

**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 were held on **Monday, December 7, 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

**For Bay Creek CDD:**

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

**Also present were:**

Chuck Adams	District Manager
Cleo Crismond	Assistant Regional Manager
Dan Cox ( <i>via telephone</i> )	District Counsel
Carl Barraco	Johnson Engineering
Doug Kucera	Field Manager
Paul Kemp	Irrigation Manager
Bill Kurth	LakeMasters Aquatic Weed Control Services, Inc.
Lori Clemence	Clarke Aquatic Services, Inc.
Andrew Gentes	Regional Operations Manager, Clarke Aquatic Services
David Caldwell	WCI Communities
Clyde Knowles	PLCA Liaison
Jack Lienesch	Resident
Charlotte McCarthy	UOC Representative – Pelican Landing
Ann Cramer	Resident
Barbara Craig	Resident
Gail Gravenhorst	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. Supervisor Kaiser was not present.

For Bay Creek Community Development District, Supervisors Lawrence, McVay, Glueck and McAuley were present, in person. Supervisor Janek was attending via telephone.

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

**On MOTION for Bayside Improvement by Mr. McCarthy and seconded by Mr. Cramer, with all in favor, authorizing Mr. Janek'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.

**JOINT BOARD ITEMS**

**FOURTH ORDER OF BUSINESS**

**Staff Report: Engineer (Both)**

• **Update: Permit Activities for Proposed Hyatt Water Park and Discharge**

Mr. Barraco reported that an application was submitted to the South Florida Water Management District (SFWMD) for a water park expansion. SFWMD reviewed the application and requested additional information, which was provided by the applicant. So far, everything appears to be in order; however, some of the discharge from the site may contain additives. Mr.

Barraco suggested asking SFWMD to add a permit condition indicating that, if the discharge contains anything that harms the vegetation, upon notification, the applicant must rectify the damage.

In response to a request from Mr. McCarthy, Mr. Barraco explained that an existing water park by the Hyatt has chlorinated water; however, the expansion is a saltwater facility. The goal was to ensure that discharges do not contain salt or other elements that may damage vegetation but, if damaged occurred, the applicant would be responsible.

Mr. Crew asked if the facility had a saltwater chlorination process or if it was a saltwater pool. Mr. Barraco advised that saltwater pools have a salt content but he did not research the water chemistry, other than to know that there would be salts and other chemicals that may be discharged, offsite. Mr. Adams noted that "Condition #7, Swimming pool discharges", was added to address de-chlorinating the water prior to discharging.

Mr. Cramer referred to a graphic and requested the location of the water slide and the area where the discharge from the Hyatt property would go. Mr. Barraco pointed out the location of the structure, the conservation easement and a 15" pipe and advised that the discharge will flow into the wetland area. Mr. Cramer questioned why the discharge would flow to a mangrove rather than to an already established sewer. Mr. Barraco explained that there are two types of sewers, sanitary and storm sewers, and the discharge must remain in the storm sewer.

Mr. McCarthy researched the issue and, technically, this type of discharge, i.e., chlorinated pool water, is not covered under any SFWMD permit; however, certain Environmental Protection Agency (EPA) recommendations apply. The first recommendation is that the water must be discharged into a sanitary sewer system, where it can be appropriately treated. Rather than adding permit conditions, he suggested requiring discharge into the sanitary sewer system.

Mr. Barraco acknowledged the possibility. He will follow up with the Bonita Springs Utilities (BSU).

Mr. McCarthy advised that, when water is purchased from BSU, BSU charges for sewer; therefore, the applicant was already being charged. Since the discharge is water supplied by BSU, he did not see how BSU could refuse to accept the water back into its system, which is what is done elsewhere. Mr. McCarthy noted the potential of a very large discharge, should the pools need to be emptied, which he did not want on Pelican Landing property.

Ms. Barbara Craig, a resident, stated that she has been involved in the discharge issue from the beginning and testified at the Zoning Committee and City Council meetings. The discharge is 300,000 gallons of chlorine treated water. In most jurisdictions, including Florida, swimming pool water is called “human waste water” and should not enter the storm sewer; it should be directed to the sewer system. Ms. Craig pointed out that children will be in tubes and splashing, so there must be a way to handle the overflow. She explained that, after awhile, pool water becomes unbalanced and the only way to bring it back into balance is to drain the pool 1’ or 2’, which is likely to happen, since the pool will be used daily, by hundreds of people. The appropriate place for the water is the sewer system, where it can be treated.

Mr. McCarthy stated that the overflow will go to the dry detention area, where it will be treated. His concern was the large emission, with high chlorine content, onto Pelican Landing property.

Mr. Cramer noted that the system is a replica of the one in Raptor Bay; therefore, Raptor Bay must have a method of discharging wastewater, which would be good to know, prior to the Boards making any decisions.

