through and with their existing trustee, U.S. Bank. Mr. Adams noted that of the 26 banks contacted, four of them met the requirements for public funds and of the trust indenture to assure a means of increasing the yield of the debt service funds, as well as being FDIC insured. He explained that there are two payment activities during the course of the year and the funds must be available to make them. Mr. Adams stated the three-month CD is what is needed as they approach the May 1 payment. Once they get to April 20 or 25, they will be able to utilize the funds to make the payment on May 1; the remainder will be reinvested in a six-month CD for the November interest payment. The remaining dollars will be invested in a nine-month CD.

Mr. Adams noted that all of the banks are Qualified Public Depositories (QPD). He advised that FineMark Bank is the most intriguing, at all levels; however, it is only available to Bay Creek. Bayside Improvement authorized opening a money market account with FineMark Bank last month; they cannot have multiple investments of \$250,000, and still receive the full FDIC insurance coverage.

Mr. Adams recommended FineMark Bank for Bay Creek and Centennial Bank for Bayside Improvement. He further requested that the Boards authorize Staff and the Chairs to execute all necessary documents to open CD programs for the appropriate terms, with as many institutions as necessary, to ensure the \$250,000 FDIC insurance coverage, and in an order, from the provided options sheet, that will present the greatest yield.

Mr. Hancock asked if they were receiving double coverage. Mr. Cox explained that in Florida, a QPD must have assets that equal the amount of the public funds that are on deposit. If a bank has the funds on paper and something happens overnight which makes those funds unavailable, the District is still covered under the FDIC. He noted that the FDIC is the second layer of protection.

Mr. Hancock commented that the second layer of protection is costing them a lot of money. He explained that if you were to deposit \$250,000 and you only wanted FDIC insurance, the bank would give you a good rate. If you want FDIC insurance and want the funds in the QPD program, meaning that the bank has to place a pledge on their treasury bills or other assets,

the bank would give a very low rate. Mr. Cox informed him that the Districts do not have an option; they are required by law to participate in the QPD program.

On MOTION for Bayside Improvement by Mr. McCarthy and seconded by Mr. Hancock, with all in favor, based upon ranking, authorizing Staff and Chair to set up and execute all necessary documents to establish CD programs with the institutions listed by yield, in descending order, based upon term and need and to ensure the \$250,000 FDIC insurance coverage, was approved.

On MOTION for Bay Creek by Mr. Glueck and seconded by Mr. Huffman, with all in favor, based upon ranking, authorizing Staff and Chair to set up and execute all necessary documents to establish CD programs with the institutions listed, by yield, in descending order, based upon term and need and to ensure the \$250,000 FDIC insurance coverage, was approved.

TENTH ORDER OF BUSINESS

Continued Discussion/Consideration of Agreement with PLCA to Manage Certain Roadside and Parking Lot Drainage Facilities

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

Mr. Cox stated this is the starting point for an agreement between the PLCA and the Districts regarding how the maintenance responsibility and the overall capital renewal responsibility will be allocated for all of the assets within the community. He explained that, over time, beginning when the first plats were filed, the Districts were granted certain rights under the plats, which were generally dedications. Mr. Cox advised that a dedication creates an easement, in the Districts' favor, to perform the activity for which the dedication is made, such as drainage or landscape maintenance. In time, additional conveyances were made, either to the CDDs, with regard to drainage facilities in the wetlands, or to the PLCA for roads, etc. Mr. Cox noted that additional easements have been granted for various purposes. He indicated that the Districts have legal rights as far as entering upon PLCA land to do certain things and there are

certain things that can be done and certain things that cannot be done under those particular easement documents.

Mr. Cox explained that they wish to have one unified document that defines the assets that they are going to manage day-to-day, month-to-month. With regard to a capital renewal, it will be the responsibility of either the Districts or the PLCA; in some cases where the assets provide the special benefit that justifies the levy of a special assessment, the Districts can perform some of the maintenance.

Mr. Adams recalled much indecision, over the years, regarding the responsibilities of each entity. He noted that when the older plats are compared to those issued in the last five or six years, it becomes very evident that there has been a complete change in the thought process. Mr. Adams advised that having one document will provide a clear understanding between the two entities that are servicing the greater public in Pelican Landing. He stated in this particular case, Paragraph 2 indicates exactly what is being done today, with the addition of drainage facilities. Mr. Adams advised that they are looking to the three entities, both Districts and the PLCA, to define where they want to go into the future.

