

**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 23, 2013 at 2:00 p.m.**, at the **Pelican Landing Community Center, 24501 Walden Center Drive, Bonita Springs, Florida 34134.**

For Bayside Improvement CDD:

Walter McCarthy	Chair
Marvin Hancock	Vice Chair
James Patterson	Assistant Secretary
John Crew	Assistant Secretary
Bernie Cramer	Assistant Secretary

For Bay Creek CDD:

Frederick McAuley	Chair
Nelson Glueck	Vice Chair
James Janek	Assistant Secretary
Robert Pritt	Assistant Secretary
Mary McVay	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Crismond	Assistant Regional Manager
Dan Cox	District Counsel
Carl Barraco, Jr.	District Engineer
Bill Kurth	LakeMasters
Kenny Killeen	LakeMasters
Dr. Serge Thomas	Florida Gulf Coast University
Jack Lienesch	Resident
Dennis Anderson	Resident
Jet Tipton	PLCA Liaison
Cathy McGraw	Resident
Residents	

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 asked the Supervisors to state their names. For Bay Creek Community Development District, Supervisors McAuley, Pritt, Janek, Glueck and McVay were present, in person. For Bayside Improvement Community Development District, Supervisors McCarthy, Hancock, Cramer, Patterson and Crew were present, in person.

Mr. McAuley requested a moment of silence in memory of Mr. Ted Rosenberg.

▪ **Bayside Flooding Issue**

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

Mr. McCarthy requested to add the Bayside flooding issue to the agenda.

On MOTION for Bay Creek by Mr. Janek and seconded by Ms. McVay, with all in favor, adding the Bayside flooding issue to the agenda was approved.

On MOTION for Bayside Improvement by Mr. McCarthy and seconded by Mr. Hancock, with all in favor, adding the Bayside flooding issue to the agenda was approved.

Mr. Adams stated that, last Wednesday afternoon, Pelican Landing received a significant rainfall. The shop on Coconut Road received almost 3” of rain and the Pelican Landing pump house received 5” of rain. Across the street, The Brooks received an average of 4” to 4½” of rain along the Coconut Road corridor. Mr. Adams noted that the rain event followed a very rainy summer season and the system had already exceeded control elevation. As a result, water flowed into the streets and locations that it should not have been running into, backing up into unexpected areas.

Mr. Adams advised that he drove around Pelican Landing, on Thursday morning, and found that, overnight, water at the intersection of Pennyroyal and Lakemont Drive and along Pennyroyal, south of the parkway had receded. Mr. Adams stated that it was generally bad in the catch basins and below the elevation of the road. North of the Parkway, along Pennyroyal, there

was water in the streets, particularly where C-3 comes into the south end of Pennyroyal. Across from the Children's Park, about 1' of water was in the street. Continuing along Pennyroyal, in several locations, where the catch basins are located, most of the water was backed up. On Woodsage Drive, water was running between a few homes leading from the west, which is Heron Marsh, and C-4. It was breaching between the homes, across Woodsage Drive, into the catch basins and into C-3. There were deeper elevations within Waterside. Along Coconut Road, water backed up along the roadside ditches.

Mr. Adams indicated that he wanted to ensure that the system was clean and there were no obstructions so he contacted M.R.I. Underwater Specialists, Inc., who specialize in diving and scoping drainage systems, cleaning and removing obstructions. He discussed the lakes and interconnecting pipes that the divers inspected and noted that all of the interconnections were clean.

Mr. Adams explained that the outfall structure on the south end of Heron Marsh, which is at the end of Blackrush Court and adjacent to Cypress Island, has a water quality notch about 1' deep and 2' to 2½' wide, and the water was about ¾ of the way up on the notch. He asked the District Engineer to view the structure with South Florida Water Management District (SFWMD). Mr. Adams pointed out that, generally, SFWMD only allows pumping for an extreme emergency. Mr. Barraco was able to convince SFWMD to allow short-term pumping. Lee Mar Building and Construction Corp., was contacted and, through their relationship with Moving Water, Inc., (MWI), a 12" pump was mobilized, on Saturday. Mr. Adams explained that the pump runs through a 10" discharge hose, moving about 5,000 gallons per minute. It was set up at the outfall structure in hopes of moving the water over the structure faster than mere gravity through the water quality notch.

Mr. Adams advised that, over the last 2½ days, the results were good. There are 250 acres of land to drain and the level receded by about 6" to 8", 4" to 6" of which receded after the pump was installed. Mr. Adams advised that, at this time, the water appears to be about 2" to 3" above the bottom of the notch, which is the control elevation. The original permission that was received in the emergency permit was to bring the water level down to about 6" above the bottom of the notch; however, given the forecast for this week, Mr. Adams feels confident that SFWMD will allow pumping to continue, for the next few days, until the threat of significant rain no longer exists.

Mr. Barraco stated it appears that the system is functioning as designed. His recommendation is to review the modeling and the structure after this rainy season.

Mr. Adams indicated that, as Staff viewed the structures downstream and watched the performance of the system, downstream, it did not appear to be taxed by the additional flow. He noted that, moving forward, as the modeling and the structure are reviewed, there may be an opportunity to open the structure further, to provide relief, prior to it getting to this point.

Mr. Adams explained that he will ask the District Engineer to review the pipe sizing and the ability to discharge the water from C-3 to B-3 and B-3 to B-4, as it did not appear that water was moving quickly enough through that system. Mr. Barraco pointed out that these are two lakes that are freely connected by pipes.

Mr. Patterson inquired about the residual problem in Waterside and The Sanctuary, in terms of the outflow from the higher lakes flowing down into Longlake. He noted that, at the moment, the water is about 3" under the catch basin level and there has been no significant change since the flooding occurred. Mr. Adams felt that there had been a significant reduction and explained that the problem is the cascading effect and, as the levels in the lower lakes are lowered faster, the waters up above will shed quicker and there will be a greater benefit from the designed pressure to push the water downstream in this gravity system.

Mr. Patterson voiced his concern that, if they receive another few inches of rain, flooding in the roads will occur again, in Waterside and The Sanctuary.

