

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

A Joint Public Hearing and 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 28, 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	District Engineer
Tim Gavins	Barraco and Associates, Inc.
Dr. Serge Thomas	Florida Gulf Coast University
Dennis Anderson	Resident of Palm Colony
Gerry Chevillet	Resident of Costa del Sol
Howard Lowe	UOC Representative
Residents	

FIRST ORDER OF BUSINESS

Call to Order/Pledge of Allegiance

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

At the suggestion of Mr. Cox, Mr. McCarthy requested a motion to continue Item 9 to the December 9, 2013 meeting.

On MOTION for Bay Creek by Mr. McAuley and seconded by Mr. Janek, with all in favor, continuing Item 9, Continued Discuss/Public Participation Policy/Amendment to Rules of Procedures, to December 9, 2013, was approved.

On MOTION for Bayside Improvement by Mr. Hancock and seconded by Mr. Cramer, with all in favor, continuing Item 9, Continued Discuss/Public Participation Policy/Amendment to Rules of Procedures, to December 9, 2013, was approved.

THIRD ORDER OF BUSINESS

Public Comments

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

Mrs. Gerry Chevillet, a resident, discussed the poor conditions of Lake D-7, in Costa del Sol. She recalled requesting assistance from the Board, about four months ago. Aerators were installed, which are not working very well, and LakeMasters sprayed the lake. Mrs. Chevillet indicated that, earlier today, she met with Mr. Kurth and he agreed that the plant material continues to grow and is taking over some of the areas. Mrs. Chevillet pointed out that this lake is considered one of the worst in the community. She reminded Mr. Kurth that residents are paying for this service and the lake should be clean.

Mrs. Chevillet also recalled conveying that her property was on the market and advised that it is extremely difficult to show the property because, when prospective buyers see the lake, they walk away. A neighbor, who is also selling her home, has the same complaint and spoke with Mr. Kurth, in this regard.

Mrs. Chevillet stated that she spoke with Ms. Martel about the lake conditions and the reflection on the community, overall. Ms. Martel indicated that she would provide assistance. Mrs. Chevillet noted that she received amended documents from Pelican Landing and much of the information refers to the appearance of the community and the architecture and landscape; however, the lake is part of the community, as well.

Mrs. Chevillet advised that Mr. Kurth assured her that raking would be performed within two weeks but she questioned why nothing had been done for four months. She stressed that, when this situation reflects on the sale of their properties, action should be taken and someone must oversee the work.

In response to a question from Mr. Hancock, Mrs. Chevillet indicated that Mr. Kurth confirmed that the aerators are not working and he will have someone fix them.

Mr. Hancock recalled a discussion, during Mrs. Chevillet's last visit, regarding the three ropes that were holding the fountain in place and asked if they had been moved. Mr. McAuley confirmed that the ropes were sunk and that the two aerators are not working because of two or three power outages that occurred recently. The problem was reported and Ms. Crismond is working to resolve it.

FOURTH ORDER OF BUSINESS**Staff Report: Engineer (Both)**

- **Outline of Proposed Stormwater System Review**
- **Update: Permit Transfer Activities**

Mr. Barraco reported that the Pelican's Nest system permit was submitted to South Florida Water Management District (SFWMD) for formal operation and maintenance transfer to the CDD. The easement worksheet was updated with the easements that were acquired by the District and it was provided to the District Manager, for dissemination to the Boards.

Mr. Barraco advised that, recently, SFWMD wrote a letter to the District inquiring about three control structures in the Spring Creek tributary. Several years ago, no reference to those structures was found in any permits; however, someone from SFWMD found them and notified Mr. Adams. The District Engineer reviewed, measured and certified them to the District. The District verbally accepted certification and, once formal acceptance is in place, operation and maintenance for those structures will be transferred.

Mr. Barraco indicated that the same process must be followed for the Pelican Landing system as for the Pelican's Nest system. The District Engineer is creating a map of the

easements to ensure that they are all in place; if not, Mr. Barraco and Mr. Cox will work together to identify and obtain those that are missing.

Mr. Barraco advised that several control structures were not within tolerance. An estimate was obtained from a contractor and WCI provided the District with a check for approximately \$10,000 for those modifications, which are underway.

Mr. Barraco stated that, in areas where WCI is active, there are other control structures in need of modifications. WCI will make those modifications and bring them into compliance.

Mr. Barraco explained that there are secondary systems that have their own private dry retention systems before discharging into the master system, which were differentiated because the certifications of those systems are someone else's responsibility.

With regard to the flooding, which occurred during recent significant rain events, Mr. Barraco recalled that some emergency provisions were made, at that time, for an additional pump, due to high water levels. At the Boards' direction, a map was developed by the District Engineer. Mr. Barraco advised that he will review the areas to be studied to ensure that everyone is in agreement and then discuss the recommended steps to be taken.

Referring to the map, Mr. Barraco pointed out the basin, outlined in red, which was the major concern during the flooding and will be the primary study area. Mr. Barraco stated that the blue lines denote areas where there may be some breaching of some berms, where water is flowing and was not intended to flow; this area will be part of the survey measurements that will be taken. The other circled areas are areas that were pointed out that may also have some breach of berms, which will be studied, as well. Mr. Barraco stated that the areas highlighted with a green asterisk are areas where photographs were provided, which will be used to begin a database.