Mr. Barraco indicated that it would be easy for him to go to SFWMD and advise them that the CDDs would rather have the discharge from the swimming pool facility be directed to the sanitary sewer system. The Districts would also have the opportunity to take exception with the permit if SFWMD issues it without requiring that the discharge be directed to the sanitary sewer system. Mr. Barraco suggested working with SFWMD with regard to separating the stormwater and the pool water and directing the pool water to the sanitary system.

Mr. Crew felt that this may not be the best solution for the overall community. BSU may feel that the discharge would throw their system out of balance; therefore, he was not sure that the Districts should dictate this as the only solution.

Mr. Barraco noted that no one has quantified the amount of water that would go into the sewer system. By proceeding in accordance with the motion, the Hyatt would begin to quantify the amount of discharge in an effort to sway the decision, one way or the other.

Mr. McCarthy pointed out that the request to SFWMD would create a dialog with respect to the permit and he would rather take this stand, particularly when it is consistent with the EPA’s recommendation.

**On MOTION for Bay Creek by Mr. Glueck and seconded by Mr. Lawrence, with all in favor, requesting that the SFWMD permit require that the chlorinated discharge be directed to the sanitary sewer system, was approved.**

**On MOTION for Bayside Improvement by Mr. McCarthy and seconded by Mr. Patterson, with all in favor, requesting that the SFWMD permit require that the chlorinated discharge be directed to the sanitary sewer system, was approved.**

▪ **Update: Field Supervisor**

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

Mr. Kucera reported that, since the last meeting, there were issues with the Celosia annuals in The Colony. The plants were pulled, at the neighborhood signs, and geraniums were planted, early. Staff continues to lay pinestraw, which should be completed by December 18. In Pelican Landing, the Pinewater cul-de-sac was redesigned. Macho Fern, Green Arboricola, Gold Mound Durante and Green Island Ficus were planted. The annual bed now extends 360 degrees of the cul-de-sac. Christmas lights were installed at the U.S. 41/Pelican Parkway entry and on the sides. The work on the central fountain was completed on November 13. Mulch was installed at the Community Association building and tennis court area. Palm tree trimming should be completed by January 1, 2016.

Discussion ensued about pruning all of the plants to prevent them from looking shabby.

Mr. McCarthy stated that, prior to the meeting, Ms. Crismond advised him that the television show about Mr. Kucera's surgery won an emmy.

▪ **Update: Irrigation Supervisor**

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

Mr. Kemp reported that water levels were good, due to the 1.5" of rain received in the past week. There was a main line break on Halloween, forcing staff to shut down the pumps. Moving forward, there is a program in place to locate the isolation valves, as the vegetation was overgrown and the valves may require service. Mr. Kemp noted that the annuals program should be completed today.

With regard to the water main break on the corner of Pennyroyal Drive and Woodsage Drive, Mr. Cramer spoke to the homeowner, who was appreciative of the communication from

the CDDs. The homeowner had not received a water bill for three months. Mr. Kemp will inspect the meter.

Mr. McCarthy asked how long the pumps were down. Mr. Kemp stated that the pumps were shut off, periodically, in the daylight, on Wednesday and Thursday, and came on at night so that residents could water. The pumps were off from Friday morning until Saturday evening. Mr. McCarthy pointed out that the income from irrigation was unusually low for last month and wondered if that was the reason.

▪ **Permit Activities for Proposed Hyatt Water Park and Discharge**

Discussion of the proposed Hyatt Water Park and discharge resumed. Mr. Barraco stated that he would like to meet with the supervising professional and asked Mr. McCarthy to accompany him.

**FIFTH ORDER OF BUSINESS**

**Update: Drainage Remediation Project - Sluice Gate Supply and Installation Proposals Status**

Mr. Barraco contacted the gate manufacturer and the Districts will receive 12-gauge gates, rather than 15-gauge gates, for a minimal cost difference. The low bidder has not provided an updated proposal. He advised of a concrete contractor who was not asked to bid, initially, because the project involves pipe work and he does not do pipe work; however, now, the sluice gate installation is more of a concrete project. Mr. Barraco noted that the low bidder cannot perform the work until March but suggested securing dates at the current prices. Stevens and Layton, Inc., should provide an estimate on Friday and he will request a proposal from the concrete contractor for discussion at the January meeting.

Mr. Barraco suggested a March target date for construction. For the 12 structures, the current price is \$30,723 for aluminum and \$39,520 stainless steel. There is an additional cost for lockable gates, which he felt would be a hindrance, should an emergency arise.