For the benefit of the residents, who may not be familiar with technical terms, Mr. Cramer asked Mr. Adams for graphics or photos of what they were referring to, such as an outfall, versus a weir.

With regard to the control level of the weir, where the pump is located, Mr. Hancock stated that, if water rises above the notch, the yards flood. Mr. Hancock asked Mr. Barraco if the desired level is at the top of the notch. Mr. Barraco clarified that there are two critical elevations, one of which is the control elevation; typically, in the wet season, if there is not much rain, the control elevation is where the water level would be.

Mr. Adams showed a slide and Mr. Barraco pointed out the control elevation, the water quality elevation and the next step up, which is the design high water for a 25-year storm elevation.

Mr. Hancock commented that, when water goes above the control elevation, the properties flood. Mr. Barraco commented, if that is the case, there is a definite issue. Mr. Hancock pointed out that flooding has been occurring for 13 years. Mr. Barraco explained that, once the rainy season ends, he will work with Management to conduct studies and permit modifications. Mr. Barraco suspected that the problem may be because there are two basins in the area that are right next to each other; one is controlled at 14.85 elevation and the other is at 12.85. If there is no dividing line or good berm between the basins, as the higher basin stages up, it will overflow into the other.

At C-4, Mr. Hancock proposed having Mr. Barraco take measurements to determine if the structure was constructed properly, according to the plan and the permit, as well as some of the other properties in the area that are flooding. Mr. Barraco indicated that he will begin immediately. Mr. Hancock asked if the Board is satisfied with C-3, which is Longlake, or if anything needs to be done. Mr. Hancock noted that C-3 drains into the small lake behind the central fountain.

Mr. Hancock asked if water is leaving Lake B-3 fast enough. Mr. Adams advised that, from what he saw, he does not believe that it is. He feels that there are “pinch points” in two locations, which is why the water was backing up.

Mr. Kurth explained that, when LakeMasters begins fall sonar treatments, they observe flow; the outfall on Lake C-3 is one of the common areas looked at. He indicated that they were amazed, over the last two years, that when the majority of the community had already drained, the water levels in Longlake were still elevated. The water did not move as quickly through that part of the system and that part backs up through Waterside and The Sanctuary.

Mr. Kurth indicated that the control elevation in the wetland, on the west side of Lake E-12, is more than 2' above the control elevation of the lakes in Waterside and The Sanctuary. A very narrow berm separates the wetland from the lakes and additional water might be coming from that wetland through the berm.

Mr. McCarthy asked Mr. Barraco to look carefully at the condition of Lakes E-12 and E-15, relative to Heron Marsh. Mr. McCarthy advised that his observation is that they are functioning as one; that is where the water in Waterside and in The Sanctuary is coming from, creating the headwater at the top of that basin and what is preventing C-3 from decreasing to the proper elevation.

Mr. Hancock referred to a 2001 memo from WilsonMiller which contains a sentence stating that, "The overflow weir is sized so that the structure does not flow any more water than flowed off the land before it was developed." Mr. Hancock stated that he is familiar with another flood control district in Houston and their view is not to control the water as if it is still farm land because city dwellers want the water off the property immediately. It appears that WilsonMiller wants to leave it as if it is farm land.

Mr. Barraco advised that, at the time the memo was written, it was called "pre versus post discharge", meaning no more water will be discharged after development than was discharged before development. Mr. Barraco noted that, typically, it is a limiting amount and it is pretty standard.

Mr. Patterson pointed out that the memo refers to the basin being discussed as Sub Basin 60, which is Waterside, The Sanctuary and the area of The Tides. It indicates that that particular basin will not drain into Basin 50, which is the North Heron Marsh.

Mr. McCarthy voiced his opinion that it is the reverse; North Heron Marsh is affecting that basin. He asked which way the water will flow if Heron Marsh is 2½' higher than Waterside.

Mr. Adams clarified that it is not a direction connection; it is free flow through sandy conditions and, in a very short area, water is stacked over 2' higher and, in very sandy soil conditions, water migrates freely through the soil.

Mr. McCarthy advised that, based on the flooding that occurred in the last week, the water levels created a significant threat to homes on the west side of Woodsage Drive. He stressed that these homes are worth millions; they are homes of his friends and neighbors. Mr. McCarthy declared that this cannot be tolerated, especially when a report from 2001 indicates that the same condition existed then and the Engineer's Report fundamentally states that the homes are built too low. Mr. McCarthy remarked 'bad answer'. He indicated that a creative solution to this problem must be found because those residents are not going to raise their houses.

Mr. McCarthy stressed that the District Engineer should immediately address the entire problem. He was adamant that this would not happen again on his watch and that the Board should instruct the District Engineer to immediately analyze the problem and begin to develop solutions. Mr. McCarthy expressed his shock that SFWMD would approve a plan with two

basins immediately adjacent to one another and, literally, nothing between them except a small, narrow piece of land. He commented that SFWMD approved this plan and it creates a disaster for the people in Waterside and The Sanctuary, as well as the Woodsage residents.

Mr. McCarthy voiced his opinion that, looking back, perhaps those homes should not have been built that low; however, the people who bought them relied on the technical competence of the people who designed and built them; it is the Board's job to resolve this in the best way possible.

Mr. McCarthy made a motion to instruct the District Engineers to move forward with due diligence to perform a complete analysis of the problems created by the flooding, develop remedies and solutions and meet with SFWMD to get their input regarding what should be done to solve the problems created by the SFWMD design. The motion was seconded by Mr. Patterson.

Mr. Pritt voiced his opinion that this may not only be a Bayside issue, as money will be expended that Bay Creek will have to contribute toward. Mr. Pritt noted some significant water issues along Pinewater related to poor drainage. Mr. Pritt suggested that looking at the issue by both Boards might make more sense because they are all in it together. Mr. McAuley agreed that it was an issue for everyone and advised Mr. McCarthy that the Bay Creek Board supports him on this issue.

