

**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, September 24, 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	Assistant Secretary
Bernie Cramer	Assistant Secretary
Marvin Hancock	Assistant Secretary

For Bay Creek CDD:

Frederick McAuley	Chair
Nelson Glueck	Vice Chair
James Janek	Assistant Secretary
Keith Huffman	Assistant Secretary
Robert Pritt	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Crismond	Assistant Regional Manager
Dan Cox	District Counsel
Wes Kayne	Barraco & Associates
Jim Murphy	PLCA
Dr. Serge Thomas	University of Florida
Mr. Anderson	Resident – Palm Colony
Mrs. Chevelet	Resident
Roger Brown	Resident

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

Mr. McAuley noted, for the record, that all Supervisors for the Bayside Improvement and Bay Creek Community Development Districts were present, in person.

THIRD ORDER OF BUSINESS

Public Forum

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

Mr. Anderson, a resident of Palm Colony, reported another surge of green material from the tennis center, as a result of the rainstorm on September 26. He indicated that the intensity of the green color was much deeper than before. Mr. Anderson recalled that the tennis court redressing took place the previous week.

Mr. Anderson advised that the sewers in the parking lot, where the trash bin is located, were filled to the top with green residue. He indicated that the color moved into the lake quickly and, within 20 minutes, it had spread over half the length of the lake.

Mrs. Chevelet, a resident, noted that chemicals are continuously sprayed into Lake D-7 but there is no improvement.

JOINT MEETING ITEMS

FOURTH ORDER OF BUSINESS

Staff Report: Engineer

Mr. Wes Kayne, of Barraco and Associates, provided an update on drainage. Regarding Lake E-1, Mr. Kayne explained that this lake differs from the others because Lakes E-2 and E-3 flow into Lake E-1 and discharge into the preserve area. Lake E-1 receives drainage from the maintenance facility, directly, as well as the west half of the tennis area. Lake E-2 collects from the east portion of the tennis area, making Lake E-1 the collector lake.

With regard to the maintenance facility, Mr. Kayne referred to a map and noted a pre-treatment area that is blocked, as well as the treatment areas on another side that have short circuited. As a result, the top of the control structure is even with the top of the drain that pumps into it. During a rain event, water goes straight to the system and no treatment is provided. Barraco and Associates feels that the maintenance facility area is one of the biggest contributing factors to the lack of treatment volume. During his inspection, Mr. Kayne noted dark turquoise water in the inlet outside of one of the warehouse buildings. He explained that any type of blue water indicates some type of chemical is being washed in or accidentally disposed of. Stains are

visible on the grounds of the warehouse facilities. In the beginning of a storm, this area is where the biggest flush of color is seen.

Mr. Kayne noted that no treatment volume is provided for the chemicals and waste making their way into the maintenance area and there is no treatment in the tennis court area. He explained that, when clay hits the water, it stays suspended for a long period of time, which is the reason that the murky coloring may last several days. Based upon his research, Mr. Kayne stated that the tennis courts do not contribute to the nutrient loading; however, the lack of detention volume for that type of land use may contribute to nutrient loads, along with the fact that some of the clay ends up in the water.

Mr. Glueck asked what changed to cause this problem. He indicated that the courts are refurbished every year, using the same methods, and there have been no previous complaints about drainage issues into Lakes E-1 and E-2.

Mr. Hancock asked for a written report documenting Mr. Kayne's findings. In response to a question, Mr. Kayne reiterated that the tennis court issue does not contribute to the phosphorous and nitrogen loading into the lakes. Mr. Hancock stressed that an issue much larger than nutrient loading has developed. Mr. Hancock asked if the District is legally prohibited from having clay discharged into the lakes. Mr. Kayne stated that it is considered to be an illicit discharge.

In response to a question from Mr. McAuley, Mr. Kayne indicated that the maintenance facility is one of the biggest issues with regard to nutrient loading. His recommendation was for the maintenance facility to be maintained, bringing the detention areas back to a treatment volume that is practical for that amount of pavement. He also recommended good practices in cleaning the equipment to ensure that pesticides and herbicides do not enter the drainage system.

Mr. Huffman inquired about the use of debris fences to retain runoff. Mr. Kayne explained that the tennis area does not have a dry detention area so everything from there goes directly into the inlet. Mr. Huffman asked if a collection basin would be a solution. Mr. Kayne felt that filter fabric, or a similar device, may provide assistance in reducing the matter; however, it would depend on the size.