Mr. Barraco advised that residents and District Staff have been recording high water marks and dates so that, when Staff goes out to measure, the elevations can be measured relative to each other; the dates will be documented and the information will be included in the analysis.

With regard to the study areas, Mr. Patterson pointed out that the connection from Lake E-11 to Lake E-15 was missing; however, it does exist. He noted that there are five lakes in the Waterside/Sanctuary area but the map does not show any outflow. Mr. McCarthy clarified that the lake number is E-16, rather than E-15. Mr. Patterson stated that, with the addition of the connection, the five lakes on the left side, together with the lakes in The Tides and north of The Tides, all flow into a very small lake that is on WCI property. Mr. Patterson explained that there

are ten lakes flowing into that small lake, all at the same control level, and they, in turn, flow into the north end of Longlake, which is Lake C-3, also at the same level.

Mr. Patterson stated that all of that acreage is required to flow from Longlake into the lake behind the central fountain. He voiced his concern that the flow is inadequate to drain all of those lakes when they experience substantial rainfall. Mr. Patterson asked to have the piping checked from that area down to where it flows into the Pelican Landing creek. Mr. McCarthy recalled that Mr. Barraco indicated that the entire basin will be analyzed.

Mr. Barraco clarified that the District Engineer is aware that a lot of water is flowing through the area and part of the problem may be that some of the water was bypassing and flowing in, when it was not intended to do so. He confirmed that this area will be analyzed.

Mr. Patterson noted that the entire northeast corner was backed up during the last rainfall. Referring to the map, Mr. Barraco pointed to the area where the water was staging because the control elevation was much higher. He explained that, if the water is finding its way where it was not intended, there is another source of water coming in, which will raise the stage where it was not intended to be and make its way to the north.

Mr. Hancock asked if Mr. Barraco checked the two drains in the wetland at the end of Woodsage Drive. Mr. Hancock is convinced that Lake C-4 is draining backwards through what is probably a non-permitted drain, into another drain into Lake C-3 and it is overflowing C-3. Mr. Barraco stated that it was not checked yet.

Referring to the map, Mr. Pritt asked about an area that was circled in Bay Creek, on Pinewater Place. Mr. Barraco advised that it is an area where a breach is suspected. Mr. Pritt asked if this is the same area of complaint, three or four years ago, with regard to sloping of the back yard. Mr. Adams advised that this is a different issue and it is not related.

Mr. Barraco presented a slide showing that the control elevation to the west is higher than the east and is separated by a berm or a higher elevation. The drawing showed control at 14.85, in the west, and at 12.6, in the east. Mr. Barraco explained that, in a normal pool, the water to the west is already significantly higher than to the east and he feels that this area may be the root cause of the flooding problems.

Mr. Barraco distributed a memo outlining the plan for addressing the flooding issues within Bayside and Bay Creek. He indicated that Staff will be looking at stormwater management lakes, perimeter berms, building pad elevations, control structures, pipes and culverts and swales, canals and ditches. The existing Environmental Resource Permit (ERP)

plans and stormwater management calculations, as well as Lee County Development Order plans, will be reviewed, to include all certifications provided for the water management system. Significant topographic information will be obtained to verify the exact “lay of the land”. The permitted designs and surveyed topographic data will be used to determine what must be modeled, as well as potential modifications. Cross sections will be taken where breaches are suspected. Once the information is compiled, several potential remediation options will be presented to the CDD Boards.

Mr. Cramer noted that he sent Mr. Barraco and Mr. Adams a communication from representatives of the Sawgrass community, who are present at this meeting. He stated that one of the things that he discussed with them was that Mr. Barraco is working on a plan and a proposal. Mr. Cramer wanted to make sure that they were part of the analysis and that they know that the Boards are working toward a solution for the whole community, which includes Sawgrass. He pointed out that the residents are very cooperative and knowledgeable and he encouraged them to continue.

Mr. Barraco suggested that residents collect information, such as water elevations and dates, and email them to him. Mr. Pritt requested that the information be sent to Mr. Adams, for dissemination to Mr. Barraco.

Referring to the memo, Mr. McCarthy asked to add “and files” after “Lee County Development Order plans” and, under the fourth bullet, he requested that, if the District Engineer finds that there are differences between what is on the ground and what is shown on approved plans or documents, he determine who was responsible and what their role was, for the purpose of liability. Mr. McCarthy noted that, if Mr. Barraco finds that everything was built according to plan, there is a design issue. If there are discrepancies between what was designed and what was built, it must be reviewed.

Mr. Hancock requested an estimate of the number of days required to complete each task in the memorandum. Mr. Barraco stated that a schedule will be provided with the revised memorandum.

Mr. Pritt asked if this project was budgeted and, if so, how much. Mr. Barraco pointed out that, when flooding occurred, it was considered an emergency condition. His firm was on site and a pump was installed; there are costs associated with the pump, to the contractor, and for everything that took place. Mr. McCarthy asked if these costs will be absorbed in the Fiscal Year 2013 budget. Mr. Adams replied affirmatively.