**On MOTION for Bay Creek by Mr. Glueck and seconded by Ms. McVay, with all in favor, appropriating Bay Creek's share of the sluice gate purchase, in a not-to-exceed amount of \$33,000, for aluminum gates, and that the funds be appropriated from Enterprise Fund 451, were approved.**

**On MOTION for Bayside Improvement by Mr. McCarthy and seconded by Mr. Crew, with all in favor, appropriating Bayside Improvement’s share of the sluice gate purchase, in a not-to-exceed amount of \$33,000, for aluminum gates, and that the funds be appropriated from Enterprise Fund 401, were approved.**

▪ **Update: Bocce Ball Court**

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

Mr. Barraco reported that it was thought that the project was ready to move forward until SFWMD determined it to be a major modification to the permit, which increases the permit application fee by \$2,000. Since he and Mr. McCarthy will meet with the supervising professional, Mr. Barraco suggested waiting until the meeting and then trying to convince SFWMD that the project does not warrant the additional fees.

**BAYSIDE IMPROVEMENT CDD ITEM**

▪ **Consideration and Acceptance of Conveyance of the Cielo Water Management Lake and Transfer of the SFWMD Permit for the Cielo Water Management System from the Developer to the District**

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

- **Special Warranty Deed for Lake**
- **Ownership and Encumbrance Report for Title Information on the Lake**
- **Form 62-330.310, Request for Transfer of Permit to the Perpetual Operation Entity**
- **City of Bonita Springs Development Order Final Certificate of Compliance, dated 7/16/15**
- **SFWMD ERP Surface Water Management System Construction Completion Certification**
- **SFWMD ERP#36-01620-S-12, App#120928-11 for the Cielo W/M System**
- **Grant of Easement (LME) Recorded Instrument #201300096308**
- **Grant of Easement (DE), Recorded Instrument #2013000081632**
- **Grant of Easement (DE), Recorded Instrument #2013000096309**

Mr. Adams indicated that Mr. Caldwell’s presence was required and suggested deferring this item.

**On MOTION for Bayside Improvement by Mr. McCarthy and seconded by Mr. Crew, with all in favor, deferring the Consideration and Acceptance of Conveyance of the Cielo Water Management Lake and Transfer of the SFWMD Permit for the Cielo Water Management System from the Developer to the District, was approved.**

**JOINT BOARD ITEMS**

**SIXTH ORDER OF BUSINESS**

**Lake Maintenance Activities Report (Both)**

**i. Bay Creek CDD: *Lake Masters Aquatic Weed Control***

**\*\*\*This item, previously Item 6.ii., was presented out of order.\*\*\***

Mr. Kurth reported that the aeration in Lake D-9 was not working, due to an electrical issue.

Mr. McAuley inquired about Lake D-7. Mr. Kurth advised that the “sweater” type of algae was beginning to grow in the lake. About two years ago, excessive spikerush in Lake D-7 was killed and, during the process, sweated algae was removed. Much of the spikerush has grown back and is making treatment complicated. Mr. Kurth wanted to trim the spikerush and dredge the spikerush and algae from the lake, to make a long-term impact on the lake. This will remove the food source for the type of algae that is growing, as well as some of the nutrients from the system.

Mr. McCarthy reported that Copperleaf was experiencing similar issues and manual removal was being performed in some of the lakes. He asked if something was “going on”, this year, because Copperleaf lakes rarely had any issues. Mr. Kurth stated that, this year, Copperleaf completed a major golf course renovation and LakeMasters Aquatic Weed Control (LakeMasters) had limited access to many lake banks for an extended period. None of the algae is the resistant type and most of what was removed was alligator weed. When LakeMasters did not have access to the lake banks, they were in the process of getting control of the alligator weed and were relatively unsuccessful, in some of the lakes; therefore, manual removal was being performed. This morning, Mr. Kurth rode through Copperleaf with Mr. Dore-Smith to ensure that cleanup activities did not cause any difficulties for the golf course.



Mr. Patterson noted that the west end of Lake D-8 is usually full of algae. Mr. Kurth explained that there is an island of bull rush in the lake where the depth is low and the amount of muck is unusual. This is a large, expansive area where excessive algae tends to grow because the depth is shallow. Prevailing winds blow the algae from that area to the west end of the lake. Mr. McAuley asked Mr. Kurth to inspect the lake.

**ii. Bayside Improvement CDD: *Clarke Aquatic Services, Inc.***

***\*\*\*This item, previously Item 6.i., was presented out of order.\*\*\****

Mr. Andrew Gentes, Clarke Aquatic Services, Inc., (Clarke) reported that Clarke has been working hard to get everything under control. Of the 74 sites that Clarke is overseeing, the majority were in compliance. There were field audits on October 19 and December 1. Follow ups are scheduled for the sites that are not in compliance; the majority are for algae or tall grasses that were treated and must be manually removed.

Mr. Gentes recalled discussion, at the last meeting, about cutting the edges to create a clear boundary between the turf and the pond. In preparation for spring, Clarke is working with the property management group to ensure clear, defined edges between the turf and aquatic sites, continues to focus on algal blooms, using manual crews to remove larger vegetation areas, and proactive targeted spot treatments. Crewmembers are on site, daily, using backpacks, spray bottles and other equipment to target small weeds in areas where there are large plant beds on the shorelines to prevent larger growth in the summer.

