MINUTES OF MEETING BAYSIDE IMPROVEMENT AND BAY CREEK COMMUNITY DEVELOPMENT DISTRICTS

The Boards of Supervisors of the Bayside Improvement Community Development District and Bay Creek Community Development District held Multiple Joint Public Hearings and a Joint Regular Meeting on August 22, 2022, at 2:00 p.m., at the Pelican Landing Community Center, 24501 Walden Center Drive, Bonita Springs, Florida 34134. Members of the public were able to participate via Zoom, at https://us02web.zoom.us/j/88969163185 and via conference call at 1-929-205-6099, Meeting ID: 889 6916 3185 for both.

For Bayside Improvement CDD, present were:

Walter McCarthy (via Zoom) Chair
Bill Nicholson Vice Chair

Bernie Cramer Assistant Secretary
Gail Gravenhorst Assistant Secretary
Karen Montgomery Assistant Secretary

For Bay Creek CDD, present were:

James Janek (via Zoom) Chair
Robert Travers Vice Chair

R. Gary Durney Assistant Secretary
Jerry Addison Assistant Secretary

Also present were:

Chuck Adams District Manager
Cleo Adams District Manager

Dan Cox (via Zoom) District Counsel, Bay Creek CDD

Wes Kayne (via telephone) District Engineer

Bill Packard (via Zoom) Resident/Landscape Committee Member

Mark Putcoff (via Zoom) PLCA General Manager

FIRST ORDER OF BUSINESS Call to Order/Phone Silent Mode/Pledge of

Allegiance

BAYSIDE IMPROVEMENT & BAY CREEK CDDS

August 22, 2022

Mr. Adams called the meeting to order at 2:01 p.m.

SECOND ORDER OF BUSINESS

Roll Call

For Bayside Improvement CDD, Supervisors Cramer, Montgomery, Gravenhorst and Nicholson were present. Supervisor McCarthy was attending via Zoom.

For Bay Creek CDD, Supervisors Addison, Durney and Travers were present, in person. Supervisor Janek was attending via Zoom. Supervisor McVay was not present.

All present recited the Pledge of Allegiance.

On MOTION for Bayside by Mr. Nicholson and seconded by Ms. Gravenhort, with all in favor, authorizing Mr. McCarthy's attendance and full participation, via telephone/Zoom, due to exceptional circumstances, was approved.

On MOTION by Bay Creek by Mr. Travers and seconded by Mr. Addison, with all in favor, authorizing Mr. Janek's attendance and full participation, via telephone/Zoom, due to exceptional circumstances, was approved.

THIRD ORDER OF BUSINESS

Public Comments: Agenda Items

There were no public comments.

JOINT BUSINESS ITEMS

FOURTH ORDER OF BUSINESS

Staff Report: District Engineer – Barraco &

Associates, Inc.

There was no report.

FIFTH ORDER OF BUSINESS

Waterway Inspection Report: SOLitude

Lake Management

The Monthly Report was included for informational purposes.

Mr. Adams stated that SOLitude is appointing a New Account Manager for the CDDs, as Ms. Kennedy will be working with the South Florida Water Management District (SFWMD).

Mr. Addison asked that SOLitude inspect Lake D-14 to treat algae build up.

Mr. Durney stated that The Nest installed new irrigation piping and it ended up in Lake D-6, "Hurricane #13", behind his residence. He asked why their pipes are going into a CDD stormwater lake. Mr. Adams noted it appears to be flexible piping and stated it seems to be diverting water from a low spot in the fairway into the pond. Mr. Durney asked if the CDDs or the Golf Course controls construction of things that enter the ponds. Mrs. Adams stated, per Mr. Zimmerman, it is an emergency valve that will only be used if there is a leak on that hole and, per Mr. Zimmerman, that this common practice. Mr. Kayne stated he was not familiar with this practice with regard to an irrigation system; he will confirm whether permits were issued.

SIXTH ORDER OF BUSINESS

Committee Reports

A. PLCA Landscape Committee

Mr. Packard stated that the Report will be presented at the next meeting. He noted the replanting projects O'Donnell Landscapes completed.

Mr. Cramer asked for a copy of the landscape plans and asked for the amount designated, in order for the CDDs to address any irrigation needs.

