

**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, June 25, 2012 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 (via telephone)	Assistant Secretary
Bernie Cramer	Assistant Secretary
T. Marvin Hancock	Assistant Secretary

For Bay Creek CDD:

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

Also present were:

Chuck Adams	District Manager
Cleo Crismond	Assistant Regional Manager
Dan Cox	District Counsel
Carl Barraco	District Engineer
Bill Kurth	LakeMasters
Jim Murphy	PLCA Liaison
Bill Ribble	Member, The Colony Residents Council
Roger Brown	Resident
Paul Hoefler	Resident
Arthur LaScala	Resident
Mr. Frank Toner	Privacy Committee, PLCA

FIRST ORDER OF BUSINESS

Call to Order/Pledge of Allegiance

Mr. McAuley 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, Huffman and Glueck were present, in person, for Bay Creek CDD. Supervisor Janek was attending via telephone. Supervisor Pritt was not present at roll call. Supervisors Patterson, Cramer, McCarthy and Hancock were present, in person, for Bayside Improvement CDD. Supervisor Lienesch was attending via telephone.

THIRD ORDER OF BUSINESS

Public Forum

Mr. McAuley asked if any members of the public wished to address issues on the agenda.

Mr. Paul Hoefler, a resident, indicated that he would like to address the CDD flower proposal and follow up on the landscaping on Spring Creek Road. Mr. McAuley confirmed that both items are on the agenda.

****Supervisor Pritt arrived at 2:06 p.m.****

JOINT MEETING ITEMS

FOURTH ORDER OF BUSINESS

Staff Reports: Engineer

Mr. Barraco reported that his firm is continuing the certification process with South Florida Water Management District (SFWMD). Over 60 applications required certification and all were submitted. Mr. Barraco indicated that roughly 20 applications were received back from SFWMD, accepting the certifications. One control structure is not within their tolerances and the application was held back. Mr. Barraco explained that each certification comes with an affidavit for conversion to operation and maintenance and those will be handled in groups.

Mr. Hancock expressed concerns regarding the wastewater that is produced by washing the maintenance equipment, which may be entering into the drainage system and, perhaps, into Lake E-1.

Mr. Barraco provided an update on the NPDES permit process. He indicated that the Standard Operating Procedure (SOP), which is a requirement of the new program being initiated, is about two-thirds complete. The deadline for completion is September. Once it is finished, it

will be reviewed by Management and the Boards. After that, the NPDES annual inspections will begin.

Mr. Cramer reported that he recently met with Mr. Jason Zimmerman, Superintendent of Pelican's Nest Golf Club, to discuss an ambient noise problem from the golf club to the tennis facility. He and Mr. Zimmerman toured the area and found that the source of the noise was in the wash area for the maintenance equipment. Mr. Cramer explained that the equipment goes into a self-contained scrubber and is rewashed. He felt that this answered Mr. Hancock's question regarding Pelican Nest; however, he noted that The Colony has a similar machine.

Mr. Cramer advised that he and Mr. Zimmerman walked to the area discussed by Mr. Hancock, which is a large swale that goes into a concrete "coffin", prior to going into Lake E-1. Mr. Cramer recalled that, at the last meeting, Mr. Adams indicated that there are some baffles which may contain contamination causing the problem in Lake E-1. Mr. Cramer stated, for the record, that, from his perspective as a lay person but being in the mechanical business, the Pelican Nest Golf Club has a dynamic system. He stated that any water that may run from the tennis courts, which are owned by the PLCA, or The Nest/Colony, goes into the swale and, at some point, enters Lake E-1.

Mr. Barraco stated that he and Mr. Adams discussed two fairly new technologies that may be potential solutions, one being a Stormceptor, which is an inlet that catches pollutants and is used more for suspended solids. The other is a chemical treatment process called phoslock, which is placed into the system and attracts the pollutants so they can be removed. Mr. Barraco will report on these at the next meeting.

Mr. McCarthy asked Mr. Barraco to identify whether there are actually pollutants coming in, prior to investing money in new technology. Mr. McCarthy would like Mr. Barraco to review the topography to determine if there is an actual source. Mr. Adams advised that he and Mr. Barraco will do so. Mr. Cramer reported that, over the weekend, he observed a catch basin, adjacent to the tennis facility, that was pooled with green, sludgy water, which he suspects was runoff from the topcoating on the tennis courts. He requested that this area be reviewed, as well.

FIFTH ORDER OF BUSINESS**Lake Maintenance Activities Report - *Bill Kurth***

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

Mr. Kurth reported that a major sonar treatment was performed at the end of April for all remaining submersed vegetation, which produced some good results. In early June, reapplications were performed in the lakes but with lesser results. Mr. Kurth stated that, last year at this time, there were submersed vegetation issues in almost every lake; however, this year, there are fewer issues. Mr. Kurth expressed concerns regarding Lakes F-1 and F-16. He noted much improvement in Lake E-1, with very little spikerush and algae. Mr. Kurth indicated that LakeMasters has total control over the spikerush in Lake F-1; the problem is algae. Lake F-16 still contains spikerush and algae. He feels that the nutrient loading in those lakes has changed.