With regard to fluridone applications, Mr. Gentes advised that the details would be provided at the January meeting. Fluridone is also referred to as Sonar and it is a systemic application for water. In Bayside, the primary use will be for bladderwort and slender spikerush. Clarke reviewed records of the sites treated in the past and involved its applicators as “eyes in the field”, cross-referencing the list to determine the best sites to treat with fluridone.

Ms. Crismond asked if Mr. Gentes was indicating that no submersed applications would be performed until the spring. Mr. Gentes clarified that fluridone applications will occur in early spring but diquat, coppers and/or hydrothal active ingredients were currently being used.

Mr. Patterson noted a continuing problem with Lake A-7. Mr. Crew advised that Clarke hand raked Lakes A-7 and A-8, last week. Mr. Gentes indicated that the lakes are side by side but Clarke has better control of Lake A-8. Both ponds have had bladderwort, slender spikerush, chara and alga. Mr. Gentes did not know why there was greater difficulty with Lake A-7. Mr.

Patterson pointed out that Lake A-7 borders two golf courses; therefore, many people notice it and he received many comments.

Mr. Gentes will have additional crews work on the lake to make sure that it looks aesthetically pleasing.

Mr. Crew pointed out that there is no aeration in Lake A-7 or A-8, which may be a benefit.

Mr. Gentes advised that the lakes are fairly shallow and there are not a lot of plantings or plant types taking nutrients.

Mr. Patterson asked how much of the edge cutting between the turf and aquatic sites was necessitated by Clarke not taking care of the grass in the lakes in the spring. He stated that it could have been stopped then but it became progressively worse and, now, it is a major project. Mr. Gentes indicated that cutting edges is more to define the boundary; however, earlier in the spring, Clarke could have done more.

Mr. Jack Lienesch, a resident, advised of aeration system repairs on Lake View, in Waterside. There were three aerators but now there are two and each has a bottle attached. Mr. Lienesch also reported seeing a boat in the lake traveling at high speed and questioned how the boat was able to access the lake. Mr. Gentes will follow up on the aerator issues.

With regard to the boat, Mr. Crew explained that boats are used to churn up the lake and spread herbicides. Ms. Crismond stated that the boat was “cutting up the algae and knocking it down”.

With regarding to cutting the edges, Mr. Lienesch asked if an herbicide is sprayed in the dead space after material is removed, to prevent regrowth. Mr. Gentes indicated that, in the summer, when water levels are high, Clarke treats about 2” into the turf and herbicides are used to prevent overgrowth.

**BAYSIDE IMPROVEMENT CDD ITEM**

- **Consideration and Acceptance of Conveyance of the Cielo Water Management Lake and Transfer of the SFWMD Permit for the Cielo Water Management System from the Developer to the District**

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

Mr. McCarthy rescinded the motion to defer this item.

- **Special Warranty Deed for Lake**

- **Ownership and Encumbrance Report for Title Information on the Lake**
- **Form 62-330.310, Request for Transfer of Permit to the Perpetual Operation Entity**
- **City of Bonita Springs Development Order Final Certificate of Compliance, dated 7/16/15**
- **SFWMD ERP Surface Water Management System Construction Completion Certification**
- **SFWMD ERP#36-01620-S-12, App#120928-11 for the Cielo W/M System**
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- **Grant of Easement (DE), Recorded Instrument #2013000096309**

Mr. David Caldwell, of WCI Communities (WCI), stated that Cielo is a condominium project in The Colony. There is a lake in the middle of the community, which is the Cielo Water Management Lake. Easements were granted previously; therefore, the only item remaining was the conveyance of the lake to the Bayside Improvement CDD. Mr. Caldwell advised of approvals from the City and the SFWMD for the design and construction. There are aerators and a decorative fountain in the lake and WCI recently replanted the perimeter with littorals.

Mr. McCarthy asked who will maintain the decorative fountain. Mr. Caldwell stated that the decorative fountain will go to the condominium.

Mr. Patterson asked Mr. Adams to explain why the District should accept the conveyance. Mr. Adams recalled that, many years ago, when WCI questioned whether certain assets should be turned over to the Pelican Landing Community Association (PLCA), The Colony Foundation or the CDD, it was determined that ownership of the lake tracts by the Districts, with their sovereign immunity protection, limits the amount of liability exposure for the community. With regard to The Colony, the District owns the majority of improvements because it paid for them through the bond issue; therefore, it made sense to have fee title ownership underneath the ponds as they are turned over to the District.

Mr. Patterson pointed out that not all lakes are owned by the District; some are owned by individual homeowners associations (HOAs) and the Pelicans Nest golf courses own their lakes. The District maintains the lakes but ownership is not required for the District to provide service.

Mr. Patterson stated that WCI's plan involves several lakes and different systems between the lakes and between the retention areas and there could be problems. He wondered if not accepting WCI's proposal was considered.

