

**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, June 25, 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
William J. Nicholson	Assistant Secretary

For Bay Creek CDD:

Mary McVay	Chair
Nelson Glueck	Vice Chair
James Janek (<i>via telephone</i>)	Assistant Secretary
Donald McBride	Assistant Secretary
Robert Travers	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Adams	Assistant Regional Manager
Jason Olson	Assistant Regional Manager
Dan Cox (<i>via telephone</i>)	District Counsel
Carl Barraco (<i>via telephone</i>)	District Engineer
Wes Kayne (<i>via telephone</i>)	Barraco and Associates
Tony Grau	Grau & Associates
Jack Lienesch	Resident/Chair of Landscape Subcommittee
Gail Gravenhorst	Resident/Landscape Subcommittee
Charlotte McCarthy	Resident
Amy Quaremba	Resident

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.

Ms. McVay called for a motion to silence all cell phones during meetings. Mr. McCarthy suggested silencing phones by consent unless there was an objection.

SECOND ORDER OF BUSINESS

Roll Call

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

On MOTION for Bay Creek by Ms. McVay and seconded by Mr. Travers, 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 were no public comments.

Mr. McCarthy congratulated the five incumbents from the two Districts who filed for re-election and ran unopposed. He commended District Staff for their dedication and felt that despite various challenges, over the years, the joint Boards and Staff have demonstrated strong leadership that is recognized by the community.

BAYSIDE IMPROVEMENT ITEMS

FOURTH ORDER OF BUSINESS

Presentation of Audited Financial Report for Fiscal Year Ended September 30, 2017, Prepared by Grau & Associates

Mr. Grau presented the Audited Financial Report for Fiscal Year Ended September 30, 2017 and described the information that could be found on each page. There was one finding, which was that expenditures exceeded budget by \$153,655, which happens on occasion. Otherwise, this was a clean, unqualified audit with no instances of noncompliance. Mr. Adams stated that the \$153,655 was related to hurricane cleanup. In response to Ms. McVay's question regarding reimbursement, Mr. Adams would provide an update on Hurricane Irma recovery later

in the meeting. In response to Mr. McCarthy’s question regarding the budget, Mr. Grau stated that the CDDs had two months to amend the budget and the Boards could consider a resolution to increase appropriations so that the budget is not exceeded; the only way to deal with unexpected expenditures, such as hurricane cleanup, is to amend the budget. Technically, the CDD is not allowed to expend funds that were not appropriated and it is supposed to always make sure that the budget is adjusted so that no funds are expended that were not appropriated. A Board Member inquired about the financial implications of amending the budget. Mr. Grau stated that there was plenty of fund balance to pay the amount that was exceeded and the District’s revenues were higher than the amount budgeted. In response to Mr. McCarthy’s inquiry about the hurricane cleanup amount, Mr. Adams stated that the \$153,000 was net of any previous savings. Hurricane recovery, as of September, was greater than \$153,000 but there was savings in other parts of the budget and the District was under budget; the amount expended for first three weeks after the hurricane was in excess of \$150,000. Mr. Bill Nicholson asked how much under budget the District would have been, if not for the hurricane. Mr. Adams would research the amount and provide an answer later in the meeting.

FIFTH ORDER OF BUSINESS

Consideration of Resolution 2018-03, Accepting the Audited Financial Report for the Fiscal Year Ended September 30, 2017

Mr. McCarthy presented Resolution 2018-03.

On MOTION for Bayside Improvement by Mr. Cramer and seconded by Mr. Bill Nicholson, with all in favor, Resolution 2018-03, Accepting the Audited Financial Report for the Fiscal Year Ended September 30, 2017, was adopted.

