

**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 a Joint Regular Meeting on May 24, 2021 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 in the Joint Regular Meeting, via Zoom, at <https://us02web.zoom.us/j/88969163185> and 1-929-205-6099, Meeting ID: 889 6916 3185 for both.

For Bayside Improvement CDD, present were:

| | |
|------------------|---------------------|
| Walter McCarthy | Chair |
| Bill Nicholson | Vice Chair |
| Bernie Cramer | Assistant Secretary |
| James Nicholson | Assistant Secretary |
| Karen Montgomery | Assistant Secretary |

For Bay Creek CDD, present were:

| | |
|--------------------------------|---------------------|
| Mary McVay | Chair |
| Robert Travers | Vice Chair |
| James Janek | Assistant Secretary |
| R. Gary Durney (via telephone) | Assistant Secretary |

Also present were:

| | |
|------------------------------|---|
| Chuck Adams | District Manager |
| Cleo Adams | Assistant District Manager |
| Shane Willis | Wrathell, Hunt and Associates, LLC |
| Dan Cox (via Zoom) | District Counsel, Bay Creek CDD |
| Greg Urbancic | District Counsel, Bayside Improvement CDD |
| Wes Kayne (via Zoom) | District Engineer |
| Christina Kennedy (via Zoom) | SOLitude Lake Management (SOLitude) |
| Brenda Radford (via Zoom) | M.R.I. Underwater Specialists, Inc. |
| Roy Hyman | PLCA General Manager |
| Gail Gravenhorst (via Zoom) | Resident/Landscape Committee Member |
| Ed Shinouskis (via Zoom) | Resident/Water Quality Task Force Member |

FIRST ORDER OF BUSINESS

**Call to Order/Phone Silent Mode/Pledge of
Allegiance**

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

SECOND ORDER OF BUSINESS

Roll Call

For Bay Creek CDD, Supervisors Travers, Janek and McVay were present, in person. Supervisor Durney was attending virtually. Supervisor Addison was not present. For Bayside Improvement CDD, Supervisors McCarthy, Cramer, Jim Nicholson and Montgomery were present, in person. Supervisor Bill Nicholson was not present at roll call.

On MOTION for Bay Creek by Mr. Janek and seconded by Mr. Travers, with all in favor, authorizing Mr. Durney's attendance and full participation, virtually, due to exceptional circumstances, was approved.

THIRD ORDER OF BUSINESS

Public Comments: *Agenda Items*

Mr. Bill Nicholson arrived at the meeting at 2:04 p.m.

Due to audio difficulties, resident and Landscape Committee Member Gail Gravenhorst would be given an opportunity to make a public comment later in the meeting.

No members of the public spoke.

JOINT BOARD ITEMS

FOURTH ORDER OF BUSINESS

Staff Report: District Engineer: *Barraco & Associates, Inc.*

Mr. Kayne stated that, as the Year 4, Cycle 4 National Pollutant Discharge Elimination System (NPDES) program ended April 30, 2021, he would coordinate with Mr. Adams in compiling data to prepare the NPDES annual report due on October 31, 2021.

Mr. Kayne stated that he attended the Village of Estero Council Meeting to consider the Walden Center Drive Roadway turnover. The matter will be discussed later in the meeting.

FIFTH ORDER OF BUSINESS

Lake Maintenance Report: *SOLitude Lake Management*

Ms. Kennedy presented the May Monthly Report. She reported that the first initial sediment and water sampling for the six-month Water Quality Study of Lake #E-5 commenced in May, listed the target parameters and noted that the results will be released, once the Study is complete. The first bacteria treatment is scheduled for the first week in June.

- **Discussion: Future Littoral Needs**

Mrs. Adams stated that she, Ms. McVay and Ms. Montgomery surveyed the bulk of the ponds at Pelican Nest and determined that no additional littorals were needed.

SIXTH ORDER OF BUSINESS

Committee Reports

A. PLCA Landscape Committee

There being no report, the next item followed.

B. Colony Landscape Committee

Ms. Gravenhorst emailed the Report to the Board and Staff.

C. Water Quality Task Force

Ms. Montgomery reported the following:

- The WQTF did not meet this month so no report was available.

Ms. Montgomery stated they were waiting until the settlement with the City is resolved and intend to meet with the City in June to be apprised of the water quality projects the City is undertaking.

- THE WQTF is reviewing the Florida Gulf Coast Report regarding bacteria source identification in Imperial River and Spring Creek, which was emailed to the Board.