Mr. McCarthy did not recall the Boards ever denying a request to take ownership and fee simple title to a lake; however, as a member of the Bayside Improvement CDD, Mr. Patterson had every right to question the conveyance.

Mr. McAuley asked what CDD lakes belong to HOAs. Mr. Adams explained that there are small lakes surrounded by an HOA that were included in the parcel when it was developed. The Districts received what was needed, in terms of operations, when the permits were transferred from the construction phase to the operational phase. In the future, it makes sense to contact those HOAs and explain the benefits of conveying the lake tract to the District, as it removes their exposure.

Mr. McAuley stated that this is the first time he heard of a neighborhood association owning a lake, other than the Pelicans Nest lakes, and asked for their locations. Mr. McCarthy will provide the information.

Mr. Janek indicated that Lake D-14 is in The Point and The Point owns the lake; however, there is an agreement with the CDD, for maintenance.

Mr. Crew motioned to accept the conveyance of the Cielo Water Management lake and transfer of the SFWMD permit. Mr. Patterson seconded the motion.

Mr. Cramer requested adding that approval of the permit transfer be contingent upon Mr. Barraco's review.

**On MOTION for Bayside Improvement by Mr. Crew and seconded by Mr. Patterson, with all in favor, acceptance of the conveyance of the Cielo Water Management Lake and transfer of the SFWMD Permit for the Cielo Water Management System from the Developer to the District, subject to the District Engineer's review of the documents, was approved.**

▪ **Consideration of Clarke Aquatic Services, Inc., Second Year Contract Option for Lake Maintenance Services**

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

Ms. Crismond was not satisfied with Clarke's results. While Clarke was working hard to bring everything into compliance, Staff must address the same issues after each tour. Residents continue to complain. Algae was always a struggle, although, one year ago, certain areas were better controlled. Invasives, weeds and grasses are now a concern. On the most recent tour, the

same issues were observed. Ms. Crismond asked the Board to discuss whether to terminate Clarke’s contract, which contains a 30-day termination clause, with or without cause.

Mr. McCarthy requested Ms. Crismond’s recommendation. Ms. Crismond felt that the District should dismiss Clarke and reconsider LakeMasters.

Mr. Adams stated that Ms. Crismond was on the phone all summer due to the constant lack of compliance. Mr. Adams acknowledged Clarke’s increased efforts in August and September. Staff advised them that the lakes were much improved and to continue their efforts but that did not happen. Lake D-7 is the worst lake and it is not on the list of those requiring attention. Grasses are growing 18’ from the shore and they are covered with algae. Staff is “jumping from fire to fire” and the lakes show no improvement from chemical treatment. The system requires a comprehensive approach, with chemical treatments, manual labor, and a lot of attention, expertise and experience, which were lacking in the first half of the first year of the contract.

Mr. Adams indicated that he spoke with LakeMasters, in anticipation that a contract may be considered. LakeMasters will hold the pricing from their last bid. Funds would be necessary, up front, for an initial cleanup, to bring the lakes back into compliance.

**On MOTION for Bayside Improvement by Mr. Crew and seconded by Mr. Cramer, with all in favor, terminating the Clarke Aquatic Services, Inc., contract and authorizing Staff to enter into negotiations with LakeMasters Aquatic Weed Control, Inc., for lake maintenance services, based on their previous bid and recognizing that they were the lowest responsible and responsive bidder, were approved.**

**SEVENTH ORDER OF BUSINESS**

**Irrigation Reports (Both)**

**A. High User**

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

Mr. McCarthy noted that revenues for October were exceptionally low and he did not understand the reason. The pumps were not working for two of the days that irrigation is permitted but the difference was much greater.

**B. Penalty Usage Summary: *Bayside Improvement CDD***

This report was provided for informational purposes.

**C. Register**

Mr. Patterson noted programming issues with the report.

**D. Zero Consumption**

**i. Bayside Improvement CDD**

**ii. Bay Creek CDD**

These reports were provided for informational purposes.

**BAYSIDE IMPROVEMENT CDD ITEM**

**EIGHTH ORDER OF BUSINESS**

**Consideration of Right of Entry Agreement to Maintain Landscaping at The Bay Club in The Colony**

This item was presented following the Thirteenth Order of Business.

**NINTH ORDER OF BUSINESS**

**Consideration and Acceptance of Conveyance of the Cielo Water Management Lake and Transfer of the SFWMD Permit for the Cielo Water Management System from the Developer to the District**

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- **Grant of Easement (DE), Recorded Instrument #2013000081632**
- **Grant of Easement (DE), Recorded Instrument #2013000096309**

This item was discussed after the Sixth Order of Business.

**JOINT BOARD ITEMS**

**TENTH ORDER OF BUSINESS**

**Continued Discussion: Aerial Wetland Monitoring**

Mr. Adams reported that the firm he contacted, Naples Studio, was very interested in aerial wetland monitoring and four or five other communities in the area would be interested in a similar program.