Mr. McCarthy expressed agreement with Mr. Pritt and with Bay Creek joining. With regard to funding, Mr. McCarthy stated that this is a very serious emergency and Bayside will pay 80%, if Bay Creek participates; if Bayside must pay 100%, Mr. McCarthy approves of that, as well, as he wants the problem solved. Mr. McAuley pointed out that the Districts have one budget, not two.

Mr. Crew requested confirmation that the Boards are directing the District Engineer and Management to complete an assessment of the current system, in comparison to the as-built and design, and to make recommendations, if there are deficiencies; they are not directing them to proceed with emergency actions. Mr. McCarthy replied affirmatively. Mr. Hancock added that they are also directing them to speak to the SFWMD.

Mr. Crew asked Mr. McCarthy to consider making the motion system-wide so that Bay Creek can join.

Mr. McCarthy amended the motion to make it system-wide.

On MOTION for Bayside Improvement by Mr. McCarthy and seconded by Mr. Patterson, with all in favor, directing the District Engineer and District Manager to proceed with a complete analysis of the problems created by the flooding, to develop remedies and solutions and to meet with SFWMD to obtain their input with regard to a solution to the problems created by the SFWMD design, were approved.

On MOTION for Bay Creek by Mr. Glueck and seconded by Ms. McVay, with all in favor, directing the District Engineer and District Manager to proceed with a complete analysis of the problems created by the flooding, to develop remedies and solutions and to meet with SFWMD to obtain their input with regard to a solution to the problems created by the SFWMD design, were approved.

THIRD ORDER OF BUSINESS

Staff Report: Engineer (Both)

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

Mr. Barraco confirmed his understanding of the Board's requests.. He indicated that, since the Districts have such a large system, in order to be efficient, he will work with Mr. Adams, who has been gathering information, and prepare a map of the areas that require review. Mr. Barraco wants to concentrate on the areas in question and make observations, which are very critical to resolving the issues.

With regard to both transitions from construction to operation and maintenance, Mr. Barraco reported that, in the Pelican's Nest system, Mr. Cox has obtained the necessary easements. Mr. Barraco will update the worksheet map and go directly to operation and maintenance, which must be done by the end of October.

Mr. Barraco stated that, for the Pelican Landing system, the easement worksheet is being developed. He noted that some of the easements may need to be obtained. Once the water levels are lower, final adjustments will be made to the control structure so that it may be certified.

Mr. Barraco recalled discussion, at the last meeting, with regard to dredging some of the lakes and advised that he has the information available for further discussion. Mr. Hancock requested that Mr. Barraco forward the dredging information to Mr. Adams, for dissemination to the Boards. Discussion will take place at the next meeting.

Mr. McCarthy stated that he wants to ensure that the pump, currently in place, is adequate to handle the same type of situation that occurred last week. He pointed out that it is a 5,000-gallon per minute pump and it takes a great deal of time to draw down 250 acres of water. Mr. McCarthy asked if the pump is adequate.

Mr. Barraco explained that he has not checked the size of the existing pump. The engineers reacted, on Friday, to the District's permission to install a pump. SFWMD did not discuss the quantity of the water being moved. Mr. Barraco indicated that, if a larger pump is needed, it could be installed; however, if that is done, the water downstream must be continually monitored.

Mr. Barraco advised that Mr. Adams discussed larger pumps with the contractor and there may be problems getting a base to draw out of because a 24" or larger pump would need such a large area to pull from; construction or excavation may be required.

Mr. Adams explained that it is a hard base that requires a special hydraulic head with a chipping head on it. It also has an air compressor fitting to prevent the water from getting into the head itself. The contractor advised that, in order to install a larger pump, the existing pump must be taken offline and the existing pump is making some headway. As noted previously, the water is 3" above control elevation and the District Engineer's recommendation is not to go below the control. Mr. Adams suggested keeping the existing pump working and to continue moving water; the water will reach control elevation. As a safeguard, he suggested building the notch so it is large enough for a future event.

Mr. Barraco reiterated that SFWMD approved pumping down to 6" above the control. He feels that the best thing to do is to get a "jump start"; if they see that significant rainfall is approaching, it would be difficult for anyone to criticize going closer to the control elevation to prepare for an event, as long as they do not go below control.

Mr. McCarthy stressed the importance of SFWMD understanding that, when the water level rises too much above control, at a minimum, the yards are flooded and, since the land is level, it will not take much before the water is in their homes. Mr. McCarthy asked Mr. Barraco to make sure that SFWMD understands that these properties are in imminent danger. Mr. Barraco indicated that is the reason SFWMD approved pumping, on Friday. Mr. Barraco stated that SFWMD planned to send a field representative today, which they may have done.

Mr. Adams pointed out that, if the need arises, another 12” pump can installed to run parallel to the existing one and it can be set at a moment’s notice.

Mr. Patterson recalled Mr. Lienesch’s calculation that it would take ten days for the 5,000 gallon pump, operating 24 hours per day, to reduce the water level in the 250 acres of wetland by 1’, meaning that running the 12” pump alone will only reduce the level by about 1.2” each day, which is not a significant amount.

Mr. Barraco stressed that the engineers have done all that they can, with the current approvals from SFWMD; he does not want to take advantage and lose it.

FOURTH ORDER OF BUSINESS

Public Comments

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

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

Mr. Jack Lienesch, a resident, pointed out that, according to the flow diagram for the watershed in Pelican Landing, none of the affected properties in Waterside, The Sanctuary and The Tides drain over the weir; it goes through another passage. Mr. Lienesch asked how pumping over that weir will affect the properties that are flooded in the northeast portion. Mr. McAuley advised that the engineer will provide the answer in the near future.

Mr. Dennis Anderson, a resident, stated that he has been fighting the same battle for two years and continues to fight it. He advised that his issue is a water flow problem, most of which relates to what is occurring at the tennis center. Mr. Anderson indicated that, while some of the issues are being addressed, the situation has become worse.

Mr. Anderson showed photos of the tennis center, which were taken during a normal rain. He noted the green muck in the trench where the drain is located that goes to Lake E-1. The second photo, of the maintenance area and the tennis court, after the rain, showed a very heavy flow of tennis court material going directly into the sewer drain. The next photo showed the opening at the front edge of the tennis court. Mr. Anderson pointed out that water was coming over the top of where the new ditch was installed. He explained that the ditch fills quickly, water flows over the top and is now digging its own trench in the soil, leading to the sewer.