Mr. McCarthy suggested following the City's lead. Mr. Cramer noted this was mentioned by Dr. Duke at several Bonita Springs City Council meetings; he suggested that those who are interested could replay it on Channel 398. He felt that, with the City Council implementing another petition for the Governor and surrounding cities and residents to send a letter to the Army Corps of Engineers petitioning them to stop heavy releases that influence Estero Bay, Spring Creek, Estero River and the Imperial River, the Districts should not be involved in the

lawsuit. Mr. McCarthy stated the Report mentioned that the Village of Estero was also doing a study and awaiting results.

SEVENTH ORDER OF BUSINESS

Consideration of Resolutions Approving the Districts' Proposed Budgets for Fiscal Year 2021/2022 and Setting a Public Hearing Thereon Pursuant to Florida Law; Addressing Transmittal, Posting and Publication Requirements; Addressing Severability; and Providing an Effective Date

A. Resolution 2021-04, *Bayside Improvement Community Development District*

Mr. McCarthy presented Resolution 2021-04. Mr. Adams explained the annual budget preparation, deliberation, public hearing and adoption process and noted that the proposed Fiscal Year 2022 budget would be reviewed in detail at the Joint Budget Workshop before adoption at the public hearing.

Mr. Bill Nicholson and Mr. McCarthy requested certain changes to the proposed budget. The following changes will be made to the proposed Bayside Improvement and Bay Creek Community Development District budgets:

Right Column Title: Change " Projected '20 Proposed '21 to "Projected '21 Proposed '22"

Right Column: Change formula that provides budget variances

Page 22, Regarding "Surplus RCS Water-Bayside": Revise "Electricity" and other associated line items accordingly now that Bayside will receive reclaimed water from The Brooks.

On MOTION for Bayside Improvement by Mr. Cramer and seconded by Mr. Bill Nicholson, with all in favor, Resolution 2021-04, Approving a Proposed Budget for Fiscal Year 2021/2022, as amended, and Setting a Public Hearing Thereon Pursuant to Florida Law for August 23, 2021 at 2:00 p.m., at the Pelican Landing Community Center, 24501 Walden Center Drive, Bonita Springs, Florida 34134; Addressing Transmittal, Posting and Publication Requirements; Addressing Severability; and Providing an Effective Date, was adopted.

B. Resolution 2021-04, *Bay Creek Community Development District*

Mr. McCarthy presented Resolution 2021-04

On MOTION for Bay Creek by Mr. Travers and seconded by Mr. Janek, with all in favor, Resolution 2021-04, Approving a Proposed Budget for Fiscal Year 2021/2022, as amended, and Setting a Public Hearing Thereon Pursuant to Florida Law for August 23, 2021 at 2:00 p.m. at the Pelican Landing Community Center, 24501 Walden Center Drive, Bonita Springs, Florida 34134; Addressing Transmittal, Posting and Publication Requirements; Addressing Severability; and Providing an Effective Date, was adopted..

EIGHTH ORDER OF BUSINESS

Continued Discussion: Walden Center Drive North Roadway Turnover to Village of Estero

Mr. Adams reported the decision of the Village of Estero Council to separate the matters. The Council elected to accept maintenance responsibilities for the Lennar WCI section, North Commons Drive, as they were obligated, through the DRI, to accept it upon completion. The Council rejected the Walden Center Drive North Roadway turnover but would continue negotiations.

Mr. McCarthy noted a request from Mr. David Willems, The Village of Estero Public Works Director to meet on site. The outcome of the meeting was for the District to continue maintaining both roads. They would meet again in three months to prepare a proposal to present to the Council, including an Interlocal Agreement in which the District would continue to maintain the landscape and retaining wall on North Commons Drive, on behalf of the Village, and consider acceptance of Walden Center Drive, as both felt that the District did not sufficiently present its case to the Village. He suggested interested parties listen to the Village meeting. The Board agreed to proceed with this plan.

NINTH ORDER OF BUSINESS

Continued Discussion/Consideration: Revised Stormwater Utility Settlement Agreement and Release with City of Bonita Springs

Mr. Cox highlighted revisions to the Stormwater Utility Settlement Agreement with the City of Bonita Springs that Mr. Urbancic reviewed and agreed that it included all the comments

that were raised at the last meeting. Mr. McCarthy noted Mr. Urbancic nodded yes to this statement. He recommended the following:

- Section 3aii: Recommended that Engineering Staff reach out to see what stage the development of the Basin Management Action Plan (BMAP) is at and what input, if any, the Districts wanted to make.
- Encouraged the Districts to engage in the programs described in the settlement as it would be the least expensive approach.