Mr. Kurth advised that \$1,500 of bacterial products were added to Lake F-16 as a test, over a three-month period, to no avail; however, there is an outfall into Lake F-16 and the water was flowing from the outfall into the lake. He asked Mr. Barraco to look into this.

Mr. Kurth discussed options for resetting the lakes, such as adding tilapia, grass carp and littoral plantings. With regard to maintenance, they are trying to control the nutrient level with littoral plantings and aeration. Mr. Kurth discussed a new product, phoslock, which will immediately eliminate 99% of the phosphorous from the water.

SIXTH ORDER OF BUSINESS

**Consideration of Proposal to “Reset”
Lake E-1 (to be provided under separate
cover)**

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

Mr. Adams discussed Mr. Kurth’s proposal to “reset” Lake E-1. He suggested adding 10,000 aquatic plants to the lake, initially, at a cost of \$4,700. In addition, 2,000 tilapia will be stocked, at \$300 per thousand, or \$600. Mr. Adams advised that bacteria packs are used in the on-going treatment program, at a price of \$150 per month. He noted that phoslock will probably be the most beneficial. The cost for this treatment is \$6,820. The total expense, as proposed, is \$13,920. Mr. Adams recommended using all of these options and treating Lake E-1 as a test lake. He suggested that the Board continue water sampling on this lake, taking monthly or quarterly pictures and monthly or quarterly water testing analysis to observe what changes occur, over time.

Mr. Glueck stated that the problem with using all four options is that they will not know which was the most successful and asked if they could be completed in different stages. Mr.

Adams responded that the water quality analysis will help. Initially, the phoslock will have immediate results. In response to a question from Mr. McAuley, Mr. Adams advised that surplus fund balance will be utilized.

Mr. Patterson reported that he was advised by Mr. Zimmerman that the maintenance staff does not put water into the drainage ditch in the maintenance area. Mr. Patterson felt Staff should first identify where the phosphorous is coming from before trying to eliminate it. Mr. Adams noted that there was a spike in the water quality for phosphorous, which supports what they are seeing in terms of the growth in the lake. He stated that phoslock is a good approach for remove the phosphorous currently in the lake. With regard to identifying the source, Mr. Adams explained that when he noticed the golf course maintenance facility across the street from the lake, he wondered where the drainage was running off. After assessing the berm, he noticed an inlet with a dry retention area. Mr. Adams suspects that, during a rain event, the entire area flows back into the southeast corner and eventually rises up through the catch basin, moves underneath the road and flows directly into Lake E-1, which explains why Lake E-1 is the worst of the three lakes in the area. Mr. Adams and Mr. Barraco will sample the water in the catch basin in the dry retention area and take a soil sample. The next step will be to review the tennis courts to see if there is something associated with the clay running off the courts that may be creating issues. Mr. McAuley recommended tabling Mr. Kurth's proposal until Staff investigates the maintenance facility and tennis courts.

On MOTION for Bay Creek by Mr. Huffman and seconded by Mr. Glueck, with all in favor, authorizing Staff to complete water and soil testing and provide the results at the July meeting was approved.

On MOTION for Bayside Improvement by Mr. Hancock and seconded by Mr. Patterson, with all in favor, authorizing Staff to complete water and soil testing and provide the results at the July meeting was approved.

Mr. Hancock requested literature regarding the products to be used on Lake E-1, in support of Mr. Kurth's proposal. Mr. Kurth will provide the information at the next meeting.

In response to a question from Mr. Pritt, Mr. Kurth indicated that he will obtain another

muck sample from farther out in the lake to get a good reading of the phosphorous levels on the lake bottom.

SEVENTH ORDER OF BUSINESS

**Results of Water Quality Testing – May
(to be provided under separate cover)**

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

Ms. Crismond inquired about the status of the grass carp permitting. Mr. Kurth indicated that an on-site inspection of the weirs must be conducted by the Florida Fish and Wildlife Commission. A permit will be issued soon after.

Mr. Adams noted that there was a coordination issue regarding the water quality testing. The results will be obtained in the next few weeks.

EIGHTH ORDER OF BUSINESS

**Consideration of LakeMasters Lake &
Wetland Maintenance Contracts (second-
year option)**

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

Mr. McAuley asked for questions from the Boards regarding the lake and wetland maintenance contracts.

Mr. McCarthy stated that he was not in favor of the approach being used to treat the lakes. He feels that chemical treatments should be a last resort; lakes should be treated with a more natural approach. Mr. McCarthy suggested completing an analysis of each lake to determine if the aeration is adequate. He expressed concern with Lake A-2 and felt that plants should be added.

Mr. McCarthy stressed the importance of developing an aggressive program to prevent the entrance of nutrients into the lakes. He feels they should let the residents know that there is a problem and it will be addressed and eradicated. With regard to renewal of the LakeMasters contracts, Mr. McCarthy stated his issue is not with the contractor; it is the contractor's approach. He emphasized that he is not in favor of using chemicals on the lakes.

Mr. McAuley indicated that the Boards will advise the contractor what they want done as they put together the budget. Mr. McCarthy suggested waiting to approve the contract and base it on what the Boards decide to do.