In response to a question from Mr. Pritt, Mr. Adams indicated that several items, under “Water Management”, could apply to this particular case, such as culverts and drains. He also noted that there are some excess dollars under “Lake Health”. Mr. Barraco pointed out that remediation could be a significant cost.

Mr. Pritt stated that Board Members should first determine the scope of work, obtain an estimate with regard to cost and then determine whether to approve authorization to proceed. He cautioned against an “ad hoc” approach before an estimate is obtained.

Mr. Adams suggested a brief discussion regarding follow-up to letters regarding illicit discharge that were sent by the District Attorney. At the Boards’ direction, Mr. Cox sent a letter to the PLCA and The Colony with regard to their tennis courts and the runoff that was witnessed in September, during the 5” rainfall. Mr. Adams reported that he met with both parties. The General Manager of The Colony wanted to share with him what was being done. Mr. Adams showed a photo of a gravel ditch, which is approximately 16” to 2’ deep and 2½’ to 3’ wide.

Mr. Adams indicated that, on the west side of The Colony courts, there is an interface with an inlet, next to the court, with a concrete base across it and a drop-off of about 1½’. Modifications are being made around the drain so that water comes off of that location, flows into the ground and is forced down into the gravel pit, around the outer edge of the inlet structure. Referring to the photo, Mr. Adams explained that, over time, The Colony built up the edge of the court by continuously adding clay and it is now flush with what was formerly a raised brick edge. In the spring, they will scarify the courts and bring them down to the 2” drop, which will help. All of the clay that ran outside of the border will be cleaned up.

Mr. Adams noted that the PLCA has a high-tech drainage system around the courts, with aluminum grates. Mr. Adams reviewed the courts with Ms. Martel, Mr. Richardson and Mr. Ritzman, who installed the courts and the drainage system. Discussion took place with regard to the brick edge; there was some resistance, at first but it later became obvious that Ritzman had not scarified the clay down; rather, a layer of brick was added on the sides. As water builds up on the courts, it will go to the bricks and drain into the drainage system. During the tour, it was disclosed that a rock ditch will be added, as an additional layer of protection on the outside of the newly installed drainage system. As that fills up and begins to overflow, it will flow into a rock ditch.

Mr. Adams concluded that both associations are headed in the right direction. The rock ditch for the PLCA will be dug in the spring and The Colony will scarify their courts and reestablish the brick edge.

Ms. McVay asked if the PLCA and The Colony were amenable to having a rain gauge. She pointed out that, last month, which was one of the rainiest months, the tennis courts went over their water allotment. Mr. Adams stated that he did not discuss irrigation; the meeting was strictly about illicit discharge. Mr. Glueck confirmed that both associations have rain gauges.

Mr. Glueck asked if Pelican Landing is considering lowering their tennis courts. Mr. Adams replied it does not appear so; another layer of brick was added to force water towards their drain system.

In response to Ms. McVay's question, Mr. McAuley confirmed that Ms. Martel is aware and met with Mr. Richardson regarding the overuse of water at a time when there should not have been any.

Mr. Hancock asked Mr. Adams if there was any discussion regarding building permits for the tennis court projects, as he felt that, by virtue of the dollar amount, a permit is required and containment barriers must be installed while work is being performed. Mr. Adams stated there was no discussion; however, he believes that a permit is required to dig a ditch and install rock. Mr. Hancock indicated that, in most places, it depends upon the dollar amount.

Mr. McCarthy advised that the Land Development Code in Bonita Springs requires a permit for improvements of land and this is an improvement. He stated that the modifications being made affect the SFWMD permit, as well. Mr. McCarthy stressed that, if the Districts were performing this work, a permit would be obtained.

Mr. Adams clarified that he was not at the meeting in that capacity.

Mr. McCarthy stressed that what was on the ground before the project began was under an approved permit and this is clearly a modification. He felt that a local permit and a SFWMD permit are required. Mr. Barraco noted that, if the CDD were doing the project, he would suggest contact with the city and SFWMD.

Mr. Hancock voiced his opinion that the Districts have an obligation to protect their lakes and, if something is occurring that puts them in danger, Board Members must be proactive. Mr. McCarthy pointed out that containment barriers will not be used to protect from runoff, which is a requirement when a permit is obtained. He stressed that it affects the CDDs' status with

NPDES because there is nothing to inspect if permits are not obtained. He agreed that the Boards have a responsibility to follow up, in this regard.

Mr. Cramer asked Mr. Cox if he received a written reply from the PLCA regarding remediation or if they contacted Mr. Adams directly. Mr. Cox advised that the PLCA contacted Mr. Adams; there was no written response.

Mr. Cramer indicated that the attendees from Sawgrass wrote a letter to the PLCA regarding the flooding conditions in their community. Ms. Martel forwarded the letter to both Boards. Mr. Cramer personally responded to the residents and he knew that others had done so, as well. Mr. Cramer explained to the residents that Mr. Barraco was hired by the CDDs to give an overview of the action plan to remediate the flooding problem. The Boards have fulfilled their obligation. Mr. Cramer questioned why the PLCA does not fulfill their obligation to the residents and it is wrong.

