

**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, October 22, 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
Doug Kucera	Landscaping Manager
Paul Kemp	Irrigation Manager
Carl Barraco	Barraco & Associates
John Spear	Attorney for George Daniel Prushnok
Jim Murphy	PLCA
Bill Reagan	FMS Bonds
Dennis Anderson	Resident – Palm Colony
Roger Brown	Resident
Charlotte McCarthy	Resident
Howard Lowe	Long Lake Village

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

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

Mr. Dennis Anderson, a resident of Palm Colony, expressed his understanding that there was an agreement for a moratorium on spraying copper sulfate into the lakes. Mr. Patterson indicated that this item will be addressed later in the agenda.

Mr. Jim Murphy, PLCA Liaison, stated that he would like to address a misstatement of facts in the minutes from the last meeting.

BAY CREEK CDD

FOURTH ORDER OF BUSINESS

**Consideration of Consent to Use
Easement Area Between Bay Creek CDD
and George Daniel Prushnok**

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

Mr. Adams indicated that Attorney John Spear, a representative of the petitioner, was present to discuss this item. Mr. Adams referred to the request letter from Mr. Spear, on behalf of his client, Mr. George Daniel Prushnok, to allow an encroachment into the District's easement to remain. Mr. Adams advised that Staff reviewed the proposed agreement. According to the survey, the encroachment is nominal. Mr. Adams explained that the District has a 20-foot easement behind the home, for lake maintenance. The encroachment is 1.22 feet into the easement and approximately 14 feet long. Staff considers this inconsequential to daily activities. In the future, if dredging and lake bank repairs are necessary, Staff may need the entire easement, which is why the agreement was being presented. If removal of the encroachment is ever required, it will be at the sole cost and liability of the owner.

Mr. McAuley asked if there were other encroachments along the bank, from other property owners. Mr. Adams explained that this only occurs when a land transaction takes place; a survey is required and the encroachments are discovered at that time. In this particular case, as

the result of a sale, a survey was completed and the encroachment was discovered, which must be approved by the easement holder, Bay Creek CDD.

Mr. Spear explained that, while they have not surveyed the entire development, it would appear that there are other possible encroachments, as close as the neighboring properties.

In response to a question from Mr. Pritt, Mr. Adams advised that his focus was on the frontage along the back, which is critical for lake maintenance access, on a weekly basis.

On MOTION for Bay Creek by Mr. Pritt and seconded by Mr. Glueck, with all in favor, the Consent to Use Easement Area Between Bay Creek CDD and George Daniel Prushnok was approved.

▪ **Landscaping and Irrigation Reports**

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

Mr. Doug Kucera, Field Manager, reported that, since the last meeting, the summer annuals were removed and the beds were prepared for the winter annuals, which will be planted the week of November 5. Eight new communities will be added to the annual planting program.

Mr. Kucera reported that the turf and shrubs, in Pelican Landing and The Colony, were fertilized. This week, Florida Painters will begin pressure washing the District-owned signs in Pelican Landing and continuing into The Colony. Staff is beginning to lay pine straw; upon completion, palm tree trimming will continue. The height of the grass in The Colony is being lowered to achieve a more uniform appearance. Selected areas will be aerified and rolled, to smooth out the appearance. At the Central Park fountain, a transformer box will be replaced to help prevent the column lights from tripping. The part was ordered and will be installed this week.

Mr. Huffman inquired about the status of the gate on Spring Creek Road. Mr. Kucera advised that, several weeks ago, Tropical Fence repaired the damage to the fence; two signs were installed on the inside indicating that the gates should be locked at all times, whether someone was in there or not.

Mr. Lienesch noted that the flower program for the eight new communities will begin with this year's budget and asked if it was included. Mr. Adams stated that the cost will be absorbed in the current budget and adjustments will be made next year, based upon actual costs.

Mr. McCarthy reported receiving input from Bay Cedar residents about the condition of the ficus hedge between Bay Cedar and Spring Creek Park. He voiced his opinion that it has deteriorated, over the years, and the ficus are beginning to grow like trees, rather than shrubs. The intended purpose was to provide a visual screen; however, that purpose is now defeated. Originally, the entire fence had a mesh opaque screen attached and much of that no longer exists. Mr. McCarthy asked Mr. Kucera what can be done. Mr. Kucera indicated that he will research replacing the screens and the hedge height will be lowered, due to growth. Mr. Kucera noted that the hedges were sprayed twice for white fly. Fertilizing occurred in the past few weeks, which should help to fill in the gaps.

