

**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, February 26, 2018 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
Doug Tarn	Barraco & Associates, Inc.
Bill Kurth	SOLitude Lake Management
Mike Liggins	ComTerra Development Group
John Wojdak	Delisi Fitzgerald, Inc.
Bryant Smith	Hyatt Regency
Marvin Hancock	Resident/PLCA Board
Jack Lienesch	Resident/Chair of Landscape Subcommittee
Gail Gravenhorst	Resident/Landscape Subcommittee
Michael Spencer	Landscape Architect
Adrienne Christo	Resident/Long Lake Village

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 and McVay were present, in person. Supervisor Glueck was not present at roll call. For Bayside Improvement Community Development District, Supervisors McCarthy, Cramer, Crew, Bill Nicholson and Jim Nicholson were present, in person.

THIRD ORDER OF BUSINESS

Public Comments: *Agenda Items*

Ms. Gail Gravenhorst, a resident, stated that the preserves were not in the wild but within a community and requested that the CDD appeal to the Bonita Springs and Estero City Councils to allow residents to remove dead foliage from the preserves themselves or hire an authorized contractor to remove some of the growth. Mr. Adams stated, although the response was not an absolute “no”, the South Florida Water Management District (SFWMD) would require creation of a restoration program, along with undergoing annual monitoring, which was a lengthy process and would not happen until the following year.

******Mr. Glueck arrived at the meeting.******

Ms. Adrienne Christo, a resident, stated that the oak trees along the berm belonged to the District and asked about a maintenance plan that Pelican Landing residents could reference so as not to infringe on the Districts’ trees. Mr. McCarthy stated that an approved Development Order (DO) was on file with Lee County, which could be researched; generally, the trees for which the CDDs have responsibility are on a parcel maintained by CDDs. Ms. Christo stated that the trees along Pennyroyal, abutting the playground, required trimming. Mr. Adams stated that the District assumed maintenance of the trees on the front half of the berms to keep with the continuity of the corridor. Staff would assess the specific trees and determine who has responsibility for them.

JOINT BOARD ITEMS

FOURTH ORDER OF BUSINESS

Staff Report: District Engineer (Both)

Mr. Kayne provided the following update:

- A re-submittal to the SFWMD for modification of the sluice gates has been completed, and information on certain structures was also provided.
- The Heron Marsh drainage study of the northern and eastern boundaries was completed.
- The basin of Coconut Road, from Heron's Marsh to US 41, discharged through Pelican Landing and drained down the Florida Power & Light (FPL) easement into East 16.
- A portion of Coconut Road flowed through the site, permanently, and needed to be examined to verify that water was not needlessly coming onto Coconut Road and ending up in Pelican Landing. US 41 was less of a concern because everything seemed to be built up, with regard to elevation, as it was supposed to be in the areas with topo.
- Engineering would ensure that no water seeped into the Coconut Road drainage system that then entered the Pelican Landing drainage system

Utilizing slides, Mr. Kayne stated that his full attention was on the US 41 area and issues were modified by taking a different route than through Pelican Landing but a portion of the Coconut Road basin was being examined, as well as areas further south, including the berm and its corresponding elevation. In refocusing on the situation in Heron Marsh, Mr. Kayne studied the control elevation, a 1996 ERP modification, including an Envirogroup Geologist's Report and old permits. He discussed water tables, silt layers, soil borings, PS meters installed in the wetland and water fluctuation. He and Mr. Tarn staked out a portion of berm that required reconfiguration because it was designed by another Engineer. An area of the plat was recreated where the conservation easement line was and then offset for the center of the berm. He and Mr. Tarn discovered that the stakes were slightly off, horizontally. Contractors could re-establish the berm in those areas by adjusting the stakes up 6" or 8", re-sodding and clearing foliage and vegetation. Property owners would not be severely-impacted. Mr. Tarn stated that there must be coordination, as some property owners must remove or adjust yard decorations, such as gazebos. Mr. Kayne stated that the North American Vertical Datum (NAVD) numbers on the stakes were off by 1.23'. Mr. Kayne explained that NAVD was, basically, the reference point to sea level. Engineering would ensure that the contractor understood that 2' of fill would be necessary for those areas. Discussion ensued regarding disgruntled homeowners, the plat line and fill material to create elevations. Mr. Tarn suggested proceeding with the berm project sooner, rather than later, to keep the price from increasing and complete the fill project before the rainy season

commenced. Mr. Adams encouraged the Boards to consider approving the project so that a contractor could be scheduled; meanwhile, he would visit, educate residents and facilitate cleanup in advance of the restoration work.

