

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

A Joint Regular Meeting of the Boards of Supervisors of the Bayside Improvement Community Development District and Bay Creek Community Development District was held on **Monday, September 25, 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	Assistant Secretary
Donald McBride	Assistant Secretary
Robert Travers	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Adams	Assistant Regional Manager
Dan Cox (<i>via telephone</i>)	District Counsel
Wes Kayne	District Engineer
Bill Kurth	LakeMasters Aquatic Weed Control, Inc.
Cheryl McFarland	PLCA Manager
Paul Kemp	Irrigation Manager
Doug Kucera	Field Manager
Jack Lienesch	Resident/Landscape Subcommittee
Marvin Hancock	Resident/PLCA Board
Gail Gravenhorst	Resident
Ann Cramer	Resident
Bob B.	

FIRST ORDER OF BUSINESS

Call to Order/Pledge of Allegiance

Ms. McVay called the meeting to order at 2:00 p.m.

All present recited the Pledge of Allegiance.

SECOND ORDER OF BUSINESS

Roll Call

Ms. McVay asked the Supervisors to state their names. For Bay Creek Community Development District, Supervisors McBride, Travers, Janek, McVay and Glueck were present, in person. For Bayside Improvement Community Development District, Supervisors McCarthy, Cramer, Crew, Jim Nicholson and William Nicholson were present, in person.

Ms. McVay thanked the following:

- The PLCA for the “Go Fund Me” account; Ms. McFarland would be working with Mr. Adams on it.
- Mr. and Mrs. Adams for getting EarthBalance and LakeMasters Aquatic Weed Control, Inc. (LakeMasters) to perform work that they were not normally scheduled to do.
- The City of Bonita Springs for cutting the trees over the sidewalk.
- The golf course for hiring four companies, prior to the hurricane, to schedule cutting down trees.
- The Districts for the proactive actions with the sluice gates, which helped very much.

Ms. McVay turned the meeting over to Mr. McCarthy.

THIRD ORDER OF BUSINESS

Public Comments: *Agenda Items*

Mr. McCarthy stated that, with the Boards’ consent, public comments would commence following the District Engineer’s Report, which would include issues related to the Hurricane Irma.

▪ **Staff Report: District Engineer (Both)**

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

Mr. Kayne gave a “Post Hurricane Irma” PowerPoint presentation and discussed storm water management systems in Southwest Florida. During the presentation, Mr. Kayne explained road elevations, berms, control structures, rainfall, water discharge, storm events, permitting requirements and why systems are necessary. There was a 1% chance in any given year that a

100-year storm could occur. Sluice gates should be opened prior to a storm, as a preventative measure to evacuate water out and regain storage in the lakes.

Ms. McVay requested a copy of Mr. Kayne's presentation.

The "Post Hurricane Irma Presentation" is attached, as an Exhibit,

Mr. Kayne reviewed the "Emergency Sluice Gate Operating Procedures", in the presentation, which specified that, if the site is not subject to a tropical storm or hurricane watch, the gates may not be opened until South Florida Water Management District (SFWMD) representatives provide written permission to the District. The August 24 through 27, 2017 storm event was not forecasted and, per SFWMD, permit, sluice gates could not be opened in advance of the storm. The rain exceeded that of a 25-year storm event. Without the sluice gates during Hurricane Irma, flooding would have been more severe and prolonged and homes would have been compromised. Some external berm breaches on US 41 and Coconut Road required investigating. Mr. Kayne was working on submitting a permit application to the SFWMD to allow greater flexibility in operating the emergency sluice gates, since the current operating policy limited opening them to only when there was a tropical storm or hurricane watch.

Discussion and a question and answer session ensued. Mr. Kayne stated that it was the CDDs' responsibility to maintain the perimeters of the berms to prevent water from entering properties; on the CDDs' property, it was the District's responsibility to have the berms at the elevations specified in the permit. It would be wise to investigate some of the neighboring right-of-ways to ensure there were no blockages.

A Board Member stated that the intersection of Pennyroyal Drive and Lakemont Cove Lane received more water than in the past and wondered if the flows into B-2 and B-4 were so much that the outflow from B-6 did not keep up and asked if it should be inspected. Mr. Adams stated that B-2 was when the gates were opened and exceeded the capacity of the 60' pipe running diagonal across Pennyroyal and Lakemont Cove. Following the unforecasted event, he had to regulate the two gates on B-2 just enough so there was sufficient force to rapidly move water into the streets. Discussion ensued regarding what could be done without endangering the south side of the community.