Mr. Patterson stated Paragraph C indicates that the Districts have easements for repair and replacement. He commented that they have the easement but they do not have the responsibility. Mr. Cox explained that under easement law, the fact that they are given an easement does not mean that they have to exercise those rights.

Mr. Patterson referred to Item 2, which indicates where the District has specific day-to-day maintenance responsibility. He pointed out that the document does not mention the post and cable program on Nest Drive. Mr. Adams stated he looks at that as being part of the road system. He explained that the Districts are set up and best suited to operate and manage infrastructure. The Association is set up and best suited to manage and operate amenities and deed restrictions and covenant enforcement in this community. He stated the District also has legislation allowing it to do all of that. Now the community needs to look at the two entities to determine which one best serves its needs.

Mr. Patterson indicated that the agreement does not define who is responsible for fixing the neighborhood monuments. Mr. Adams recalled when it was decided that the Districts should take the title ownership of the land underneath the lakes and wetlands and WCI transferred a portion of them to the Districts. He stated part of that discussion was the monuments. Mr.

Adams noted that there are certain monuments specific to a neighborhood and others that are viewed as community monuments. The Districts took on the operation and maintenance of the community monuments, which include the single-family neighborhood monuments, once they were painted in a common color scheme and through a license agreement with the association that authorized the Districts to operate and maintain the landscaping and certain monument signage. Mr. Adams advised that, after touring the community earlier in the day, he noted that some maintenance is needed on various monuments.

Mr. Cox stated they must also look at it from the perspective of how the Districts finance the operations through non-ad valorem special assessments. He advised that the test they have to meet in adopting those assessments is that the activity being undertaken enhances the use, value, enjoyment, marketability or fire protection afforded to the property that is subject to those assessments and that those assessments are fairly and reasonably apportioned based on the degree of benefit to each of the properties. With regard to the drainage system, it benefits all of the properties based upon certain criteria that were adopted in the original assessment methodology. Mr. Cox indicated that everyone uses some part of that system daily and benefits equally from the maintenance of the total system.

With regard to the monument signage, Mr. Cox explained that the day-to-day maintenance of all of the signs, to a defined level of service, benefits everyone; however, when it comes time to replace that monument, the residents of that particular community are more enhanced by its replacement so they must be apportioned. He indicated that, in his opinion, the monuments were considered part of the signage that the Districts were assigning to the PLCA, with the exception of the monument signs at the gate at Colony Boulevard and US 41, for which the CDD has ownership. Mr. Cox clarified that the Districts are stating, through this agreement, that the responsibility is not theirs.

Mr. McAuley asked Mr. Adams if the common roads will become the responsibility of the CDDs. Mr. Adams explained that the roads were turned over for ownership to the PLCA and the Districts never entered into an agreement to operate and maintain the roads and, thus, never entered into an agreement to operate and maintain the adjoining drainage facilities, either. He stated a desire to have the Districts operate those drainage facilities as a part of the overall trunk drainage system. With regard to the roads, Mr. Cox explained that the resurfacing, restriping and repairing of potholes are the responsibility of the PLCA; the Districts' responsibilities are strictly

related to drainage. Mr. Cox noted that by doing the street sweeping and maintaining the catch basins, the Districts are keeping out material that would otherwise work its way into their system and potentially cause problems and that is serving to maintain their water quality, which provides the enhancement, use and enjoyment value to all of the residents. Mr. Cox indicated that the renewal and replacement of the catch basins is the property owner's responsibility.

Mr. Pritt asked Mr. Cox if the Districts are using public funds for private purposes, why this is a license agreement and not an easement and why is there no expiration date. Mr. Cox explained that if an easement is granted, it runs with the land. With a license, if the Districts were to indicate they no longer wish to take care of landscaping but another entity will, that entity would have to obtain the approval of the PLCA in order to take on that responsibility. Mr. Cox pointed out another distinction; once an easement is granted, it is forever, whereas a license agreement can be revoked at any time. He noted that the reason he chose to use a license agreement is so that if, at some point, the PLCA decides they want to take over the responsibility, they will provide proper notice to the Districts and the Districts will no longer be responsible for maintaining the landscaping, catch basins, signage, etc. Mr. Cox indicated that he did not include a termination date so that the community would have the flexibility to change its mind.