BAY CREEK ITEMS

SIXTH ORDER OF BUSINESS

Presentation of Audited Financial Report for Fiscal Year Ended September 30, 2017, Prepared by Grau & Associates

Mr. Grau presented the Audited Financial Report for Fiscal Year Ended September 30, 2017 and described the information that could be found on each page. There was a finding, which was that expenditures exceeded budget by \$28,000, similar to Bayside. Otherwise, this

was a clean, unqualified audit with no instances of noncompliance. Ms. McVay asked if funds could be drawn from the Enterprise fund, if a budget increase was necessary. Mr. Adams stated that fund balance was utilized; a budget amendment would have simply rolled the monies out of fund balance to increase appropriations and offset expenses. As to when the Board should make that decision, Mr. Adams stated, within the first two months following the end of the fiscal year.

SEVENTH ORDER OF BUSINESS

Consideration of Resolution 2018-03, Accepting the Audited Financial Report for the Fiscal Year Ended September 30, 2017

Ms. McVay presented Resolution 2018-03.

On MOTION for Bay Creek by Mr. Glueck and seconded by Mr. Travers, with all in favor, Resolution 2018-03, Accepting the Audited Financial Report for the Fiscal Year Ended September 30, 2017, was adopted.

****Mr. Grau left the meeting.****

JOINT BOARD ITEMS

EIGHTH ORDER OF BUSINESS

Discussion: Annual Sediment Sampling: Bayside/Bay Creek CDDs Lake Sampling, Analysis and Reporting, by Johnson Engineering

Mr. Adams suggested addressing Item 9, as the District Engineer was on conference call.

- **Staff Report: District Engineer: Barraco & Associates, Inc. (Both)**

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

Mr. Barraco stated that there was nothing new to report but would remain on the telephone to answer any questions. The Board Members had no questions.

Discussion of the Annual Sediment Sampling resumed.

Mr. Adams presented the Bayside/Bay Creek CDD Lakes Sampling, Analysis, and Reporting, prepared by Johnson Engineering. Comparing 2017 to 2018, the sediment doubled in Lakes A-2 and A-17 and became completely clean in Lakes D-8 and F-12. He mentioned two unique rain events, a flushing out of the system, debris buildup, erosion and runoff. Discussion ensued regarding the Report's conclusion, a 2:1 slope, sediment samples, measurements and GIS

coordinates. In response to Ms. McVay's question regarding Lake A-17 and frequent flooding, Mr. Adams stated that there is no impact on the golf course; water came from across the roadway and flowed south. A Board Member stated that, since the drain in the preserve area was unplugged, flooding had ceased. Ms. McVay countered that there was still flooding in that particular area and she forwarded photographic evidence to Mrs. Adams one month ago. Mrs. Adams stated the interconnecting pipe and catch basins are being inspected now and the clogged pipes will be cleaned. In response to Mr. Janek's question, Mr. Adams confirmed that the lakes had aeration and were treated monthly with bacteria. A Board Member asked if the M.R.I. Underwater Specialists (MRI) study is produced annually. Mr. Adams stated that when the Report is updated to include the catch basin medallion numbers, it will be forwarded to Management's office and the revised Report would be circulated to all Board Members. Mrs. Adams stated that the MRI Report identified the catch basins by medallion number.

NINTH ORDER OF BUSINESS**Staff Report: District Engineer: *Barraco & Associates, Inc. (Both)***

This item was presented during the Eighth Order of Business.

TENTH ORDER OF BUSINESS**Lake Maintenance Report: *SOLitude Lake Management (Both)***

There being no report, the next item followed.

ELEVENTH ORDER OF BUSINESS**Update: Hurricane Irma Recovery**

Mr. Adams provided the following update:

- The Federal Emergency Management Agency (FEMA) requested an outline as to the emergent justification for the emergency procurement process.
- Management responded by providing an outline of the standard bidding process and Requests for Proposals (RFPs), including the reasons why and its authorization.
- The outline was forwarded to FEMA and no other requests for additional information have been received.
- The CDDs are not the only ones awaiting a final answer from FEMA.
- The process was slow, even though FEMA promised it would be quicker than past years.

Mr. Jim Nicholson stated that the State received FEMA funds but had not yet distributed those funds to local communities. Discussion ensued regarding reimbursement from Hurricane Wilma, bidding justifications, familiar contractors, the reimbursement amount requested and the recovery percentage.