Mr. Cramer stated he emailed Mr. Adams asking that Mr. Cox provide answers to 10 questions that he felt Mr. Cox summarily dismissed at the last meeting. Mr. Cox disagreed with Mr. Cramer's statement and stated that he addressed each question and suggested they pull the audio but he would also provide a written response. Mr. Cramer expressed his opinion that the questions were not addressed and noted that Mr. Durney prepared the questions. Board Members discussed rumors of the Council finding a way for the Districts to contribute to pay for the program, concerns about the Capital Improvement Management Plan (CIMP) and revising document to refer to targets defined in Paragraph 1.

Mr. Urbancic was asked for his thoughts. Mr. Urbancic stated that Mr. Cox renegotiated intently with the City Manager and he felt confident with proceeding with the Agreement; however, they would take action at the Board's direction. Mr. Cox reminded that the Case Management Conference is scheduled for June 20, 2021 and the trial is scheduled for July.

Mr. Cramer encouraged everyone to listen to the Council Meeting, specifically the end of the meeting, and Mr. Rooney's comments on this matter, which he felt had underlying meaning; he did not want to proceed with the Settlement. Mr. Cox stated the intent of the Agreement is to work as partners with the City of Bonita Springs and it gives the Districts the benefit of their regulatory authority to help with unwilling partners within the community in dealing with discharge issues, such as the tennis community. Discussion ensued regarding clarifying the term in 2B, the Districts implementing the Capital Asset Management Plan (CAMP) and not the city.

Mr. McCarthy requested a motion to approve. Mr. Cox stated that the Chair and the named Plaintiff will need to execute the Agreement and, if the City executes the Agreement, he will dismiss the case on behalf of the Districts.

On MOTION for Bay Creek by Mr. Janek and seconded by Mr. Travers, with Mr. Janek, Mr. Travers and Ms. McVay all in favor and Mr. Durney dissenting, the Revised Stormwater Utility Settlement Agreement and Release with the City of Bonita Springs, subject to the changes in Sections 2Bii referencing back to Paragraph 1, instead of the applicable standard referenced in 3B, was approved. [Motion passed 3-1]

Mr. McCarthy motioned to approve the Revised Stormwater Utility Settlement Agreement and Release with the City of Bonita Springs. The motion failed for lack of second.

It was noted that, not voting for some form of the Agreement means that Bayside Improvement would be moving in the direction of litigation.

On MOTION for Bayside Improvement by Ms. Montgomery and seconded by Mr. Jim Nicholson, with all in favor, the Revised Stormwater Utility Settlement Agreement and Release with the City of Bonita Springs, contingent on changes in the language in Section 3B and throughout the Agreement, with reference to the initial paragraph and the NPDES system as the targets, as discussed and with the changes described by Mr. Durney, was approved.

Mr. McCarthy asked if Bay Creek was willing to approve the same motion noted above.

On MOTION for Bay Creek by Mr. Janek and seconded by Mr. Durney, with all in favor, the Revised Stormwater Utility Settlement Agreement and Release with the City of Bonita Springs, contingent on changes in the language in Section 3B and throughout the Agreement, with reference back to the initial paragraph and the NPDES system as the targets, as discussed, and with the changes described by Mr. Durney was approved.

Mr. Durney and Ms. Montgomery were designated liaisons to review the final draft Agreement before it is submitted to the City.

TENTH ORDER OF BUSINESS

Consideration of M.R.I. Underwater Specialists, Inc., Phase Two Outfall and Interconnecting Pipe Cleaning Reinspection Report

Mrs. Adams recalled approval to initiate the pipe cleaning inspections in phases, spanning a three-year rotation, instead of only cleaning them when necessary. The first phase was completed last year, at the Colony. The second phase would be the north section of the community, from Coconut Road and various other areas, this year and Phase three would be scheduled next year for any areas remaining. She presented the M.R.I. Underwater Specialist, Inc. (MRI) proposal. The new aeration installations were put on hold to offset the cost of this project.

Discussion ensued regarding supporting project because more trash is ending up in the catch basins, the expense being below the bid requirement threshold and removal of all references to North Commons Drive, except Lake E-11 to E-16. For the next meeting, Mrs. Adams was asked to obtain another estimate from Sewer Viewer using the same 45% blockage criteria and a revised MRI proposal listing just the pipes to be cleaned and those at Lake E-11 to E-16, on North Commons Drive. The Board asked Mr. Kayne to provide written, official recommendation that 50% pipe flow was acceptable, as long as there is no flooding in the streets.