With regard to the use of public funds for private benefit question, Mr. Cox explained that the Districts have taken on the things that provide special benefit, which are all recognized, under state law, as being valid reasons to levy a special assessment; thus, it is a public benefit to do this work.

Mr. Murphy commented that the PLCA will not agree to this document as written. He referred to Paragraph 2 on Page 2, which states 'the Districts shall have the day-to-day maintenance responsibility for landscaping, including perimeter berms. He indicated that in the Engineer's Report prepared in April of 1998, under Water Management and Landscaping, there is no mention of roadway berms. Mr. Murphy also noted that they cannot have a drainage facility without a catch basin and yet, that is excluded. He expressed that the Districts are asking that the roadway drainage system become part of the PLCA's responsibility and the CDD is most easily able to manage that; the PLCA can handle all of this responsibility but the CDD is best suited to do the work and they should.

Mr. Murphy pointed out that the sidewalks coming in and out of the community, along Pelican Landing Parkway, are littered with debris from the trees and the Districts' Staff is out there working every day. He indicated that they do not have all of the resources required to maintain the community and more resources should be allocated. Mr. Murphy feels the replacement of facilities and renewal of drainage systems should fall under the CDDs' domain; the replacement of the roadways is the PLCA's responsibility but the maintenance of the roads belongs to the CDDs.

Mr. Patterson requested Mr. Murphy's comments regarding this document, on behalf of PLCA, as to how they would like to have it revised. Mr. Murphy indicated that it was in the hands of their attorney. Mr. Murphy feels that a precedent was set, over the last decade, regarding the CDDs' responsibility and this document changes that. Mr. Adams informed Mr. Murphy that the Engineer's Report he read from was specific to The Colony and the bond issue; it does not address the remainder of Pelican Landing. Mr. Adams explained that they are trying to develop an all-encompassing document that will address both entities' interests, into the future. He stated Paragraph 2 is very accurate as to what the Districts are currently doing throughout the rest of the community. Mr. Adams pointed out that for all of the neighborhoods that were not a part of that bond issue, the Districts never assumed any ownership and have not been operating the roadway or the drainage systems. In The Colony, the Districts do not own the roadway, or the connecting drainage system to that roadway.

Mr. Pritt expressed his understanding that the PLCA was asking the Districts to undertake additional responsibilities and his questions were for Mr. Cox to clarify whether these are things that the Districts are allowed to do. Mr. Murphy advised Mr. Pritt that the PLCA is not asking the Districts to take on something new; they are asking them to continue what they are doing. Mr. Adams asked if the PLCA wants the Districts to assume the operation of the roadside drainage facilities on the older sections of roads. Mr. Murphy stated he believes the Districts have always had that obligation and have always performed it.

Mr. Adams informed Mr. Murphy that, at the point of turnover, the Districts never took ownership of the facilities and, therefore, are not operating and maintaining them. He explained that the Districts have ownership of the trunk drainage system, in many cases, right down to the fee title ownership of the land under the lakes themselves; thus, not only do the Districts have a lake maintenance responsibility, they actually have fee title ownership of the land under it. It

made sense to transfer those to the Districts because it precluded the community from having to pay taxes on those properties.

Mr. Patterson stated there seems to be a clear misunderstanding. He recalled that at the last meeting, Ms. Marie Martel advised that in the past, any time there was a problem with the drainage system on the roadways, she called the Districts and the Districts took care of it. She assumed that the Districts had the responsibility because they stepped up and cleaned it; however, Mr. Adams is saying that even if the Districts took care of it, it was not their responsibility. Mr. Murphy stated there is no document for any of this; however, a precedent has been set. Mr. Adams explained that all the Districts are trying to do is create a document that all parties can agree to in assuming the responsibilities, going forward, so that everyone has a clear understanding of who is doing what. He stressed that the Districts are not trying to impose themselves on the PLCA and take anything away that the PLCA does not want them to have but they also have to look at it from a business perspective, for the community, and which entity is best suited to perform the duties. Mr. Adams stated there are some duties that the PLCA is performing that the Districts are probably better suited to perform, which will allow the PLCA to focus on the things that they do better. All they have to do is meet the test of benefit for the entire community.