Mr. McCarthy advised that the area was permitted by the South Florida Water Management District (SFWMD). Until documentation was provided to him recently, he did not realize the potential impact of clay material. Mr. McCarthy indicated that clay is not a permitted

material to introduce to the system and the carcinogens it contains should concern the residents of Palm Colony.

Mr. McCarthy felt that there were many differences from when the property was permitted. The material in the courts was originally contained with edging. The edge no longer exists and the material spills over the sides and runs off. Mr. McCarthy also noted that a pile of clay was deposited on the edge of the detention area, in the corner, next to the maintenance area. He stressed that none of that was there when it was first permitted and that the area has not been properly maintained for the last 19 or 20 years. Mr. McCarthy feels that the clay material is a major contributor to the pollution of the lakes.

Mr. Kayne stated that the tennis center analysis, dated May 2, 2012, indicates that the brick trimming was found to be in good condition; however, that was prior to the refurbishing. He advised that the material is already in the parking areas and around the inlets and those areas must be cleaned up. A perimeter must also be installed to prevent this from recurring.

Mr. Cramer felt that they were dealing with three separate areas, which include the tennis courts, The Colony and Pelican's Nest. In an effort to make the changes that are necessary to remediate the problem, Mr. Cramer asked Mr. Kayne to consider this when compiling his report.

Mr. Glueck asked Mr. Murphy about the status of the review of the lakes by the contractors hired by the PLCA. Mr. Murphy indicated that, in Palm Colony, samples were collected in a catch connecting box where it feeds into lake E-2. The samples are currently being analyzed.

Mr. Kayne noted the large piles of green clay that are stockpiled in the back of the maintenance facility, along with golf course sand. They are uncovered so there is no way to prevent them from entering the storm system, which is an illicit discharge.

Mr. Patterson asked Mr. Adams about the results of the testing that was completed on the flow. Mr. Adams advised that the soil in the dry retention area was tested. The results indicate that the phosphorous and nitrogen loading in the soil were not excessive to standards. The water in the catch basin across the street, to the west of the entrance to Palm Colony, was also tested and phosphorous was found in levels that were eight times more than in any of the lakes.

In response to a comment by Mr. McAuley, Mr. Adams stressed the Districts' obligation to monitor and identify illicit discharges within the system, to acknowledge it with the responsible party for immediate correction and, perhaps, notify the county. He recalled the presentation by Mr. Anderson, at the last meeting, and that the Boards and Staff chose to give

notice of what was observed and provide an opportunity to self-correct. Mr. Glueck coordinated with Ms. Martel, who hired Sewer Viewer. Mr. Adams asked if the contractor was going to clean the boxes. Mr. Murphy replied affirmatively, noting that the culverts are jammed, as well.

Mr. McAuley indicated that the tennis courts are the responsibility of the PLCA and those in The Colony are The Colony association's responsibility. Mr. Murphy explained that both The Colony and the PLCA feed into the same drain, which goes into the collection box on Palm Colony property, feeds into the headwall and into Lake E-2.

Mr. Patterson asked if the Districts are obligated to report the illicit discharge to the proper authorities. Mr. Kayne suggested trying to settle the problem between the parties; if that does not work, it should be reported to the county, who will conduct an inspection and provide guidance. Mr. Hancock proposed that District Counsel send a letter to the PLCA and The Colony documenting that the Districts are aware of the problem.

Mr. Cramer requested that the PLCA provide copies of their test results and reports and stressed the importance of showing the residents that they are a team. Mr. Murphy confirmed that the results will be provided when they are received.

Mr. Pritt felt that the discharge problem should be handled in two phases, an immediate, short-term solution, followed by a longer term, more expensive solution that Staff and all parties involved can work together on.

Mr. McCarthy stated that the property owners should quickly address restoration of the detention areas to an operational condition. He agreed with Mr. Pritt that, if contaminants are being introduced into the system, the responsible parties should be notified to stop what they are doing and review their operational procedures.

Mr. Murphy explained that, in anticipation of redressing some tennis courts, he asked Ms. Martel to instruct Ritzman Tennis to treat the entire area as if it were a construction site in order to ensure that nothing like this would occur during the reconstruction period.

With regard to the SOPs, Mr. Cramer advised that classes are offered and he felt that each party should designate a person to attend and obtain a certificate so that they are aware of the proper procedures.