FIFTH ORDER OF BUSINESS

**Lake Maintenance Activities Report
(Both): *LakeMasters***

Ms. Crismond advised that Mr. Kurth was unable to attend today's meeting and did not have an opportunity to write a report.

Ms. Crismond reported that Management has observes some "die off" of the existing littorals because they were under water for so long, specifically, spikerush and pickerelweed.

With regard to Lake D-7, Ms. Crismond stated that this lake is discussed often because of the algae within the littoral shelf. She noted that the algae were not touched, to avoid damaging existing littorals. Ms. Crismond recalled that the Board approved installation of an aeration system, which was completed. Management noted that, because of high waters, over a long period of time, the spikerush is stressed. Over the past several weeks, as water levels began to recede, there was some die off of spikerush, which deteriorated and is floating on the top and is unattractive. This will be a continuous cycle. Staff discussed ways to improve that lake. One thought was to remove the outer layer of spikerush and install other littorals, such as yellow canna, blue flag iris and arrowhead. Ms. Crismond pointed out that it is a small pond and estimated the need for no more than 6,000 to 8,000 plants. She stated that, by this time next year, there will be significant improvement.

Mr. Adams estimated that the lake could be reset for \$5,000 to \$7,000. He explained that he would also like to introduce bacopa, which is a low growing ground cover, to provide stabilization of the soil because the lake drops below control quickly and it will prevent erosion.

Mr. McAuley felt that the size of the pond was a large part of the problem with Lake D-7; however, it is solvable. He suggested that, if removing the spikerush works for Lake D-7, it should be done in another lake, with a similar problem.

Other than persistent complaints, Mr. Pritt questioned why Lake D-7 should be made a priority, since it sets a precedent, or if the Boards should listen to Dr. Thomas' recommendations before proceeding.

Mr. Adams commented that several lakes in the community are similar to Lake D-7, in terms of the type of algae, presence of large amounts of spikerush and difficulty in performing a quality mechanical removal without damaging the spikerush. Mr. Adams indicated that this will provide an opportunity for a pilot lake, similar to Lake E-1.

Mr. Pritt asked if Dr. Thomas concurred with Mr. Adams. Dr. Thomas advised that he was not currently working on Lake D-7 but he likes spikerush and was unsure of the type of algae being discussed. Dr. Thomas indicated that it is normal for algae mat to grow within spikerush. Spikerush prevents algae from floating to the center of the lake. Removing the spikerush might eventually allow the algae mat to reach the center of the lake, merge together and, eventually, cover the entire lake. Dr. Thomas stated that there is algae floating within the spikerush but it does not venture outside very much; does and only in very small patches.

Mr. Crew asked if there is a way for the Boards to communicate their actions to the Costa del Sol community. Mr. McAuley indicated that he will relay the information to the board of Costa del Sol and it will be posted.

Mr. McAuley asked to have Mr. Kurth's report transmitted to the Board Members.

On MOTION for Bay Creek by Mr. Glueck and seconded by Ms. McVay, with all in favor, removal of the spikerush in Lake D-7 and replacing it with other littoral plants, not-to-exceed \$7,500, was approved.

On MOTION for Bayside Improvement by Mr. Patterson and seconded by Mr. Hancock, with all in favor, removal of the spikerush in Lake D-7 and replacing it with other littoral plants, not-to-exceed \$7,500, was approved.

SIXTH OIRDER OF BUSINESS

**Lake Health Assessment Project Update:
Dr. Serge Thomas**

Dr. Thomas reported that he submitted the second interim report to the Boards and Staff last month. He stated that he created a presentation that will summarize the report, as well as the information gathered since the last report.

Referring to a slide, Dr. Thomas noted that everything in green was completed. Water samples are being collected and basic lake assessments are being performed, including temperature, oxygen, conductivity, pH and oxidation reduction potential (ORP). A bathymetry was completed for each lake; however, Dr. Thomas wants to verify that the information from Google Earth matches what was measured in the field.

Dr. Thomas indicated that all of the boring was completed, which will indicate how the lakes are doing. From previous experience with Lake E-5, it was found that there is a lot of muck and a lot of phosphorous is tied up with that muck. Dr. Thomas noted that three-fourths of the lakes are phosphorous limited, meaning a small amount of phosphorous will trigger an algae bloom.

On the next slide, Dr. Thomas stated that, in the next month-and-a-half, he and his staff will pull out 61 cores, including Lake E-5. He recalled that the work on Lake E-5 was performed pro bono to ensure that a good benchmark was established and to be able to monitor the effects of using Phoslock. Once Dr. Thomas verifies that the treatment was completed, a comparison will be made. The samples will be taken to the lab to determine total phosphorous, total nitrogen and organic content. Dr. Thomas indicated that he will be very critical of what is in the sediment because, even if the lake water is fine, if the sediment is not, it means that all of the nutrients and organic matter will eventually get back into the water column and might cause a problem, long-term.

Dr. Thomas referred to the next slide and advised that, every month, the oxygen, temperature, conductivity, etc., in the water column, have been measured. Most measurements were done pro bono, meaning he and his staff actually completed much more than they were supposed to do, in order to obtain more data.