Mr. Adams explained that Naples Studio is basing the price on acreage. The first flight will include setup and a series of GPS coordinates will be mapped out. During the first flight, the camera will be correctly angled and focused so that private property is excluded. Once the grid is completed, the same pattern will be flown each time.

Mr. Adams advised that there are 167 acres of wetlands. The first flight is approximately \$6,000 and subsequent flights are \$4,700, based upon one flight per year. If more frequent flights are desired, Mr. Townsend will work with the Districts on the price. Video will be provided, which will be time and date stamped. Each year, side-by-side comparisons will show whether vegetation is improving or declining.

Mr. McAuley felt that residents should be informed beforehand. Mr. Adams stated that Staff was tasked with policies and procedures and Mr. Cox is performing research. Mr. Townsend advised him that drones are not currently regulated and he has applied for certification. Mr. Adams informed Mr. Townsend that the Districts will be developing policies and procedures and the biggest task will be notifying adjacent property owners. Mr. Townsend felt that was the best thing to do. Mr. Adams anticipated a blanket newsletter or communication to the PLCA indicating that drones will be flown over CDD wetlands, to include dates and times, prior to a flight event. Emails to certain neighborhoods bordering on the wetlands may also be sent.

Mr. McCarthy was less concerned about resident calls about the drones because the property appraiser flies the county once per year and takes aerial photographs and publishes them, for public record. Real estate agents are also using drones to take aerial photos of properties for sale. He agreed with notification but did not foresee any issues related to drone flights.

Mr. Cox contacted List Serve to find out if anyone developed a policy but did not receive a response.

Mr. Cramer researched drone usage and found that there are a number of restrictions, which the FAA is currently developing.

Mr. Lienesch suggested that, when drone usage is publicized, security should be notified.

Ms. Craig questioned the added value of using drones versus Google Earth. Mr. Crew stated that invasive species will be identified. Google Earth's pictures are not consistent, with regard to photo dates. Mr. Adams noted that the footage can be manipulated and matched up with the same time frame in the prior year.

Ms. Charlotte McCarthy, UOC Representative – Pelican Landing, suggested a drone presentation, for residents, to explain the program.

Mr. Adams will ask Mr. Townsend to make a presentation at the January meeting.

Mr. Cramer provided information regarding HOA laws and new Florida laws, effective July 1, 2015, related to drones.

Mr. McCarthy suggested a “dry run” in order to view a sample of the video to be provided by the drone.

Ms. McVay noted that there are 23 acres of wetlands in Bay Creek. Mr. McCarthy indicated that total wetland acreage is 190.

**ELEVENTH ORDER OF BUSINESS**

**Discussion: Potential Merger of CDDs**

Mr. McAuley stated that this is a maturing community and the two largest debts will be eliminated, in May; therefore, he wished to discuss the possibility of merging the two CDDs and becoming one Pelican Landing CDD Board.

Mr. Glueck was not in favor of merging. He felt that a five-member board may lead to split votes and, while all Board Members want to make Pelican Landing as attractive as possible, how that goal is reached may be different. Mr. Glueck pointed out that the needs of The Colony and single-family homes are different from the condominiums and villas and he was not sure there would be adequate representation if Bayside was in charge of the budget. He wants to maintain resident input on what they think the CDDs should be doing.

Ms. McVay recalled Mr. Cox advising of changes being discussed in Tallahassee, such as not requiring a five-member Board.

Mr. Cox stated that his previous partner is working on statute revisions, as is another law firm that works with CDDs. If a bill is to be introduced, Mr. Cox could ask a former Board



Member, who is a member of the House of Representatives, to sponsor an amendment. If the amendment does not address Board Members' concerns about dividing the CDDs into voting districts, for equal representation, and having a seven-member board. He saw no sense of urgency to make a change. There will be an election next year and Mr. Cox suggested waiting to see what the legislature does and what the new boards look like before making a decision.

Mr. Crew felt that a merger is a long-term goal; one Board would be good and a seven-person Board would be very good. If the Districts could suggest changes to the legislation to allow that to occur, it would serve the community well.

Mr. Cramer stated that, pursuant to his research, the legislature is working on a combination of issues for HOAs and condominiums. He indicated that the Board Members are elected officials and represent the PLCA and members of the community vote for them. This may be a good idea, in the long run; however, there will soon be a change in the community and that may be a driving factor in how the Boards view the issues, financially, as well as representing their constituency.

Mr. Patterson stated there are two major aspects, financial and representation. He recalled that, previously, the financial burden was so large that discussions about representation were minimal. Mr. Patterson asked if a reasonable goal would be for savings to be accomplished in three years.

Mr. Glueck noted that the savings would be \$17,000 per year.

Mr. McCarthy stressed that a primary consideration should be the size of the community. Bayside is the largest CDD in Lee County, in terms of registered voters. There are other communities with two CDDs, such as The Brooks, Mediterra and Fiddler's Creek, so this is not unique to Bayside and Bay Creek.