On MOTION for Bayside Improvement by Mr. Hancock and seconded by Mr. McCarthy, with all in favor, authorizing District Counsel to send a letter to the PLCA, The Colony, Har-Tru Sports and Ritzman Tennis regarding illegal drainage was approved.

On MOTION for Bay Creek by Mr. Huffman and seconded by Mr. Janek, with all in favor, authorizing District Counsel to send a letter to the PLCA, The Colony, Har-Tru Sports and Ritzman Tennis regarding illegal drainage was approved.

Mr. Pritt requested that Staff work with all parties involved to seek a short-term solution to prevent improper runoff.

Mr. McCarthy asked if the white pipe in Lake E-1 is in the SFWMD permit. Mr. Kayne explained that, in newer developments with golf courses, the golf course architect designs the drainage for certain areas and the permit considers it to be open space. The fact that the pipe does not exist in the actual plan does not mean that it is illegal. Mr. McCarthy disagreed. He feels that the golf course discharge is contributing to the nutrient levels in the lakes and should be contained on the property.

Mr. Anderson stated that, prior to the rainfall referred to previously, he visited the maintenance area and saw crews performing clean up operations on heavy equipment and flushing out a boat. On Saturday, the entire maintenance area was under water so whatever was on the ground is now in the lakes. With regard to the clay, Mr. Anderson felt that the problem has occurred for some time but was not recognized. Mr. Anderson reported that the plants that were recently installed around the edge of the lake have residue around the stems; they hardly have any roots and the roots have green mud on them. The material is affecting everything natural and must be viewed as a hazardous material. He stressed that they must prevent the green material from the tennis courts from entering the lakes.

FIFTH ORDER OF BUSINESS

Continued Discussion Regarding “E” Lakes

- **Results of Water and Soil Testing**
- **Discussion Regarding Golf Drainage into “E” Lakes**
- **Update on PLCA Activities Related to Tennis Drainage into “E” Lakes**

- **Consideration of Additional Components of Proposal to Reset Lake E-11**
These items were discussed during the Fourth Order of Business.

SIXTH ORDER OF BUSINESS

**Lake Maintenance Activities Report –
*LakeMasters/Management***

Mr. Adams indicated that he received an update from Mr. Kurth regarding his observations. Mr. Adams and Ms. Crismond also drove the community and reviewed the lakes. He reported that, overall, the lakes are in decent shape; however, Lake F-16, in Las Palmas, continues to be a problem. An expensive new chemical was used; however, it did not produce the desired long-term results and, therefore, is not a feasible option. LakeMasters has begun to introduce sonar treatments for the fall.

With regard to Lake D-7, Mr. Adams reported that there are resistant algae in the lake, within the beneficial plants, which cannot be treated without a negative impact on the plants themselves. In-house crews raked the areas abutting the edge of the lake and LakeMasters treated from the water body side. Mr. Adams noted that this will continue to be an issue until a solution can be found, system wide.

Mrs. Chevelet felt that performance of the in-house crew was unacceptable. She also advised that, in 2010, a similar problem was alleviated by raking the entire lake. She asked that the process be repeated. Mr. Adams indicated that Ms. Chevelet’s concerns will be addressed with Mr. Kucera.

In response to a question from Mr. Hancock, Mr. Adams stated that 10,000 plants were installed in Lake E-1. No additional funds will be spent from the current budget, as contractual services are over budget, due to the increased cost of the lake maintenance contract.

SEVENTH ORDER OF BUSINESS

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

Mr. Adams reported that the water quality testing results were not received for last month. A request was placed with Mr. Kurth to provide them as soon as possible. Mr. Adams will provide them to the Boards, once received.

EIGHTH ORDER OF BUSINESS

Continued Discussion: Water Quality Analysis Proposal (*to be provided under separate cover by Dr. Serge Thomas*)

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

Mr. Adams introduced Dr. Serge Thomas, a professor with Florida Gulf Coast University (FGCU). Mr. Adams pointed out that Dr. Thomas' review of the 91 lakes in the system may need to be limited, due to budget constraints.

Dr. Thomas provided a summary of his background and credentials. He indicated that, for eight years, he has worked on ways to protect the Everglades from the nutrients from storm water treatment areas and has developed green technologies to clean the water using filter marsh.

Dr. Thomas discussed his findings. Referring to an on-screen presentation, he explained that the shore can be similar to the Everglades. In the Everglades, the plants and algae have evolved to thrive in a low concentration of nutrients. He indicated that the brown algae is not bad algae; if it is eliminated, decomposition occurs and a larger problem is created, as the next algae will not be as desirable.