Mr. Pritt suggested that since it is in the hands of Mr. Cox and Mr. Hart, the attorney for Pelican Landing, they should both come back and advise what they can and cannot do so that they all know the parameters they are dealing with. Mr. Cox suggested that once he and Mr. Hart have gotten everything back and have coordinated with Mr. Adams and Ms. Martel, they may want to invite the PLCA Board to have a joint meeting or workshop, prior to their regular meeting, in order to iron out any details that the attorneys may need additional guidance on.

Mr. McCarthy suggested further clarity regarding the maintenance of the drainage facilities. He pointed out that the map has at least three gross errors and he feels that a document of this importance deserves something better than the handout provided at the gate. Mr. Adams agreed that in terms of future interpretation, the document needs to be more specific.

Discussion ensued regarding who would address the problem with overflow of water on the roadways. Mr. Murphy advised that the PLCA had the drains cleaned and, when the lake level was so high that there was nowhere for the water to drain, they were pumped at the PLCA's expense.

ELEVENTH ORDER OF BUSINESS

Continued Discussion: Combining Both
CDDs Into One

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

Mr. Cox stated this item is a work in progress. He recalled that, in the past, the Boards wanted to have a public discussion on this topic, when the majority of the seasonal residents are in town, to get their input.

Mr. McAuley remarked that they have not discussed it amongst themselves. He suggested that they either hold a special meeting to discuss all of the related issues or make it the first item on the agenda for the next meeting. He feels they are making a lot of assumptions before they discuss it together.

Mr. Pritt asked if they will save on Management fees by merging the two Districts. Mr. Cox explained that when the two Boards began meeting together, he began charging one flat fee to attend the combined meeting and the Manager did the same. Mr. Adams advised that currently, Management is required to keep two separate sets of books; only one set would be required if they combine the Districts, which may result in a small savings.

Mr. Cox stated there is a repayment period and, on the cost side, it is very long. He reported that he met with city officials, who admitted that it was unreasonable to charge \$15,000. He advised it is not easy to get the county to meet with you unless you agree to pay a fee for that meeting. Mr. Cox noted that he had some conversations with the county attorney's office and they are having some internal discussions to let the Districts know the amount of their fee. He stated he does not expect the county fee to come down as much as the city fee did.

Mr. Cox explained that the \$35,000 estimated for legal fees is a not-to-exceed number. He will charge the hourly rate times the number of hours worked, up to that number. Mr. Cox reported the city advised him that all he has to do is prepare a resolution and share it with their attorney, Ms. Audrey Vance; if she is happy with it, she will present it to the city for adoption and he will not be required to attend the meeting. Mr. Cox concluded that they are looking at a four to five-year payback. Mr. Adams stated they cannot discuss their options without having this understanding and agreed that it is worthy of a separate meeting to discuss the pros and cons.

Mr. McAuley asked that this item be tabled to a special meeting or the next Board meeting. Mr. Cox recalled that there was some discussions, at the last meeting, about having him look at some alternatives, with one being to contract the Districts and turn the assets over to

the PLCA. He explained that as long as they have outstanding bond debt, those assets must be owned by a public entity, so that is only an option if someone was willing to retire their outstanding bond debt. Mr. Cox reported that when the concept was broached with the city, there was an immediate negative reaction from city staff. He stated if this is something that both Districts are serious about, they will have to come up with the money to retire the debt and begin looking at how to get the political will to tell staff that, despite their misgivings, it is a political decision that the city or county is willing to do and that may be prove to be extremely difficult.

Mr. Cox requested that between now and the workshop meeting, the Boards provide him with some idea of what the issues might be so that he can be prepared for those that require a legal opinion.