On the next slide, Dr. Thomas noted that different processes were used to measure the health of the lake and he and his staff are also looking at the clarity of the water. The information is added together to derive a composite, which gives an idea of how the lake is doing, in terms of water only.

Dr. Thomas indicated that TSI, or Trophic State Index, reflects the health of the lake. The quantities of nitrogen, phosphorus and other biologically useful nutrients are the primary determinants of a body of water's trophic state index.

Referring to a slide, Dr. Thomas stated that only Lake E-11 is doing well. Most lakes have algae problems. In Florida, having low nutrients causes algae problems, which is very important to understand because the Everglades are nearby and the system is very low in nutrients. Algae will grow to a tremendous biomass and, eventually, get to the water column, float and then venture into the open water. From Dr. Thomas' perspective, it is a healthy lake; from the Board and Staff's perspective, it is not a healthy lake. Dr. Thomas pointed out that he looks at the lakes as detention ponds, whereas the Board and Staff look at them as lakes.

Referring to a slide, Dr. Thomas stated that, when lakes are mesotrophic, they are potentially in a good spot for management practices. This is where the difference lies between Dr. Thomas' perception and the District's perception. Most of the lakes are mesotrophic; however, some of the lakes are eutrophic and hypereutrophic, which are nutrient rich. A different type of floating algae grows in these lakes, which can be toxic and they are mostly bad for the lake because, when they decay, the lake will smell bad and release nutrients. Some of them can be toxic to fish, as well.

Referring to the slide, Dr. Thomas indicated that he is very concerned with Lakes A-28 and A-13 because they are high on the spectrum with regard to eutrophication, meaning they are nutrient rich, and they are surrounded by golf courses. He advised that he expects there to be a lot of muck in these lakes, which will be high in phosphorous, as well.

Dr. Thomas explained that the Districts have three types of lakes. Due to the large amount of rainfall, the lake with low nutrients moved from being oligotrophic, meaning low in nutrients and rich in oxygen, to mesotrophic, meaning it is loaded with nutrients. The rainfall was actually not beneficial for the lake because it picked up nutrients in the watershed. The mesotrophic and eutrophic lakes have a medium amount of nutrients. Dr. Thomas found that the rainfall event diluted the nutrients in the lakes and improved the lake quality. He indicated that, when there is a lot of rain, nutrients are picked up by the rain and rain adds nutrients to the lake. He must find a way to capture the nutrients before they enter into the lake and options will be explored. Dr. Thomas pointed out that golf courses have different Best Management Practices (BMPs) than residential lakes and phosphorous can be used, which cannot be used in residential lakes. Phosphorous ends up in the residential lakes, making them very difficult to manage.

Dr. Thomas noted that Lake E-11 remained oligotrophic throughout the entire survey. It may have a lot of algae blooms, in terms of the floating algae mat, but they are the healthy type. The mesotrophic lakes are C-4 and, to some extent, B-4. The eutrophic lakes are E-1, E-5, E-7 and, to some extent, the Ds. These are also a concern. Lake E-5 is eutrophic and already had a great deal of muck and phosphorous. Dr. Thomas suspects that it will remain constant.

Dr. Thomas indicated that the dissolved oxygen (DO) was incredibly low, especially when the rain came. The District would be rated “5”, meaning a healthy lake for fish population; when the amount of dissolved oxygen is below 5, the lake does not sustain a healthy population of fish.

With regard to fish kills, Dr. Thomas stated that the Districts received an unprecedented amount of rain, releasing tannens into the lake, which bacteria love. CO₂ is released, decreasing the oxygen level. Whether or not the lake has an aerator, it will not change because there is so much in the water and it is so easy for the bacteria to process; it is like eating sugar. If the lake is already in a bad position, in terms of trophic status, the condition worsens.

Dr. Thomas reviewed and discussed the remaining slides. He stated that the golf course lakes contain phosphorous. The residents want green turf, for golfing; however, it is normal for the lakes to be unhealthy because of the phosphorous in the watershed and phosphorous triggers algae.

Dr. Thomas indicated that the final report will include a full database, with many statistics and he will input as many variables as possible to try to understand how the lakes work and provide an idea of how to better manage them.

SEVENTH ORDER OF BUSINESS

Public Hearing to Hear Public Comment and Objections to the Adoption of a Proposed Rule Amendment (Both)

- A. Notice of Rule Development**
- B. Notice of Intent**
- C. Consideration of Resolutions Amending the Rules of the District, Relative to its Irrigation Utility Regulations and Rates and Charges for Irrigation Utility Service**
 - **Resolution 2014-1, *Bayside Improvement Community Development District***
 - **Resolution 2014-1, *Bay Creek Community Development District***

Mr. Adams explained that, by adoption of Resolution 2014-1, the Boards will assume new rates, fees and charges for existing services, as outlined in the rule itself, which is an exhibit to the resolution.