Resident and Landscape Committee Member Bill Packard stated that this was included in the 2022 operating budget. Ms. Gravenhorst stated Mr. Kucera assured her that the new plans will not require additional irrigation.

The Boards discussed asking the PLCA to update its process and to present and submit its plans to the CDDs for review before proceeding with a project, so the CDDs can determine the cost of irrigation and maintenance, once projects are completed.

Discussion ensued about the PLCA Landscape Agreement, defining PLCA and CDD responsibilities when transitioning improvements and holding workshops to ensure written documentation is available for future Boards to review.

Mr. Cox recalled that, during negotiations, the decision was to keep the projects open, as this will allow the PLCA and CDDs to assign responsibilities specific to each project. Mr. Packard stated that the PLCA will increase its cooperations with the CDDs. He noted the PLCA Board is

preparing next year's plans and recently approved funding the minimal project. The \$45,000 bid was comprised of rebuilding five sections and provided allowances for irrigation and specific plans for plant materials, by location; no renderings exist. He noted that, if appropriate, there is the possibility of charging back components of these expenses to the HOA, as the landscape budget line item carried over surplus fund balance from the prior year. It was noted that the CDD Representatives can provide updates at CDD meetings.

Mr. Durney asked which entity oversees removal of the abandoned utility boxes that are surrounded by landscaping. Mr. Cramer recalled that Comcast refused to remove them. Mr. Adams stated that this involves the PLCA, not the CDDs. The boxes are typically within a utility easement. Mr. Packard stated that some boxes are still active as some residents still use Comcast.

B. Colony Landscape Committee

The Report was included for informational purposes.

BAYSIDE IMPROVEMENT ITEMS

SEVENTH ORDER OF BUSINESS

Public Hearing to Hear Comments and Objections on the Adoption of District's Final Budget for Fiscal Year 2022/2023, Pursuant to Florida

A. Proof/Affidavit of Publication

The affidavit of publication was included for informational purposes.

B. Consideration of Resolution 2022-06, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2022 and Ending September 30, 2023; Authorizing Budget Amendments; and Providing an Effective Date

Mr. Adams presented Resolution 2022-06. He reviewed the revisions to the proposed Fiscal Year 2023 budget that were discussed at the Workshop meeting; the information needed to make the revisions to the Enterprise Fund was pending. He addressed the Board's concerns about the following budget line items:

Bay Creek CDD-Fund Balance: Mr. Durney referred to the surplus fund balance amount on Page 21 of the Unaudited Financial Statements versus the Year End Projected Report. He

expressed his opinion that the reserve fund balance is higher than needed and should be reduced for Fiscal Year 2023.

Mr. Adams stated that the Board can reduce the surplus amount but reminded them that there is still two months of expenses pending until Fiscal Year 2022 closes. Also, the amount is slightly larger than normal because funds from the uninsured assets fund were transferred in. Mr. Adams stated that it is good practice for reserves to equal a minimum of 25% of the annual budget so there is sufficient funding on hand for unforeseen items, such as recovery costs due to a storm event, equipment repairs, etc.

The ability to initiate a line of credit instead was discussed.

A suggestion was made to use fund balance instead of increasing assessments for Fiscal Year 2023. Mr. Adams did not recommend that approach, due to time constraints and because the assessment levels were already set and noticed, he suggested planning for it for Fiscal Year 2024.

Mr. Nicholson distributed and presented his list of suggested motions for the Fiscal Year 2023 Budget, motions related to the budget process beginning with the Fiscal Year 2024 Budget, and a motion related to CDD monthly meeting protocols.

Staff was directed to include Mr. Nicholson's handout as an exhibit to the minutes.

Discussion of Mr. Nicholson's suggested motions related to the Fiscal Year 2023 budget were as follows:

- Motion #1: Remove a minimum of two positions from the Landscaping Personnel Services category and add the same quantity of labor funds as a new budget line item in the Enterprise Fund for Fiscal Year 2023 and going forward, representing the expected labor cost associated with irrigation system maintenance and meter reading.
- Motion #2: A field labor costs expended, and all materials consumed related to all irrigation system repairs, modifications, improvements, such as designs, or project work, capital or otherwise, be applied to the new Enterprise Budget labor category.