Referring to another photo, Mr. Anderson stated that the flow of water from the tennis court has flowed down to the leading edge of the front parking lot. It is also flowing into the

sewer, from the right-hand side, and green material is collecting around that sewer. Mr. Anderson advised that a grass-like mat was placed over the sewers in an attempt to stop the flow of this material; however, it is running down through the parking lot. In the next photo, of the sewer at the other end of the lot, Mr. Anderson noted the color of the water and that the entire area at the corner of the tennis courts had green water.

Mr. Anderson stated that, in the following photo, the entire trench, in the new area of the parking lot, is filled to the top and is running over the entire length of the tennis courts. He indicated that the next view, looking toward The Colony tennis courts, showed that, at the other end, the water flow was going from where the dumpster used to be into the sewer area, on the other side. That flow of water, along with the previous one, filled the entire front parking lot. When the water flow stopped, the entire parking lot had close to 1" to 1½" of green material from the tennis court.

Mr. Anderson explained that the tennis center has a water system under the courts, which is designed to push water up into that material, to keep it moist. About two weeks ago, bags of new material were delivered for resurfacing the tennis court. That day, while the work was being performed, it began to rain. All of the new material placed on the tennis courts immediately began to come loose and flow towards the front. Mr. Anderson asked if that made sense to anyone.

Mr. Anderson showed a photo of the grassy area along the back end of the parking lot. He indicated that, in that area, and beyond, the water was flowing directly into the trench, through the grass and into the parking lot. There is a water flow from the maintenance area and the water flow from the tennis center is coming in and filling the entire area, between the two.

Mr. McAuley suggested that Mr. Anderson take the photos to the PLCA. He advised that the tennis court is PLCA property.

Referring to the photo of the maintenance area, Mr. Anderson indicated that, on the day the picture was taken, all of the water flowed into Lake #1. Lake #2 received its own flow and, that day, Lakes #1 and #2 turned completely green. That is not the only time that this occurred. Mr. Anderson advised that, the next day, the turtles were crawling out of the water. He picked them up and placed them in a cardboard box and the shells were coated with a thick residue of tennis court material. The turtles were migrating away from the lake. Mr. Anderson released the turtles in Longlake because that water was clean. Also, the fish were up on the grass trying to

get fresh air because the lake was so filled with the green material. Mr. Anderson voiced his opinion that it has become negligence, on the part of this community, to allow this type of pollution to continue and not to address it.

Mr. McCarthy commented that, when he was furnished with a copy of the city permit that the PLCA received, which involved a handwritten signature on a receipt that was issued at the time the submission was made, he questioned whether it should be reviewed by SFWMD. Mr. McCarthy indicated that this is the worst problem in Pelican Landing, aside from the flooding, and he feels that the permit should have been reviewed by SFWMD. The design did not work and someone should be reviewing the submissions. Mr. McCarthy suggested that the photos be forwarded to SFWMD, for review. Mr. Anderson voiced his agreement and that of the residents of Palm Colony.

Mr. McAuley asked what the CDDs are doing about the lakes, as they relate to this issue. Mr. Adams replied nothing more than advising the PLCA that they must remedy the situation. Other than the actions taken by the PLCA, the only requirement for the District is to report it to the local municipality, which would be Lee County.

Mr. Adams advised that he viewed the area the same day, several hours after the rain event. One of the structures is designed to collect the water from the perimeter drain system, which is cut out to allow direct discharge and allows the flow into the parking lot. Directly across the parking lot is the area where the water flows into the drain leading into Lake E-2. Referring to a photograph, Mr. Adams showed proof that the material is, in fact, making its way into the lake; it is not settling out before getting into the lake.

Mr. Jet Tipton, PLCA Liaison, stated that the PLCA asked engineers to submit a design to remedy the problem of the Har-Tru surface flowing into the lake. Various proposals were submitted and one was accepted, which is being used by a number of other communities in the area. Mr. Tipton advised that a resident came to the PLCA board meeting and indicated that there is evidence of runoff going into the lake. Mr. Tipton explained that it appears to be primarily from the contractor not doing his job when resurfacing the courts; it was not a failure of the system.

Mr. McCarthy asked which company was awarded the contract. Mr. Glueck stated that it was Mr. Tony Ritzman. Mr. McCarthy indicated that, when he requested the documentation related to the award of the engineering work from the PLCA board, Q. Grady Minor's contract

was provided to him. Mr. McCarthy noted that one of the conditions of the proposal was that it must be submitted to SFWMD. He stated that he was under the impression that the documents provided by PLCA were for the contractor that they were using.

Mr. Hancock commented that Q. Grady Minor's proposal called for containment barriers around the site; however, the current contractor did not install any type of protection. Mr. Tipton advised that, to his knowledge, the barriers were not included in the offer. Mr. McCarthy pointed out that containment barriers are required by ordinance; monitoring is the responsibility of the CDD.

Mr. Hancock noted that this is a repeat illicit discharge and asked if the CDDs have an obligation to report it. Mr. Cox explained that, as long as the PLCA is working with the Districts, they are working towards the successful remediation of the issue. Mr. McAuley voiced his opinion that the CDDs should work with PLCA as long as possible.

Mr. Tipton stated that he viewed the area with Mr. Glueck and Mr. Hancock and he acknowledged that there is a problem that must be addressed because the solution that was provided does not appear to solve the entire problem.

Mr. Cox agreed with Mr. McCarthy that, when a contractor is working with an area that will disturb the surface, containment is required. He indicated that the first step is to surround each of the inlet drains with some type of barrier material that allows water to pass but keeps the solids out.

Mr. Cox pointed out that the typical design is for a 1", 24-hour rainfall event. Creating a design to capture the rain events such as they experienced last week would cost hundreds of millions of dollars.

Mr. Barraco stressed that, while pumping is taking place, the downstream elevations must be monitored to ensure that those residents are not placed in harm's way.