Mr. Adams stated that he, Ms. Crismond and Mr. Kucera reviewed this recently and some other improvements are necessary. The cedars are not providing any benefit and must be removed. Other shrub material will be planted to provide an additional layer of screening.

Mr. Patterson recalled previous discussion regarding planting Arboricola at the base of the shrubs. Mr. Kucera stated that the homeowner's irrigation is located on the edge of where the ficus is. The homeowner trimmed the bottom of the hedge to obtain coverage for his turf. Mr. Kucera will have ficus bushes planted to help fill in the base.

Mr. Cramer asked about the status of the lighting on the fountain at the main entrance. Mr. Kucera noted that the electrician changed the breaker several weeks ago; however, it still has a tendency to trip. The transformer is on order and should be installed this week.

Mr. Paul Kemp, Irrigation Manager, reported that, in accordance with the new flower program for the eight communities, alterations are being made to bring them under CDD control. Modifications are being made to some of the other flower beds to prepare them for the fall planting. Due to recent precipitation, there is water in the lakes and the ground wells are being monitored.

Mr. Patterson asked if Mr. Kemp was contacted by security on Saturday regarding the two broken sprinkler heads on Lakemont Road, in front of the Sawgrass. Mr. Kemp stated that no calls were received this weekend regarding water running. Mr. Adams asked if it was on the Sawgrass side of the road. Mr. Patterson replied affirmatively. Mr. Adams explained that it is part of the Sawgrass system; the District maintains the opposite side of the road.

Mr. Huffman asked when the beds will be fumigated in the eight associations. Mr. Kemp stated that, to his knowledge, fumigation was completed. In Bay Crest, the existing

material will be removed and replaced with new material by the end of this week. The irrigation conversion was completed.

FIFTH ORDER OF BUSINESS**Staff Report: Engineer**

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

Mr. Barraco provided an update on the water quality in Lake E-1. He explained that the water management system has two functions: to act as a filter to pre-treat runoff before it leaves the system and to hold water back, before it leaves the system. The water will never be pristine and was not meant to be. Mr. Barraco advised that, after many on-site investigations, three reports were prepared; one for each of the maintenance facilities and one for the tennis center. In attempting to evaluate the root causes, potential sources of pollutants were sought. Mr. Barraco recommended having Management meet with representatives of the two maintenance facilities and the tennis facility to advise them of their findings and seek their cooperation. The maintenance facilities have dry retention systems, which are to accept the first runoff from the majority of their area, filter it through a dry system and bleed through another control structure until reaching the Districts' lake system. Mr. Barraco presumed that much of the runoff is entering the lakes without the benefit of the original dry detention and retention.

Mr. McAuley suggested having the PLCA present for the meeting with the tennis facility, as it is their property. Mr. Barraco agreed; he and Mr. Adams will meet with them and report to the Board.

Mr. Patterson discussed ownership of the northern and southern dry retention areas. He asked if the Districts must negotiate with the owners to correct the elevations once the issue of ownership is resolved. Mr. Barraco hoped it would not get to that point.

Mr. Barraco stated that, during each on-site investigation, one or two engineers were present to gather information from staff regarding how the operations were run. In one case, that was not done in an effort to not create any concerns.

With regard to the certification of the system, Mr. Barraco explained that there are two major permits; one is referred to as the Pelican Nest permit and the other is the Pelican Landing permit. The certifications for the Pelican Nest permit were completed and it is ready to be transferred to operation and maintenance. For the second system, they are still seeking final certifications. It was discovered that some structures are so far out of tolerance that South

Florida Water Management District (SFWMD) will not accept them. Work is continuing to bring them to a tolerance level that SFWMD will accept.

Mr. Barraco explained that, when either or both of those systems are transitioned to operation and maintenance, the operation and maintenance will be formally placed in someone's hands. He suggested going back to the original permits and applications to determine if there are some smaller systems that have the secondary dry pre-treatment systems and whether it is documented in their permit or application that they are responsible for that portion. Mr. Barraco wanted to ensure that the Districts do not accept operation and maintenance of portions of the system that were not intended to be theirs. The deciding factors will be ownership and who is identified, in the permit application, as the legal entity responsible for operation and maintenance of the water management system.