Mr. Adams noted that the rule identifies each of the rate categories, beginning with the smallest neighborhoods. The rate is effectively adjusting at the base level, which is where the Districts acquire most of their revenue. It was found that the revenue was not sufficient to offset the variable charge within the budget, which is assignable directly to the amount of usage of the irrigation system. Mr. Adams advised that the base rate is adjusting from \$0.16 per 1,000 gallons up to \$0.53 per 1,000 gallons. He stated that the rule also recognized rate adjustments for Bonita Springs Utilities, which become the penalty rates for each block of 6,000 gallons above the monthly allocation.

Mr. Adams noted that the amendment includes the required Statement of Estimated Regulatory Cost, which is in-house, having no effect on property owners outside the boundaries of the District.

Mr. Adams stated that the affidavits of publication were provided behind Tab 7, indicating that today’s public hearing was properly advertised, for both Districts.

******Mr. McCarthy opened the Public Hearing.******

There were no public comments.

On MOTION for Bay Creek by Mr. McAuley and seconded by Mr. Janek, with all in favor, the Public Hearing was closed.

On MOTION for Bayside Improvement by Mr. Patterson and seconded by Mr. Cramer, with all in favor, the Public Hearing was closed.

Mr. McCarthy opened the floor for discussion.

Mr. Adams indicated that the utility bill now contains a flat fee of about \$58 per year, which is designed to partially offset fixed costs incurred whether or not water is used, such as depreciation and insurance. Mr. Pritt explained that, previously, the residents were charged a variable rate, with no fixed cost; now, the residents will be charged about \$58 to \$60, before the first gallon of water is used. As a result, the rates were adjusted, slightly.

Mr. Cramer asked how the information will be communicated to residents. He pointed out that the association managers are in the budgeting process, for the next calendar year, and this is good information for them to have. Mr. Adams noted that the single-family residents' change would be significant in percentage but not in value, on a monthly basis; however, it may be far more significant for the associations. He stated that Ms. Martel will be contacted to assist with sending the information to the 35 or 36 associations.

Mr. Crew recommended having a CDD representative attend a UOC meeting. Mr. Adams felt that the UOC representative, Mr. Lowe, would be a fantastic vehicle for communication. Mr. McCarthy trusted that Mr. Lowe would report on the CDDs' activities. He asked Mr. Cramer to attend the UOC meeting to answer questions.

Mr. Pritt recalled previous discussion regarding changing the methodology that is used to determine the rates and that the Boards were going to review them at a later date, along with the threshold rates. He voiced his opinion that this would be a logical time to look at them.

Mr. Adams explained that water conservation was fairly new when the CDD began providing irrigation in Pelican Landing and began looking at conservation rates because there was very little cost to produce the water and, as a result, there was no cost to the homeowner to let it run all day. Consequently, the allocation in the well field was being used faster than it could be developed. The conservation rates were put in place to curb those habits. At the time, SFWMD had a policy of 1½" per week, which was responsible watering, for this type of landscape and soil conditions. The 1½" per week was applied to the square footage and used to determine the monthly allocation. Recognizing that the neighborhoods were different sizes, rather than giving each homeowner a specific threshold, it was calculated by neighborhood, based on gross square footage, as platted, and the average square footage for that neighborhood was calculated. He stated that, unless there has been an adjustment in the SFWMD's recommendations for the amount of water, on a weekly basis, Mr. Adams saw no reason for a change to the method of calculation.

Mr. Pritt inquired about the thresholds for the specific neighborhoods. Mr. McCarthy stated that he spent a lot of time reviewing the numbers and 95% of the residents fall within the threshold; 5% do not. He voiced his opinion that the thresholds are correct. Mr. McCarthy pointed out that the largest excesses are in category three and four, which are the larger lots. He feels that the overuse is habitual, rather than numeric. He indicated that the numbers are as close to being right as possible.

Mr. McAuley noted that, whenever an error was discovered, it was corrected. He feels that the Boards are doing the right thing.

Mr. McCarthy advised that the base rate is going from \$0.16 to \$0.53, for residential users. Also, the base rate for commercial users will be \$0.53, the tennis rate will be \$0.53 and the golf course rate will be 0.44. The penalty and conservation rates are being adjusted to the current rates published by BSU, which the CDDs have always used.

Mr. McCarthy asked that the motion for Bayside include corrections to the numbers for Amendment 15, Page 2, under “multi-family”. He pointed out that 0 – 9,000 should be \$0.53, rather than \$.53. Under commercial, 0 – 36,000 should be \$0.53 instead of \$.53 and, for the tennis court rate, he recommended inserting a “0” before .53, for consistency.

On MOTION for Bayside Improvement by Mr. Hancock and seconded by Mr. Cramer, with all in favor, Resolution 2014-1, Amending the Rules of the District, Relative to its Irrigation Utility Regulations and Rates and Charges for Irrigation Utility Service, as amended, was adopted.

On MOTION for Bay Creek by Mr. Glueck and seconded by Mr. Janek, with all in favor, Resolution 2014-1, Amending the Rules of the District, Relative to its Irrigation Utility Regulations and Rates and Charges for Irrigation Utility Service, as amended, was adopted.

Mr. McCarthy recommended sending a letter to the condominium associations informing them of the rate changes, which will serve as a record that the information was communicated to them.

