

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

A Regular Meeting of the Boards of Supervisors of the Bayside Improvement Community Development District and Bay Creek Community Development District was held on **Monday, July 27, 2015 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
John Crew	Vice Chair
James Patterson	Assistant Secretary
Bernie Cramer	Assistant Secretary
John Kaiser (<i>via telephone</i>)	Assistant Secretary

For Bay Creek CDD:

Fred McAuley	Chair
Nelson Glueck	Vice Chair
James Janek (<i>via telephone</i>)	Assistant Secretary
Jesse W. Lawrence (<i>via telephone</i>)	Assistant Secretary
Mary McVay	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Crismond	Assistant Regional Manager
Dan Cox	District Counsel
Wes Kayne	Barraco and Associates
Charlotte McCarthy	UOC Liaison
Clyde Knowles	PLCA Liaison
Lori Clemence	Control Consultant, Clarke Aquatic Services
John Green	Regional Sales Manager, Clarke Aquatic Services
Andrew Gentes	Regional Operations Manager, Clarke Aquatic Services
Dr. Bret Bultemeier	Clarke Aquatic Services
Susan Naj	Resident
Barbara Craig	Resident
Douglas Eakin	Resident

FIRST ORDER OF BUSINESS

Call to Order/Pledge of Allegiance

Mr. McAuley called the meeting to order at 2:00 p.m. All present recited the Pledge of Allegiance.

SECOND ORDER OF BUSINESS

Roll Call

Mr. McAuley asked the Supervisors to state their names. For Bayside Improvement Community Development District, Supervisors Cramer, Patterson, Crew and McCarthy were present, in person. Mr. Kaiser was attending via telephone. For Bay Creek Community Development District, Supervisors McVay, Glueck and McAuley were present, in person. Supervisors Lawrence and Janek were attending via telephone.

Mr. McCarthy noted that Mrs. Charlotte McCarthy was in attendance as UOC Liaison, in an official capacity.

On MOTION for Bayside Improvement by Mr. McCarthy and seconded by Mr. Crew, with all in favor, authorizing Mr. Kaiser’s attendance and full participation, via telephone, due to exceptional circumstances, was approved.

On MOTION for Bay Creek by Mr. Glueck and seconded by Ms. McVay, with all in favor, authorizing Mr. Janek’s and Mr. Lawrence’s attendance and full participation, via telephone, due to exceptional circumstances, was approved.

THIRD ORDER OF BUSINESS

Public Comments: *Agenda Items*

There being no public comments, the next item followed.

FOURTH ORDER OF BUSINESS

Staff Report: Engineer (Both)

• **Conveyance Behind Home at 3701 Bay Creek Drive**

Mr. Wes Kayne, of Barraco and Associates, noted that Ms. McVay expressed concerns, at the last meeting, regarding the Bay Creek area. Mr. Kayne read a the memo prepared following Staff’s meeting with Ms. McVay with regard to culvert modification and design and the impacts it may have on the tributary:

“On July 8, 2015, Carl Barraco, Sr. and Wes Kayne met with Supervisor McVay at her residence to discuss the control structure modifications, addition of

the emergency sluice gates, which is now permitted through the South Florida Water Management District (SFWMD). Supervisor McVay mentioned her neighborhood's location is downstream of this modification and had inquiries regarding the potential impacts with respect to flooding or erosion of the canal banks.

In regard to the downstream flooding inquiry, design intent for the emergency sluice gates is that they will be operated in the event that a significant weather system poses a threat to the development, in order to recover surface water storage prior to landfall. With that said, surface water elevations within the subject basin will be monitored and SFWMD will be notified prior to opening the sluice gates. The sluice gates are intended to be opened 24 to 48 hours prior to a significant storm event, which means the flows allowed by the sluice gates will actually precede the storm event in order to recover the basin's storage at a time when no other systems are discharging at or near peak discharge rates. The resulting discharges will be relatively low-velocity and should not cause any downstream erosion.