Mr. Adams stated he can take data from the current report to provide sprinkler readings and repair labor cost information. He noted that Mr. Kucera and Mr. Kemp's wages are split between the General Fund and Enterprise Funds. As there are no labor positions in the Enterprise

Fund, he will add two new, "Personnel Services-Irrigation and Personnel Services-Landscaping categories in the Fiscal Year 2024 budget.

Motion #3: Stop the financial commitments to The Colony Flower and Mulch budget when the adopted Fiscal Year 2023 budget amount is reached and the same for future years.

Mrs. Adams stated she will review the charges, as her records indicate they did not exceed budget. She discussed the Club Care approval process and noted the new contract was recently executed. Mr. Adams stated that the Projection Report was incorrect as the number of plantings was incorrect.

Discussion of Mr. Nicholson's suggested motions related to the budget process, beginning with the Fiscal Year 2024 budget were as follows:

Motion #4: All future budget documents, proposed and adopted, provide a percentage comparison between the Proposed Budget and both the prior year adopted budget and the current year end spending projections. Mr. Nicholson also distributed "Motion #4", including a marked up Fiscal Year 2023 budget spreadsheet.

Mr. Nicholson motioned and Ms. Gravenhorst seconded the motion, however, since this was a non-issue and it did not go to final vote, as Mr. Adams provided this information by unhiding a cell in the existing spreadsheet.

Motion #5: Reschedule the Budget Workshop to the Friday before Monday's Public Hearing Meeting and include nine months of "Actual Spending" in the budget documents instead of six months.

Mr. Adams stated he can provide the information via the Projection Report. He explained that the Controller will not modify the formulas in the Unaudited Financial Statements because CDDs, as governmental entities, must adhere to the Florida Auditor General's Governmental Accounting Standards.

Mr. Janek voiced his opinion that this level of micromanagement of the budget process is excessive. Mr. McCarthy concurred.

On MOTION for Bayside by Mr. Nicholson and seconded by Mr. Cramer, with Mr. Nicholson, Mr. Cramer and Ms. Gravenhorst in favor and Ms. Montgomery and Mr. McCarthy dissenting, modify the Unaudited Financial Statements to include nine months of actual expenses and rescheduling the Budget Workshop from July 14, 2023 to July 21, 2023 and rescheduling the July Regular Meeting from July 24, 2023 to July 31, 2023, was approved. [Motion passed 3-2]

The Bay Creek Board did not vote on this matter.

Motion #6: Mr. Nicholson presented his motion.

On MOTION for Bayside by Mr. Nicholson and seconded by Ms. Gravenhorst, with all favor, provide narrative notes and color code and highlight changes to explain the basis for the proposed budget changes between the prior and latest version, was approved.

- Motion #7: Mr. Nicholson distributed a markup of "Motion #7" to add columns to the Preliminary 2022-2023 and 2021-2022 Assessment Tables. A motion is not required.
- Motion #8: The request to email Board Members the detail labor calculation Worksheet.

 A motion is not required.

Discussion of Mr. Nicholson's suggested motion related to the CDD monthly meeting protocol was as follows:

Motion #9: Staff to provide upcoming meeting materials to the Boards a minimum of 72 hours in advance of an upcoming meeting and any materials distributed with less than a 72-hour lead time will be placed on the agenda and discussed at the next monthly meeting. A motion is not required.

On MOTION for Bayside by Ms. Gravenhorst and seconded by Ms. Montgomery, with all favor, the Public Hearing was opened.

No members of the public spoke.

Mr. Adams closed the Public Hearing.

Mr. Adams presented Resolution 2022-06.

On MOTION for Bayside by Ms. Gravenhorst and seconded by Ms. Montgomery, with all in favor, Resolution 2022-06, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2022 and Ending September 30, 2023, as amended; Authorizing Budget Amendments; and Providing an Effective Date, was adopted.

EIGHTH ORDER OF BUSINESS

Public Hearing to Hear Comments and Objections on the Imposition of Special Assessments for Operations and Maintenance for Fiscal Year 2022/2023, Pursuant to Florida Law

- A. Proof/Affidavit of Publication
- B. Mailed Notice(s)

These items were included for informational purposes.