Ms. McVay asked if a letter should be sent to the PLCA, along with copies of the photos, indicating that what is being done is not adequate and that barriers must be installed. Mr. Adams agreed that a letter from District Counsel would be appropriate. Ms. McVay voiced her agreement that the CDDs should continue to work with the PLCA.

Mr. McCarthy expressed his appreciation to Mr. Kucera and Mr. Kemp, who were on site the entire weekend while the work was being performed. He advised that Mr. Cramer and Mr. Hancock checked the structures to ensure that they were not being taxed.

With regard to the letter to be written to the PLCA, Mr. Cramer recommended adding the suggestion that the PLCA hire someone to place controls on the underground irrigation system so that the water shuts off during a heavy rain. He feels that this contributes to the existing problem.

Ms. Cathy McGraw, a resident, stated that the property next door is vacant. Ms. McGraw explained that the property has a “nose dive” that goes into the lake, a moat that goes around it and a berm in the center. During the flooding, the lake came up to her house. Ms. McGraw advised that her property is much lower than any others around it and the lake was 6’ away from the side of her home. She also noted that there is a basin behind her home that is almost equidistant between four homes and it is surrounded by black muck. Ms. McGraw stated that the basin is cleaned out, periodically; however, the junk continues. During the last rainfall, it rose to the base of her lanai and she had black muck coming over the top. Ms. McGraw also advised that the drain in front of her house backed up so the water traveled $\frac{3}{4}$ of the way up her driveway.

Ms. McGraw asked what she should do about her property, noting that there is more rain in the forecast. Mr. Adams explained that it is now at the same level as the lake because water will seek its own level. With regard to the catch basin, Mr. Adams advised that it was cleaned on Saturday; however, it will require constant attention from the CDD.

Ms. McGraw asked what will happen with her property. Mr. Adams indicated that it has been excavated relatively low. He feels that the water level in the lake will find its way into her yard by coming up the pipe and through the structure. The long-term solution involves lowering the water.

In response to Mr. Lienesch’s question about Waterside, Mr. Adams advised that drawing down the marsh is helping. With gravity and pumping, the marsh has been drawn down about 6” to 8”, since last Thursday, and the pump will continue to operate, which, in turn, will provide relief by reducing the head pressure and reducing the natural horizontal flow through the soil which reduces the amount of water filtering into the ponds, allowing them to be more effective in discharging into C-3.

FIFTH ORDER OF BUSINESS**Lake Maintenance Activities Report
(Both): *LakeMasters***

Mr. Kurth reported that all of the shoreline vegetation is completely submersed so he was unable to make any valid findings with regard to weed control. He indicated that there was less algae, over the last month, because of the rain. No shoreline spraying can occur because the weed problems are submersed and the spray must have contact with the weeds. Mr. Kurth pointed out that, when the water recedes, there will be weed problems, which LakeMasters must contend with.

Mr. Kurth stated that, while LakeMasters toured the lakes, on Friday, they noted dead fish in six of the lakes, which was in response to the major rain event. A crew was on site on Friday afternoon, picking up dead fish. In The Sanctuary, Mr. Kurth indicated that he could smell the fish from the street. He also saw some on the south side, on Lakes A-11 and A-12. Mr. Kurth advised that the oxygen readings were about 1.4. On Friday, on Lake A-13, there was no fish kill, yet; however, birds were lined up around the edge, waiting.

Mr. Kurth indicated that he reviewed the weir and it was operating well; a solid 6" of water was flowing over it, continuously. He noted that the drainage is affecting LakeMasters' ability to perform the work that needs to be done.

Ms. McVay asked why rain kills fish. Mr. Kurth explained that rain water does not contain much oxygen. He noted that plants consume oxygen at night and, when there are microscopic algae in the water and it remains overcast, dissolved oxygen keeps getting lower. Mr. Kurth indicated that, sometimes, the lake can stratify, if it is not aerated. Typically, the concern is the first cold front in the winter but he has seen where a major rainfall can drop the water temperature of the surface of the lake enough for the lake to flip.

SIXTH ORDER OF BUSINESS**Review/Discussion: Irrigation Rate Analysis (Both) (to be provided at meeting)**

Mr. Adams presented the irrigation rate analysis. He stated that what pushes the fixed cost assessment revenue recovery is how much the Districts need to collect, from an irrigation user perspective. Mr. Adams pointed out that there are different needs, between the two Districts. Bay Creek is made up of more parcel neighborhoods and fewer single-family homes; therefore, there is more concentrated control through associations, versus individuals setting their clocks to what they believe to be the appropriate setting.

Mr. Adams noted that the total revenue needs for Bay Creek are around \$92,000 and the base rate needed is \$0.66 per 1,000 gallons. The golf rate is two-thirds of the base, which equates to \$0.44 per 1,000 gallons. For Bayside, the base rate needed is \$0.53 per 1,000 gallons and the total revenue needs are \$254,967. The first tier penalty rate is equal to 87,000 gallons and does not anticipate going into additional tiers. The base rate revenue is \$167,326.

Mr. Adams showed the current Bonita Springs Utilities (BSU) rates for 0 – 6,000 gallons and each of the tiers. He suggested that the Boards mirror the changes in the BSU rates, remembering that, in years past, the justification was that if the residents had to turn to another water source, the only other source available is BSU's potable water source and these are the rates that would be in effect. Mr. Adams recommended that both Districts start with the lower Bayside rate of \$0.53 per 1,000 gallons, monitoring the consumption and revenue over the next year and, if necessary, increasing the base rate next year.

Mr. McCarthy commented that the irrigation water in Pelican Landing is a bargain; however, there will be an impact because the bills for those homeowners paying the base rate will more than triple. He stated that it is important for the Board Members to understand this because they will probably hear from the residents. Mr. McCarthy advised that the alternative is to stage the increase, rather than immediately raising it to \$0.53.

Mr. Adams pointed out that the Boards have been drawing from fund balance to "make ends meet", particularly in Bay Creek. If they choose to keep the rates consistent, Mr. Adams suggested using the lower Bayside rate and then increasing it, once more, rather than three or four increases over the next few years.