On MOTION for Bayside Improvement by Mr. Hancock and seconded by Mr. Cramer, with Mr. McCarthy and Mr. Lienesch in favor and Mr. Patterson opposed, tabling the discussion of combining both Districts into one to a special workshop meeting to discuss the entire process, in detail, was approved. (Motion passed 4-1)

On MOTION for Bay Creek by Mr. Huffman and seconded by Mr. Glueck, with Mr. McAuley and Mr. Janek in favor and Mr. Pritt opposed, tabling the discussion to a special workshop meeting to discuss the entire process, in detail, was approved. (Motion passed 4-1)

TWELFTH ORDER OF BUSINESS

**Results of Water Quality Testing -
October**

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

Mr. Hancock referred to the handout and reported that phosphorous is going up again in all of the communities. He stated the number of tests were reduced and two additional lakes were added to the sample. Mr. Adams advised that three lakes were suggested to be added but they were only going to add as many as they could, while staying within budget, and they were able to fit two of the three. Mr. Patterson clarified that they were only going with D-14 and C-4. Mr. Hancock noted there is not enough data yet to make a line for these.

Mr. Hancock indicated that C-4 feeds water to E-5 and that will be interesting once the chart for E-4 develops. He stated they know something is not right in E-5. Mr. Hancock expressed that they are hoping to get a professional to help with the interpretation of these charts. Mr. Adams advised he thought the SePro Corporation report had provided a lot of understanding but they have indicated that they are more than willing to continue to review and analyze and provide feedback as they look at the water quality.

Mr. Cox stated that, last week, the state agencies adopted the numeric threshold for nutrients and the rule was a little different. He explained that it differs depending on the type of water body and the geographic locations within the State of Florida, how it discharges and other criteria that determine what the measurement requirements are and what has to be done when certain thresholds are met within that water body. Mr. Cox reported that there may be some challenges to the implementation of that rule. He stated it might be interesting to have a consultant analyze their data under that rule and advise them how it might affect them if implemented. Mr. McCarthy requested the parameters. Mr. Adams indicated that he will forward the information to the Board Members.

Mr. McCarthy also requested the statutes regarding mergers, 190.046 and 190.005.

Mr. Lienesch recalled an email from Mr. Kurth and commented that it was well done and took into consideration everything that happened, primarily the amount of rainfall in mid-October. He also mentioned an article in the Naples Bonita newspaper regarding the community of Island Walk, which had similar problems with algae and weeds; the article referenced how the problems were addressed over several years. He asked Mr. Adams to forward a copy to the Boards.

Mr. McCarthy asked Mr. Patterson to approach Pelican's Nest and The Colony to request copies of the reports filed relative to when they have had fertilizer applications over the past year in order to compare the water quality versus when the golf courses applied fertilizer.

Mr. Adams discussed the status of the sonar program and noted that it is still in the introductory phase. Mr. McAuley asked if Mr. Kurth will be at the next meeting. Mr. Adams responded affirmatively.

THIRTEENTH ORDER OF BUSINESS**Approval of October 24, 2011 Joint
Regular Meeting Minutes**

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

Mr. Adams presented the October 24, 2011 Joint Regular Meeting Minutes and asked for any deletions, additions or corrections. The following changes were made:

Line 86: Change “Waterside” to “Pepper Mill Court”

Line 83: Change “Lienesch” to “McAuley”

Line 170: Add “road drainage” after “system”

Line 204: Change “Water Land” to “Land and Water” and “(FWLAC)” to “(FLWAC)”

Line 208: Change “FWLAC” to FLWAC”

Line 218: Add “Assumption or” after “for the”

Line 240: Change “VOC” to “UOC”

Line 274: Change “McCarthy” to “McAuley”

Line 286: Change “Patterson” to “McAuley”

Line 290: Change “Kramer” to “Cramer”

Line 313: Delete “the steel cable that runs between”

On MOTION for Bayside Improvement by Mr. McCarthy and seconded by Mr. Hancock, with all in favor, the October 24, 2011 Joint Regular Meeting Minutes, as amended, were approved.

On MOTION for Bay Creek by Mr. McAuley and seconded by Mr. Huffman, with all in favor, the October 24, 2011 Joint Regular Meeting Minutes, as amended, were approved.

FOURTEENTH ORDER OF BUSINESS

Old Business

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

There being no old business, the next item followed.

FIFTEENTH ORDER OF BUSINESS

Other Business

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

a. Action Items

Mr. McAuley asked if the lightposts were painted. Mr. Adams indicated that they are holding off until after Christmas because of the decorations.

Mr. Murphy advised they are having a lot of trouble getting the mailboxes painted timely and asked that they wait to paint the lightposts until the mailboxes are taken care of.