C. Consideration of Resolution 2022-07, Making a Determination of Benefit and Imposing Special Assessments for Fiscal Year 2022/2023; Providing for the Collection and Enforcement of Special Assessments; Certifying an Assessment Roll; Providing for Amendments to the Assessment Roll; Providing a Severability Clause; and Providing an Effective Date

Mr. Adams noted the only changes to the Fiscal Year 2023 budget were in the format; the Assessment Roll figures remained unchanged since last discussed.

Mr. Adams opened the Public Hearing.

No members of the public spoke.

Mr. Adams closed the Public Hearing.

Mr. Adams presented Resolution 2022-07.

Mr. McCarthy listed the following Fiscal Year 2023 assessment levels, on Pages 10, 15 and 22 of the adopted Fiscal Year 2023 budget:

General General

Description Fund 001 Fund 002 Enterprise Fund

Common & Administration \$254.48

Full Assessment \$645.33 \$637.88 \$82.79

Limited Benefit Assessment-outside gate \$172.15

On MOTION for Bayside by Mr. McCarthy and seconded by Ms. Montgomery, with all in favor, Resolution 2022-07, Making a Determination of Benefit and Imposing Special Assessments for Fiscal Year 2022/2023; Providing for the Collection and Enforcement of Special Assessments; Certifying an Assessment Roll; Providing for Amendments to the Assessment Roll; Providing a Severability Clause; and Providing an Effective Date, was adopted.

Mr. Durney stepped away momentarily and returned shortly thereafter.

Mrs. Adams reviewed and confirmed that, after processing Change Order #3, The Fiscal Year 2022 Colony flower expenditures totaled \$48,578.79, which is under budget. She thought that the appearance of an overage is because an item was miscoded to that line item.

BAY CREEK ITEMS

NINTH ORDER OF BUSINESS

Public Hearing to Hear Comments and Objections on the Adoption of District's Final Budget for Fiscal Year 2022/2023, Pursuant to Florida

A. Proof/Affidavit of Publication

The affidavit of publication was included for informational purposes.

B. Consideration of Resolution 2022-07, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2022 and Ending September 30, 2023; Authorizing Budget Amendments; and Providing an Effective Date

Mr. Adams noted the only changes made to the Fiscal Year 2023 budget were in the format, similar to the Bayside budget. The Assessments remained unchanged.

Mr. Adams opened the Public Hearing.

No members of the public spoke.

Mr. Adams closed the Public Hearing.

Mr. Adams presented Resolution 2022-07.

On MOTION for Bay Creek by Mr. Travers and seconded by Mr. Durney, with all in favor, Resolution 2022-07, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2022 and Ending September 30, 2023, as amended; Authorizing Budget Amendments; and Providing an Effective Date, was adopted.

TENTH ORDER OF BUSINESS

Public Hearing to Hear Comments and Objections on the Imposition of Special Assessments for Operations and Maintenance for the Fiscal Year 2022/2023, Pursuant to Florida Law

- A. Proof/Affidavit of Publication
- B. Mailed Notice(s)

These items were included for informational purposes.

- C. Consideration of Resolution 2022-08, Making a Determination of Benefit and Imposing Special Assessments for Fiscal Year 2022/2023; Providing for the Collection and Enforcement of Special Assessments; Certifying an Assessment Roll; Providing for Amendments to the Assessment Roll; Providing a Severability Clause; and Providing an Effective Date
 - Mr. Adams opened the Public Hearing.

No members of the public spoke.

Mr. Adams closed the Public Hearing.

Mr. Adams presented Resolution 2022-08.

On MOTION for Bay Creek by Mr. Travers and seconded by Mr. Addison, with all in favor, Resolution 2022-08, Making a Determination of Benefit and Imposing Special Assessments for Fiscal Year 2022/2023; Providing for the Collection and Enforcement of Special Assessments; Certifying an Assessment Roll; Providing for Amendments to the Assessment Roll; Providing a Severability Clause; and Providing an Effective Date, was adopted.