Mr. McCarthy thanked staff and contractors in attendance for their efforts following Hurricane Irma.

▪ **Public Comments: *Agenda Items***

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

Mr. Jack Lienesch, a resident and Landscape Subcommittee Member, stated that the presentation today regarding the lowering of the water and the sluice gates, was well explained. In his opinion, Mr. Kayne did a good job explaining that the berm in the marsh needed to be improved, fixed or redesigned. He did not hear anybody talk about what to do about keeping water from Coconut Road and US 41, from breaching the system. Mr. McCarthy stated that, Mr. Kayne already addressed that. Regarding the sluice gates, the original thought was that the berm between Wood Sage and Heron Marsh was not constructed correctly and the houses on the west side of Wood Sage were built to the lower basin elevation, rather than the upper basin, as designed.

Mr. Marvin Hancock, a resident, recalled Mr. Kayne stating that, “unless there was a hurricane or tropical storm, the gates could not be opened”. Mr. Kayne concurred and stated that was the current permit. Mr. Hancock stated that, according to the gate operations and Rules and Procedures, as obtained from Mr. Kayne’s firm, it said that the gates could not be opened unless the SFWMD gave written permission. Mr. McCarthy agreed that was accurate. Mr. Hancock read a press release in the newspaper, on the Wednesday just prior to the August storm, which stated:

“The SFWMD had been preparing for this disturbance all week. The District is responsible for political protection in the sixteen county regions. Our system has been prepped ahead of time and ready to accept the incoming rainfall from this tropical disturbance.”

Mr. Hancock did not understand why permission to open the sluice gates was not requested for the August storm event. It seemed like the SFWMD was preparing, by lowering the water level under its responsibility, so he did not understand why the Districts did not. Mr. Kayne stated that he did not see that press release, prior to the event, and he was not sure that anyone was aware of the amount of rainfall that would occur during the August storm event. Mr. McCarthy rebutted that the paper said that the storm was not expected and a “weak system may form”, within the next few days. If the Districts reacted by opening the sluice gates, every time there was rain, there would be mayhem. Discussion ensued regarding the sluice gates and issues in San Carlos Estates, related to flood waters from the Brooks. Mr. Hancock stated there was a settlement with the Brooks and that water was no longer coming into San Carlos Estates. Mr. Adams stated that there was debris removal in a ditch running east to west, between San Carlos Estates and the Brooks, and a joint effort in funding; the ditch was cleared by a contractor. In

addition, an emergency outfall structure was installed at the corner of Williams and Brios, which helped divert water to the north and into the south branch of the Estero River. It was not a settlement but a joint agreement, between the two communities, to keep the ditch clean. Only Lighthouse Bay spilled slightly into that and the remaining Brooks community flowed to the west.

Mr. Kayne planned to contact the SFWMD to determine the protocol when predicting rainfall events and when the SFWMD opens its gates. He would inquire about a mailing list for future notifications about opening the sluice gates.

Ms. Gravenhorst stated that Pelican Landing was fortunate and that the Districts worked hard during the storm. Other well-managed communities were not nearly as cleaned up. She offered her thanks to all.

Mr. Kurth thought Mr. and Mrs. Adams worked hard to ensure everything was operating properly at the District. He commended the Board for having the foresight to open the sluice gates, since it lessened the effects from the water, compared to the other communities.

JOINT BOARD ITEMS

FOURTH ORDER OF BUSINESS

Staff Report: District Engineer (Both)

This item was presented following the Second Order of Business.

FIFTH ORDER OF BUSINESS

Discussion: Hurricane Irma Recovery

Mr. McCarthy stated that Mr. Jim Patterson, Ms. Joyce Gillen, Mr. Glueck and Mr. McCauley had foresight in creating an uninsured assets fund. Both Bay Creek and Bayside CDDs had an uninsured asset fund, to be utilized in case of emergencies so there would be no assessments to the community and, hopefully, the Districts would be able to recover the funds spent, through applications to FEMA. Mr. Adams stated that, in his experience, some funding would be received from FEMA and recalled that \$60,000 to \$70,000 was recovered for Hurricane Charlie damage. A FEMA claim was already for Hurricane Irma damage. He anticipated meeting with the insurance adjuster in the near future. Discussion ensued regarding FEMA claims, documentation required, photos of the damages and debris on the roads, curbs and sidewalks.