The final outfalls for the basin that has been modified to install sluice gates are 24" and 48" concrete pipes which discharge into the Spring Creek tributary. Between the discharge point and the residences on Bay Creek Drive that abut the tributary is the Bay Creek Drive crossing, which utilizes three (3) 72" by 90" corrugated metal culverts to convey the flow to Spring Creek. These pipes are the bottleneck in the tributary. The model for the existing condition indicates a peak discharge of 142 cfs, whereas the proposed model condition indicates a peak discharge of 173 cfs, during the 25-year storm event. This model represents a worst case scenario where the sluice gates are opened through the duration of the storm event. As discussed above, the intent of the sluice gate design is to allow for the recovery of storage on site in the ponds and Heron Marsh prior to the storm event, which would result in flows similar to those of the existing condition. Following the storm event, the sluice gates would be closed and the control structures would function in their previously permitted and functioning capacities.

The five-year, 25-year, and 100-year storm events are the standard events that are the basis of design for residential developments in Southwest Florida (SFWMD and Lee County criteria). The five, 25 and 100-year events are the return periods expected of a certain storm duration and intensity based on historical data. Statistically speaking, this means a storm of a certain magnitude has a one in five, 25 or 100 chance of occurring each year. Minimum road elevations are typically designed at the five-year storm event which means that one might expect the low points of their roadways to have standing water once every five years, statistically. This is assuming that all inlets and drainage conveyances are free of debris and functioning as designed. Perimeter berms are designed at the 25-year storm elevation, which means that one might expect the perimeter berms to be breached once every 25 years, statistically. Finished floor elevations of homes are typically set at the 100-year storm event elevation but may also be set higher due to constraints set forth by FEMA flood maps or storm surge areas.”

Mr. Kayne drove through the community today and observed that it was not as bad as it was two years ago; however, if the gates were installed and another large storm event was projected, discussions would begin about possibly opening the gates to relieve some of the water.

Ms. McVay thanked Mr. Kayne and Mr. Barraco for meeting with her and addressing her concerns.

Mr. Crew stated that, yesterday, at noon, he viewed the area at Lake C-4, at Black Rush Court, where the lake drains into Cypress Marsh. At noon and 4:00 p.m., no water was flowing over the weir. This morning and at 1:30 p.m., Mr. Kucera witnessed water flowing over.

Mr. Cramer inquired about the status of the sluice gates. Mr. Adams advised that today, at noon, Mr. Caldwell indicated that he and Mr. Paul Erhardt missed each other's calls throughout their vacations. Mr. Caldwell provided Mr. Erhardt with an update to the information that was secured at the meeting with Mr. Caldwell and his engineer. Last Thursday, Mr. Erhardt indicated that he planned to present the information, and a proposal, to the Chairman. Mr. Caldwell hoped to have information today; however, Mr. Erhardt was attending a seminar.

Mr. Cramer stated that, from his perspective, WCI was very cooperative and Mr. Cox wrote a very positive letter to them; however, from the Boards' perspective, the Board Members

must ensure that actions are taken at the correct time. Mr. Cramer questioned who would make the decision if something catastrophic were to occur and how the decision would be made.

Mr. McCarthy advised that he took photographs of what transpired over the last few days and sent them to Mr. Adams. Yesterday, the rain gauge on Coconut Road registered .9” of rain. In the photographs, Mr. McCarthy documented that the water level in Heron Marsh rose at least 4” and topped during the night and stressed that the Districts were dangerously close to a bad situation, if not catastrophic, for some residents.

Mr. McCarthy concurred with Mr. Cramer that a methodology or procedure was needed and someone must be tasked with making the final decisions.

With regard to interim authority in the event of a storm event, Mr. Adams advised that he would contact the Chairs, share his thoughts and proceed accordingly.

Mr. Patterson asked who would be in charge if Mr. Adams was not reachable. Mr. Adams stated that Mr. Wrathell would be in charge.

Mr. Adams showed photographs of recent rain events and compared them to the event two years ago. He noted that, on the north end, in Waterside, if another 4” was received, the water would spill into the road. Mr. Adams asked Mr. Kayne if the structure at the animal crossing was revisited, as water should flow faster.