Mr. Jim Murphy, PLCA Liaison, quoted from the September 24, 2012 Joint Regular Meeting Minutes: "Mr. Kayne noted the large piles of green clay that are stockpiled in the back of the maintenance facility, along with golf course sand." Mr. Murphy indicated that he and Mr. Glueck went to the site and took samples of the "clay" and a sample of what was supposedly green clay, which is actually divot sand. He stated that there is no clay in Pelican Landing; the report is incorrect and no samples were taken. Mr. Murphy distributed copies of the results and provided Mr. Adams with the PLCA policies regarding onsite inspections. Mr. Barraco confirmed that no testing was completed to determine whether it was clay, silt or sand. He indicated that his report did not identify this as an issue; it was an observation. The PLCA's procedures will be reviewed and commented on and the comments will be attached to the report.

Mr. Hancock noted that the tennis court report appears to suggest that some of the har-tru is coming from the refurbishment project; however, photos were taken by Mr. Anderson of a storage area that seems to have existed long before the project. It is not mentioned in the report and it is located next to a gutter. Mr. Anderson also noted a ditch next to the gutter. Mr. Barraco indicated that the green clay, sand or silt should be contained to prevent it from entering into the system. If the proper procedures are in place, they will be able to determine what the pollutants are and take further measures. Mr. Hancock requested that the report be amended to include this information. Mr. Barraco stated that he will also include the maintenance procedures.

Mr. Murphy advised that a pile was removed from the court and placed on the parking lot and it was sitting there for up to two weeks. It was removed today and containers will be installed to ensure that nothing is placed on the ground, in the future. In addition, an engineer

was selected to remediate the entire situation; the PLCA Board will be asked for unanimous consent to proceed.

Mr. Cramer questioned whether commingling may occur as a result of one group remediating without consulting the other two. He felt that the answer should be a consensus of the three groups, with one engineer. Mr. Barraco stated that he will help determine the source of the pollutants if the remediation is completed at once. He welcomed the input of another engineer to determine what practices should be put in place.

Mr. Huffman felt strongly that there should be written documentation of the problem, the investigation, the solution, the parties involved and the resolution. Mr. Barraco suggested using the existing document and building on it, including dates. The meetings will be summarized and the summaries will be added.

With regard to the green clay, Mr. Barraco clarified that no testing was completed for contaminants; it could be green sand or silt and may or may not be contributing to the water quality but it should be kept out of the system.

Mr. Murphy requested a copy of Mr. Barraco's report. He indicated that Sewer Viewer reviewed the discharge of green material and the experts determined it to be algae. He provided photographs of eight lakes, not located in the area, which had the same situation. Mr. Barraco asked Mr. Adams to make copies of the report available to everyone, once it is modified. Mr. Adams stated that it will be provided to the Boards first.

Mr. Pritt asked Mr. Barraco if he was sure that not all of the information is in one place. Mr. Barraco stated that they have been assembling the information since they became District Engineer. He advised that the systems should have been certified when they were completed for construction.

BAYSIDE IMPROVEMENT CDD

SIXTH ORDER OF BUSINESS

Presentation: Potential Refunding of Series 1998A Bonds

Mr. Bill Reagan, of FMS Bonds, stated that he underwrote the original bonds. The rates for Bayside Improvement were 6.3%. Bay Creek's transaction was the first insured transaction ever completed in the state of Florida, with a yield of 6%. The current amount of outstanding bonds, for Bayside Improvement, is \$1,455,000. Mr. Reagan referred to Page 11, of the Plan of Refinancing, located behind Tab 6, reflecting the new rate of 4.39%. Mr. Reagan explained that

there is excess cash in the Debt Service Reserve Fund, which cannot be used unless the bonds are refunded. The reserve fund will be reduced to \$25,000 and the excess money will be used to prepay the bonds, lower the overall amount and lower the interest rate by over 200 basis points, resulting in a 22% to 23% annual savings per unit home, or \$50 to \$75 per unit. Mr. Reagan stressed that no money is paid out until the transaction closes. The estimated costs are \$150,000.

Mr. Reagan reviewed the refinancing process. He indicated that, once the documentation is prepared, the Board will be presented with a Delegated Award Resolution and advised where the market is, the not-to-exceed amount and the costs. FMS will then proceed to price the bonds in the market. Because of the amount, the bonds may only be sold to institutions, as they will be non-rated. If they are not sold, FMS will purchase them.

Mr. Reagan pointed out that Bay Creek CDD has a remaining bond amount of \$730,000. The estimated fees for refinancing are \$80,000, with a 15% annual savings, per unit and a yield of approximately 4%. Refinancing both Districts' bonds together would keep costs down.

Mr. Patterson pointed out that the amount to be collected to pay the interest and principal was already included in the non ad valorem assessments. He inquired about using the \$297,000, in the Debt Service Reserve Fund, in addition to paying the refinancing costs. Mr. Reagan explained that the excess funds would be used to pay the costs, \$25,000 would fund the Debt Service Reserve Fund and any remaining funds would be used to prepay the bonds. The amount to be financed is \$1,460,000.