EIGHTH ORDER OF BUSINESS

Irrigation High User Report

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

Mr. McCarthy stated that, when he was working on the numbers, he noted some glitches in the report. He asked the Boards’ approval to meet with Mr. Adams to make the necessary corrections.

NINTH ORDER OF BUSINESS

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

This item was deferred.

TENTH ORDER OF BUSINESS

Approval of September 23, 2013 Joint Regular Meeting Minutes (Both)

Mr. McCarthy presented the September 23, 2013 Joint Regular Meeting Minutes and asked for any additions, deletions or corrections.

The following changes were made:

Line 267: Add “for” between “available” and “further”

Line 289: Insert “notch” in the blank space

Line 429: Change “she owns” to “next door”

Line 549: Add “Richardson” after “Dave”

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

On MOTION for Bay Creek by Mr. McAuley and seconded by Mr. Glueck, with all in favor, the September 30, 2013 Joint Regular Meeting Minutes, as amended, were approved.

On MOTION for Bayside Improvement by Mr. Hancock and seconded by Mr. Cramer, with all in favor, the September 30, 2013 Joint Regular Meeting Minutes, as amended, were approved.

ELEVENTH ORDER OF BUSINESS

Other Business (Both)

• Action Items

Items 2, 3, 4, 5, 9, 12, 17, 18 and 19 were continued.

Item 2, change “maintenance” to xeriscaping plan”

With regard to Item 8, Mr. Glueck stated that Southwest Electric finished installing the lights and added two on both ends of the pergola, for \$390. Based on the comments he has heard, the residents feel that it looks nicer than before. No hanging wires were found from the

low voltage lighting; however, the cord that supplies the low voltage was lying on top of the rocks so it was buried. Subsequently, when the flowers were removed, the cord was uncovered and is visible again. Next week, it will be covered with soil.

Items 1, 6, 7, 8, 10, 11, 13, 14, 15, 16 and 20 were deleted.

TWELFTH ORDER OF BUSINESS

Old Business

There being no old business, the next item followed.

THIRTEENTH ORDER OF BUSINESS

Staff Reports (Both)

A. Attorney

Mr. Cox advised that he has another meeting to attend on December 9 so he must attend the CDD meeting by telephone. Mr. McCarthy suggested deferring the public hearing to January. The Boards agreed.

With regard to the lack of a written response from the PLCA about illicit discharge, Mr. Cox asked if the fact that Mr. Adams is working with them verbally was sufficient for the Boards. Mr. McCarthy voiced his preference to have something in writing, for the record and noted that the PLCA published to the community that the improvements were completed. Mr. Adams indicated that he will send an email request to the PLCA and The Colony.

B. Engineer

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

C. Manager

i. Approval of Unaudited Financial Statements as of September 30, 2013

Mr. Adams presented the Unaudited Financial Statements as of September 30, 2013. He advised that the year-end financial statements will be provided once the accrual period is closed out.

Mr. Adams pointed out that revenues are over budget and expenditures are under budget.

Mr. Patterson asked if this is the last report on General Fund 003. Mr. Adams replied affirmatively.

With regard to the check register, on Page 20, Mr. Hancock pointed out the new vendor, Florida Painters of Lee County, under tree trimming. Ms. Crismond indicated that it was miscoded.

ii. Savings & Money Market Account/Investment Snapshot as of 10/21/13

This item was provided for informational purposes.

iii. NEXT MEETING DATE: December 9, 2013 at 2:00 P.M.

The next meeting is scheduled for December 9, 2013 at 2:00 p.m.

FOURTEENTH ORDER OF BUSINESS

**Supervisors' Requests and Audience
Comments (Both)**

Mr. Pritt commented that the streets continue to be very dirty and feels that the street sweeper is not doing an adequate job. Mr. Adams noted that the trees are dropping leaves; he will contact Mr. Kucera about having the frequency increased.

Mr. Cramer advised that the PLCA will be publishing their new directory shortly and asked Mr. Adams if anyone contacted him with regard to the CDDs' information. He noted that, at the last UOC meeting, there was discussion regarding responsibility and what numbers to call. Mr. Adams confirmed that no one contacted him. Mr. Cramer expressed that the Districts should have an opportunity to review the information for accuracy and updates. Mr. Adams advised that he will contact Ms. Martel, in this regard.

Mr. Hancock expressed concern regarding disjointed and incomplete follow up with residents. Discussion ensued regarding the communication from the residents of the Sawgrass community. Mr. McCarthy pointed out that all communications should be forwarded to Mr. Adams, for response. Mr. Adams advised that he and Ms. Crismond will serve as the points of contact for responses and both Boards will be copied on communications, which will include the disclaimer "Please do not reply to all".

Mr. McAuley conveyed that, at the previous UOC meeting, it was stated that all communications would flow through Ms. Martel and Mr. Adams.

Mr. Crew stated that a letter was received from residents of Bay Cedar. Mr. Adams explained that he reviewed the Bay Cedar buffer today. There are several areas where the ficus are thin because the contractors are still battling white fly. The additional buffers that were installed earlier in the summer are doing well. Across from the Kane residence, the contractor will continue the Calusia to the first set of Sabal Palms, which will provide an additional buffer. In other areas, plants will be added and 10 Sabal Palms will be installed where the cedars were removed.

