

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

A Joint Regular Meeting of the Boards of Supervisors of the Bayside Improvement Community Development District and Bay Creek Community Development District was held on **Monday, January 23, 2017 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
Bernie Cramer	Vice Chair
John Crew	Assistant Secretary
Jim Nicholson	Assistant Secretary
Bill Nicholson	Assistant Secretary

For Bay Creek CDD:

Mary McVay	Chair
Nelson Glueck	Vice Chair
James Janek	Supervisor-Elect
Robert Travers	Assistant Secretary
Donald McBride	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Crismond	Assistant Regional Manager
Dan Cox	District Counsel
Carl Barraco	District Engineer
Bill Kurth	LakeMasters Aquatic Weed Control, Inc.
Marvin Hancock	PLCA President and Liaison
Charlotte McCarthy	Resident
Gail Gravenhorst	Resident
Wanda Smith	Resident
Neal Hartman	Resident

FIRST ORDER OF BUSINESS

Call to Order/Pledge of Allegiance

Mr. McCarthy called the meeting to order at 2:00 p.m.

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 Travers, McBride, Janek, Glueck and McVay were present, in person. For Bayside Improvement Community Development District, Supervisors McCarthy, Crew, Cramer, Jim Nicholson and Bill Nicholson were present, in person.

THIRD ORDER OF BUSINESS

Public Comments: *Agenda Items*

Mr. Neal Hartman, a resident, stated that invasive vines were growing through the ficus at the traffic circle on Goldcrest Drive. The Greenscapes horticulturist and invasive species specialist were unable to identify the vines, which were spreading. Staff would have someone inspect the area and notify Mr. Hartman of the outcome.

Ms. Wanda Smith, a resident, inquired about removing four fruit trees, on CDD property, at 3500 Balley Bridge Circle. Mr. Adams would notify Mr. Kucera.

Ms. Smith discussed the poor condition of the plants by the monument in South Bridge. Staff would have the flower beds supplemented.

BAY CREEK ITEM(S)

FOURTH ORDER OF BUSINESS

Administration of Oath of Office to Newly Elected Bay Creek CDD Supervisor James A. Janek [Seat 3] (*the following to be provided in a separate package*)

Ms. Crismond, a Notary of the State of Florida and duly authorized, administered the Oath of Office to Mr. Janek.

Mr. Crismond stated that, since Mr. Janek was an incumbent, she would forego an explanation of the following items:

- A. Guide to Sunshine Amendment and Code of Ethics for Public Officers and Employees**
- B. Membership, Obligations and Responsibilities**
- C. Financial Disclosure Forms**
 - **Form 1: Statement of Financial Interests**
 - **Form 1X: Amendment to Form 1, Statement of Financial Interests**
 - **Form 1F: Final Statement of Financial Interests**

D. Form 8B, Memorandum of Voting Conflict

BAYSIDE IMPROVEMENT ITEM(S)

FIFTH ORDER OF BUSINESS

Discussion: High Power Usage for Bayside Pump Station

Mr. Adams met with Mr. Drew, of Florida Power & Light (FPL), regarding the incorrect reporting of power usage for the Bayside pump station. The pump station was developed in phases and the original meter was properly sized and calibrated to read the power based on the number of kilowatt hours generated at the time. Over time, additional pumps and motors were added and the District was not billed properly. After the meter was replaced, last October, the electric bill increased, significantly. An agreement was entered into with FPL, providing significant reductions on the cost per kilowatt hour, based on off-peak usage. The pump station's usage is predominantly off-peak, with a one hour overlap. The same terms were entered into for the decorative fountain at The Colony entrance.

Mr. Bill Nicholson asked if power factor correction capacitors were discussed; if the power factor was below 85 or 90, power factor correction capacitors could be added, which would increase the power factor and reduce the rate. Mr. Adams would contact Mr. Drew to discuss.

JOINT BOARD ITEMS

SIXTH ORDER OF BUSINESS

Staff Report: District Engineer (Both)

With regard to the Agreement between Bay Creek and Resource Conservation Services (RCS), to supplement the irrigation water supply, Mr. Barraco stated that the plans were reviewed with RCS and legal descriptions for easements, required by the Pelican Landing Community Association (PLCA), were prepared and being processed by the District Manager. Upon receipt, permits would be applied for and construction would commence.

Mr. Barraco stated that the surface water management system modification for high water conditions was completed and would be certified to the South Florida Water Management District (SFWMD). Access paths were completed and would benefit the entire community.

Mr. Cramer asked if the gate valves, etc., would be incorporated into the original map. Mr. Adams stated that the GIS map was being updated and would be web based. A hyperlink to access mpas and information would be added to the website.