ELEVENTH ORDER OF BUSINESS

**Continued Discussion/Presentation:
Monthly Report Narrative (to be provided
under separate cover)**

Mr. Adams highlighted portions of the Report, Item 16BI in the agenda package. Regarding the status of the Monday.com activity tracking program, Mr. Adams stated the consultant is continuing to modify the program specific to the Districts and was expected to generate reports soon. He noted Mr. Kemp and Mr. Kucera are pleased with the program.

TWELFTH ORDER OF BUSINESS

**Acceptance of Unaudited Financial
Statements as of April 30, 2021**

Mr. Adams presented the Unaudited Financial Statements as of April 30, 2021. Accounting re-coded expenditure items today and those corrections would be reflected in the next Statements and all Capital outlay projects were completed for the fiscal year. A staff member in Mr. Kucera's department resigned and the position would not be filled at this time.

Mr. Adams would set up a Zoom meeting next week with Mr. Bill Nicholson and The Controller to discuss the modified financial worksheets. The financials were accepted.

THIRTEENTH ORDER OF BUSINESS

Approval of April 26, 2021 Joint Regular Meeting Minutes

Mr. McCarthy presented the April 26, 2021 Joint Regular Meeting Minutes. He noted the minutes did not reflect Ms. McVay arriving after roll call. The following changes were made:

Line 36 and throughout: Change "Hymann" to "Hyman"

Line 142 and throughout: Change "Hand" to "Hanft"

On MOTION for Bayside by Mr. Cramer and seconded by Mr. Jim Nicholson, with all in favor, the April 26, 2021 Joint Regular Meeting Minutes, as amended to include any changes submitted to Management and stated today, were approved.

On MOTION for Bay Creek by Mr. Travers and seconded by Mr. Durney, with all in favor, the April 26, 2021 Joint Regular Meeting Minutes, as amended to include any changes submitted to Management and stated today, were approved.

FOURTEENTH ORDER OF BUSINESS

Action Items

Active/Ongoing New Items: Items 1, 3 and 4 were completed.

Active/Ongoing Carry Over from 03.22.21 Meeting: Items 1 and 7 were completed.

Active/Ongoing Carry Over Older Than Meeting on 03.22.21: Items 1 and 7 were completed.

FIFTEENTH ORDER OF BUSINESS

Old Business

There being no old business to discuss, the next item followed.

SIXTEENTH ORDER OF BUSINESS

Staff Reports

A. District Counsel

I. *Gregory Urbancic, Esq., Coleman Yovanovich Koester, P.A.*

Mr. Urbancic and Mr. Adams went over discussion items with certain PLCA Representatives and Mr. Hart, PLCA Counsel, regarding the Disaster Recovery Agreement. Mr. Hart was making revisions to the Agreement, which Mr. Urbancic would review; he hoped to present it at the next meeting. With hurricane season approaching, Mr. Cramer was frustrated with further delays and asked what would happen if something occurred, since the document was not executed. Mr. Adams was hopeful that they were moving in the correct direction to execute the Agreement and stated he informed the PLCA that the CDD would not organize any projects without an executed Agreement. Mr. Hyman was also provided with the contractor contact information list the CDD uses following a storm event in order to engage directly.

II. *Daniel Cox, Esq.*

There being nothing further to report, the next item followed.

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

I. *Monthly Status Report: Field Operations*

The Monthly Status Report was included for informational purposes.

Regarding Mr. Kucera's reference to Bentley Electric moving an old up light in front of the Pelican Landing Parkway gate house median, Staff would clarify what the expense was for in this matter and the one mentioned a few months ago, where the contractor removed the light pole, along with finding out who paid for those expenses.

II. *NEXT MEETING DATE: June 28, 2021 at 2:00 P.M.*

• ***QUORUM CHECK: BAYSIDE IMPROVEMENT CDD***

All Supervisors confirmed their attendance, in person, at the June 28, 2021 meeting.

• ***QUORUM CHECK: BAY CREEK CDD***

Supervisors Travers, McVay and Durney confirmed their attendance, in person, at the June 28, 2021 meeting. Supervisor Janek confirmed his attendance via telephone.

SEVENTEENTH ORDER OF BUSINESS

Supervisors' Requests

Mr. Bill Nicholson asked that Staff advertise the upcoming CDD Board position being vacated by Mr. Jim Nicholson. Mr. Adams stated he would coordinate with the PLCA to e-blast the information to residents and directing interested parties to submit a resume for

consideration to Mr. Adams, at least one week before the next meeting. The resumes would be emailed to the Board to start the evaluation process. This item would be on the June agenda.