Mr. Patterson indicated that the north and south marshes, beside the animal structure, were partially blocked by grass, which was about 1’ over the bottom of the structure. Mr. McCarthy advised that, yesterday, Mr. Kemp began visiting all of the structures.

Mr. McAuley reported that he walked the tributary this morning and all dams were holding well and there were no issues, from the beginning of the tributary to Bay Creek. Mr. Adams pointed out that the lakes in the Costa Del Sol area were down to control elevation.

Mr. Cramer asked what the next step would be if WCI provided a questionable response to the engineering work already completed. Mr. Adams advised that WCI made a commitment to participate; a follow up letter was received, indicating that, “in the spirit of cooperation, we are going to make a financial contribution.” There is no further dispute with regard to completed engineering work.

Mr. McCarthy indicated that WCI’s technical evaluation of the Districts’ engineering work was that the modifications appeared to be the best solution. With regard to sluice gates, Mr. McCarthy explained that it was the wrong time of year to install the gates; installation must take place during the winter months, when flows are low.

FIFTH ORDER OF BUSINESS

Update: Drainage System Performance Review/Modifications Status Update (Both)

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

SIXTH ORDER OF BUSINESS

Lake Maintenance Activities Report (Both)

For Bay Creek CDD, Mr. McAuley reported that the lakes discussed at the July 24, 2015 Workshop were very full. Maintenance was working at the pump station to ensure that water was flowing correctly.

For Bayside Improvement CDD, Mr. Andrew Gentes, Regional Operations Manager of Clarke Aquatic Services (Clarke), reported that, since the last meeting, about 90% of the shoreline and grasses were treated. He indicated that algae continued to be a challenge, due to intense warmer weather. In July and August, crews would be on site, hand pulling weeds and emergents from the littoral beds.

Mr. Gentes advised that chemical algae treatments were performed in July, using manual and rake boat crews. Proactive measures were taken, using bacteria blocks, enzyme packets and dyes; alum treatments were performed earlier in the season. Mr. Gentes stated that Clarke was working to resolve items identified in a field inspection on June 10, 2015.

Mr. Gentes discussed items that Clarke would focus on in August, as well as follow up items from the June Board Meeting. He noted that, as of last week, three treatments were performed on lake C-4. Weekly chemical treatments and manual raking were occurring in Lake F-16.

Mr. Gentes reviewed photos of the lakes in Bayside.

Mr. McCarthy asked Ms. Crismond to evaluate the current situation.

Ms. Crismond was concerned that Clarke did not have enough crew members on site and that the same conversations take place every month with regard to algae, treatment, water quality and weeds. She stressed that weeds on lake banks were not acceptable, at any time, nor were any of the items listed in the detailed specs of the contract.

Ms. Crismond recalled that the District went out to bid twice; Staff continued to tweak the specifications of the contract, met with the contractors and clearly identified the District's

issues and expectations and Clarke was not meeting those expectations. On Saturday, the District's in-house crew cut down weeds in one of the flow ways.

Mr. McCarthy did not fault Clarke for trying; however, results were not being obtained. There were weeds on the shoreline, littoral plantings were damaged, particularly in Lakes C-1 and C-2, and algae issues were out of control. Mr. McCarthy acknowledged previous issues with Lake F-16, which he assumed would present the most difficulty; however, Lakes E-7 and A-27 never had issues.

Mr. McCarthy referred to Ms. Crismond's comments about Clarke's lack of onsite personnel; upon reviewing the rosters, Mr. McCarthy indicated that Clarke's focus was on manual removal, which he felt was non-productive.

Mr. McCarthy stressed that the contractor must be held accountable and he felt that a 30-day Defective Work Notice was warranted. Mr. McCarthy suggested directing Staff to schedule a meeting on the Friday before the next CDD meeting and provide an evaluation and recommendation.

Mr. Crew was comfortable with issuing a notice of performance expectations but preferred a 60 or 90-day review, rather than 30 days. He recalled that there were concerns when the District entered into the contract and was not willing to make a change without additional review and an opportunity for the contractor to modify practices over a 60 or 90-day period.