Mr. Adams stated that the mowing program would begin and surgical removal of tree trunks would be required, at some point. Some trunks had roots winding around the utility lines, which must be handled carefully. The PLCA Landscaping Committee would be inspect to determine the before and after the storm tree inventory and possibly modify some landscaping. Removal of some trees was planned, in Phase 1 of the canopy tree reduction, which possibly fell and, if so, might qualify for reimbursement. The hanging limbs over the roads, must be trimmed and a few hedges must be restood. On Wednesday, Carter Fence would conduct a perimeter review with Mr. Kucera, in terms of the fences needing to be replaced.

Mr. McCarthy inquired about private property and tree removal. Mr. Cox stated that the general rule was, so long as the tree was properly maintained and healthy, there would be no liability from the effects of the tree falling but it was equally enough to what one claimed was on their property, versus what the Districts' claims were, for the trees on District property. Since it was a type of emergency and, in being a good neighbor, the Districts may want to remove the entire tree but that would be the Districts' decision. Once a decision was made, the Districts must be careful not to cause any damage while completing the work.

Mr. Adams suggested that private property owners cut the trees back to the property line so the District would have no responsibility. If a tree fell over a fence and took out a pool cage, there would be no responsibility, from a replacement perspective, or from the Districts. Removing the tree would not be the responsibility of the Districts and the damage caused by the tree would not be the responsibility of the Districts. The Districts' insurance agent confirmed the same regarding "as a result of the hurricane and trees falling".

Mr. McCarthy stated that, in dealing with the individual property owners, it was something that the PLCA would have to address. Mr. Adams stated that, since the PLCA was a private entity, there might be an interest in removing the trees, as a courtesy. His job was to protect the public entity and funds and not spend CDD funds in areas where there was no liability or responsibility; however, a private entity had more flexibility.

Mr. Crew asked for clarification regarding FEMA removing hazards within the road right-of-way and walk-ways. Mr. Adams discussed recent tree cutting, trimming and debris removal by a FEMA crew working in the community. The FEMA crew would remove the debris it generated but would not remove other debris; therefore, the Districts' must continue their disaster debris removal program. Mr. Adams filed for FEMA reimbursement for the debris removal, and was awaiting a response from a FEMA adjuster. Discussion ensued.

A Board Member stated that the City would pass throughout the community three times for curbside debris removal; today should have been the first day.

Mr. Bill Nicholson inquired what the time frame for restoring the community back to normal. Mr. Adams stated that it would probably be two weeks. Tree trunks would take 30 to 45 days, depending on the availability of trucks and crews and the surgical removal of trunks. Anything that just snapped off or would be cut flush, would be ground down a foot or so, which would be easier. A few trees would be put back up; however, some may not survive.

Mr. Cramer emailed Ms. Joanne Ribble, of the PLCA, and Mr. Bob Luz suggesting that they gather their Staff for an “After Action Briefing” to determine what could have been done better and what might be helpful, in the future.

SIXTH ORDER OF BUSINESS

Discussion/Consideration: Establishment of Requirements for Applicable Development Projects

Mr. McCarthy stated that this topic stemmed from situations involving the Colony Golf Club, wherein, work was done without installation of National Pollutant Discharge Elimination System (NPDES) permitted stormwater pollution prevention devices. One other attachment was missing; therefore, Mr. McCarthy wished to continue this topic to the next meeting. The Board would establish a requirement to provide a notice, with a copy of the permit or a letter from the municipality confirming that permits were not required, when improvements are made on anything other than residential properties. If a permit was required, an NPDES permit would be obtained and could be shared with the County inspectors to prevent issues, such as a complete revamp of a golf course, without any stormwater pollution prevention measures. Run-off complaints were received from residents in The Colony and the Board should take this initiative. Additional information would be provided by Mr. McCarthy at the next meeting.

- A. Evidence of Compliance with Local Permitting Requirements**
- B. Compliance with the NPDES Standards and Stormwater Pollution Prevention Plan (SWP3)**

These items were approved for consideration at the next meeting.

On MOTION for Bayside Improvement by Mr. Cramer and seconded by Mr. Nicholson, with all in favor, deferring consideration of Establishment of Requirements for Applicable Development Projects, to the next meeting, was approved.

On MOTION for Bay Creek by Mr. Travers and seconded by Mr. Janek, with all in favor, deferring consideration of Establishment of Requirements for Applicable Development Projects, to the next meeting, was approved.