Mr. Barraco stated that the Districts were in Year 5 of the 5-year National Pollutant Discharge Elimination System (NPDES) MS4 stormwater monitoring program. Documents were being prepared and would be presented upon completion.

Mr. Cramer asked if feedback was received regarding the tennis court issue. Mr. Barraco advised that a new system may be explored, where fine materials coagulate and settle faster; however, this was not discussed relative to the tennis courts.

SEVENTH ORDER OF BUSINESS

Update: Drainage Remediation Project

This item was discussed during the Sixth Order of Business.

EIGHTH ORDER OF BUSINESS

Lake Management Report: *LakeMasters Aquatic Weed Control, Inc. (Both)*

Mr. Kurth reported that all submersed vegetation was treated, over the last few months. In the past month, additional treatments were necessary in the lakes where vegetation remained. Liquid enzymes, which break down dying material faster, were used in Lake F-16 and the slender spikerush was eliminated. Enzymes were also used to treat bladderwort.

Mr. Kurth addressed concerns regarding water clarity in Lake A-29, Pembroke Lake, which may have resulted from the new lake in Terzetto, which was treated with alum. After periodic rainfall, the brownish water from Terzetto flowed into Pembroke Lake and caused an issue. Today, Mr. Kurth took water samples to test for total suspended solids; the results would be provided to Mr. Adams, for dissemination. Terzetto lake would also be tested, as the water appeared muddy. It was also noted that a tank truck washed the streets in front of Altaira, every three to four weeks, to remove the construction dirt and dust, and the dirt was washing into the storm sewers. Mr. Kucera would be asked to follow up about street sweeping prior to wash down. Mr. Kurth recommended jar testing and an alum treatment for the Terzetto lake (A-23) and requested that the fountain be turned off, for one week, when the alum treatment was performed. Mr. Kurth felt that the fountain might be stirring up the sediment.

Mr. McCarthy asked if compensatory littoral plantings were necessary in Lake A-2, where a bulkhead was installed. Mr. Kurth stated that there were grass carp in the lake and

adding plants may have limited success; he would inspect the lake and the vines growing through the ficus on Goldcrest Drive.

NINTH ORDER OF BUSINESS

Discussion/Consideration of Barren Wetland Area Between Treviso and Golf Course

Mr. McCarthy recalled that, about one year ago, he and the SFWMD inspected the wetland area between Treviso and the golf course. SFWMD suggested removing the exotics, as well as continued observation and, if necessary, replanting with plants that would survive. Recently, Treviso residents complained about the condition of the wetland and Mr. Adams was asked to have EarthBalance evaluate the area. Mr. Adams recalled that most of the invasives treated were cattails, which eventually died and were removed. The thought was to go through a rainy/growing season to see if the native species grew, which did not occur. Mr. Adams showed photos of the planting area being reviewed by EarthBalance. Beige algae had settled on top of the soil, which highlighted the barren area. Mr. Adams would meet with the golf course superintendent, on site, for a better understanding of how the green was built, and would also inquire about whether fertigation was being used and, if so, whether the heads were spraying into the wetland. A planting plan was proposed by EarthBalance, for a total cost of \$12,417.50.

Mr. Crew recommended two 20' by 20' test planting areas to see if the plants would survive, before spending \$12,000.

Mr. Bill Nicholson asked if the standing water in the wetland could be analyzed to verify whether it would support plant life. Mr. Adams stated that the water was tested and it was brackish but not to the degree that it would not support these types of plants. He suggested one test plot, prior to rainy season, to see whether the plants survived, and then proceeding with another phase.

Mr. McCarthy pointed out that EarthBalance was guaranteeing 90% survivorship of the plants; therefore, he was in favor of proceeding with the plan.

Further discussion ensued.

On MOTION for Bayside Improvement by Mr. Crew and seconded by Mr. Jim Nicholson, with Mr. Crew and Mr. Jim Nicholson in favor and Mr. Cramer, Mr. Bill Nicholson and Mr. McCarthy dissenting, planting two 20' by 20' test plots to determine the plant growth rate and survivorship and to proceed with planting the entire area, if the results were favorable, was not approved. (Motion failed 2 – 3)

On MOTION for Bay Creek by Mr. Glueck and seconded by Mr. Janek, with all in favor, planting two 20' by 20' test plots to determine the plant growth rate and survivorship and to proceed with planting the entire area, if the results were favorable, was approved.