Ms. McVay reported that she showed Mr. Kucera two dead oak trees; one at the ridge and one at the traffic circle. Mr. Kucera trimmed broken branches off orchid trees and she expressed her gratitude to him for his responsiveness.

TWELFTH ORDER OF BUSINESS

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

In response to Mr. Adams' inquiry, Mr. Cox had not received a response to his letter to the City but would email the City Attorney and ask her to follow up on the remediation efforts. Mr. Cramer stated that he attended workshops, various PLCA meetings and participated in discussions about the best ways to resolve the runoff issue and Mr. Barraco made recommendations on rainfall and what could and could not be accommodated. The Boards must request an analysis from the PLCA of how much water is being used versus the previous usage. Mr. Adams stated that the CDDs did not have the authority to force PLCA to do anything about it, despite being the surface water permit holder. If the South Florida Water Management District (SFWMD) or Lee County determines that there is something improper with the runoff, they will cite the District, as the permit holder. The Districts must then compel the private property owner to remediate and if they do not and the agencies start to issue daily fines, they would be passed along to the property owners and a need to force legal action will arise. Mr. Cox would then advise the Boards about the legal process. In response to Ms. McVay's inquiry regarding forwarding a letter to the PLCA, Mr. Adams stated that the CDD has repeatedly communicated its position with regard to the runoff and nothing has been done. Mr. McCarthy stated there is no question that the property is not in compliance with the approved development order, which should generate concern, and one would expect that it would be the municipal jurisdiction but they were not enforcing it. Discussion ensued regarding the PLCA, garbage in the swale, flooding, installing riprap, municipal scrutiny and working together.

THIRTEENTH ORDER OF BUSINESS

Updates: PLCA Landscape Committee

Mr. Lienesch updated the Board on the following items:

- Tree removal has commenced on the south end of the property.
- Johnson Tree has completed the Pennyroyal berm removal.
- On Pelican Nest Drive, more trees were tagged.
- Both Bonita Springs and The Village of Estero require permits to remove trees.
- Mr. Spencer would tour the area with Mr. Sean Gibbons, from the City of Bonita Springs, and show him the trees that were slated for removal; letters with the Districts' tree removal plans should be forwarded to the City of Bonita Springs.
- A letter was drafted and would be sent to the City of Bonita Springs, once executed by the PLCA.
- The Village of Estero requires a multi-page application, \$800 fee, notarized affidavits, etc. The application was completed, signed, the check cut and notarized statements were obtained.
- Mr. Lienesch was awaiting final approval from the Commissioner.
- The retro-fitting of the irrigation in the demonstration area at the South gate was completed.
- The project has a deadline of July 15.
- Club Care is being contracted to plant the flowers in the Fall.
- Mr. Spencer would be alerted regarding the flower selections to ensure everything is okay.
- If he cannot meet with Club Care, maybe he and Mrs. Adams can coordinate their efforts and decide on what plants/flowers to install.
- Phase 1 of the landscape renovation project is to be completed by November 30; the contract calls for periodic meetings.

In response to Ms. McVay's question regarding a completion time frame, Mr. Lienesch stated it would take three years but it was unclear how the entrances would be handled or if the monument landscape must be redone. Once Phase 1 is completed, the focus will be on the entrances. Regarding the slow progress, Mr. Lienesch stated that Mr. Spencer has a complete schedule broken down. Plant installations on Pennyroyal and the demo area were previously scheduled for mid-July and would be followed by the other two areas. O'Donnell Landscaping was sub-contracted to complete the demo and the plantings and will notify the utility companies. Discussion ensued regarding the time frame, monuments, entrances, financing, removal of dead

Hawthornes and residents. Ms. McVay inquired about the plans. Mr. Lienesch stated that the planting plans for the demo area and Pennyroyal were completed but were incomplete for the other two areas; they lack the detail that the contractor needs to proceed with the plantings. Ms. McVay asked what is being timed out; she felt it would take three years instead of six months. Mr. Cramer stated that, in his experience, he views the project and everyone involved as quite fragmented. Discussion ensued regarding Mr. Spencer, the PLCA, the need for communication, the Johnson Tree incident and traffic control. Mr. Crew stated that the minutes of the meeting differed from other people's accounts. Mr. Adams recommended relying on the written PowerPoint outlines.