Mr. Huffman felt that the contract renewal is a budget item and suggested that the Supervisors discuss the options regarding the lake issues at the July budget workshop. Mr. Hancock indicated that the language being discussed should be included in the bid documents and added to the contract.

On MOTION for Bay Creek by Mr. Huffman and seconded by Mr. Glueck, with Mr. McAuley and Mr. Pritt in favor and Mr. Janek opposed, tabling the consideration of LakeMasters Lake & Wetland Maintenance Contracts (second-year option) for review at the July Budget Workshop was approved. (Motion passed 4 – 1)

On MOTION for Bayside Improvement by Mr. McCarthy and seconded by Mr. Cramer, with all in favor, tabling the consideration of LakeMasters Lake & Wetland Maintenance Contracts (second-year option) for review at the July Budget Workshop was approved.

Mr. Adams noted that this item may be tabled; however, there is a September 30 expiration date so they must go out to bid in July.

Mr. Roger Brown, a resident and liaison for the UOC, asked what the phosphorous turns into once it is eaten by phoslock. Mr. Kurth indicated that there is a chemical reaction between the lanthanum and phosphorous, which creates a new compound that is inert and stays on the bottom of the lake. Mr. Brown asked if the compound is flushed out during heavy rains. Mr. Kurth was unsure. Mr. McCarthy asked Mr. Kurth to provide literature on phoslock as soon as possible.

NINTH ORDER OF BUSINESS

Discussion/Consideration: Proposal to Install Green Buttonwood at Certain Locations Along Spring Creek Road Buffer

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

Mr. Adams recalled discussion, at the last meeting, regarding a program that was discussed several years ago, which included upgrading and enhancing the buffers along Spring

Creek Road. Planting plan proposals were received from JRL & Associates, as part of the enhancement of the Coconut Road right-of-way and, specifically, in the location between Murano and the CDD maintenance facility. At that time, JRL provided a planting plan and some financial proposals were secured related to enhancements along Spring Creek Road, as well; however, the funds were not available at that time. Mr. Adams advised that the areas of priority were revisited by Staff several weeks ago following concerns raised by several residents at the last meeting and two areas were identified. Mr. Adams and Mr. Kucera also looked at the existing hedges and tree materials and discussed trimming them and heavily fertilizing, which was performed prior to June 1, with good results.

Mr. Adams stated that some of the concern conveyed at the last meeting had to do with noise abatement. He explained that the area is not large enough to plant hedge material well enough to eliminate the noise, specifically from the dump trucks traveling on Spring Creek Road as part of a new development by WCI. The enhancements being proposed are more visual and will join sections that have deteriorated over the years and require replacement. The approximate cost for the irrigation installation is \$2,600. The total cost to complete the project is approximately \$14,000. Mr. Adams advised that the funds are available in the current budget in the current plan replacement line item.

Mr. Patterson suggested planting an undergrowth of Variegated Arboricola in the first section to enhance the corners. Mr. McCarthy suggested planting Clusia, which are planted along the boulevard going to the Bay Club, alongside the two high rises and Canoe Park. Mr. McCarthy showed a photo of the Clusia, taken a year ago, and indicated that they are the most highly recommended shrub for hedges by the Miami-Dade County and Lee County Extension Services. He felt they would provide more privacy for the residents.

Mr. Bill Ribble, a resident, agreed with Mr. McCarthy's suggestion. He noted that Green Buttonwood was planted in The Colony, on Coconut Road, and the plants did not grow. Mr. Ribble stated that many resident complaints are due to the fact that they can see right through the fence on Coconut Road.

Mr. Paul Hoefler, a resident, asked if the irrigation system is installed or how long it will take for installation. Mr. Adams advised there are installed sections, which are in need of repair and there are sections that will be extended as a part of this project. Mr. Hoefler reiterated that Buttonwoods did not work well in front of Murano and on Coconut Road. He asked if the

project will provide the same quality of plantings as the other perimeters around Pelican Landing. Mr. Adams advised that this proposal follows the landscape architect's recommendation. Mr. Adams expressed concern that the hedge being suggested is a more maintenance intensive material. In order to achieve the look of the hedge shown in the photo by Mr. McCarthy, it must be trimmed quarterly.

Mr. Hoefler referred to the amount budgeted in General Fund 002 for plant replacement in The Colony and asked when the plant replacement will occur. Mr. Adams responded that the turf was removed and will be replaced next week. Mr. Adams confirmed that this is a three-year, three-phase project. Mr. Adams explained that the turf replacement was about \$350,000 and was spread over three years. This was determined to be the first priority.

Mr. Huffman asked about the cost difference between Green Buttonwood and Clusia. Mr. McCarthy indicated that he paid \$85, which is less than the amount proposed for 25-gallon plants.

Mr. Lienesch noted that some homes along Addison Place have a clear view of Spring Creek Road; Murano also has a huge gap. Mr. Patterson stated the complaint from Murano was related to noise; however, the noise is due to the trucks. Mr. Ribble clarified that the noise comment came from a resident at Addison Place; there was no discussion about noise in front of Murano. The problem the residents have in Murano and The Colony is that they can see through the fence. Further discussion ensued.