On MOTION for Bayside Improvement by Mr. Bill Nicholson and seconded by Mr. Cramer, with Mr. Bill Nicholson, Mr. Cramer, Mr. Jim Nicholson and Mr. McCarthy in favor and Mr. Crew dissenting, implementing the planting plan proposed by EarthBalance, in the amount of \$12,417.50, was approved. (Motion passed 4 – 1)

On MOTION for Bay Creek by Mr. Janek and seconded by Mr. Travers, with Mr. Janek, Mr. Travers and Mr. McBride in favor and Ms. McVay and Mr. Glueck dissenting, implementing the planting plan proposed by EarthBalance, in the amount of \$12,417.50, was approved. (Motion passed 3 – 2)

TENTH ORDER OF BUSINESS

PLCA Landscape Committee Updates

Mr. Adams discussed a presentation by landscape architect Mr. Michael Spencer to the PLCA. A plan would be prepared and presented to the PLCA and CDD Boards, for dialog. This item would be carried on future CDD agendas and the PLCA and its landscape representatives would be invited to address the CDD Boards, directly.

Mr. Bill Nicholson recalled that a long-term plan was proposed by Mr. Lienesch, who asked the PLCA and the CDDs to work together to devise the plan. The short-term plan was to have Mr. Spencer act as an intermediary when areas needed to be planted or replaced. Mr. Spencer would determine what plants should be installed.

Mr. Bill Nicholson stated that, following Mr. Lienesch’s presentation at the PLCA meeting, Mr. Crew asked to make a comment and asked Mr. Nicholson to leave the meeting to avoid a Sunshine Law violation. Mr. Nicholson did not agree that his presence would have been a violation. At the meeting, Mr. Crew commented that the issue of engaging a landscape architect was presented to the CDD Boards and a motion was made and preliminarily approved, for inclusion in the budget; however, at the budget meeting, the motion was rescinded and the Bayside Board was not willing to provide funding for a landscape architect. Residents who attended the PLCA meeting told Mr. Nicholson that Mr. Crew asked residents who aligned with his point of view to contact their CDD Supervisor and lobby his position.

Mr. Bill Nicholson asked Mr. Cox if the Sunshine Law would have been violated if Mr. Crew made the comments in his presence. Mr. Cox discussed Sunshine Law requirements, what constituted a public meeting and how a discussion was defined. If there was enough interest among Board Members in attending a public meeting, Mr. Adams recommended advertising a workshop and making clear disclosures in the advertisement about how the workshop would be conducted, where it would be held, taking minutes, opening the meeting as a workshop and announcing the attendees, on the record. Mr. Cox suggested obtaining the PLCA Board’s meeting schedule and advertising the meetings as workshops. No quorum would be required. Mr. Adams stated that a recorder could be left at the front desk.

Mr. McCarthy voiced his opinion about the Bayside Improvement CDD funding a study, work, designs, etc., related to properties owned and controlled by the PLCA. Residents of The Tides would receive no benefit from landscape improvements within the confines of Pelican Landing’s property and the CDD Boards should represent everyone in the District. Mr. Crew stated that it would be appropriate to establish a separate rate for residents outside of the main roadways of Pelican Landing. Funding would provide advice and guidance on appropriate maintenance, pruning, planting techniques and mulching and would, eventually, save money.

Further discussion ensued.

ELEVENTH 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.

TWELFTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of December 31, 2016

Mr. Adams presented the Unaudited Financial Statements as of December 31, 2016. For General Funds 001 and 101 and Enterprise Funds 401 and 451, assessment revenue collections were at 88%. In the Irrigation Fund, "Electricity" was at 34%; therefore, a true-up would be necessary in the next budget cycle. For General Fund 002 – The Colony, assessment revenues were 90% collected.

At Mr. McCarthy's request, Staff would review the account detail for "Office operations" for General Funds 001 and 101.

Mr. Janek reported that the street light on the first pole, past the guardhouse, turning onto Burnt Pine Road, was not working.

THIRTEENTH ORDER OF BUSINESS

Approval of December 5, 2016 Regular Meeting Minutes (Both)

Mr. McCarthy presented the December 5, 2016 Regular Meeting Minutes and requested that corrections be provided to Ms. Crismond.

On MOTION for Bayside Improvement by Mr. Bill Nicholson and seconded by Mr. Cramer, with all in favor, the December 5, 2016 Regular Meeting Minutes, as amended to include edits provided to District Management, were approved.

On MOTION for Bay Creek by Mr. Janek and seconded by Mr. McBride, with all in favor, the December 5, 2016 Joint Regular Meeting Minutes, as amended to include edits provided to District Management, were approved.

FOURTEENTH ORDER OF BUSINESS

Action Items (Both)

Mr. McCarthy presented the Action Items.