▪ **Continued Consideration of Proposals to Restore Heron Marsh Berm**

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

A Board Member asked if the District Engineer prepared a cost estimate for this project. Mr. Tarn stated that a small, inconclusive estimate was prepared; the project was labor-intensive and difficult to estimate due to the amount of labor required. Discussion ensued regarding the cost estimates, the scope of work, a 25% deposit requirement, sod species and silt fencing.

On MOTION for Bayside Improvement by Mr. Crew and seconded by Mr. Cramer, with all in favor, authorizing the Heron Marsh Berm Restoration Project, in a not-to-exceed amount of \$70,000, to include silt-fencing installation, with a two-week completion time frame, and for Staff to alert residents and initiate inspection by Lee County, upon completion, was approved.

On MOTION for Bay Creek by Mr. Janek and seconded by Mr. Travers, with all in favor, authorizing the Heron Marsh Berm Restoration Project, in a not-to-exceed amount of \$70,000, to include silt-fencing installation, with a two-week completion time frame, and for Staff to alert residents and initiate inspection by Lee County, upon completion, was approved.

FIFTH ORDER OF BUSINESS

Lake Maintenance Report: *SOLitude Lake Management (Both)*

Mr. Kurth reported the following:

- January and February were unusually warm, resulting in more algae and submersed vegetation than normal, which normally starts in April.
- Treatments were adjusted accordingly and Sonar was applied in February.
- A fish kill in Lake F-14, near the Colony, due to golden algae, was caught early and properly treated.

- Muck was discovered in some lakes, especially Lake A-2; SOLitude could have the equipment means to dispose of the material. Muck samples will be tested for contaminants.
- Muck removal was not inexpensive but Management felt that the Board could consider it. Mr. Cramer stated that the Spring Creek area required maintenance and asked if Mr. Kurth would be involved. Mr. Adams stated no. It was waterborne work but Mr. Kurth was welcome to submit a proposal and proposals could be obtained from a few other contractors.

SIXTH ORDER OF BUSINESS

**Discussion: Coconut Square Lot 5
Proposed Hotel Development and Tie into
District Drainage System**

Mr. Mike Liggins, of ComTerra Development Group (ComTerra), presented the Coconut Square Lot 5 Proposed Hotel Development project that would be located at the corner of US 41 and Coconut Road. There will be a dry retention area on the corner and an outfall structure going into the lake, with no alterations to the lake. He introduced Mr. John Wojdak, of Delisi Fitzgerald Inc., to provide additional information.

Referencing slides, Mr. Wojdak stated that ComTerra proposed the hotel project. The other parcels developed along this section of Walden Center Drive tied into the drainage network along the roadway, which also already discharges into the lakes and, due to the location of the dry retention area, an outfall is proposed directly from a pre-treatment area into the lake versus sending it back up to the road and having it go through those pipes and back into the lake. The SFWMD permit for this subdivision was approved in the late 90s and this was under the assumed impervious percentage for the property.

Mr. Liggins reviewed the site plans, pointing out the hotel location, locations of the two proposed entrances, the hotel positioning on the property, pool location, the small amount of dry retention that is required, pre-treatment and the area where the control structure would be, with a pipe going into the pond. Ms. McVay asked which hotel chain owned the project and voiced her concern about use of District amenities. Mr. Liggins stated that name had not been announced but it was one of the top three and the franchise approvals were being reviewed. Mr. McCarthy stated that the parcel was not within the Pelican Landing Community Association (PLCA); it was outside the CDD. Mr. Adams stated that they would not have access to the amenities. In response

to a question regarding the parking lot drainage, Mr. Wojdak stated there was another dry pre-treatment area and the two were interconnected. The project was undergoing the final plan approval process through the Village of Estero. A hearing was scheduled for March and the DO was submitted. Engineers were responding to the first round of comments on the DO and Mr. Liggins' group already submitted for the franchise approval. A Board Member asked for the height of the hotel. Mr. Wojdak replied, five stories. A Board Member asked if the term "pre-treatment" was anything more than a small accumulation. Mr. Wojdak explained that the first ½" of runoff from the entire site goes into the dry ponds and, once it meets the volume requirement, it overflows into the pond. Mr. Adams stated that the Boards' consent was required for the CDD permit to be modified and for the project to proceed. Ms. McVay was leery of the hotel franchiser and objected to the possible addition of 200 units to the Districts' amenities. Discussion ensued regarding annexation, amenities and the Hyatt Place. Mr. Cox stated that the only justifiable reason to abstain or vote against the project, based on who is proposing it, would be if there was a conflict of interest and not whether the Board Member did not trust or like the entity; the decision should be based on the facts before the Boards. Debate ensued amongst Board Members regarding whether certain Hyatt properties had use of the CDDs' beach.