JOINT BOARD ITEMS

ELEVENTH ORDER OF BUSINESS

Presentation of Monthly Budget and Year End Projection (to be provided under separate cover)

Mr. Adams gave updates and discussed upcoming changes to the Monthly Budget and Year End Projection Report distributed in the meeting.

TWELFTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of July 31, 2022

Mr. Adams presented the Unaudited Financial Statements as of July 31, 2022.

There were no questions.

Re-initiating Water Quality Testing

This item was an addition to the agenda.

Mr. Adams recalled that water quality testing and reporting of the seven outfall ponds and sediment sampling was deferred while the Water Quality Task Force (WQTF) performed its specific task. This was also a requirement of the Settlement Agreement with the City of Bonita Springs.

Mr. Adams stated that the overall cost is \$13,850; however, he believed sediment sampling should be scheduled every three years, rather than annually, equating to a savings of \$6,900.

Discussion ensued regarding a suggestion to test for fecal bacteria.

Mr. Cox reported that, with input from Mr. Urbancic, a link to the Florida Atlantic University Analysis of the Waterways in Lee County was emailed. The Analysis essentially states over 65% of the septic tanks installed between 1960 and 1970 cannot be located; those are contributing to the nutrient load in the waterways. He noted the University of Florida report on this matter and current State legislation requirements. He recommended the CDDs reduce their burden on this matter.

Discussion ensued regarding adding fecal bacteria testing and concerns about doing so when it is not a requirement. Whether septic tanks are on PLCA property or in the marina was discussed.

Mr. Cox noted the only requirement of the Settlement Agreement was to monitor the outfall ponds.

On MOTION for Bayside by Ms. Montgomery and seconded by Mr. Cramer, with all in favor, re-instituting the Water Quality Testing Program, adding fecal bacteria testing and conducting the sediment sampling testing every three years, was approved.

On MOTION for Bay Creek by Mr. Travers and seconded by Mr. Addison, with Mr. Travers, Mr. Addison and Mr. Janek in favor and Mr. Durney dissenting, reinstituting the Water Quality Testing Program, adding fecal bacteria testing and conducting the sediment sampling testing every three years, was approved. [Motion passed 3-1]

Ms. Gravenhorst stated that the WQTF accomplished its tasks and is no longer a functioning task force.

Purchase Street Sweeper

This item was an addition to the agenda.

Mr. Adams discussed the need to replace the existing street sweeper.

Regarding water quality testing, Mr. Janek stated the CDDs executed the Settlement Agreement and agreed to cooperate with the City in doing this minor testing because it will exempt the CDDs from paying for the City's \$21 million sewer project. Mr. Cox stated the CDDs are in partnership with the City and helping the City understand where the input is.

On MOTION for Bayside by Ms. Montgomery and seconded by Ms. Gravenhorst, with all in favor, purchasing the Georgia Sweeper in Fiscal Year 2022, was approved.

On MOTION for Bay Creek by Mr. Travers and seconded by Mr. Durney, with all in favor, purchasing the Georgia Sweeper in Fiscal Year 2022, was approved.

THIRTEENTH ORDER OF BUSINESS

Approval Minutes

Mr. Adams presented the following:

A. July 15, 2022 Joint Budget Workshop

On MOTION for Bay Creek by Mr. Durney and seconded by Mr. Janek, with all in favor, the July 15, 2022 Joint Budget Workshop Minutes, as presented, were approved.

On MOTION for Bayside by Mr. McCarthy and seconded by Ms. Montgomery, with all in favor, the July 15, 2022 Joint Budget Workshop Minutes, as presented were approved.

B. July 25, 2022 Joint Regular Meeting

On MOTION for Bayside by Mr. McCarthy and seconded by Mr. Nicholson, with all in favor, the July 25, 2022 Joint Regular Meeting Minutes, as presented, were approved.

On MOTION for Bay Creek by Mr. Durney and seconded by Mr. Travers, with all in favor, the July 25, 2022 Joint Regular Meeting Minutes, as presented, were approved.

FOURTEENTH ORDER OF BUSINESS

Action/Agenda Items

This item was deferred to the next meeting.

FIFTEENTH ORDER OF BUSINESS

Old Business

There was no old business.

SIXTEENTH ORDER OF BUSINESS

Staff Reports

A. District Counsel

- 1. Gregory Urbancic, Esq., Coleman Yovanovich Koester, P.A.
- II. Daniel Cox, Esq.