Dr. Thomas discussed the different levels of nutrification and advised that, of the 11 lakes studied, nine were eutrophic, meaning rich in plant nutrients; one was hypertrophic, which is a dysfunctional state and another was somewhere in between. In hypertrophic ponds, there is much organic material on the bottom, which gets broken down by bacteria. Even if the source of nutrients is eliminated, the pond will not improve.

Dr. Thomas explained that the normal N:P ratio is 16. Most of the lakes are more than 20, meaning the system is limiting phosphorous but the lakes still contain high levels of phosphorous and nitrogen. A small addition of phosphorous can create algae blooms. Dr. Thomas noted low oxygen levels because the lakes are managed and copper sulfate will knock down the algae before oxygen is added to the water. The lakes are also very high in calcium carbonate.

Dr. Thomas discussed the details of his proposal. The monitoring will cover 33% of the surface area. Surveys will be performed at the beginning of the rainy season, at the end of the rainy season and in the middle of the dry season.

Mr. Lienesch asked Dr. Thomas if the use of bubblers in the lakes is worthwhile. Dr. Thomas replied affirmatively. He explained that they mix the water to avoid stratification and the oxygen at the bottom of the sediment allows it to be broken down.

Mr. Adams requested parameters from the Boards, such as an NTE amount of \$30,000, in order to move forward with Dr. Thomas's proposal. Three tests per year will be in the \$25,000 to \$30,000 range. Dr. Thomas advised that continued water quality testing will be beneficial to

his study. Mr. Adams indicated that he will email the proposal to the Boards and work with Dr. Thomas to try to reduce the dollar amounts. Discussion will be placed on next month's agenda, along with the final revised proposal.

Mr. McCarthy commented that the Districts have finally taken one step forward. He recommended minimizing the chemicals being used in the lakes, as they are contributing to the problem. With regard to performing bathymetric surveys, Mr. McCarthy advised that the county made them a requirement after 2001. If any of the lakes were constructed after that date, there are bathymetric surveys for them.

NINTH ORDER OF BUSINESS

Correspondence Between District and Pelican's Nest Regarding Lake Issues (for informational purposes)

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

Mr. McAuley indicated that this item was for informational purposes and was included in the agenda package.

TENTH ORDER OF BUSINESS

Approval of August 29, 2012 Joint Public Hearings and Regular Meeting Minutes

Mr. McAuley presented the August 29, 2012 Joint Public Hearings and Regular Meeting Minutes and asked for any additions, deletions or corrections.

The following changes were made:

Lines 76 & throughout: Change "Trezetto" to "Terzetto"

Line 90: Move before Third Order of Business - Public Forum

Line 255: Change "2,000" to "10,000"

Line 406: Change "12 groups" to "7 neighborhoods"

Line 437: Change "regressing" to "re-grassing"

Mr. McAuley inquired about the payment to Merano. Mr. Adams explained that they had overpaid on their irrigation account by a significant amount and requested to have it returned to them in the form of a check, rather than having credit on their account. The check had an effect on the irrigation revenue.

Lines 493 & 494: Change "Glen and Cove" to "Heron Glen and Heron Cove"

Mr. McAuley reviewed the Action Items. Items 5, 10, 12, 13, 15, 16 and 17 will be deleted. Item 6 will be an agenda item for the next meeting. Mr. McCarthy suggested having the PLCA provide an agreement to the CDDs. Mr. Murphy agreed and indicated that it will be placed on the PLCA agenda, provided to Mr. Hart, who will forward the agreement to Mr. Cox.

Mr. Patterson noted that the PLCA has not changed its position and that the agreement will be similar to the letter sent by Mr. Duder several months ago, which was turned down by both CDD Boards. Mr. Murphy indicated that this will be a completely different approach. He is proposing transferring ownership to the CDDs so that they can handle the entire water drainage system. Mr. McCarthy noted the difference is that the PLCA will present the document to the Boards.

On MOTION for Bayside Improvement by Mr. Hancock and seconded by Mr. McCarthy, with all in favor, the August 29, 2012 Joint Public Hearings and Regular Meeting Minutes, as amended, were approved.

On MOTION for Bay Creek by Mr. Huffman and seconded by Mr. Glueck, with all in favor, the August 29, 2012 Joint Public Hearings and Regular Meeting Minutes, as amended, were approved.