Mr. Bryant Smith, of Hyatt Regency, stated that Hyatt had three entities in the community; the Hyatt Regency, the Hyatt Residence Club and Hyatt Place. Both the Hyatt Regency and the Hyatt Residence Club have access to the beach but Hyatt Place is not affiliated with the Hyatt Regency or the Hyatt Residence Club. The units would not have access to Hyatt's resources and would not have access to the beach, as it currently stands, through the Hyatt. If any other separate agreements existed, it would go outside of Hyatt. Mr. Adams recommended approval of the modifications to the CDD permits, as outlined.

On MOTION for Bayside Improvement by Mr. Crew and seconded by Mr. James Nicholson, with all in favor, the Coconut Square Lot 5 Proposed Hotel Development and Tie into District Drainage System and modifications to the CDD permit, under advice from District Counsel, subject to there being no conflicts of interest, the Developer being in agreement with SFWMD permit, in compliance with the Village of Estero Planning Guidelines and meets the CDDs' permitting requirements, were approved.

On MOTION for Bay Creek by Mr. Glueck and seconded by Mr. McBride, with all in favor, the Coconut Square Lot 5 Proposed Hotel Development and Tie into District Drainage System and modifications to the CDD permit, under advice from District Counsel, subject to there being no conflicts of interest, the Developer being in agreement with SFWMD permit, in compliance with the Village of Estero Planning Guidelines and meets the CDDs' permitting requirements, were approved.

▪ **Updates: PLCA Landscape Committee**

****This Item, previously the Eleventh Order of Business, was presented out of order.****

While attending a Landscape Expert Certification Class, Mr. McBride was familiarized with GoMulch and suggested acquiring estimates from them when considering mulching.

Mr. Lienesch highlighted the following:

- RCS reclaimed water pipe, at the South entrance, was screened with Calusia.
- Finance Committee begrudgingly approved Pelican Landing demo voting five to two.
- Mr. Michael Spencer would coordinate with Mr. and Mrs. Adams on a regular basis regarding plant lists, installations, irrigation and ordering plant materials.
- The demo would not only showcase the plants but would show how well the CDDs and the PLCA work together and communicate.
- The first target area is 5,000 square feet; the CDDs would facilitate the installs.
- Mrs. Adams would serve as point person.

Ms. McVay inquired about the time frame. Mr. Lienesch stated that the project could commence anytime but a few changes to the plant list must be made. Mr. Adams stated that it was not a big project. Mr. William Nicholson recalled previous discussion about a general assumption that CDD labor would be used for plant installs and, although it was beneficial to use CDD purchasing power, he was concerned that pricing would be based on the work being performed by the CDDs' employees, which had already been short-staffed for the past two years. He was uncertain whether the CDDs could make that commitment. Discussion ensued regarding the cost estimate, third-party labor, plant material, warranty periods, maintenance contractors, the PLCA and tree removal. Mr. McCarthy stated that he was comfortable with proceeding, if Mr. Lienesch prepared an outline, including install prices. As to the time frame, Mr. Lienesch stated

the project would start within a few weeks. He commented that Mr. Marvin Hancock, a resident and PLCA Board Member, volunteered to drive CDD Board Members to Wildcat Run to see the plantings and what can be accomplished with planning. Mr. Hancock stated that it was an easy drive around the circle, as all the common areas were around the perimeter, and the plantings looked very nice. A resident suggested notifying residents before removing any trees. Mr. Adams stated that the CDDs budgeted funds this year to remove trees and grind stumps.

SEVENTH ORDER OF BUSINESS

Notice of General Election: November 6, 2018

A. Official Candidate Qualifying Period: Noon, June 18, 2018 – Noon, June 22, 2018

i. Candidates May Pre-Qualify Beginning June 4, 2018 at 10:00 A.M.

Ms. McVay announced the official candidate qualifying periods for the upcoming November 6, 2018 General Election.