Mr. Cramer referred to the April 26, 2021 meeting minutes mentioning Mr. Hanft as a new person on the WQTF and asked if he was still involved. A Board Member replied affirmatively; originally, he was a Representative for The Colony Golf Course and now he is the PLCA Board Representative.

Mr. Adams clarified the request for information made during Agenda Item 16B1 and stated that the PLCA engaged Bentley Electric on December 1, 2020 to remove the conduit running underneath the foundation at the south gate.

Ms. McVay made the following requests, which will be implemented:

- Ask landscapers to remove 3' tall weeds around the traffic circle.
- Regarding various widths of sod at the left-hand side at the southern gate towards the traffic circle, have the landscapers keep it consistent throughout the community.
- Due to trouble accessing irrigation on Tuesday, have Mr. Kucera change the policy in Bay Creek to begin back flushing the end of the irrigation line in April, as opposed to May.

Ms. McVay suggested reassigning the Bay Creek Board positions and nominated Mr. Janek as Chair and herself as an Assistant Secretary, with the remainder of the Board unchanged. She noted that the Bayside Chair would conduct in-person meetings until Mr. Janek returns.

On MOTION for Bay Creek by Ms. McVay and seconded by Mr. Travers, with all in favor, appointing Mr. Janek as Chair, Ms. McVay as an Assistant Secretary and the remainder of the slate unchanged, and authorizing Staff to draft a Resolution adopting the new officers and for the new Chair to execute the Resolution, was approved.

EIGHTEENTH ORDER OF BUSINESS

Public Comments: *Non-Agenda Items*

No members of the public spoke.

▪ **Supervisors' Requests continued**

Ms. Montgomery commented on the following items:

- Cypress Islands Landmark Remodeling: She volunteered to discuss it, on behalf of the District; however, Mr. Adams stated that he already informed the representative that they do

not need permission from the CDD since there is an easement and the CDD does not own the monument and they are not changing the footprint.

Ms. Montgomery stated she hoped the Board would encourage other neighborhoods to engage in this process.

➤ Nextdoor App/Naples Noise Ordinance: She advised Board Members of the Lee County Sherriff's Department using the Nextdoor app to keep neighborhoods informed of various issues. She emailed Mr. Adams a recent noise complaint posted about the District and the recent Noise Ordinance issues in Naples. She asked Mr. Adams if the Districts were maintaining appropriate decibels and trying to reduce its impact in that area. Mr. Adams stated that the District currently operates within the Ordinance.

➤ Spring Creek Water Quality URL link: Due to the amount of scientific data in the Report, she and Mr. Shinouskis were preparing data reflected in the Report and recommended Board Members not post it and wait to review that instead of the 66-page Report.

NINETEENTH ORDER OF BUSINESS

***Adjournment – Bay Creek Community
Development District***

There being no further business to discuss, Bay Creek adjourned at 4:11 p.m.

BAYSIDE IMPROVEMENT ITEM

TWENTIETH ORDER OF BUSINESS

**Consideration of Revised Landscape
Maintenance Agreement with The Colony
at Pelican Landing Foundation**

Mr. Adams presented The Colony at Pelican Landing Foundation revised redline version of the Landscape Maintenance Agreement. Discussion ensued regarding Item #9 strikethroughs, criteria for premium flowers, budget, etc. It was noted that The Colony assessments and landscaping costs are reasons why Mr. Jim Nicholson is moving out of the community. The opinion that Committees are making decisions certain residents do not agree with and omitting end of life status were also discussed.

Mr. Urbancic requested the opportunity to clear up certain portions of the Agreement, such as determining the standard of how it should look and what the CDD considers as

sufficient funding. Mr. Adams clarified that the CDD is providing a service to The Colony, who represents the residents who are assessed these costs.

The Board agreed to approve the redline version, with the exception of Item #9. Mr. Urbancic would remove the strikethroughs in Item #9, incorporate his comments into the Agreement and transmit it by the end of the week.

TWENTY-FIRST ORDER OF BUSINESS

***Adjournment – Bayside Improvement
Community Development District***

There being no further business to discuss, the meeting adjourned at 4:28 p.m.


[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

**BAYSIDE IMPROVEMENT
& BAY CREEK CDDS**

May 24, 2021

FOR BAYSIDE IMPROVEMENT:


Secretary/Assistant Secretary


Chair/Vice Chair

FOR BAY CREEK:


Secretary/Assistant Secretary


Chair/Vice Chair