Mr. McCarthy questioned what changed Mr. McAuley's mind since the last discussion.

Mr. McAuley indicated that he was always open to the idea but how he voted last took into consideration where Bay Creek was, at the time. "We are one community of Pelican Landing and it would, I think, be better that we act as one community on this Board." He acknowledged the 80/20% makeup of the community and commented that, for a number of years, Board Members commented that it would be nice to have The Colony represented on the CDD Board; there was possibly one, which lasted only a few months. Representation is needed from different groups but a single board might work better to address everyone's concerns.

Mr. McCarthy pointed out that Mr. McAuley's reasoning today was nothing like what he stated at the last meeting. Mr. McAuley totally disregarded his previous reason, which did not make sense to Mr. McCarthy. Mr. McCarthy felt that Mr. McAuley had a specific concern about The Colony, which is located within Bayside. When this matter arose, Mr. McCarthy's constituency, the residents of The Colony, informed him that "they couldn't be happier; if it's not broken, don't fix it." Mr. McCarthy took issue with Mr. McAuley's implication that The Colony residents were not represented.

Mr. McAuley accused Mr. McCarthy of switching positions, as well. Mr. McCarthy pointed out that he previously voted against merging, the same as Mr. McAuley previously voted.

Mr. Patterson recalled a survey of Pelican Landing residents regarding representation on the PLCA; 75% felt that elections should be "at large" and not by segments. He questioned why Mr. McAuley wants segmentation.

Mr. McAuley stated that there are three constituencies; he was not for segmentation but felt that the Boards should discuss this matter, again.

Regarding a comment about The Village of Estero reducing a fee, Mr. McCarthy indicated that The Village of Estero adopted a fee schedule and felt that they would not want to set precedent by reducing a statutory fee adopted by several local municipalities. He was open to the concept, if done for the correct reasons but believed that now is not the appropriate time to merge; the PLCA transition with WCI is enough on the plate now.

Mr. McCarthy noted that two Board Members do not plan to run for reelection, which he felt was a devastating loss, as the Districts will be depleted of some of the best, most extensive experience.

Ms. Barbara Craig, a resident, asked, "what's in it for me" if the District's go through these changes. She wanted the Boards to present a reason or explanation, to taxpayers, why some Board Members want to merge into one Board. Ms. Craig felt that a decision such as this could not be made in the midst of a regular meeting, when there is other business to accomplish. There should be panel or group of Board Members and citizens, from each CDD, to study the situation and present a comprehensive proposal.

Ms. Ann Cramer, a resident, expressed concern about this situation, as the community is going through a transition with the PLCA and the WCI turnover. She felt that the community is

too large to have only one CDD with a five-member Board. Possibly, there should even be three CDDs. Ms. Cramer was concerned that additional land could be annexed into the community. If the CDDs merged and became a five-member Board, the community could be just three votes away from certain things happening; therefore, she was confident with a larger number of Board Members.

Mr. Jack Lienesch, a resident, recalled prior discussions about this topic. He noted that, while Bayside is the largest CDD in the county, Bay Creek is one of the smallest, which may be a reason for the CDDs to be together. Mr. Lienesch believed that there should be more than five Supervisors for the entire community.

Mr. Crew thought that the consensus of the Boards was that they would not favor a five-member combined CDD and, until the laws change to allow at least a seven-member Board, the Boards would not be in favor of merging.

Mr. McAuley acknowledged that it is too early to discuss merging and dropped his request that the Districts merge.

**TWELFTH ORDER OF BUSINESS**

**Consideration of Clarke Aquatic Services, Inc., Second Year Option for Lake Maintenance Services**

This item was presented after the Sixth Order of Business.

**THIRTEENTH ORDER OF BUSINESS**

**Approval of October 26, 2015 Joint Regular Meeting Minutes (Both)**

Mr. McAuley presented the October 26, 2015 Joint Regular Meeting Minutes and asked for any additions, deletions or corrections.

**On MOTION for Bayside Improvement by Mr. McCarthy and seconded by Mr. Crew, with all in favor, the October 26, 2015 Joint Regular Meeting Minutes, as presented, were approved.**

**On MOTION for Bay Creek by Mr. Glueck and seconded by Mr. Lawrence, with all in favor, the October 26, 2015 Joint Regular Meeting Minutes, as presented, were approved.**

**BAYSIDE IMPROVEMENT CDD ITEM**

- **Consideration of Right of Entry Agreement to Maintain Landscaping at The Bay Club in The Colony**

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

Mr. Adams presented the Right of Entry Agreement for the Board’s consideration. The agreement allows the District to enter onto The Bay Club’s property to perform landscape maintenance.

**On MOTION for Bayside Improvement by Mr. Patterson and seconded by Mr. Cramer, the Right of Entry Agreement to Maintain Landscaping at The Bay Club in The Colony, was approved.**

**FOURTEENTH ORDER OF BUSINESS**

**Other Business (Both)**

- **Action Items**

Mr. McAuley presented the action items.