Ms. Gail Gravenhorst, a resident, read the following statement into the record:

“As a member of the Landscape Committee but not speaking for it, I found the recent CDD Board of Director Workshop to be helpful. Given the need to operate within the Sunshine Law, I would encourage you to have more workshops. Last month, our leader was very helpful in clarifying responsibilities for executing our refurbishment plan. As the installation moves forward, it would be wise to examine the progress and address any foreseeable issues. Thank you.”

Mr. McCarthy recalled that Mr. Kucera would be the point person and he would be supervised by District Staff. Mrs. Adams would email Mr. Lienesch the guidelines for traffic control. In response to Mr. McCarthy's request, Mr. Lienesch stated that the schedule had not been released to anyone but the landscapers and will be released to everyone at the next meeting.

FOURTEENTH ORDER OF BUSINESS

Continued Discussion: Colony Landscape Program

Ms. Amy Quaremba, a resident, stated The Colony has a new committee which was in the process of engaging a landscape architect to review the landscape within The Colony. A number of landscape architects were interviewed and but hiring decisions were made. After many tours of the property with these professionals, it is clear that The Colony must improve its landscape by paying more attention to maintenance. She would like to understand the budgeting for The Colony, in regard to an uptick of \$30,000 for plant replacement. Mr. Adams stated that, in regard to the budget, Management operated based on the Boards and Staff but, now, with a very active landscape committee, Management required guidance, in terms of plant replacement. Ms. Quaremba stated that one of the big issues raised in the committee meetings entail the turf.

Mr. Adams stated that he, Mrs. Adams and Mr. Kucera discussed raising the turf height. Discussion ensued regarding Celebration turf, identifying outdated plants and a Landscape Architect who could make recommendations for plant changeouts. Regarding who would pay, Mr. Adams stated that The Colony Foundation would pay. Ms. McVay recommended that the PLCA and The Colony Foundation create a line item under the reserve section and set aside funds for the landscape. Ms. Quaremba stated that the landscape was on the agenda and she was unsure how it would be resolved but thanked Ms. McVay for the suggestion. Further discussion ensued.

FIFTEENTH ORDER OF BUSINESS

Irrigation Reports (Both)

A. High User

i. Bayside Improvement CDD

Mr. Crew would contact the resident at 24871 Pennyroyal who incurred a \$1,200 bill. Mr. McCarthy stated it was probably a leak, as prior usage was very consistent. Mr. Crew would put out a notice to Lakemont because there were a lot of Lakemont houses on the list.

ii. Bay Creek CDD

This item was included for informational purposes.

B. Penalty Usage Summary

i. Bayside Improvement CDD

ii. Bay Creek CDD

The following change was made:

“Penalty Consumption” and “Penalty Revenue \$” columns: change “Teir” to “Tier”

Mr. Adams stated that the resident at 24871 Pennyroyal recently contacted Management asking for relief because their house watch person confirmed that there was a leak. The issue was corrected and the resident was granted the one-time relief given to good users.

C. Zero Consumption

i. Bayside Improvement CDD

ii. Bay Creek CDD

Mr. McCarthy called attention to the “Zero Consumption 06-2018” before the “Notes” tab.

SIXTEENTH ORDER OF BUSINESS

Consideration of Resolutions Declaring Certain Tangible Person Property Surplus Equipment and Authorizing the District Manager to Sell or Dispose of Said Equipment as Expeditiously as Possible and Providing for an Effective Date

A. Resolution 2018-04, *Bayside Improvement Community Development District*

Ms. McVay presented Resolution 2018-04.

On MOTION for Bayside Improvement by Mr. Bill Nicholson and seconded by Mr. Crew, Resolution 2018-04, Declaring Certain Tangible Person Property Surplus Equipment and Authorizing the District Manager to Sell or Dispose of Said Equipment as Expeditiously as Possible and Providing for an Effective Date, was adopted.