Mr. Patterson asked when this would be implemented. Mr. Reagan advised that, if the transaction takes place now, it will not become effective until next year. Mr. Cox stated that assessments collected prior to closing will be applied to pay down the debt, resulting in a greater annual savings. A substantial savings will be realized, as a result of the interest rate.

The Boards requested a spreadsheet outlining the details of the refinancing. In response to a question regarding timing, Mr. Reagan indicated that the transaction should take place within the next 90 days. Mr. McAuley expressed Bay Creek's interest in pursuing refinancing and asked Mr. Reagan to prepare figures for the next meeting. Mr. Hancock requested a breakdown of the neighborhoods.

In response to a question from Mr. Lienesch, Mr. Adams voiced his opinion that if they can generate this type of savings in this market, they should take advantage of it. He pointed out that the banks are not interested and Mr. Reagan has given a commitment that, if he goes to market and there are no buyers, FMS will purchase the bonds.

Mr. McCarthy wondered if it is more cost effective to keep the current bonds and use the reserves, the income from next year's revenues and the excess revenues to pay down the bonds. Mr. Reagan confirmed that the Debt Service Reserve Fund can be used to pay the last payment. Mr. McCarthy requested a spreadsheet comparing the costs.

JOINT MEETING ITEMS

SEVENTH ORDER OF BUSINESS

Continued Discussion/Update: Water Quality Issues in Palm Colony Lakes

Mr. Adams referred to the email received from Ms. Marie Martel, located behind Tab 7, concerning a review of the aluminum levels, by Sanders Laboratories, Inc. in comparison to typical levels in water. The email indicates that the aluminum levels are safe.

Mr. Dennis Anderson, a resident, recalled a moratorium on spraying copper sulfate into the lakes. Last Thursday, Mr. Anderson witnessed LakeMasters applying a heavy spray to Lake E-2. With regard to the green material, Mr. Anderson indicated that the material discussed by Mr. Murphy has nothing to do with the contamination coming from the tennis center. Mr. Anderson distributed photos of the illicit discharge.

Mr. Hancock indicated that the Palm Colony Board adopted a resolution earlier in the year and they asked the CDD to refrain from spraying copper sulfate. Mr. Hancock thought that the moratorium was still in effect and stated that he was not aware that they had gone back to spraying the lake. Ms. Crismond indicated that they are not spraying. Mr. Hancock stated that the second part of the resolution was to stop experimenting. Mr. Anderson clarified that was until they determined what was going on. Mr. Hancock indicated that the Boards were asked to respect that resolution and he thought they were.

Ms. Crismond clarified that LakeMasters has been treating Lakes E-2 and E-5 with sonar for bladderwort; they have not treated E-1. She confirmed that Copper sulfate was not used.

Mr. Lienesch stated that the material used contains copper and it remains in the water column longer. Once copper sulfate touches clay, it disappears. Mr. Adams confirmed that it is not pure copper sulfate; however, it contains a small amount of copper. Copper is used in combination with sonar, as it makes the sonar more effective. Mr. Lienesch indicated that sonar is used more for plants. Mr. Adams also confirmed that no treatments were applied to Lake E-1.

Mr. Cramer indicated that Mr. Anderson provided him with the photographs taken when he made his first presentation to the Boards. They were taken from his lanai area and show the

green mass regurgitated out of the lake from the storm sewer system. Mr. Cramer provided the photos to Mr. Adams to be used as part of the upcoming discussions. He also distributed a handout from Lee County regarding new training sessions being conducted.

Mr. Glueck requested that a representative from LakeMasters attend the monthly Board meetings. Mr. Adams clarified that Staff requested written reports with photographs, versus an oral presentation. The Boards requested to have both, going forward.

Mr. Anderson noted the tremendous amount of trash from the sewer systems into the lake that came up in the water surge. He advised that a large amount of material still remains in the sewers. None of the residents have witnessed the sewers being cleaned. Mr. Anderson asked who is responsible for the sewer system.

Mr. Patterson stated that the CDDs' attorneys and the PLCA attorneys have tried to resolve the issue for months but are no closer to determining who will take responsibility for the catch basins and culverts. He indicated that the Boards and Staff are very sensitive to the issue and hopeful for a quick resolution.