Mr. Adams indicated that about 80% of the ficus has recovered well. The contractor will treat very aggressively with a granular fertilizer program, which will be applied every other month. A drench will be performed for the white flies, along with liquid fertilizer. The ficus will be trimmed about 2' to encourage flushing at the lower levels and the dead wood will be removed.

With regard to an inquiry regarding the area behind Phase 2, referred to as "no man's land", Mr. Adams recalled that cord grass was installed there two years ago and the residents have now decided that they do not like it. Mr. Adams feels it should be left alone. The area is actually an upland preserve and he advised against installing irrigation and upgraded landscaping for the benefit of four or five homes. A response will be sent to the residents.

Mr. Crew advised that he will meet with Mr. Kucera and the tennis court committee on Thursday with regard to concepts for changing landscaping.

Mr. McCarthy asked for public comments.

Mr. Dennis Anderson, a resident, recalled that, at last month's meeting, he provided a very detailed explanation of what had taken place during the summer at the tennis courts to ensure that everyone understood that the events were not only the result of a major rain storm; almost every time it rained, pollution was getting into the lake from the tennis courts. Mr. Anderson noted that he left the meeting satisfied that the Boards understood what was taking place and that the Boards did what was necessary to solve the problem. He now hears that a reply to District Counsel's letter was not received.

Mr. Anderson advised that he will meet with the Palm Colony board and residents on Wednesday and he will tell them that nothing has changed; the problem is still there and what has already been done has worsened the situation.

Mr. Janek indicated that he feels there has been quite a bit of positive movement forward to solve the problem, with Mr. Adams speaking with Ms. Martel, etc.

Mr. Cox clarified that it is not a lack of a response. A meeting was coordinated with Mr. Adams.

Mr. Anderson voiced his opinion that he heard nothing in the comments made by Mr. Adams that will change the situation that has existed for a long period of time. Mr. Janek reiterated that he heard a lot of positive comments and feels that Mr. Anderson's meeting with the residents will not reflect what took place at this meeting; however, it will reflect what Mr. Anderson thinks happened.

Mr. McCarthy expressed his disappointment that there was no response and the Board instructed Mr. Adams to follow up, in this regard. He confirmed that Mr. Adams will contact PLCA to request a time frame and ask what the program will entail.

Mr. Crew commented that some of this is not the CDD's responsibility; the District's responsibility is to identify that there is a discharge and request corrective actions. He stated that corrective actions are ongoing. The PLCA invested \$70,000 in a drainage system. The Colony has done nothing; however, those plans are in place. Mr. Crew pointed out that time must be allowed for the work to be completed and to see how the system works in storm events.

Mr. Patterson expressed his agreement with Mr. Anderson that there is no written plan, no timetable and no specifications as to what is going to be done.

Mr. Hancock commented that the investment in the Pelican Landing tennis courts will catch a lot of the solids; however, green water will still get into the CDD's lake. Mr. McCarthy voiced his opinion that this is speculation.

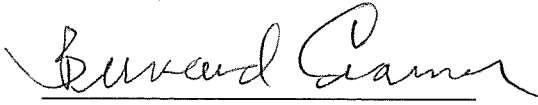
Mr. Adams confirmed that both parties indicated that additional steps will be taken; the courts in The Colony will be lowered and the PLCA is looking at an additional layer of rock trench. Mr. Adams indicated that his directive is to obtain a written response, which he will do.

FIFTEENTH ORDER OF BUSINESS

Adjournment

There being no further business to discuss, the meeting adjourned at approximately 4:25 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:** Assess cul de sacs throughout the community for xeriscaping plan and landscaping issues
2. **ACTION ITEM:** Mr. Barraco to continue to provide the status of certifications.
3. **AGENDA ITEMS:** Continued Discussion: SFWMD Final Notice of Noncompliance Permit Conversion and Transfer to Operating Entity – Pelican’s Nest Permit
4. **ACTION ITEM:** Mr. Adams to work with Mr. Barraco to update asset map
5. **ACTION ITEM:** Mr. Barraco to obtain cost estimates to dredge Lake E-5 and for disposal of dredged material
6. **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
7. **AGENDA ITEM:** Public Hearing to adopt Amended Rules of Procedure
8. **ACTION ITEM:** Mr. Adams to provide unaudited year-end financial statements
9. **ACTION ITEM:** EarthBalance to attend CDD meeting in the Spring to give wetland report
10. **ACTION ITEM:** Send notice to PLCA for web posting of new irrigation rates; Mr. Cramer to attend UOC meeting to answer questions regarding new rates; notify HOAs and condo associations of rate changes
11. **ACTION ITEM:** Mr. McCarthy to meet with Mr. Adams to make corrections to Irrigation Report
12. **ACTION ITEM:** Mr. Adams to request written response from PLCA regarding illicit discharge
13. **ACTION ITEM:** Mr. McAuley to relay the CDD’s plan to remove the spikerush in Lake D-7 and replace it with other littoral plants to the board of Costa del Sol