On MOTION for Bay Creek by Mr. Huffman and seconded by Mr. Glueck, with all in favor, planting Clusia along Spring Creek Drive, along Addison Place, in an amount not-to-exceed \$15,000 was approved.

On MOTION for Bayside Improvement by Mr. McCarthy and seconded by Mr. Cramer, with all in favor, planting Clusia along Spring Creek Drive, along Addison Place, in an amount not-to-exceed \$15,000 was approved.

TENTH ORDER OF BUSINESS

Continued Discussion: Water Quality Analysis

This item was not discussed.

ELEVENTH ORDER OF BUSINESS**Consideration of Facilities Maintenance Agreement with PLCA (to be provided under separate cover by Dan Cox)**

Mr. Cox reported that the agreement was sent to the PLCA about three weeks ago. Questions were received from Mr. Earhart, with WCI Communities; he will respond to those questions and report at the next meeting. Mr. McAuley asked Mr. Murphy his feeling, in light of this response. Mr. Murphy noted that the catch basin is an integral part and has no purpose other than drainage. The PLCA feels it is part of the CDDs' responsibility to maintain, repair and replace them. Mr. Cox stated the issue is that the positions of the parties have not changed. The CDD indicated that they will maintain the catch basins but they do not want to be responsible for capital renewal and replacement; the Boards want the PLCA to be responsible for capital renewal and replacement. Mr. Cox advised that the agreement has been fine all along; however, an agreement has not been reached regarding what it should say and unless someone changes their mind on this subject, there are no modifications to the agreement.

Mr. Pritt asked Mr. Cox what he recommends. Mr. Cox stated that the catch basins are part of the road. The CDDs are justified in maintaining them; since they are a source for pollution to get into the system, they must be maintained properly and the best way to do that is for the CDD to maintain them. Mr. Pritt noted that the CDDs were given a document by the PLCA indicating that the CDDs are responsible. Mr. Cox stated, from a legal perspective, the CDDs have not accepted responsibility for repair and replacement of those facilities; an access easement was dedicated to allow them to do so but the responsibility was never accepted.

Mr. Murphy stated that, when they signed the plat of survey, the CDDs accepted the responsibility through their practices, as the catch basins have always been pumped out by the CDDs. Mr. McAuley noted that none of them were replaced by the CDDs. Mr. Patterson asked how they would obtain transfer of legal ownership of the basins and associated piping, from the basins to the lakes. Mr. Adams felt if they could get clear ownership, it would become the CDDs' responsibility to operate, maintain and replace. Mr. Cox indicated that he would have to draw up the appropriate documents and have them signed by the parties. Mr. Patterson felt that the Districts are in a better position to handle replacement when required.

Mr. Patterson made a motion that if legal ownership can be obtained for the catch basins, stormwater grates and drains, the CDDs will perform the functions required to operate, maintain and replace. The motion was seconded by Mr. Hancock.

Mr. Pritt disagreed with Mr. Murphy. He pointed out that the CDDs are governmental entities and have a constituency; they should not accept what will be expensive capital costs, going forward, unless they own the system and are paid by someone to take it over. Mr. Pritt stressed that if Mr. Cox indicates they do not have a legal responsibility, they should not be taking this over just because the PLCA wants them to. Mr. Pritt stressed that he will not go along with taking on a major responsibility and not having any money paid for it.

Mr. Patterson felt that it is for the common good to have one entity responsible for the three aspects. He also indicated that whether it is paid for by the CDDs or the PLCA, the residents end up paying for it.

Mr. Huffman asked if a deed of ownership ever existed for these items and, if not, it would be possible to draw up a deed of ownership that could be transferred to the CDDs. Mr. Cox stated he has not researched the chain of title; however, he was sure there was a deed conveying the roads to the PLCA. He explained that the catch basins are called fixtures and are permanently affixed to that real property; if there is a deed to real property, the deed includes all of the fixtures and appurtenances to that property. Mr. Huffman felt that the motion should be amended to include deed of ownership. Mr. Cox agreed that if the Districts take ownership, there must be something evidencing that.

Mr. Murphy advised that he distributed two quit claim deeds showing that ownership was transferred from WCI to the PLCA. He stated that the catch basins only function is drainage and the CDDs are responsible for drainage; if it is not working, the CDDs are responsible to repair, maintain and replace, by statute. Mr. Pritt stated that just because the CDDs are authorized by statute to operate a drainage facility, it does not mean that they are required to operate and replace all drainage facilities. He felt they should not take the responsibility unless there is funding available. Mr. Pritt reiterated that Mr. Cox stated, as far as he can tell, they are not responsible for repair and replacement.

Mr. Cox noted that the Districts are responsible for water quality and this is one of the ways to maintain the water quality. He discussed his reservations regarding the CDDs taking ownership and responsibility. If one of the catch basins fails, the stormwater is not able to get

off of the road and severely impacts the road; therefore, it would seem that the owner of the road would want to be in control of the catch basins to ensure that repairs are made quickly.