Mr. McCarthy stated that the email from Ms. Katie Strothman to Ms. Martel indicates that the clay has no effect on the nutrient and algae blooms and no one ever said that is the case. Mr. Barraco's report specifically addresses that issue.

Mr. McCarthy explained that Village Walk substantially increased the amount of aeration and littoral plants in the lakes, initiated a stenciling program whereby every inlet structure in the community was labeled indicating not to place foreign materials in them because it will enter the lake system and they eliminated the chemical treatment of their lakes. Mr. McCarthy voiced his opinion that they are on the right track.

EIGHTH ORDER OF BUSINESS

Consideration of Lake Health Study Proposal From FGCU

Mr. Adams recalled Dr. Serge Thomas' presentation regarding his proposal to review portions of the system and, eventually, to provide an analysis of the issues are and how to improve the conditions of the system. At the Boards' request, pricing was reviewed. At the last meeting, Dr. Thomas indicated that the majority were pass-through costs, with the exception of the administrative charge, which is 10% of the total proposal and is enforced by FGCU. The proposal offers three options. As described in the proposal, the "ideal" option is for 15 monitoring stations, for \$35,330.26. The "middle" option is to reduce one monitoring station per

pond, for nine months, with an additional four stations during the big three events of the year, totaling \$32,755.07. The “extreme” option is to reduce to one monitoring station per pond, for a total of \$30,768.24. Mr. Adams recommended the ideal option, which will afford Dr. Thomas the best opportunity to obtain the necessary information to provide a complete analysis.

Mr. McAuley asked if the costs can be covered in the Fiscal Year 2013 budget. Mr. Adams noted that costs must be reduced in other areas. Under water management, \$25,000 was budgeted for testing and research, between the enterprise fund and the general fund, leaving them \$10,000 short. Mr. Adams suggested reducing Aquascaping by \$10,000 or utilizing fund balance and adopting a budget amendment at the end of the year.

Mr. McCarthy suggested approaching LakeMasters to request a reduction in their chemical treatments, along with a credit. He stressed that they have one opportunity to perform this analysis correctly and it should be done comprehensively, thoroughly and professionally. Mr. McCarthy stated that \$35,000 was a small amount of money for this type of study; however, some of the basins were included.

Mr. Pritt expressed concern regarding adding an item to the budget. Mr. McAuley stated that they have studied this for two years and it is about time the next step is taken. Mr. Adams pointed out that it was budgeted last year and no monies were spent.

Mr. Cramer expressed his agreement with Mr. McCarthy’s comments and asked that a step process and actual plan be provided once the data is compiled.

Mr. Huffman asked if the study will provide a good cross section of the lakes and if it is something they can expand upon, for all of the lakes. Mr. McCarthy referred to the maps of the watersheds and the samplings, located on Page 4 of the proposal, and noted that it is a very large percentage. Mr. Adams clarified that Lake D-14 is included in the narrative.

On MOTION for Bayside Improvement by Mr. McCarthy and seconded by Mr. Hancock, with all in favor, the Lake Health Study Proposal from FGCU, in the amount of \$35,330.26, was approved.

On MOTION for Bay Creek by Mr. Huffman and seconded by Mr. Janek, with all in favor, the Lake Health Study Proposal from FGCU, in the amount of \$35,330.26, was approved.

NINTH ORDER OF BUSINESS

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

Mr. McAuley indicated that the report is expected tomorrow, via email. Ms. Crismond stated that she spoke with Mr. Kurth this morning and he apologized for not providing the report for this meeting. They are beginning to see bladderwort in many of the lakes and are waiting for the flow to slow and the water levels to drop before applying sonar. Mr. Kurth confirmed that Lake E-1 is on hold for chemical treatments and Lakes E-2 and E-5 were treated last week.

TENTH ORDER OF BUSINESS

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

Mr. McAuley noted that, since they agreed to proceed with the study, water quality testing will be discontinued.

Mr. Hancock pointed out that, last month, the water quality reports arrived after the meeting and no report was provided for this meeting. Mr. Adams recalled that the Boards chose to discontinue the reports and confirmed that there was no charge for last month's report.

ELEVENTH ORDER OF BUSINESS

Approval of September 24, 2012 Regular Meeting Minutes

Mr. Patterson presented the September 24, 2012 Regular Meeting Minutes and asked for any additions, deletions or corrections.

The following changes were made:

Lines 251 & 252: Change "assimilated" to "similar"

Line 370: Change "Robertson" to "Patterson"

On MOTION for Bayside Improvement by Mr. Cramer and seconded by Mr. Lienesch, with all in favor, the September 24, 2012 Regular Meeting Minutes, as amended, were approved.