Mr. Patterson was in favor of allowing Clarke 60 days to improve their performance.

Mr. Cramer deferred his opinion until a motion was made.

Mr. Kaiser indicated that he shared the concern.

Mr. Patterson motioned for Staff to issue a 60-day Defective Work Notice to Clarke and directed Staff to meet with them prior to the September Board Meeting to evaluate Clarke's progress and make a recommendation.

Mr. McCarthy asked Staff to provide a list of specifics in order to monitor Clarke's progress and work toward a solution.

On MOTION for Bayside Improvement by Mr. Patterson and seconded by Mr. Crew, with all in favor, authorization for Staff to issue a 60-day Defective Work Notice to Clarke Aquatic Services and directing Staff to meet with Clarke prior to the September Board Meeting, were approved.

SEVENTH ORDER OF BUSINESS

Discussion/Consideration of Lake Water and Muck Testing Parameters and Pricing (Both)

Mr. Adams referred to the prices for water and muck testing and explained that pricing was applied to the items discussed at the last meeting. He pointed out that Lake E-14 was listed twice and will be removed. He also noted that Lake F-6 would be changed to F-7 and Lake F-14 would be changed to F-15. The revised amount, without Lake E-14, was \$24,514 for the year, based on the agreed upon parameters, Secchi, total phosphorous, sampling on a per lake basis, core makeup and thickness analysis, and a quarterly report. Since the budget was \$20,000, Mr. Adams suggested removing Lakes A-16 and A-1, reducing the total to \$21,000.

On MOTION for Bayside Improvement by Mr. McCarthy and seconded by Mr. Patterson, with all in favor, authorization for lake water and muck testing with the approved parameters, in a not-to-exceed amount of \$21,000, was approved.

On MOTION for Bay Creek by Mr. Glueck and seconded by Ms. McVay, with all in favor, authorization for lake water and muck testing with the approved parameters, in a not-to-exceed amount of \$21,000, was approved.

EIGHTH ORDER OF BUSINESS

Consideration of Changes to Fiscal Year 2016 Joint Proposed Budget (resulting from 7/24 workshop) Both

Mr. Adams provided the summary pages and reviewed the General Fund 101/001 Combined Budget, Enterprise Fund 401/451 Combined Budget and The Colony General Fund 002 Budget, along with updated spreadsheets for assessable units. He advised that Ponza was added; however, the assessment amounts were correct. “Other contractual – tree trimming” and “Roadway services” were split with the Enterprise Fund, as these are water quality improvement items. Fund balance was utilized to reduce the assessment amounts to the Fiscal Year 2015 levels.

Mr. Adams reported that General Fund 002 was virtually unchanged. Adding Ponza’s 13 assessable units reduced use of fund balance by approximately \$6,000.

With regard to the Bayside Improvement Operation and Maintenance (O&M) summary, Mr. Adams advised that he input the changes provided by Ms. Carlson, zeroed out the items that had double zeros, removed the Fiscal Year 2014 column, leaving the Fiscal Year 2015 and 2016 comparisons, removed the red highlighted items, with the exception of Terzetto Phase II, which was removed from limited service to full service.

In response to a question raised at the July 24, 2015 Budget Workshop, Mr. Adams indicated that The Colony Sales Office site is a single-family home site; it is not zoned commercial and the “common element” reference was incorrect.

Mr. McCarthy pointed out that Ponza was listed under “Multi-Family” and it should be “Single-Family”. Mr. Adams will make the correction.

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

On MOTION for Bay Creek by Ms. McVay and seconded by Mr. Glueck, with all in favor, going to the Public Hearing, was approved.

BAY CREEK ITEMS:

NINTH ORDER OF BUSINESS

Consideration of Aeration Proposals from LakeMasters Aquatic Weed Control, Inc.

- A. Lake D-9 [\$20,973.47]**
- B. Lake D-9 Using Existing 115v Next to Bridge [\$7,278.91]**
- C. Lake D-14 [\$11,720.31]**

Ms. Crismond requested approval of a not-to-exceed amount of \$20,000 to install aeration in Lakes D-9 and D-14.