There were no District Counsel reports.

- B. District Manager: Wrathell, Hunt and Associates, LLC
 - I. Monthly Status Report: Field Operations
 - Discussion/Presentation: Monthly Report Narrative

The Monthly Report was included for informational purposes.

- II. NEXT MEETING: September 26, 2022 at 2:00 P.M.
 - QUORUM CHECK: BAYSIDE IMPROVEMENT CDD
 - QUORUM CHECK: BAY CREEK CDD

The next meeting would be held on September 26, 2022.

SEVENTEENTH ORDER OF BUSINESS

Supervisors' Requests

Mr. Durney asked about Mr. Kemp's progress in scheduling tree trimming at the central entrance to help increase lighting visibility. Mr. Adams will email an update to the Boards.

Mr. Cramer advised Mr. Adams of the two HOAs having different views on lighting the central entrance and suggested installing uplighting in the future.

EIGHTEENTH ORDER OF BUSINESS

Public Comments: Non-Agenda Items

No members of the public spoke.

NINETEENTH ORDER OF BUSINESS

Adjournment

On MOTION for Bayside by Mr. Cramer and seconded by Ms. Gravenhorst, with all in favor, the meeting adjourned at 4:43 p.m.

On MOTION for Bay Creek by Mr. Addison and seconded by Mr. Travers, with all in favor, the meeting adjourned at 4:43 p.m.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

FOR BAYSIDE IMPROVEMENT

Secretary/Assistant Secretary

Chair/Vice/Chair

FOR BAY CREEK:

Secretary/Assistant Secretary

EXHIBIT SUPERVISOR NICHOLSON – MOTIONS HANDOUT

Have out

FY 2023 Budget And Process Learnings Bayside CDD Meeting - August 22nd, 2022

Current FY 2023 Budget

Motion #1 – That a minimum of two Field Labor positions will be removed from the Landscaping Personnel Services category and add the same quantity of labor dollars as a new budget line item in the Enterprise Fund beginning in the FY 2023 Budget (and beyond), representing the expected labor cost associated with irrigation system maintenance and meter reading.

Motion #2 – That all field labor costs expended, and all materials consumed related to all irrigation system repairs, modifications, improvements, re designs, or project work (capital or otherwise) will be applied to this new Enterprise Budget labor category beginning in FY 2023 and beyond.

Motion #3 – That financial commitments to the Colony Flower and Mulch Budget will stop when the approved Budget is reached for 2023, and for future years.

Related To The Budget Process - Beginning With The FY 2024 Budget

Motion #4 – That all future budget documents (Proposed and Adopted) provide a percentage comparison between the Proposed Budget and BOTH the prior year Adopted Budget AND the Current Year End Spending Projection.

Motion #5 – That all future Proposed Budgets reference 9 months "Actual Spending thru 6/30/XX". Reschedule the 2023 Budget Workshop from 7/14/23 to 7/21/23, and re schedule the regular CDD Monthly Meeting from 7/24/23 to 7/31/23. Perpetuate this pattern in future years.

Motion #6 – That all Proposed Budgets and Proposed Budget Updates are issued with a companion set of narrative notes and color highlighted changed numbers (one color for increases, and another color for decreases) that will help to explain the basis for change between the prior and latest version.

Motion #7 – That two new columns be added to the Preliminary Bayside 2022 – 2023 Assessments Table (Page 25, upper box) indicating the proposed year over year DOLLAR and PERCENT increase. Continue this format in future years.

Motion #8 – That all future Proposed Budgets will contain the detailed labor calculation worksheet listing all employees, current salary or wage, proposed increases, proposed increase date, any planned bonuses, and the DOLLAR and PERCENTAGE change for each (and in total) vs. the current Adopted Budget.

CDD Monthly Meeting Protocol

Motion #9 – That a hard cutoff is established for all future CDD Meetings such that any material that is to be distributed in preparation for an upcoming meeting is delivered to each Supervisor a minimum of 72 hours in advance of the upcoming meeting. Any materials distributed with less than a 72 hour lead time will be placed on the agenda and discussed at the next Monthly Meeting.