On MOTION for Bay Creek by Mr. Huffman and seconded by Mr. Janek, with all in favor, the September 24, 2012 Regular Meeting Minutes, as amended, were approved.

TWELFTH ORDER OF BUSINESS

Old Business

There being no old business, the next item followed.

THIRTEENTH ORDER OF BUSINESS

Other Business

A. Action Items

Items 7, 8, 9, 10, 11, 12, 13 and 15 were deleted.

With regard to item 8, Mr. Cox reported that the numeric thresholds for South Florida are not yet available. When the statewide rules were submitted for approval by the court, for everywhere except South Florida, some environmental groups challenged the scientific basis for parts of them. The estuarial policies for all but South Florida have been released. Mr. Pritt suggested removing this from the Action Item list; when the thresholds are released, Mr. Cox can present a report.

Mr. Patterson inquired about the outcome of Mr. Barraco's review of the outfall into Lake F-16. Mr. Adams stated that it appears to be built according to design and it is flowing. Mr. Lienesch noted the issue with flood sewer lines. Significant rain was received since then and there was no water in the streets.

Mr. Murphy confirmed that Item 14 only refers to Lake E-2. Mr. Hancock inquired about a written report or documentation. Mr. Murphy explained that a diver took a sample of the bottom of the sewer adjacent to Lake E-2. Mr. Adams stated that the lab report was not received. Written documentation was requested.

FOURTEENTH ORDER OF BUSINESS

Staff Reports

A. Attorney

Mr. Cox stated that the agenda included a copy of the letter that will be sent to the PLCA, Pelicans Nest and The Colony regarding the maintenance facilities and tennis courts. He advised that he attended their meeting on Wednesday and the discussion was very productive; everyone realizes there is a problem they will all work together. Mr. Cox advised that discussion was held with the PLCA regarding the license agreement for culvert cleaning and he feels they have an understanding of the issue with regard to the PLCA Board; however, the problem is twofold. The first issue is that the PLCA Board does not want to acknowledge that they have accepted the responsibility for cleaning the culverts, although they are. The other issue is that they do not like

the fact that the agreement is one-year terminable; they prefer a long-term commitment. Mr. Cox explained that, since this was not included in the budget, contingency funds will be used. Next year, it would have to be budgeted. It was noted that \$30,000 was included in the budget, on the assumption that the Districts would take over cleaning 1/3 of the catch basins, in the first year.

Mr. Cox stated that the PLCA Board asked for two items: the Landscape Maintenance Agreement and the "Exhibit A" to the license agreement, which is the map showing which culverts will be cleaned. Mr. Cox explained to Mr. Hart that the agreement memorializes that the Districts will be cleaning the culverts and evaluating what will be taken on, in the future.

Mr. Pritt felt that aspect could be taken care of easily, either with a quitclaim deed or additional language. He indicated that he was in favor of a one-year agreement.

Mr. McCarthy recalled asking Mr. Murphy, several weeks ago, how much the PLCA spent for cleaning the catch basins and the answer was \$31,000. Mr. McCarthy felt they should evaluate what is there, given that the assets are 20 years old. He was in favor of a one-year agreement. Mr. McAuley recommended proceeding with the one-year agreement and evaluating it after 11 months.

Mr. Patterson noted that the residents will have to pay, regardless of who is responsible; the question is which organization is more qualified.

Mr. Cox advised that some of the catch basins that were cleaned had issues, largely due to an accumulation of plant material from landscaping activities. He stated that there are practices that the crews must follow.

Mr. Pritt stressed that the Board Members are stewards of public money and must be more careful. He expressed more concern for the cost of repairs than for maintenance and feels that the PLCA Board recognizes that. Mr. Pritt felt they should enter into a one-year agreement and then plan for future maintenance, in the budget.

Mr. Patterson stated the major issue is that the Districts cannot work on the catch basins and culverts until they own them. He asked Mr. Cox to obtain a proposal from the PLCA indicating that they are willing to transfer ownership, for the December meeting. Mr. Cox conveyed the PLCA's willingness to do so. Mr. Pritt stressed that the Boards do not know the condition of the assets that will be transferred to them, or the cost of maintenance, repair and replacement, when the time comes.

Mr. Hancock expressed his concern regarding the written offer for cleaning that is still on the table, with no expiration date. He asked to be provided with written rejection from Pelican Landing, if the offer is unacceptable.