On MOTION for Bay Creek by Ms. McVay and seconded by Mr. Glueck, with all in favor, a not-to-exceed amount of \$20,000 to install aeration in Lakes D-9 and D-14, was approved.

On MOTION for Bayside Improvement by Mr. McCarthy and seconded by Mr. Cramer, with all in favor, a not-to-exceed amount of \$20,000 to install aeration in Lakes D-9 and D-14, was approved.

TENTH ORDER OF BUSINESS

Irrigation Reports (Both)

A. High User

- i. Bayside Improvement CDD**
- ii. Bay Creek CDD**

These reports were provided for informational purposes.

B. Penalty Usage Summary: *Bayside Improvement CDD*

This report was provided for informational purposes.

C. Zero Consumption

- i. Bayside Improvement CDD**
- ii. Bay Creek CDD**

These reports were provided for informational purposes.

Mr. Crew observed many sprinklers running in the past two days and questioned how to incentivize residents to use rain monitors for sprinkler cutoff on individual homes. He suggested that the Districts purchase monitors and make them available for residents to purchase.

Ms. McVay advised that she was submitting an article for the PLCA newsletter and would include this information in the article and ask residents to review their irrigation bills to determine whether they were overwatering.

Mr. McCarthy discussed a complaint he received from a resident regarding a high water bill and indicated that residents do not understand that their sensors may not be working. Mr. McCarthy agreed with Mr. Crew’s suggestion to purchase rain monitors and make them available for purchase.

Mr. Clyde Knowles, PLCA Liaison, stated that residents asked him why the CDDs water in the afternoon, rather than in the morning, as they do. Mr. Adams advised that it was better for the CDDs to draw water at a different time so that water pressure is not affected.

ELEVENTH ORDER OF BUSINESS

Approval of June 22, 2015 Joint Regular Meeting Minutes (Both)

Mr. McAuley requested that changes to the June 22, 2015 Joint Regular Meeting Minutes be provided to Ms. Crismond.

The following change was made:

Line 43: Change “McCarthy” to “McAuley”

On MOTION for Bayside Improvement by Mr. McCarthy and seconded by Mr. Patterson, with all in favor, the June 22, 2015 Joint Regular Meeting Minutes, as amended, were approved.

On MOTION for Bay Creek by Mr. Glueck and seconded by Mr. Janek, with all in favor, the June 22, 2015 Joint Regular Meeting Minutes, as amended, were approved.

TWELFTH ORDER OF BUSINESS

Other Business (Both)

• **Action Items**

Mr. McAuley reviewed the action items.

Mr. McAuley inquired about the status of Item 1. Mr. Cox suggested asking Mr. Barraco to provide an update at the next meeting.

- Items 4, 6, 8, 9, 10, 11 and 12 were completed.
- Items 1, 2, 3, 5 and 7 were continued.

THIRTEENTH ORDER OF BUSINESS

Old Business (Both)

Mr. Adams reported that the medallions were ordered. He also indicated that approval was obtained for doggy stations and they will be ordered.

FOURTEENTH ORDER OF BUSINESS

Staff Reports (Both)

A. Attorney

There being no report, the next item followed.

B. Manager

i. Approval of Unaudited Financial Statements as of June 30, 2015

Mr. Adams presented the Unaudited Financial Statements as of June 30, 2015.

ii. Monthly Status Report: Field Operations

Ms. Crismond advised that M.R.I. Underwater Specialists' (M.R.I.) reports for culvert inspections and pipe cleaning were received.

Mr. McAuley inquired about the Gold Crest Drive/Bay Cedar Drive culvert drain. Mr. McCarthy reported that the drain was much better this week; however, there was an enormous amount of water flowing from the golf course. He explained that water flows from the two catch basins to the 15th tee, where there is a manhole, makes a turn toward the houses, where another manhole is located, and flows between the second and third house on Bay Cedar Drive, into the Bay Cedar system. Mr. McCarthy suspected a problem in the line between Gold Crest Drive and Bay Cedar Drive, under the golf course or private property, and suggested that M.R.I. inspect the manholes. He also felt that pipe size was an issue because surface water is discharged into the two catch basins and the pipe between the properties is very small.