Mr. Janek stated that, when the discussions began, they were about taking over the sewer, which the Boards agreed to. He asked if they would raise the taxes or let PLCA pay if there is a breakdown. Mr. Janek advised he agrees with Mr. Pritt.

Mr. Cramer asked, if a catastrophic event were to occur in the community and something were to happen to the roadways/catch basins, who would be responsible and who is insured. Mr. Cox did not know if anyone was insured; however, the owner of the roadway owns the facility, which is the PLCA. Mr. Cramer indicated his agreement with Mr. Pritt with respect to the knowledge of what is being put together. He felt the document from Mr. Earhart was a slap in their faces and indicated that no document has been prepared that is of any value. Mr. Cox explained that an agreement was not presented to the Boards because the attorneys have not been given the direction needed to make the necessary modifications once an agreement is reached. Mr. Cox felt Mr. Hart is in the same place he is; he feels his client, the PLCA, wants the CDDs to take ownership and Mr. Cox told him they do not wish to do so.

Mr. Patterson amended the motion, making it conditional upon a study by Mr. Cox that it is legal for the Districts to do so. Ms. Crismond clarified the motion, stating if the CDDs can obtain legal ownership of the catch basins, stormwater grates and drains, with the condition that Mr. Cox agrees it is legal for them to do so and they obtain a deed of ownership.

Mr. McCarthy advised that he was offended by Mr. Earhart's comments and that Mr. Earhart clearly does not understand the Boards' responsibilities and what dedications on plats mean. He shares Mr. Pritt's concern in taking on a liability that possibly violates his fiduciary responsibility and he wants an opinion from their attorney stating that this is legal. Mr. McCarthy stated that the opinion of the county, which was verified with the county attorney's office, is that those facilities are part of the roadway. Mr. Cox concurred that this is consistent with his experience with the City of Fort Myers.

Mr. Hancock discussed two problems with catch basins that he observed five or six years ago, which were reported to the PLCA; the PLCA clearly stated it was their responsibility. Mr. Hancock indicated that he noticed a process in the Board meetings, over the last year or two, where, because an employee of the CDD cleaned them out, the Boards accepted the

responsibility. Mr. Hancock believes that CDDs should be responsible for everything regarding the civil works.

Further discussion followed. Mr. Glueck proposed that Mr. Pritt make a motion, which addresses his concerns and a way to proceed.

Mr. Patterson withdrew his motion, requesting additional legal clarification.

Mr. McAuley agreed with Mr. Hancock that the facilities are the responsibility of the CDDs. He felt that the roads, catch basins and lakes should also belong to the CDDs. Mr. McAuley stated that the job of the PLCA is to run the amenities and programs; the PLCA should not be involved in the public works. Mr. Pritt suggested resolving the issue using presuit mediation with a neutral third party, who is familiar with the area being dealt with, also taking into consideration the legal fees being incurred. Mr. Pritt felt that Mr. Cox and Mr. Hart could agree on a neutral third party.

Mr. Huffman withdrew his motion. Mr. McAuley advised that there is now no first or second.

Mr. Cox indicated that he and Mr. Hart cannot draft a document until the renewal and replacement issue is resolved. He stated that he and Mr. Hart will look into the CDDs taking ownership of the fixture but not ownership of the real property.

Mr. Murphy clarified that Mr. Earhart's comments were meant for the PLCA board members and management, to tell them how he was feeling, as a developer. Mr. Murphy shared the document with the CDD Boards so that they could get a feeling of the PLCA's thoughts. Mr. Murphy felt that the CDDs can take over maintenance, operation, repair and replacement without having to assume ownership.

Mr. McAuley confirmed that Mr. Cox will discuss options with Mr. Hart and report to the Boards. Mr. Cox stated he will come back with either a solution or a recommendation. Mr. McCarthy requested that Mr. Cox provide any documents that may be generated as a result of the discussion, prior to the meeting.

Mr. McAuley asked who will take care of the catch basins in the event of flooding. Mr. Cox stated that there is no argument regarding performing the maintenance that can be put into effect and, later, they can address the renewal and replacement. Mr. McCarthy agreed with Mr. Cox. Mr. Adams suggested removing ownership from the existing agreement and forwarding it to the PLCA for execution. The transfer of ownership will be dealt with at a later date. Mr. Cox

agreed with maintenance on the basis of it being a water quality issue. Mr. Pritt stated that, as long as it is understood that by doing so, the CDDs are going no further than what is stated.

On MOTION for Bay Creek by Mr. Glueck and seconded by Mr. Huffman, with all in favor, authorizing District Counsel to amend the Facilities Maintenance Agreement with the PLCA to state that the CDDs will maintain the culverts and authorizing the Chairs to execute was approved.

On MOTION for Bayside Improvement by Mr. McCarthy and seconded by Mr. Hancock, with all in favor, authorizing District Counsel to amend the Facilities Maintenance Agreement with the PLCA to state that the CDDs will maintain the culverts and authorizing the Chairs to execute was approved.

Mr. Huffman asked Mr. Murphy to present this to the PLCA Board for unanimous consent. Mr. Murphy agreed.