B. Resolution 2018-04, *Bay Creek Community Development District*

On MOTION for Bay Creek by Mr. Glueck and seconded by Mr. McBride, Resolution 2018-04, Declaring Certain Tangible Person Property Surplus Equipment and Authorizing the District Manager to Sell or Dispose of Said Equipment as Expeditiously as Possible and Providing for an Effective Date, was adopted.

SEVENTEENTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of May 31, 2018

Ms. McVay presented the Unaudited Financial Statements as of May 31, 2018. Mr. Adams stated that, on Page 3, \$32,667 was rebooked from “Repairs and maintenance (parts)” because items were booked to that particular line item, which were more appropriately booked to “Hurricane cleanup”, including fence replacement and repairs. The difference in the \$5,000 was the current work to cleanup certain areas. In response to Mr. McCarthy’s request, Mr. Adams stated that there were no major concerns in the unaudited financials. Assessment revenue collections were at 98%, which signified a few pending tax certificate sales, which should be resolved in June. Cumulative expenditures were at 83%, due to the hurricane recovery expense of \$406,310, which was unbudgeted. Management will complete a budget amendment to avoid a

finding in the audit. In response to Mr. Crew’s question regarding Capital outlay, Mrs. Adams stated that the Boards approved the budget, as part of the lake health program, and it was identified that funds would be repurposed to offset unexpected costs. Mr. McCarthy questioned the difference in the hurricane cleanup figures in the audit and unaudited financials. Mr. Adams stated that there had to be a difference between the amount applied-for versus the actual expense amount, because FEMA requirements limited the Districts to applying for Category A, which is the initial cleanup within the road right-of-ways (ROWS) and pedestrian areas, which are public safety health welfare issues. In response to Mr. McCarthy’s request for the actual amount requested from FEMA, Mr. Adams stated that he would research it and provide an answer later in the meeting. A Board Member asked whether the new plantings in The Colony would be classified as hurricane replacement or plant replacement. Mr. Adams stated that the cleanup would be booked to “Hurricane recovery” and replanting would be booked to “Plant replacement.” Regarding the cost and whether any invoices were submitted, Mr. Adams replied that the cost to replant was \$15,000 and \$20,000.

EIGHTEENTH ORDER OF BUSINESS

Approval of May 21, 2018 Joint Regular Meeting Minutes (Both)

Ms. McVay presented the May 21, 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. Jim Nicholson and seconded by Mr. Bill Nicholson, with all in favor, the May 21, 2018 Joint Regular Meeting Minutes, as amended to include edits provided to District Management, were approved.

On MOTION for Bay Creek by Mr. Travers and seconded by Mr. McBride, with all in favor, the May 21, 2018 Joint Regular Meeting Minutes, as amended to include edits provided to District Management, were approved.

NINETEENTH ORDER OF BUSINESS

Action Items (Both)

Items 8, 9, 11, 12, 13, and 17 were completed.

Items 1, 2, 3, 4, 5, 6, 7, 8, 10, 14, 15 and 16 remained ongoing.

Item 6: Discussion ensued regarding whether the PLCA sent an announcement regarding tree removals. This item remains ongoing while Management follows up.

Item 15: Refers to Bay Creek only.

In response to Mr. McCarthy's previous request for the actual amount that Management submitted to FEMA, Mr. Adams stated that the total amount was \$390,955; with \$309,675 submitted within the 90% refund period and \$80,000 submitted after that period.

TWENTIETH ORDER OF BUSINESS Old Business (Both)

There being no old business, the next item followed.