Mr. McAuley suggested inspecting next summer when the gator course is reconfigured. Mr. Adams recommended having M.R.I. inspect the line to ensure that it is clean all the way through; if it is, then there is a design issue.

Mr. Crew stated that the opening of the catch basin on the west side is smaller than the others, which may be a contributing factor.

iii. NEXT MEETING DATE: August 24, 2015 at 2:00 P.M.

Mr. McAuley indicated that the next meeting will be held on August 24, 2015 at 2:00 p.m., at this location.

FIFTEENTH ORDER OF BUSINESS

Supervisors' Requests (Both)

Mr. Crew reported that, yesterday, a Waterside resident piled yard clippings on top of the storm drain and a Pelican Landing patrol officer removed the clippings, on his own accord. Mr. Crew recognized the patrol officer for taking the action. Mr. Adams clarified that the resident lives in The Sanctuary.

Mr. McCarthy indicated that an officer informed him of a complaint from a Pennyroyal resident; Mr. McCarthy went to the location and observed that the silt guards had washed into catch basin and he removed them, allowing water to flow.

Ms. Crismond reported receiving a call on Saturday from Mr. Mark Leone regarding a blockage. Ms. Crismond called Mr. Zimmerman to ask if sand bags were being used. Mr. Zimmerman went to the location and found that two socks were blocking the drain on Pennyroyal.

SIXTEENTH ORDER OF BUSINESS

Public Comments: *Non-Agenda Items*

Ms. Susan Naj, a resident, asked if letters are sent to residents who block the drains. Mr. Adams advised that the Field Manager went to the house but no one was home. He left his card and will return to speak with the homeowner.

Ms. Naj indicated that she is the Chairman of the Privacy Committee. She asked if the gates on Spring Creek Road were opened and closed by the CDD.

Mr. Cramer stated that he drove down Spring Creek Road on Sunday and, in addition to the gates to the golf courses being opened for maintenance, there are two other gates on the north side, before Coconut Road. One gate slides open and has five locks, four of which are locked to themselves and the other is looped through, with no locking mechanism. The second gate is being held by a twig. Mr. Cramer presumed that The Colony golf course staff, CDD staff and Century Link have keys and access. He suggested that, if security patrols the area, the gates should physically be checked.

Ms. Naj advised that she will meet with the golf courses. Mr. Adams recommended including Mr. Kucera.

Mr. Clyde Knowles, PLCA Liaison, reported that, at the last PLCA Board Meeting, \$5,000 was approved to hire two architects to evaluate the community.

Mr. Knowles thanked the Boards and Staff for taking care of the area going into the ridge and the work performed on Pennyroyal.

Mr. Knowles requested a map that includes the lakes. The map will also be provided to Ms. Naj.

Ms. Barbara Craig, a resident, indicated that, on Sunday, the pipe that runs under the golf course and into the lake burst. She asked if it had been taken care of and who she should call, if it happens again. Mr. Adams advised her to call the golf course.

Mr. McCarthy presumed that the sand trap or the area by the cart path has an inlet structure. A large excavation is taking place and the 17th green is staked off.

Mr. McCarthy reported that a section of the external fence on the golf course property, on the Spring Creek Road side, is leaning inward, creating a security issue.

Ms. Naj stated that both golf courses, Ryan, Mr. Kucera and she will meet regarding the security of the fences.

Mr. Douglas Eakin, a resident, reported that the lights along the entire stretch of Pelican Landing Parkway, from Old 41 to Pennyroyal, were not working.

SEVENTEENTH ORDER OF BUSINESS Adjournment

There being no further business to discuss, the meeting adjourned at 3:36 p.m.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

FOR BAYSIDE IMPROVEMENT:


Secretary/Assistant Secretary


Chair/Vice Chair

FOR BAY CREEK:


Secretary/Assistant Secretary


Chair/Vice Chair