TWELFTH ORDER OF BUSINESS

Discussion: Neighborhood Entry Flower Program Offer by Districts and Response(s)

Mr. Adams reported that Staff sent a mailer to the parcel neighborhoods who were not currently having their entry monument flower programs maintained by the Districts. To date, out of two dozen parcel neighborhoods, Costa del Sol and Baycrest have confirmed, Sandpiper Isles sent a courtesy letter saying “no” and Longlake Village and Verano are still considering the agreement.

Mr. McAuley asked if the neighborhoods would be able to enter the program at a later date. Mr. Adams explained that the deadline for next year’s budget, is July 1, 2012. If no response is received by July 1, the neighborhoods would have an opportunity to enter into an agreement next year, prior to July 1. Any increases to this program must be encompassed in the budget. Mr. Adams noted that there does not appear to be the level of interest that was anticipated. He asked the Boards if they still want to offer this program, given that there is very little interest.

Mr. Patterson noted consternation among the representatives of The Colony over the fact that, if they do not participate in this program, the cost will be added into their base budget and they will end up paying for something they do not want. He also brought up the fact that they may not want every neighborhood to have the same flower program. Mr. Patterson made a motion to drop the flower program. Mr. Adams noted that it was made very clear in the letter that, if the Districts take over the flower program, the neighborhoods will no longer have the ability to choose colors, varieties, timing or frequency of changeout. Mr. Lienesch stated they have come full circle.

Mr. McAuley disagreed, stating that all of the parcel communities are already paying for the flowers and the few that wish to participate should be able to. He stressed that he will oppose any motion denying the parcel communities their rightful amount, within the budget. Mr. Adams noted that when they are added, an expense is added to the budget which everyone pays for.

Mr. McCarthy felt that they were being premature, as the deadline is not until July 1. He also expressed that he had a problem with making an offer and taking it back.

Mr. Patterson stated those who do not want to participate will end up paying more for the flower program than what they are already paying.

Mr. Arthur LaScala, a resident, stated that his community is not interested in participating; they came to the conclusion that this is an excess cost for their residents because they will continue to maintain their flowers and also must pick up the expense of someone else's flowers. He indicated that the residents like the individuality of choosing their own flowers and felt strongly about that. Mr. LaScala questioned the concept of a governmental entity competing with private contractors. He stressed that his community is adamantly opposed to the flower program and does not feel it is in the best interest of The Colony.

Mr. McAuley stated if that is so, they should withdraw all flowers from all communities. Mr. Lienesch agreed and stated that the CDDs are paying to install flowers in all of the private home communities. Mr. Hoefler stated that is a function of the existing documents. What the CDDs are doing with this program is changing that documentation and extending it to a different area, which is what he objects to. Mr. Hoefler supports the CDD installing flowers in the common areas; however, the areas in front of Murano and Bellagio are not common areas.

Mr. Ribble stated Sorrento was the first neighborhood to say “no”. He explained that there are five women on the flower committee who want them their way each year. Mr. Ribble expressed that he did not feel the Boards would be taking anything back; it was an offer.

There was no second to Mr. Patterson’s motion and the motion died.

THIRTEENTH ORDER OF BUSINESS

**Discussion: Return Telephone
Calls/Telephone System**

Mr. Hancock discussed complaints received regarding the lack of response to telephone calls made by the residents to the District phone number. He advised that this is also the case for water leaks that occur on the weekend. Mr. Hancock conducted research and indicated that one answering service company charges a one-time setup fee of \$49 and about \$200 per month. He proposed that the District telephone number be forwarded to an 800 number belonging to the answering service that will answer as “Bayside/Bay Creek CDD”, fill out a form on a screen which will become an email that is sent to Mr. Kucera, Mr. Kemp, Ms. Crismond and, perhaps, the electrician.

Mr. Janek asked if the answering service will notify the caller that the message has been forwarded or if Mr. Kucera, Mr. Kemp or Ms. Crismond must call them back. Mr. Hancock advised that the caller should receive an email indicating that the complaint was registered. Staff will either send an email or return the call.

Mr. McAuley pointed out that this process releases email addresses outside of the community and residents have signed a document indicating that they would stay within the community. Mr. Hancock clarified that the answering service will ask the caller for their name, the location of the problem and their email address; if they are unwilling to provide their email address, so be it.

Mr. Lienesch suggested using their security company, Privacy. Mr. Hancock indicated that the head of the Privacy Committee was present. Mr. Toner advised he will bring it to the committee. Mr. Toner did not foresee a problem and stressed that someone from the CDD should respond if there is a water leak.

Mr. Janek asked Ms. Crismond for recommendations. Ms. Crismond discussed having one telephone line, not three options, and having Mr. Kucera filter the calls, as he oversees the staff and ensures that each person receives a return call.

Mr. McCarthy was in favor of the Privacy Committee taking responsibility. Ms. Crismond offered to provide her cell phone number to the residents.

Mr. McCarthy made a motion to table this discussion for a month.

Mr. Cramer felt that the gentleman who addressed the Boards last month was really looking for a process and what Mr. Hancock put together is a process. Since Mr. Toner offered to assist, Mr. Cramer suggested that the Boards look at the entire community and perhaps, Mr. Murphy and Mr. Toner can work together, as there are times when individuals call the PLCA and are told it is a CDD responsibility.