There were no changes or deletions to the Action Items list.

FIFTEENTH ORDER OF BUSINESS

Old Business (Both)

There being no old business, the next item followed.

SIXTEENTH ORDER OF BUSINESS

Staff Reports (Both)

A. District Counsel

Regarding the annexation of properties into Pelican Landing and the CDDs' role, Mr. Cox stated that, pursuant to the Declaration of Covenants, if a property is to be annexed, the CDD may require that property to become part of the CDD; if the property does not become part of the CDD, the CDD may disapprove the annexation. As a Special District, the CDD does not make decisions about land use; it is responsible for the basic management of infrastructure that serves the community. If the property would be utilizing the District's infrastructure, it should become part of the CDD.

Mr. Cramer sent a note to Mr. Adams, requesting that Mr. Cox provide an opinion on this issue, based on current litigation and to prevent further annexation. He read the following:

“Article VIII, Section 6., UCDD Approval: Notwithstanding, anything provided in this Article VIII, if the UCDD is created to administer portions of Pelican Landing, the UCDD has the right to require that any property to be annexed must become part of the UCDD. If the property to be annexed fails to become a part of the UCDD, then the UCDD has the right to disapprove the annexation of the property as part of Pelican Landing.”

Mr. Cramer stated that, theoretically, if WCI were able to annex into Pelican Landing, WCI could assert that it is the CDD's responsibility to maintain that property, which would place a burden on the District's constituents. Mr. Cox stated that the District's boundaries were established by rule of the Florida Land and Water Adjudicatory Commission (FLWAC) and they are the only ones able to expand the boundaries of the District's responsibilities. The Board asked Mr. Cox to provide a written opinion.

B. District Manager

i. Monthly Status Report: Field Operations

Ms. Crismond stated that the Bay Creek contract with LakeMasters expired and suggested continuing the contract, on a month-to-month basis, at the current rate, until it could be combined with the Bayside Improvement contract and bid jointly.

On MOTION for Bay Creek by Mr. Janek and seconded by Mr. Glueck, with all in favor, continuing the LakeMasters contract, on a month-to-month basis, at the current rate, until December, 2017, when the Bayside Improvement contract expires, then bidding a joint contract, was approved.

ii. NEXT MEETING DATE: February 27, 2017 at 2:00 P.M.

Mr. McCarthy stated the next meeting will be held on February 27, 2017 at 2:00 p.m., at this location.

SEVENTEENTH ORDER OF BUSINESS Supervisors' Requests (Both)

Mr. Cramer advised that Mr. McBride speaks fluent Spanish, should anyone require translation or to learn.

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

Mr. Marvin Hancock, PLCA President and liaison, stated that Pelican's Nest donated a gazebo to the Lakemont Cove Community Park. Light bulbs on the lawn monuments were changed and some were different colors and wattages and he asked that they be changed.

Mr. Hancock referred to Ms. Crismond's monthly report and noted that, going forward, the PLCA would answer the service phone and notify Mr. Kucera and Mr. Kemp, via email, as opposed to residents calling them directly. Mr. Adams confirmed that Staff would meet with Cheryl, in this regard.

Mr. Hancock stated that that the PLCA would remove trash and invasives on the property behind the Hyatt, abutting the roadway. He asked if the CDD would eventually take over mowing. Mr. Adams suggested installing bahia sod, which requires no irrigation, and the CDD would mow it.

Mr. Hancock advised that, one evening, a couple got wet walking on the sidewalk, from the Pub to Leisure Time, because the irrigation was running. Mr. Kemp would be contacted about adjusting the timers.

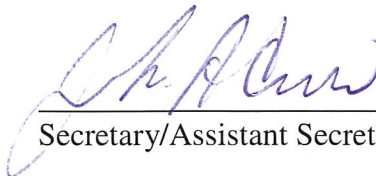
NINETEENTH ORDER OF BUSINESS

Adjournment: (BOTH)

There being no further business to discuss, the meeting adjourned at 4:15 p.m.

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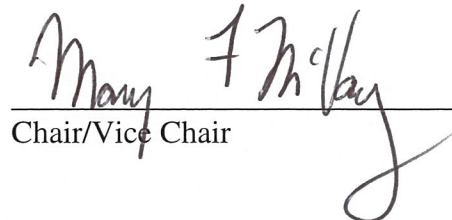
FOR BAYSIDE IMPROVEMENT:


Secretary/Assistant Secretary


Chair/Vice Chair

FOR BAY CREEK:


Secretary/Assistant Secretary


Chair/Vice Chair