ELEVENTH ORDER OF BUSINESS Old Business

There being no old business, the next item followed.

TWELFTH ORDER OF BUSINESS Other Business

a. Action Items

*****This item was discussed during the Tenth Order of Business.*****

Mr. Glueck reported that, this spring, the Tennis Advisory Committee recommended changes to the landscaping in the front of the Tennis Center, along the fence line and the parking lot. When the proposal was presented to the Finance Committee, they requested more bids. Mr. Glueck obtained additional bids containing five different items; the Finance Committee selected two of the five. The bids were for the development of the costs, not for the actual work. If the

changes are approved, documentation and prints will be obtained and the work will be put out for bid.

Mr. Glueck discussed the proposed landscaping. Since the CDDs maintain that area, Mr. Glueck asked if the CDDs will complete that part of the work, which is estimated at \$3,000. Mr. Cramer did not feel it was appropriate to bring this before the Boards at this time. Further discussion ensued.

THIRTEENTH ORDER OF BUSINESS

Staff Reports

a. Attorney

There being nothing additional to report, the next item followed.

b. Engineer

There being nothing additional to report, the next item followed.

c. Manager

i. Unaudited Financial Statements as of August 31, 2012

Mr. Adams presented the Unaudited Financial Statements as of August 31, 2012. He noted the request from the Boards for a report showing the consumption and revenue collected under the penalty tiers. Mr. Adams reviewed the spreadsheet that was provided by the utility billing department, which will be tweaked and made part of the monthly report.

With regard to the irrigation revenue percentages, Mr. McCarthy pointed out that Staff is underrunning the revenues and operating at a deficit in the 451 account. Mr. Adams noted that this will be addressed with fund balance.

*****Mr. Pritt left the meeting at 4:14 p.m.*****

Mr. Patterson inquired about the landscaping repairs and maintenance (parts) line item, on Page 3, at 174%. Mr. McAuley indicated that they are underfunding this item. Mr. Adams will review the Account Detail and report to the Boards. Mr. Patterson pointed out that the same problem exists under Irrigation supply services, on Page 7.

ii. Savings & Money Market Account/Investment Snapshot as of 09/13/12

Mr. Adams indicated that there are no changes in the presented information.

iii. Irrigation High User Report

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

Mr. McAuley noted that the usage for the tennis court was reduced.

iv. NEXT MEETING DATE: October 22, 2012 at 2:00 P.M.

Mr. McAuley noted that the next meeting will be held on October 22, 2012 at 2:00 p.m.

v. Operations Report (to be provided and presented at meeting)

Ms. Crismond addressed this item previously.

FOURTEENTH ORDER OF BUSINESS

**Audience
Request**

Comments/Supervisors'

Mr. Cramer recalled a report from a resident regarding the lighting on Waterfall. The resident contacted Mr. Cramer to advise that he sent requests to Mr. Kucera but has received no response. Ms. Crismond reported that she emailed Mr. Kucera during the meeting and he confirmed that he received the information and the electrician will repair it tomorrow. Mr. Cramer recalled that the Boards decided to institute a new system. Mr. Hancock explained that, instead of the email system, the recorded message was changed to include personal cell phone numbers, in case of an emergency. Mr. Adams advised Mr. Cramer to encourage the resident to call Mr. Kucera directly, going forward.

Mr. McAuley asked if the plantings were completed on Addison Place. Mr. Adams replied affirmatively. The next phase will be addressed in the spring.

Mr. Hancock reported that the gate to the utility equipment, in the Addison area, is not working. Mr. Kucera advised that it will be repaired in two or three days. Mr. Adams noted that a contractor will be on-site tomorrow or Wednesday.


Mr. Roger Brown, a resident, reported that a resident attempted to contact someone regarding a problem. Mr. Crismond indicated that the resident called Mr. Kucera three times and called her twice; she called the resident back twice and Mr. Kucera met with him yesterday.

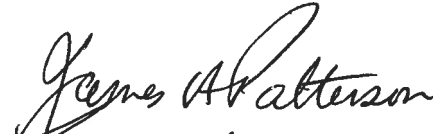
FIFTEENTH ORDER OF BUSINESS

Adjournment

There being no further business, the meeting adjourned at 4:24 p.m.


FOR BAYSIDE:


Secretary/Assistant Secretary


~~Frederic E. McAuley~~
Chair/Vice Chair

FOR BAY CREEK:


Secretary/Assistant Secretary


Chair/Vice Chair