Mr. McAuley asked what the increases would be if the rates were staged. Mr. McCarthy replied that he has no proposal; his preference is for a one-time increase, to \$0.53 per 1,000 gallons.

Mr. Glueck voiced his agreement with Mr. McCarthy. He noted that most of Bay Creek is parcel neighborhoods and, if they are notified of the increase amount prior to the adoption of their 2014 budgets, it will be a small number compared to the larger items that are budgeted.

Mr. Adams stated that, compared to his other local clients that are in the irrigation distribution business, Bayside and Bay Creek have the lowest rates.

Mr. Patterson inquired about the estimated combined budget amounts if the rate were \$.53. Mr. Adams indicated that, for Bayside, it would make them whole; however, Bay Creek would be a little short.

Mr. Pritt expressed his agreement with Mr. Adams' recommendations.

Mr. McCarthy requested a motion to approve for the purposes of setting the public hearing to adopt fees and charges, which will be scheduled for the October meeting.

On MOTION for Bay Creek by Mr. Glueck and seconded by Ms. McVay, with all in favor, setting the public hearing to consider adopting the recommended rates for October 28, 2013 and directing Staff to advertise, accordingly, were approved.

On MOTION for Bayside Improvement by Mr. Crew and seconded by Mr. Cramer, with all in favor, setting the public hearing to consider adopting the recommended rates to October 28, 2013 and directing Staff to advertise, accordingly, were approved.

SEVENTH ORDER OF BUSINESS**Irrigation High User Report**

- A. Bayside Improvement CDD**
- B. Bay Creek CDD**
- C. Penalty Usage Summary: *Bayside Improvement CDD***

Mr. McAuley commented that the tennis center irrigation water allotment was increased to 72,000 gallons per month and, this month, they are over by 82,000 gallons during a period that the community received more rain than any other time this year. The tennis courts have a penalty of \$707, which the PLCA must pay.

Mr. Crew asked who manages the PLCA tennis courts' irrigation system, for landscaping. Mr. Adams indicated that the tennis courts manage it and they are using the CDD's irrigation water and have a special rate category. Mr. McAuley stated that Dave Richardson manages the irrigation system.

Mr. Cramer recalled his earlier request, to Mr. Cox, to report his findings that the irrigation system was running continuously. He voiced his opinion that, if the PLCA put forth

some effort to hire someone to install rain sensors, the problem should be corrected and enable them to remain within their allotment.

Mr. Hancock noted that Dr. Serge Thomas was present to speak regarding lake activities.

EIGHTH ORDER OF BUSINESS

Discussion/Consideration of Public Participation Policy/Amendment to Rules of Procedures (Both)

Mr. Cox stated that he received several comments, which he incorporated as best he could. The amendments may be set for public hearing, similar to the rate increase, and Staff may advertise accordingly.

With regard to Page 3, Sec. 4 (f), Mr. Pritt voiced his opinion that the Chair should have the ability to make a motion. Mr. Cox indicated that 4 (f) will be deleted.

On Page 5 (e), Mr. Pritt voiced his agreement that the Board may utilize the services of District Counsel or the District Manager in preparing a resolution for an agenda; however, he suggested that legal opinions and advice be provided at the Board's request. Mr. Cox clarified that, if an issue arises two weeks before a Board Meeting and a legal opinion is required before the meeting, the request may be made through the District Manager or by the majority of either Board.

Referring to Page 4, Sec. 5 (a), Mr. Pritt advised that the new statute mandates that there must be an opportunity for public comment prior to taking action. He recommended changing "Public Comment on Agenda Items" to "Public Comment".

Mr. Hancock noted that in Sec. 2 (h), Roberts Rules were dropped. He asked if Roberts Rules will be included. Mr. Cox advised that they will not remain.

Mr. Hancock referred to Sec. 3 (e) and asked to change "twenty four (24) hours' notice" back to "one (1) hours' notice". Mr. Cox did not feel that all Supervisors could be contacted to gather in one hour. Mr. Pritt stated that there is a written opinion stating "at least 24 hours' notice".

Mr. Patterson pointed out the omission of **ARTICLE 2**.

Mr. Crew noted a correction in Sec. 6 (d), on Page 5 and in Sec. 7. (b), on Page 6.

On MOTION for Bay Creek by Mr. Janek and seconded by Ms. McVay, with all in favor, setting a Public Hearing to consider the Amended Rules of Procedure for October 28, 2013 and directing Staff to advertise, accordingly, were approved.

On MOTION for Bayside Improvement by Mr. McCarthy and seconded by Mr. Cramer, with Mr. McCarthy, Mr. Cramer, Mr. Patterson and Mr. Crew in favor and Mr. Hancock opposed, setting a Public Hearing to consider the Amended Rules of Procedure for October 28, 2013 and directing Staff to advertise, accordingly, were approved. (Motion passed 4-1)

******Mr. Pritt left the meeting at 3:58 p.m.******

- **Presentation by Dr. Serge Thomas**

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

Dr. Thomas reported that eight events were documented and four remain. He advised that he is beginning to see how each lake behaves. The rain brought with it a lot of dissolved organic carbon, which makes the water very dark. Water clarity has decreased, due to the dissolved organic carbon, and the oxygen level is lower. If a large amount of rain water is received, it makes the lakes cooler and it mixes, adding a lot of nutrients on the bottom that eventually eat a lot of oxygen. In June, July, August and September, the oxygen level in all of the lakes has decreased.

NINTH ORDER OF BUSINESS

Consideration of Proposal from Johnson Engineering for Entry Landscape Renovations (Both)

Mr. Glueck asked if there was a reason why J&L did not bid on the landscape renovations. Mr. Adams advised that they did not show an interest. Mr. Adams also pursued Christian Andrea, which is a very well-known landscape architect in the area and he was not interested. Mr. Adams stated that they looked at this as being a relatively small project and, since many of the developments are gearing back up, contractors have found themselves in a

position where they cannot take on the work, at this point. Mr. Adams noted that he pursued the lead provided by Mr. McCarthy but received no response.