TWENTY-FIRST ORDER OF BUSINESS Staff Reports (Both)

A. District Counsel: *Dan Cox, Esq.*

Mr. Cox reported that one of the Districts that he and Mr. Adams represent was recently served with a lawsuit regarding its CDD website and whether it is compliant with the Americans with Disabilities Act (ADA). Visually-impaired individuals can use screen-reader software but some PDF formats are not compatible with those software options. The District Manager engaged a company to examine all of the District websites and submit pricing to become ADA-compliant. By being proactive, the necessary changes can be made in time to avert any lawsuits. Mr. Adams reiterated that Management engaged an ADA-compliance company to train Staff on how to tag and place files on District websites to render them ADA-compliant. Additionally, each website will undergo annual compliance reviews and be issued a certification of compliance. Discussion ensued regarding an Order to Dismiss, the Complainant and damages. Ms. McVay directed Staff to forward Ms. Cheryl ____ a letter alerting her of the ADA-compliance issue for further examination and scrutiny. Mr. Adams would forward the information. Mr. Janek asked Staff to mention the ADA-compliance issue to the PLCA.

B. District Manager: *Wrathell, Hunt and Associates, LLC*

i. Monthly Status Report: Field Operations

Mrs. Adams presented the June 25, 2018 Monthly Status Report, including the MRI Report, dated May 11, 2018.

Mr. Crew suggested tracking certain items on the MRI Report on a year-to-year basis. Mrs. Adams stated that it would be implemented.

Mr. Adams corrected his previous statement regarding the audited financials; of the \$153,000 overall appropriations, \$149,220 was for hurricane restoration, resulting in being approximately \$4,000 over budget. In response to a question, Mrs. Adams confirmed that MRI submitted an estimate to complete the catch basin cleaning work; however, she had not received the estimate for the interconnecting pipe cleaning and outfall structures.. The estimate for the catch basins was for \$34,500, an additional \$1,400 and an inspection fee of \$600. A Board Member commented that, with all these expenses, the Districts will be over budgeted for the culverts. Mrs. Adams concurred. Discussion ensued regarding the MRI Report and the medallions.

ii. NEXT MEETINGS

- **July 20, 2018 at 9:00 A.M. – Budget Workshop**
- **July 23, 2018 at 2:00 P.M. – Joint Regular Meeting**

A budget workshop will be held on July 20, 2018 at 9:00 a.m., and the next meeting will be held on July 23, 2018 at 2:00 p.m., at this location.

TWENTY-SECOND ORDER OF BUSINESS Supervisor Requests

Mr. Crew presented photographs and reported the following:

- The Center Gate entrance/decorative fountain was not working.
- The right-hand side lake fountain at this location was not working.
- The aeration mixer, in B-6, was not working due to a power surge.
- The cutback and flush out of the shrubs behind the Capri monument was unsuccessful so they should be removed and replaced.
- The cutback and flush out of the Oleanders along Pelican Nest Drive, west of Pennyroyal, are not recovering and they should be replaced.

Ms. McVay asked Staff to contact Pelican Nest Golf Club and have them clean out a poorly-maintained area on the main boulevard, from the traffic circle east to a cart path, adjacent to the Bay Creek entry. There was flooding on the golf course and she requested that Staff email the Golf Course Superintendent requesting that the area be cleaned up. A Board Member stated that the flooding was caused by a clogged drain in the District's wetland.

TWENTY-THIRD ORDER OF BUSINESS Public Comments: *Non-Agenda Items*

Ms. Quaremba noted a new type of St. Augustine grass that needs half the water, and grows slower, which could be mowed less frequently. Mr. Adams stated it is Palmetto grass.

TWENTY-FOURTH ORDER OF BUSINESS Adjournment (Both)

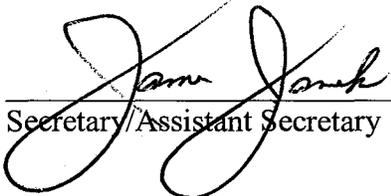
There being no further business to discuss, the meeting adjourned at 4:10 p.m.

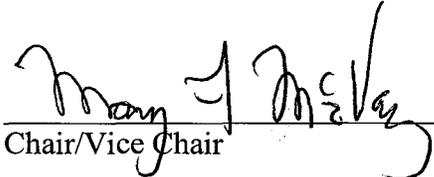
FOR BAYSIDE IMPROVEMENT:


Secretary/Assistant Secretary


Chair/Vice Chair

FOR BAY CREEK:


Secretary/Assistant Secretary


Chair/Vice Chair