B. Consideration of Resolutions Implementing Section 190.006(3)(A)(2)(C), Florida Statutes, and Instructing the Lee County Supervisor of Elections to Conduct the District’s General Election

i. Resolution 2018-01, *Bayside Improvement Community Development District* [Seats 2 & 4]

Mr. McCarthy noted that Mr. James Nicholson and Mr. Cramer occupied the seats that would be up for election in Bayside.

On MOTION for Bayside Improvement by Mr. McCarthy and seconded by Mr. Bill Nicholson, with all in favor, Resolution 2018-01, Implementing Section 190.006(3)(A)(2)(C), Florida Statutes, and Instructing the Lee County Supervisor of Elections to Conduct the District’s General Election for [Seats 2 & 4], was adopted.

ii. Resolution 2018-01, *Bay Creek Community Development District* [Seats 2, 4 & 5]

The three seats up for election in Bay Creek were occupied by Mr. Travers, Ms. McVay and Mr. Glueck.

On MOTION for Bay Creek by Mr. Glueck and seconded by Mr. Janek, with all in favor, Resolution 2018-01, Implementing Section 190.006(3)(A)(2)(C), Florida Statutes, and Instructing the Lee County Supervisor of Elections to Conduct the District’s General Election for [Seats 2, 4 & 5], was adopted.

In response to a Board Member’s question regarding fees, Mr. Adams stated that the election process would be managed by the Supervisor of Elections at no cost to the CDDs.

EIGHTH ORDER OF BUSINESS

Consideration of Proposals to Restore Heron Marsh Berm

This item was presented following the Fourth Order of Business.

NINTH ORDER OF BUSINESS

Update: Hurricane Irma Recovery

Mr. Adams provided the following update:

- Staff will be obtaining proposals for various contractors to conduct a final sweep of the tributary to remove all of the vegetation, during the month of May, while the waterways are at their lowest levels.
- Tree stump and trunk removal has been completed in highly visible areas.
- Replanting would be deferred, pending the Landscape Committee’s recommendations.
- There was \$40,000 in the budget for selective tree removal.
- The District’s Federal Emergency Management Agency (FEMA) grant application was filed and submitted to CRC for recovery reimbursements.

Per Ms. McVay, Mrs. Adams would address the removal of a large, dead oak tree, at the Circle across from Cassia Court, and would ensure that a hole from a tree trunk removal, on Pennyroyal, was filled.

TENTH ORDER OF BUSINESS

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

Mr. Crew believed that action was forwarded to the PLCA Administration and may be presented to the Boards in the near future. The Tennis Working Group did what they could.

Requests would be received for the previously excavated planting beds, adjacent to the courts. A recommendation from Mr. Spencer was pending but it was up to the Boards to take action.

ELEVENTH ORDER OF BUSINESS

PLCA Landscape Committee Update

This item was presented following the Sixth Order of Business.

TWELFTH ORDER OF BUSINESS

Discussion: Higher Interest Rates for CDD Funds

Mr. Adams stated that most Florida banks are Qualified Public Depositories (QPDs) but some had more experience with Governmental entities and provided better rates. He was currently speaking with Florida Community Bank (FCB), Fifth-Third Bank and Iberia Bank but was unable to evaluate the information in time for today's meeting. He would continue to research and compare interest rates and present the findings at the next meeting. The Districts' cash assets were secure.

THIRTEENTH ORDER OF BUSINESS

Irrigation Reports (Both)

- A. High User**
 - i. Bayside Improvement CDD**
 - ii. Bay Creek CDD**
- B. Penalty Usage Summary**
 - i. Bayside Improvement CDD**
 - ii. Bay Creek CDD**
- C. Zero Consumption**
 - i. Bayside Improvement CDD**
 - ii. Bay Creek CDD**

These items were provided for informational purposes.

FOURTEENTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of December 31, 2017

Mr. Adams presented the Unaudited Financial Statements as of December 31, 2017. He highlighted the following items:

- Starting in March, the prior month’s financials would be presented.
- The CDDs were in really good shape financially overall.
- The mulch program was completed.
- Management accepted delivery of a second vehicle.

In response to a Board Member’s question, Mr. Adams stated that the old vehicles were surplus, advertised and subsequently usually sold to a junkyard. In response to a question regarding hiring laborers, Mr. Adams would publicize announcements in March and hiring would occur in April.

FIFTEENTH ORDER OF BUSINESS

Approval of January 22, 2018 Joint Regular Meeting Minutes (Both)

Ms. McVay presented the January 22, 2018 Joint Regular Meeting Minutes and asked for any additions, deletions or corrections. Edits were submitted to the District Manager.