SEVENTH ORDER OF BUSINESS

Continued Discussion: Har-Tru Runoff Remediation Efforts from Tennis Courts to E Lakes

Mr. Cramer contacted Ms. McFarland regarding the remediation efforts. Mr. Adams stated that CDD staff would handle the planter areas along the walkways, exiting the tennis courts. That area would be over excavated and pea stone and replacement plants would be installed so that those areas would, potentially, receive water, rather than reject water.

Mr. Cramer discussed a fallen tree at the Pelican Landing Tennis Center. Mr. Adams would address the issue with Mr. Kucera, and others on staff.

EIGHTH ORDER OF BUSINESS

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

There being no report, the next item followed.

NINTH ORDER OF BUSINESS

PLCA Landscape Committee Updates

Mr. Lienesch presented the PLCA Landscape Committee Report. Plants might need to be modified to address the storm damage to the turf. The flowers were usually planted in October but he believed they had not been ordered. Mrs. Adams stated that the flower selection must be provided to her, which was outlined in a previous email previously to Mr. Lienesch.

TENTH ORDER OF BUSINESS

Irrigation Reports (Both)

A. High User

i. Bayside Improvement CDD

ii. Bay Creek CDD

These items were provided for informational purposes.

B. Penalty Usage Summary

i. Bayside Improvement CDD

ii. Bay Creek CDD

These items were provided for informational purposes.

C. Zero Consumption

i. Bayside Improvement CDD

ii. Bay Creek CDD

Ms. McVay stated that she still did not have the correct card.

ELEVENTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of August 31, 2017

Mr. Adams presented the Unaudited Financial Statements as of August 31, 2017. Assessment revenue collections were at 99% and expenditures were at 87%. The combined uninsurable asset fund had approximately \$700,000. Costs would be prorated between the two Districts and treated like any other expense. When applying for FEMA reimbursements, funds would be specific to each District's boundaries and, upon receipt, the FEMA funds would be split, accordingly.

TWELFTH ORDER OF BUSINESS

Approval of August 28, 2017 Joint Public Hearing and Regular Meeting Minutes (Both)

Mr. McCarthy presented the August 28, 2017 Joint Public Hearing and Regular Meeting Minutes and requested that corrections be provided to Mrs. Adams.

On MOTION for Bayside Improvement by Mr. Crew and seconded by Mr. Cramer, with all in favor, the August 28, 2017 Joint Public Hearing and 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. Glueck, with all in favor, the August 28, 2017 Joint Public Hearing and Regular Meeting Minutes, as amended to include edits provided to District Management, were approved.

THIRTEENTH ORDER OF BUSINESS

Action Items (Both)

This item was deferred.

FOURTEENTH ORDER OF BUSINESS

Old Business (Both)

There being no old business, the next item followed.

FIFTEENTH ORDER OF BUSINESS

Staff Reports (Both)

A. District Counsel

There being no report, the next item followed.

B. District Manager

i. Monthly Status Report: Field Operations

A Board Member inquired about the groundwater and if it was percolating up. Mr. Adams stated that there were no changes.

Mr. Adams reported that the letter modification was received for the reclaimed water and he would obtain pricing to make the connection to bring reclaimed water to the holding ponds in Bay Creek.

Mr. Cramer a call from Mr. Ed Webber, Facilities Engineer at The Colony. Mr. Webber had some independent lighting fixtures on the property and wanted to know what the Districts planned to do, as far as approving a total for lighting at The Colony. There were five to eight poles that were horizontal. Mr. Adams stated that eight or nine poles went down and there were damages to the aluminum on others. Those poles were collected and the electric company would repair them within the next few weeks. The site was secured, since wires were down. There was an issue ordering exact duplicates but something similar was located. Mr. Cramer suggested that it might be worthwhile to consider changing the lighting fixtures to LED lights, at this time, since there was so much damage. Mr. Adams stated that only a small percentage of the lights were lost so there would be no benefit to changing them to LED, at this time.

Mr. Crew asked if Mr. Kayne's presentation could be added to the website. Mr. Adams replied affirmatively.

ii. NEXT MEETING DATE: October 23, 2017 at 2:00 P.M.

The next meeting will be held on October 23, 2017 at 2:00 p.m., at this location.

SIXTEENTH ORDER OF BUSINESS

Public Comments: *Non-Agenda Items*

Mrs. Ann Cramer, a resident, stated that she returned to the community the Thursday after the storm and the main roads were clear but the remaining roads were a mess. She was grateful that the sluice gates were installed and that the Districts had an ongoing tree trimming program because, without it, additional trees would have been destroyed.

SEVENTEENTH ORDER OF BUSINESS

Adjournment (Both)

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