SIXTEENTH ORDER OF BUSINESS**Staff Reports**

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

a. Attorney

The attorney had nothing further to report and the next item followed.

b. Manager**i. Unaudited Financial Statements as of October 31, 2011**

Mr. Adams presented the Unaudited Financial Statements as of October 31, 2011.

ii. Irrigation High User Report

- o **Bayside Improvement CDD**
- o **Bay Creek CDD**

Mr. Lienesch asked if the 20 properties on Tuscany Way or Tuscany Court are located in The Colony. Mr. Adams responded affirmatively. Mr. Lienesch asked if they have an HOA or UOC representative or someone who can communicate this issue to their community. Mr. Patterson suggested reporting it to The Foundation because all of those people have representatives that go to The Foundation meetings. Mr. Adams indicated that they have a neighborhood association as well as a maintenance contractor. Mr. Patterson commented that in the Waterside area, notices were sent out and they are considerably better.

iii. NEXT MEETING DATE: January 23, 2012 at 2:00 P.M.

Mr. Patterson noted the next meeting is scheduled for January 23, 2012 at 2:00 p.m. Mr. Adams stated he will try to schedule a workshop prior to that date.

iv. Operations Report

This item was addressed during the Seventeenth Order of Business.

SEVENTEENTH ORDER OF BUSINESS**Audience
Request****Comments/Supervisors'**

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

Mr. Murphy noted that the CDD merger will not be on the PLCA Board's agenda.

Mr. McAuley recalled that, at the last meeting, the Boards discussed that they were hoping to get this topic to where the public could be heard in January or February, when the residents are there.

Mr. McAuley inquired about the outcome of the Christmas wreath and the monument. Mr. Adams indicated that it was hung and it is still there. He reported that he met with the neighbor that did not like it and had taken it down, in previous years; he does not believe she would be removing it again.

- **Operations Report**

******This item, previously Item 15.iv., was presented out of order.******

Ms. Crismond was not present but had emailed her report to the Boards and Staff.

Mr. Pritt recalled an email from someone in Ascot regarding the algae in the lake. He indicated that Ms. Crismond was following up and he inquired about the outcome. Mr. Adams noted that physical removal was scheduled for the next day or two and will have Ms. Crismond provide an update when she returns.

Mr. Glueck reported that the aerator on D-1 is not working.

Mr. McCarthy stated with regard to the Lakemont issue, in the past, it was decided that they did not want to rake along the edge of the lake because of the presence of littoral plants. Mr. Adams noted from what he has seen, it is not acceptable and there needs to be some corrective action.

Mr. Hancock stated there was a delegation present from Lakemont Cove regarding Lake D-4 and he is circulating photos of the lake to the Board and Staff.

EIGHTEENTH ORDER OF BUSINESS**Adjournment**

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

There being no further business, the meeting adjourned at 4:35 p.m.

FOR BAYSIDE IMPROVEMENT:

Bernard F. Gamm
Secretary/Assistant Secretary

J. P. Patterson
Chair/Vice Chair

FOR BAY CREEK:

Robert D. Pault
Secretary/Assistant Secretary

Frederick E. McAuliffe
Chair/Vice Chair

ACTION/AGENDA ITEMS:

1. **ACTION ITEM:** Mr. Barraco to email details on the control structures in question to Mr. McCarthy; Mr. McCarthy to look in county files to see if there is a plan that corresponds to what Mr. Barraco has
2. **ACTION ITEM:** Board Members to provide Mr. Cox with some idea of what the issues might be regarding the merger so he can prepare for those that might require legal opinion
3. **ACTION ITEM:** Mr. Adams to provide Board with parameters for the new numeric threshold for nutrients, as well as statutes regarding mergers
4. **ACTION ITEM:** Mr. Adams to circulate article from Naples newspaper about Island Walk re: algae and weed problems
5. **ACTION ITEM:** Mr. Patterson to approach Pelican's Nest and The Colony – request copies of reports filed relative to dates of fertilizer applications over past year
6. **ACTION ITEM:** Ms. Crismond to provide update re: algae in lake at Ascot
7. **ACTION ITEM:** Light Post Painting
8. **AGENDA ITEM:** Workshop - Merger