Mr. Adams advised that Johnson Engineering is interested in the project and asked them to focus primarily on the south side of the entry, the lake, the outdated landscaping, hardscape and the backdrop, perhaps looking at accenting the front of it, and to provide three concepts with three renderings and a general cost opinion for each, for consideration at a future meeting. Johnson Engineering will attend the meeting to present options to the Boards.

Mr. McAuley asked if the submittal will be Johnson Engineering's proposal of how to complete the project. Mr. Adams replied affirmatively. Mr. McAuley asked if the planting will be performed in house. Mr. Adams replied yes, as well as anything related to landscaping, irrigation modification, etc. More technical items, engineer specific drawings, installation, licensing and permitting will be completed by an outside contractor.

Mr. Janek indicated that he hired a landscape architect who was the original architect in Pelican Landing and has since retired. Mr. Adams stated that he has no problem with obtaining another proposal and having the Boards approve Johnson Engineering's proposal, on a not-to-exceed basis.

Mr. Patterson asked why JRL was not used. Mr. Adams explained that he had difficulty getting him on another project, across the street, and Andrew Eisley, who was the lead on the Districts' project, left to start his own company. Mr. Adams placed several calls to him but received no response.

Mr. Adams stated that Johnson Engineering has adequate personnel, knowledge and some availability. Mr. Adams voiced his opinion that their proposal is a little overpriced. During good times, he would have expected about two-thirds of this estimate; however, it is the going rate based on the current market.

On MOTION for Bay Creek by Mr. McAuley and seconded by Mr. Glueck, with all in favor, a not-to-exceed amount of \$7,800 for entry landscape renovations and 14 days to provide suggestions for engineering firms, were approved.

On MOTION for Bayside Improvement by Mr. McCarthy and seconded by Mr. Hancock, with all in favor, a not-to-exceed amount of \$7,800 for entry landscape renovations and 14 days to provide suggestions for engineering firms, were approved.

Mr. Janek will provide contact information to Mr. Adams for Mr. Jack Lieber and Mr. Adams will attempt contact.

TENTH ORDER OF BUSINESS

**Consideration of Award of Contract:
Wetland Maintenance (Both)**

Referring to Ms. Crismond's memo, Mr. McAuley voiced his agreement with Management to award the wetland maintenance contract to EarthBalance.

On MOTION for Bay Creek by Mr. McAuley and seconded by Mr. Glueck, with all in favor, awarding the contract for wetland maintenance to EarthBalance, in the amount of \$32,234.62, was approved.

On MOTION for Bayside Improvement by Mr. McCarthy and seconded by Mr. Hancock, with all in favor, awarding the contract for wetland maintenance to EarthBalance, in the amount of \$32,234.62, was approved.

Mr. Patterson recalled that the Districts had problems with EarthBalance's wetland work and asked why the contract is going to them. Ms. Crismond explained that EarthBalance got behind with the spring treatment; however, they have been on site numerous times, thoroughly combing through the wetlands to ensure that the problem does not occur again. Ms. Crismond considered that when reviewing these proposals; however, EarthBalance has done so much work for the Districts for many years, with only minimal issues and their proposal is \$20,000 less than LakeMasters. Ms. Crismond noted that EarthBalance reports to Management twice per year and they address all issues immediately.

Mr. Patterson pointed out that LakeMasters hired EarthBalance’s senior person, two years ago. Ms. Crismond advised that EarthBalance still has a very strong team and they do a lot of work for Management’s other clients.

Mr. Hancock requested that EarthBalance attend a meeting, occasionally, to provide a report. Ms. Crismond stated that she will have them attend after the next treatment is performed, in the spring.

ELEVENTH ORDER OF BUSINESS

Approval of August 26, 2013 Joint Public Hearing and Regular Meeting Minutes (Both)

Mr. McCarthy presented the August 26, 2013 Joint Public Hearing and Regular Meeting Minutes and asked for any additions, deletions or corrections.

The following changes were made:

Line 35: Delete “Mr.” before “Lowe”; add “Howard” before “Lowe”

Line 111: Change “Phosphorous” to “Phoslock”

Lines 162: Change “gained” to “gotten”

Line 541: Delete “for _____ ”

Lines 671 & 678: Change “hole” to “hold”

On MOTION for Bay Creek by Mr. Glueck and seconded by Ms. McVay, with all in favor, the August 26, 2013 Joint Public Hearing and Regular Meeting Minutes, as amended, were approved.

On MOTION for Bayside Improvement by Mr. McCarthy and seconded by Mr. Cramer, with all in favor, the August 26, 2013 Joint Public Hearing and Regular Meeting Minutes, as amended, were approved.

TWELFTH ORDER OF BUSINESS

Other Business (Both)

• **Action Items**

Items 1, 2, 3, 4, 5, 6, 9, 11 and 12 were continued.

With regard to Item 11, Mr. Glueck advised that no hanging wires were found; however, there is an exposed cord on the low voltage side of the Central Fountain, which will be rectified tomorrow, as a maintenance item.

With regard to Item 15, Mr. McAuley indicated that he talked to the association about the fountain ropes. Two aerators were installed in D-7; they are working well and the pond is full.

Items 7, 8, 10, 13, 14 and 15 were deleted.

THIRTEENTH ORDER OF BUSINESS Old Business

There being no old business, the next item followed.

FOURTEENTH ORDER OF BUSINESS Staff Reports (Both)

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. Approval of Unaudited Financial Statements as of August 31, 2013

Mr. Adams presented the Unaudited Financial Statements as of August 31, 2013. Referring to Page 3, Mr. Hancock asked why “Landscaping” and “Office operations” were so much over budget. Mr. Adams stated that he will review the account detail.

Mr. McCarthy requested to receive unaudited year-end financial statements. He recalled that they were received very late, last year.

ii. Savings & Money Market Account/Investment Snapshot as of 09/15/13

This item was provided for informational purposes.

iii. NEXT MEETING DATE: October 28, 2013 at 2:00 P.M.