On MOTION for Bayside Improvement by Mr. McCarthy and seconded by Mr. Bill Nicholson, with all in favor, the January 22, 2018 Joint Regular Meeting Minutes, as amended to include edits provided to District Management, were approved.

On MOTION for Bay Creek by Mr. Glueck and seconded by Mr. Janek, with all in favor, the January 22, 2018 Joint Regular Meeting Minutes, as amended to include edits provided to District Management, were approved.

SIXTEENTH ORDER OF BUSINESS

Action Items (Both)

- Item 17: Although the downed tree was removed, there were still hanging limbs causing a hazard near the tennis courts and in the butterfly garden. Mr. Kucera to investigate and resolve remaining debris issues.
- Item 21: The current aeration equipment will be relocated to another lake when new equipment is installed.

- Item 18: Per Mr. McCarthy, the landscape hedge damages had not been resolved along the fence when the fence company made necessary repairs. Staff to advise Mr. Kucera to replace the damaged shrubs.

SEVENTEENTH ORDER OF BUSINESS Old Business (Both)

Ms. Gravenhorst stated she and Mr. Hancock disagreed on how to treat the property behind the Hyatt. She photographed the ruts while driving through the area and implored the Boards to refrain from regularly maintaining the area because she did not want it to look like a parking area, until it was decided that it would be a parking area. She was concerned about labor hours that went into loading that particular area. Mr. Cramer recalled that the Hyatt came to the PLCA for permission to use the property as a staging area for construction in the water park and in one of the gazebos. The Hyatt brought materials in and out of there for a long time and should be responsible for maintenance. The PLCA should go after the Hyatt to restore the property back to however the CDDs wanted it; there were ruts and, whenever the tide came in, it looked terrible. Mr. Hancock stated that the Hyatt had permission to use that property for different projects and he pleaded with them to clean it up; he would follow up with them.

EIGHTEENTH ORDER OF BUSINESS Staff Reports (Both)

A. District Counsel

Mr. Cox stated that the Florida was moving forward with allowing the Department of Environmental Protection (DEP) to assume the responsibilities of the Army Corps of Engineers (Corps) for Section 404, the Clean Water Act. It will not directly impact the CDDs unless the Districts' permit required mediation. Although it was a different agency, the same rules that the Corps would apply. Meetings were being held regarding other bills and a few bills called for closed meetings. Mr. Cox would provide a full update of the outcome by the next meeting.

B. District Manager

i. Monthly Status Report: Field Operations

Mrs. Adams highlighted the following items:

- The approved aeration installation project was scheduled to commence within the next two weeks and would take approximately two months to complete.

- Mrs. Adams to speak with Mr. Kucera regarding the required limb removals at the Tennis Center; not all had been removed, as previously informed.
- Five light fixtures in Bay Cedar have not yet been repaired; however, parts were on order. Staff is waiting on one beach parking lot pole that has been ordered but not yet received. All of the damaged bases in The Colony have been repaired. The community is now under Phase Three water restrictions as of today, February 26th.

Ms. McVay noted that landscape vendors were not cleaning up after themselves after lunch and were leaving their lunch debris on site; she would report this to the PLCA and the PLCA will contact all the landscapers.

ii. NEXT MEETING DATE: March 26, 2018 at 2:00 P.M.

Mr. McCarthy stated that the next meeting will be on March 26, 2018 at 2:00 p.m., at this location.

NINETEENTH ORDER OF BUSINESS

Public Comments: *Non-Agenda Items*

A resident asked if the rain gauges were installed. Mr. Adams replied affirmatively.

▪ **Supervisor’s Comments**

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

A Board Member stated that shrubs behind the North monument, in Capri, required removal or trimming.

A Board Member stated that the CDDs were functioning efficiently in the past year and requested that Mr. Adams give a brief presentation at the next PLCA meeting to provide an update on the cost savings, landscaping, sluice gates, etc. Board Members were asked to forward their ideas to Mr. Adams in advance of the PLCA meeting, which will be held on March 29 at 10:00 a.m. Mr. Hancock suggested that Management keep the presentation brief and positive.

In response to a question, Mr. Adams stated that two or three web-based rain gauges were installed around the community.

TWENTIETH ORDER OF BUSINESS

Adjournment (Both)

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

FOR BAYSIDE IMPROVEMENT:


Secretary/Assistant Secretary


Chair/Vice Chair

FOR BAY CREEK:


Secretary/Assistant Secretary


Chair/Vice Chair