FOURTEENTH ORDER OF BUSINESS**Approval of May 21, 2012 Joint Regular Meeting Minutes**

Mr. McAuley presented the May 21, 2012 Joint Regular Meeting Minutes and asked for any additions, deletions or corrections.

The following changes were made:

Line 146: Change “systemic” to “drainage”

Line 147: Delete “He stated the dynamics of that area have changed significantly.”

Line 257: Change “Janek” to “Lienesch”

Line 269: Change “will” to “could”

Line 290: Change “perimeter” to “roadway”; change “the” to “these”

Lines 310 and 311: Strike the sentence beginning with “He stated...”

Lines 358 and 364: Change “\$165” to “\$615”

Lines 427 and 428: Change “Cage” to “Page”

Line 463: Change “this neighborhood” to “The Colony”; add “CDD” after “the”

Line 440: Delete “and it is dark every evening”; change “are” to “is” after lamps

Line 447: Add “CDD” between “the” and “Management”

The Board discussed the status of the “ACTION/AGENDA ITEMS”. Ms. Crismond stated that in Item 1, Lake E-7 should be E-1. Items 4 and 5 are not completed. Item 5 will read, “Mr. Barraco to continue to provide the status of certifications”.

For Item 6, Mr. Adams reported that he received an email report from the professor at the University of Florida (UF), which will be included in the next agenda package. He has an email request from Mr. Lewis Johnson, head of environmental services at FGCU, to weigh their

interest on evaluating the Districts' water analysis. Mr. Adams hopes to have both reports on the July agenda.

Item 7 was discussed previously. Items 8, 10, 12, 13, 15, 16 and 17 were completed and will be removed. Items 2, 3, 9, 11, 14 and 18 are ongoing.

For item 10, Mr. Hancock indicated that there were no water quality results available. Mr. Kurth advised Ms. Crismond that he emailed them to her but she did not receive them. Mr. Adams indicated that he received them in the last hour. Mr. Hancock stated he will complete the charts and Staff will distribute them to the Boards. Item 11 is ongoing. Items 12 and 13 will be deleted. Item 14 is not completed. Items 15, 16 and 17 will be deleted. With regard to Item 17, Mr. Murphy provided copies of where the post and cable system are located. Along with the handout, Mr. Murphy provided a photo of the deterioration taking place along Lakemont Drive.

With regard to Item 18, Mr. Cox explained that there has not been an announcement of a rule being released for comment. He was expecting it before this meeting; it should be any time now.

On MOTION for Bay Creek by Mr. Huffman and seconded by Mr. Glueck, with all in favor, the May 21, 2012 Joint Regular Meeting Minutes, as amended, were approved.

On MOTION for Bayside Improvement by Mr. Hancock and seconded by Mr. Cramer, with all in favor, the May 21, 2012 Joint Regular Meeting Minutes, as amended, were approved.

FIFTEENTH ORDER OF BUSINESS

Old Business

There being no old business, the next item followed.

SIXTEENTH ORDER OF BUSINESS

Other Business

a. Action Items

This item was addressed under the Fourteenth Order of Business.

▪ Connection Fees

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

Mr. Adams recalled previous discussion regarding the connection fees for the towers and the inequities that are apparent in applying a multi-family connection fee formula to a tower. He indicated that the connection fee for The Colony appears to be disproportionate or unfair in application in terms of a traditional multi-family neighborhood. Mr. Adams felt it appropriate for the Boards to authorize Staff to review the connection fees and bring back some options, should there be a need to address this.

On MOTION for Bay Creek by Mr. Glueck and seconded by Mr. Huffman, with all in favor, authorizing Staff to review the connection fees for the towers and provide options at the next meeting was approved.

On MOTION for Bayside Improvement by Mr. Patterson and seconded by Mr. McCarthy, with all in favor, authorizing Staff to review the connection fees for the towers and provide options at the next meeting was approved.

SEVENTEENTH ORDER OF BUSINESS

Staff Reports

a. Attorney

There being no report, the next item followed.

b. Manager

i. Unaudited Financial Statements as of May 31, 2012

Mr. Adams presented the Unaudited Financial Statements as of May 31, 2012. He indicated that revenues are on target, year-to-date, and the expenses are within the pro-rated percentages, year-to-date, cumulatively.

Mr. Hancock inquired about Planned Integration 003, on Page 8. Mr. Adams indicated that this amount will be transferred to 001 and 101, proportionately, between Bayside Improvement and Bay Creek.

Mr. Hancock asked the Boards' permission to speak with the Fitness Committee regarding using some of the PIC money to build stretching stations in the Pelican Landing Community Park. Mr. Glueck felt that they should get a consensus on what program they want

to spend the funds on. Further discussion ensued. Mr. Adams felt that they should transfer the funds into 001 and 101.

Mr. McCarthy pointed out that the irrigation revenues are running behind, particularly the past few months. Mr. Adams pointed out that May was a dry month and there was very high usage, which is reflected in the high user report. Mr. McAuley confirmed that, in May, they made \$8,930.03; overall, in one year, they make approximately \$100,000, for overage.