Ms. McVay wanted to start a section in the weekly email called “Did You Know?”, which would briefly provide residents with useful information about the CDDs and what is occurring. The Boards concurred.

In response to a question, Ms. Crismond confirmed that Clarke will perform work until the end of December, which could leave the District vulnerable. Mr. McCarthy believed that Clarke would complete the required work.

All items remained ongoing.

A question was raised regarding who is responsible for trimming trees that are blocking streetlights. Mr. Adams indicated that the CDDs are responsible; the trees will be trimmed following the holidays and seasonal activities. Regarding the trees on private property, Mr. Adams explained that the streetlights are CDD property; therefore, the CDDs have the right to protect them, including trimming trees.

Discussion ensued regarding a streetlight near a Board Member’s home that is shorter than the other streetlights.

**FIFTEENTH ORDER OF BUSINESS**

**Old Business (Both)**

Ms. McVay stated that her neighborhood is upset about Bay Creek not being cleaned. Ms. Crismond indicated that the permit was received December 2, 2015; the project will commence on December 10 and be completed within approximately one week.

Ms. McVay asked Ms. Crismond to tour the community with her to observe dangerous issues related to landscaping. Ms. Crismond invited Ms. McVay to go on her next tour with Mr. Kucera.

**SIXTEENTH 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 October 31, 2015**

The Unaudited Financial Statements as of October 31, 2015 were provided for informational purposes.

**ii. Monthly Status Report: Field Operations**

This report was provided for informational purposes.

Mr. McAuley discussed a request to install plantings and an 18” to 24” high stone wall with plants placed on both sides of the wall. A \$6,143 proposal was obtained from CJE Construction & Development, Inc. (CJE) and additional proposals are pending. Proposals will be presented at the next meeting. Mr. McCarthy asked that the proposals include a plan and noted that the City of Bonita Springs might consider the wall as a structure, which might require a structural design and permits. Mr. McAuley noted that the contractor indicated that the City already had advised that a permit would not be required. Mr. McCarthy asked for written confirmation.

Mr. Crew pointed out that the improvement would be on PLCA property and voiced his opinion that, it would be “overstepping” for the CDDs to undertake this type of architectural and landscaping change on PLCA property. The Boards previously made clear that the CDDs perform maintenance but do not become involved in design and changing the character and creation of landscape projects of the PLCA. Mr. McAuley questioned if the CDDs changed the character when they planted trees. Mr. Crew replied “Yes and that was not appropriate, either.”

Mr. Crew felt it was presumptuous of the CDDs to take on a project of this magnitude without involving the PLCA.

Mr. Crew noted that the PLCA Landscape Ad Hoc Committee meets the first Monday of each month. The PLCA Committee hired two landscape architects to complete an assessment of the common areas owned by the PLCA; the Committee received the reports and will formally present the information and its recommendations to the PLCA Board at its January meeting. It was hoped that the PLCA would begin taking some ownership of the community landscaping, as the landscaping is aging. Mr. Patterson asked for the approximate cost. Mr. Crew stated that the Districts have a \$10 million investment in its landscaping and there should be direction back to the CDDs about how they prioritize expenditures on plants, planting and projects.

Mr. Cramer asked Ms. Crismond to identify the mangrove trimming area. Ms. Crismond indicated that the area is off tee #1; the area was last trimmed about eight years ago and is now overgrown.

Mr. Janek asked Ms. Crismond to meet with residents, in January, to explain what a preserve area is.

It was reported that some streetlights were out, exiting on Pelican Landing Boulevard, between the fountain and the gate.

**iii. NEXT MEETING DATE: January 25, 2016 at 2:00 P.M.**

The next meeting will be held on January 25, 2015 at 2:00 p.m., at this location.

**SEVENTEENTH ORDER OF BUSINESS      Supervisors' Requests (Both)**

There being no Supervisors' requests, the next item followed.

**EIGHTEENTH ORDER OF BUSINESS      Public Comments: *Non-Agenda Items***

Ms. Cramer discussed Spring Creek and water backups during heavy tides and rain events, due to oyster bed buildups, and asked if the CDDs could address the issue. Water is not evacuating Spring Creek as quickly as in the past. Mr. Adams indicated that the issue is being worked on.

**NINETEENTH ORDER OF BUSINESS      Adjournment**

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

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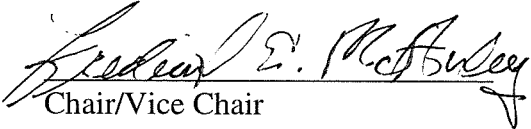
**FOR BAYSIDE IMPROVEMENT:**

  
Secretary/Assistant Secretary

  
Chair/Vice Chair

**FOR BAY CREEK:**

  
Secretary/Assistant Secretary

  
Chair/Vice Chair