Mr. Murphy noted that the agreement calls for "Exhibit A". Mr. Adams indicated that copies of the exhibit were provided to the PLCA. Mr. Murphy stated that the PLCA was told that there is a Landscape License Agreement; however, one was never produced. Mr. Adams indicated that he will follow up on the license agreement. Staff was pulling boxes of files from storage because the agreement was approved in the 1990's and they do not have an electronic version.

Mr. Lienesch recalled budgeting \$30,000 for cleaning, at the July meeting. As they were cleaned, the condition of the structures and infrastructure would be observed. If some of the catch basins are crumbling or failing, the cost would be assessed, for budgeting purposes.

Mr. Patterson recalled both Boards deciding that their long-term intentions were to assume responsibility for the operation and maintenance of the catch basins and culverts. He expressed his understanding that the PLCA desires to transfer ownership of the catch basins and culverts to the Districts.

Mr. Glueck inquired about the PLCA agreement with Sewer Viewer. Mr. Murphy advised they are reviewing every location where they have flooding. Mr. Glueck noted that the PLCA should have the information regarding the conditions of those sewers.

Mr. Murphy requested a copy of the NPDES records submitted by the Districts each year. Mr. Adams explained that the schedule of assets that are part of the NPDES responsibility for the Districts only includes the lakes and the interconnecting pipes, which is the trunk drainage system; it does not include the roadway drainage system.

Mr. Hancock asked if the PLCA will transfer their replacement reserves if the CDDs take over the assets. Mr. Murphy indicated he does not believe any reserve funds were set up.

Mr. Cramer recalled Mr. Anderson showing pictures of the surge pushing up into the Palm Colony area. He feels that the attorneys should consider how to work with the parceled neighborhoods. If the CDDs clean their culverts, what is left in the neighborhoods will come back and fill them up.

Mr. Patterson recalled that both Boards agreed to assume responsibility for all of the parcel neighborhoods, if they assume the responsibility for the catch basins and major roads. Mr. Cox clarified that the Boards made the motions, he drafted the document and presented it to

them, discussion was held and “maintenance” was changed to “cleaning”, based upon direction from the Boards. Mr. McCarthy stated that the Boards understood maintenance to be cleaning and it was never his intention to vote to take over the capital improvement of those assets. Mr. Cox indicated that the Boards intended the motion for the parcel neighborhoods, as well, and all they directed Staff to do was clean, not maintain. Ms. Crismond will review previous CDD minutes regarding motions that were approved for cleaning only.

Mr. Patterson asked if it was unreasonable to ask the PLCA for a counter proposal if they choose not to accept the CDDs’ proposal, once they are provided with the information necessary to make their evaluation. Mr. Cox did not feel it was unreasonable. This position was agreed upon by both Boards.

B. Manager

i. Unaudited Financial Statements as of September 30, 2012

Mr. Adams presented the Unaudited Financial Statements as of September 30, 2012.

Mr. Patterson noted four or five major items that are incorrect, in terms of the forecast. Mr. Patterson indicated an expenditure of over \$10,000, in the enterprise and general fund budgets, for maintenance parts, which is a major portion of these budgets. Mr. Adams explained that the expenditure was related to the facilities at the Central Park, for lighting; it is a legitimate expense, that keeps the facilities operating. Mr. Adams feels they will be within budget on both funds.

Mr. Patterson advised that revenue from the sprinkler systems was over-estimated; they are short about \$70,000. Mr. McCarthy stated that the largest part of the deficit is irrigation revenue from Bay Creek. Mr. Adams noted that the March and April Unaudited Financial Statements reflect that the revenue was ahead of what was projected but it dropped off significantly during the summer, due to the heavy rainy season.

Mr. Patterson asked if it will be necessary to approve an amendment to last year’s budget. Mr. Adams advised that it depends on how the accruals come in; if necessary, an amendment will be presented at the December meeting.

ii. Savings & Money Market Account/Investment Snapshot as of 10/15/12

Mr. Adams indicated that he is looking into a program with FineMark Bank, as they are taking a comparable approach to CDARS. They group money markets together and transfer them to various banks, all under the \$250,000 FDIC limit, which provides a decent interest return and is liquid immediately.

iii. Irrigation High User Report

- **Bayside Improvement CDD**
- **Bay Creek CDD**
- **Penalty Schedule: Bayside Improvement CDD**

In response to a question from Mr. Lienesch, Mr. Adams explained that the rate codes correspond to the size of the property or the usage.

iv. NEXT MEETING DATE: December 17, 2012 at 2:00 P.M.

Mr. Patterson noted that the next meeting will be held on December 17, 2012 at 2:00 p.m.