Mr. Patterson discussed the amount budgeted for water management. Mr. Adams noted that there is a \$20,000 increase for the month of May because of the sonar application.

ii. Savings & Money Market Account/Investment Snapshot as of 06/18/12

Mr. Hancock recalled a motion adopted in December to leave money in accounts earning the best yields. He asked if the money should be moved. Mr. Adams noted that the accounts are monitored on a monthly basis. Should one of the accounts have a change in yield, the funds will be moved.

iii. Irrigation High User Report

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

iv. NEXT MEETING DATES:

- **July 20, 2012 at 9:00 A.M. (Budget Workshop)**
- **July 23, 2012 at 2:00 P.M.**

v. Operations Report (to be provided under separate cover)

Ms. Crismond reported that the annual lake audit will be presented at the next meeting for review and discussion. She recalled discussion regarding the lamp post at The Ridge and reported that it will be repainted in the next couple of weeks. Staff is looking into purchasing replacement poles as the lamp posts are no longer being manufactured. Management met with the distributor last week.

Ms. Crismond indicated that plant replacements are forthcoming. Mr. Kucera identified numerous areas; however, this project will not be completed until rainy season.

Based upon additional information received today, Ms. Crismond will report on the Central Park fountain lighting issue at the next meeting.

EIGHTEENTH ORDER OF BUSINESS

**Audience
Request**

Comments/Supervisors'

A resident asked if the CDDs are charged a commission to move the accounts. Mr. Adams indicated that his firm does not receive a commission.

Mr. McCarthy reported that the material on the northern Capri monument sign and the Bay Cedar monument sign is bleeding through in the same place as last year. Mr. McCarthy requested that they desist restocking Lake A-2 until they determine what will be done with the lakes. Mr. Glueck reported that he received a call indicating that Pennyroyal was swept three days in a row. Mr. Hancock received a call indicating that it was a rogue street sweeper.

NINETEENTH ORDER OF BUSINESS

Adjournment – Bay Creek

The Bay Creek CDD meeting adjourned at 5:19 p.m.

BAYSIDE IMPROVEMENT ITEMS

TWENTIETH ORDER OF BUSINESS

**Consideration of Irrigation Variance
Request: 25161 Bay Cedar Drive**

Mr. McCarthy advised that his spouse is the applicant for the irrigation variance request and he recused himself.

On MOTION for Bayside Improvement by Mr. Hancock and seconded by Mr. Cramer, with all in favor, the irrigation variance request for 25161 Bay Cedar Drive was approved.

TWENTY-FIRST ORDER OF BUSINESS

**Audience
Requests**

Comments/Supervisors'

There were no audience comments or Supervisors' requests. The next item followed.

TWENTY-SECOND ORDER OF BUSINESS

Adjournment – Bayside Improvement

There being no further business, the Bayside Improvement CDD meeting adjourned at 5:20 p.m.

FOR BAYSIDE:


Secretary/Assistant Secretary


Chair/Vice Chair

FOR BAY CREEK:


Secretary/Assistant Secretary


Chair/Vice Chair

ACTION/AGENDA ITEMS:

1. **ACTION ITEM:** Mr. McCarthy to look in county files to see if there is a plan that corresponds to what Mr. Barraco has
2. **ACTION ITEM:** Mr. Barraco to follow up with WCI regarding status of WCI looking into the records to help determine why the two (2) control structures do not match plans in SFWMD's files
3. **ACTION ITEM:** Mr. Kurth to follow up on grass carp permitting
4. **ACTION ITEM:** Mr. Barraco to continue to provide the status of certifications.
5. **AGENDA ITEM (JULY):** Mr. Adams to obtain a proposal from the experts at UF & possibly FGCU
6. **ACTION/AGENDA ITEM (JULY):** District Counsel to draft an agreement between the Districts and the PLCA for the operation and maintenance of the catch basins for the common roads and present to the Board for review. Mr. Cox and Mr. Hart to look into the CDDs taking ownership of the fixture and not the ownership of the real property. Mr. Cox to amend agreement with the PLCA to state that the CDDs will maintain the culverts and present at July meeting
7. **AGENDA ITEM:** Lake Maintenance Activities Report – Bill Kurth
8. **ACTION ITEM:** Staff to obtain treatment options, other than chemicals, for presentation at a future meeting
9. **ACTION/AGENDA ITEM:** Mr. Adams to get an opinion from the District Engineer to see what can be done with the control structure, using absorbency pads that will pull out the phosphorous and nitrogen before they go into the catch basins. He will review the control structure in Gateway with Mr. Kurth and Mr. Barraco and report back.
10. **AGENDA ITEM:** Mr. Cox to discuss nutrient numeric thresholds and rule that applies to South Florida.
11. **AGENDA ITEM:** Consideration of Proposal to “Reset” Lake E-1
12. **ACTION ITEM:** Mr. Barraco to look at outfall into Lake F-16 where the water flows from the outfall into the lake
13. **ACTION ITEM:** Mr. Toner to bring telephone answering discussion before the Privacy Security Committee and report back to the CDD Boards