The next meeting is scheduled for October 28, 2013 at 2:00 p.m.

FIFTEENTH ORDER OF BUSINESS Audience Comments (Both)

There being no audience comments, the next item followed.

SIXTEENTH ORDER OF BUSINESS

Supervisors' Requests (Both)

With regard to flooding issues, Mr. Crew stated that the Boards must be realistic that certain design parameters can be designed to meet 25-year events, 50-year events and 100-year events. At some point, those will always be exceeded. Mr. Crew advised against leaving the perception that the Boards will be able to take action to prevent flooding throughout the community. If they were to have a hurricane next week, there would be a flood, regardless of what is done.

Mr. McAuley noted that, in some cases, if piping is too small, the problem can be resolved by resizing them.

Mr. Adams stressed the importance of due diligence and maximizing, to the extent they can, within the box that they are placed in by SFWMD. He feels that they may be able to maximize, in several areas; however, they cannot design for a 100-year storm.

Mr. McCarthy stated that what occurred in Bayside was rather unique. All of the new or relatively new communities in South Florida are designed for the same parameters and should all function the same way. Mr. McCarthy indicated that The Brooks had no flooding problems, aside from a minor event in Spring Run. What happened to Bayside has happened before and should not be happening; they must get to the bottom of it.

Mr. Patterson asked if the new quote for EarthBalance is in the new budget. Ms. Crismond replied affirmatively. Mr. Adams explained that it is within budget. The contract begins on October 1 and the new budget begins on October 1.

Mr. Cramer thanked Mr. Adams and Staff for the pallet that was developed for Pennyroyal, from the main entrance to the gates. He received a lot of positive feedback from the residents of Longlake.

Mr. Cramer noted that, over the weekend, during the rain event, the Boards, as CDD representatives, made very good strides in communicating with the Pelican Landing management, in particular, Mr. Larry McPherson. When everyone met to decide what to do, Mr. Kucera and his staff notified security about what must be done. Mr. Cramer took it upon himself to go directly to Mr. McPherson, who responded, through telephone conversations and emails, in a very positive way. Mr. Cramer asked that the Boards continue the positive steps being taken within the community and to make Mr. McPherson aware of what is going on. Mr. Cramer offered to meet with Mr. McPherson or someone on his staff.

Mr. McAuley pointed out that the liaison is Mr. Tipton and he should not be left out of the loop.

Mr. Cramer noted that Mr. Tipton has been delinquent for a number of meetings.

Mr. McAuley and Ms. McVay thanked Mr. Cramer. Mr. Cramer asked the Boards to continue to make progress.

Mr. McCarthy stated that it became apparent, during this rain event, that there are gaps in the current plans; he requested updated flow charts. Mr. Adams agreed that the map is only about 90% accurate and must be "tweaked".

For the record, Mr. Hancock reported that several Supervisors attended a meeting at the City of Bonita Springs, about a week-and-a-half ago, regarding aquatic management, which was quite good. They learned that homeowners are permitted to place a geothermal bag on their property, at water's edge, and fill it up with muck, which will assist with building up the property. Mr. Cox noted that a permit is required if they reside within the county.

Mr. Hancock stated that members of the community in South Fort Myers, or South Lee County, discussed the floating islands in their lakes, which was very interesting.

SEVENTEENTH ORDER OF BUSINESS

Adjournment

There being no further business to discuss, the meeting adjourned at approximately 4:30 p.m.

FOR BAYSIDE IMPROVEMENT:


Secretary/Assistant Secretary


Chair/Vice Chair

FOR BAY CREEK:


Secretary/Assistant Secretary


Chair/Vice Chair

ACTION/AGENDA ITEMS:

1. **ACTION ITEM:** Mr. Barraco to follow up with WCI regarding status of WCI looking into the records to help determine why the two control structures do not match plans in SFWMD's files
2. **ACTION ITEM:** Assess cul de sacs throughout the community for maintenance and landscaping issues
3. **ACTION ITEM:** Mr. Barraco to continue to provide the status of certifications.
4. **AGENDA ITEMS:** Continued Discussion: SFWMD Final Notice of Noncompliance Permit Conversion and Transfer to Operating Entity – Pelican's Nest Permit
5. **ACTION ITEM:** Mr. Adams to work with Mr. Barraco to update asset map
6. **ACTION ITEM:** Mr. Barraco to have survey crew survey selected areas of the lake to determine the elevation of the water and the slope
7. **ACTION ITEM:** Mr. Barraco to add easements to easement worksheet and forward to Boards once easements are in place
8. **ACTION ITEM:** Mr. Kucera to repair wires hanging from low voltage lighting at Central Fountain
9. **ACTION ITEM:** Mr. Barraco to obtain cost estimates to dredge Lake E-5 and for disposal of dredged material
10. **ACTION ITEM:** Mr. Barraco to look at the pipe sizing and the ability to discharge the water from C-3 to B-3 and B-3 to B-4 and work with Management regarding areas of the outflow structures that may require modification
11. **ACTION ITEM:** Mr. McCarthy asked Mr. Barraco to look carefully at the condition of Lakes E-12 and E-15, relative to Heron Marsh
12. **ACTION ITEM:** Mr. Barraco and Mr. Adams to complete an analysis of the system and recommend remedies and solutions to flooding issues; also, meet with SFWMD to get their input regarding the problems created by their design and make sure that SFWMD understands that these properties are in imminent danger
13. **ACTION ITEM:** Mr. Cox to send another letter to the PLCA regarding containment, as required by law
14. **ACTION ITEM:** Mr. Barraco to update worksheet map for Pelican's Nest permit
15. **AGENDA ITEM:** Dredging of the lakes

16. **AGENDA ITEM:** Public Hearing to adopt fees & charges
17. **AGENDA ITEM:** Public Hearing to adopt Amended Rules of Procedure
18. **ACTION ITEM:** Mr. Adams to provide unaudited year-end financial statements
19. **ACTION ITEM:** EarthBalance to attend CDD meeting in the Spring to give wetland report
20. **ACTION ITEM:** 14 days to provide suggestions for firm to perform entry landscape renovations