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

Ms. Crismond reported that tree trimming was placed on hold until the pine straw project is completed. The repairs on the Capri and Bay Cedar signs will be scheduled in the next week. Six light posts will be painted in Capri; the delays were due to a meeting with FPL to obtain paint specifications. Management is out to bid and waiting for proposals.

Ms. Crismond stated that she and Mr. Adams reviewed Wetland #10 and #11. Referring to an overhead, Mr. Adams pointed out the potential locations for installing a fence along the perimeter. He discussed the requirement to raise the height of the fence to allow ingress and egress of wildlife, which would not make sense, in terms of security. Another discussion involved installing plant material to provide further screening. With regard to plant selections for the preserves and wetlands, the requirement is to prepare a plan and submit it to the agencies, for approval. If the motive is to install plant material for screening, Staff will provide a list of natural plant material and a plan will be prepared, which an engineer is required to submit for approval. Staff will then proceed with installation. Mr. Adams voiced his opinion that the only way to proceed is to screen the area. He noted potential locations for plantings.

Mr. McAuley noted that the southern piece is most in need. Mr. Adams indicated that it is the higher priced area and will require a lot of planting.

Mr. Pritt asked about screening on the back of the commercial structures and if they were keeping up the requirements for vegetation. Mr. Adams noted that the plants that were installed originally, to obtain the certification, have disappeared.

Mr. Hancock reported that he went to the City of Bonita Springs with the Lakemont Neighborhood Committee to ask for suggestions with regard to putting a fence in the wetlands. Their suggestion was for each property owner to cede two to three inches of the back of their property for a fence; however, it would require legal documentation, DRC approval and it would

probably be a year before anything is done. Mr. Hancock stated that the Lakemont Neighborhood Committee is supposed to be contacting the property owners to see if they would agree. He clarified that it would be a chain link fence. Mr. Adams did not see this as a possibility, as every individual homeowner would have to agree. Mr. Hancock suggested conveying their considerations to the Lakemont Committee, as they are very concerned about the security in their neighborhood.

Mr. McAuley asked Staff to prepare a planting plan for the two segments being considered.

FOURTEENTH ORDER OF BUSINESS

**Audience
Request**

Comments/Supervisors'

Mr. McCarthy noted that at least one Supervisor will not be present for the next meeting. He expressed his thanks to Mr. Lienesch for his service, to the Board Members for the fine years that he served on the Board and voiced his appreciation for their input and criticisms. The Board Members thanked Mr. McCarthy, as well.

Mr. Hancock emphasized the PLCA's concerns with regard to pinestraw getting into the storm sewer system. Mr. Ward noted that pinestraw was installed in his neighborhood behind and on the sides of the buildings. Regular mulch will be used in any areas facing the road.

Mr. Roger Brown, a resident, cautioned against using grass carp, as they chew at the roots of the grass on the edge of the lakes and create erosion.

Ms. Charlotte McCarthy, a resident, expressed concerns regarding the safety of the landscaping crews. She recommended that they wear a reflective safety vest. Mr. Adams agreed.

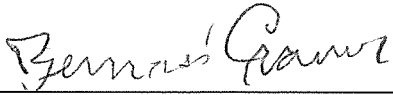
Mr. Howard Lowe and Mr. Frank Toner, residents of Long Lake Village, recalled a request, in May, for plantings in Lakes C-1 and C-2. Mr. Adams advised that 3,000 plants will be added to each lake within the next day or two.

FIFTEENTH ORDER OF BUSINESS

Adjournment

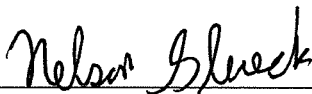
There being no further business, the meeting adjourned at 4:40 p.m.

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:** 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
6. **AGENDA ITEM:** Lake Maintenance Activities Report – Bill Kurth
7. **ACTION ITEM:** Mr. Adams and Ms. Crismond to look at native plant list for possible plantings in the wetland to deter pedestrian traffic
8. **ACTION/AGENDA ITEM:** Bill Reagan, FMS Bonds, to prepare spreadsheet outlining details of bond refinancing, breakdown of neighborhoods and comparison between refinancing and keeping the current bonds and using the reserves and revenues to pay down the bonds; prepare paperwork for Bay Creek review – present at December meeting
9. **ACTION ITEM:** Mr. Barraco to provide copy of handout to Ms. Crismond
10. **ACTION ITEM:** Staff to contact LakeMasters re: reduction of chemical treatments and cost break/credit
11. **ACTION ITEM:** Mr. Adams to follow up on Landscape License Agreement