

**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 October 25, 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 via conference call, 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
Gail Gravenhorst	Assistant Secretary
Karen Montgomery	Assistant Secretary

For Bay Creek CDD, present were:

James Janek	Chair
Robert Travers	Vice Chair
Mary McVay	Assistant Secretary
R. Gary Durney	Assistant Secretary
Jerry Addison	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Adams	Assistant District Manager
Shane Willis	Operations Manager
Dan Cox (via Zoom)	District Counsel, Bay Creek CDD
Greg Urbancic (via Zoom)	District Counsel, Bayside Improvement CDD
Wes Kayne (via Zoom)	District Engineer
Christina Kennedy (via Zoom)	SOLitude Lake Management (SOLitude)
Roy Hyman	PLCA General Manager
Mark Puthoff	PLCA Assistant Manager
Marilyn Price (via Zoom)	Resident/PLCA Landscape Committee Chair and PLCA Board Member
Ed Shinouskis (via Zoom)	Resident/Water Quality Task Force Member

Howard Lowe (via Zoom)

Resident

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. All present recited the Pledge of Allegiance.

SECOND ORDER OF BUSINESS

Roll Call

For Bay Creek CDD, all Supervisors were present in person. For Bayside Improvement CDD, all Supervisors were present in person.

THIRD ORDER OF BUSINESS

Public Comments: *Agenda Items*

Resident and Water Quality Task Force Member, Mr. Ed Shinouskis read a slight variation of written comments he provided.

“I would like to speak to agenda item 6, the NPDES Annual Report, Final Draft – Year 4, Cycle 4, 2021.

I hope the Supervisors were able to read yesterday’s lead story in the Fort Myers New Press or Naples News entitled “Treasured but tainted: Pollution verified in most of Southwest Florida area’s prized water bodies”.

The article talked about how Southwest Florida waters are Verified Impaired with pollutants such as nutrients and bacteria, and the impact they are having on property values, local economy and their local ecosystem. Many of these impaired waterbodies have the official designation as being Outstanding Florida Waters, which gives them the highest level of legal protection and have a non-degradation standard, meaning no one is allowed to discharge anything the reduces their overall water quality.

Two of those Outstanding Florida Waters, both which are impaired for nutrients are of Estero Bay and Spring Creek, which we talked about those extensively, and we discharge into both of those.

Recent testing requested by the PI Water Quality Task Force and performed by the Bayside/Bay Creek CDDs this year confirmed that our nutrient discharges into Spring Creek are both higher than the State’s Water Quality Standards and the levels already present in Spring Creek. That means that our discharges are truly a contributor to the impairment issues.

The NPDES report that you are approving today, does not mention any of that.

Your MS4 permit requires you to develop and implement a Stormwater Management Program (SWMP). The State says that the “The primary objective of the SWMP is to reduce pollutants discharged from our MS4 to waters of the state”.

I urge you to take responsibility for these discharges and have an active dialog on how we can all better meet those requirements.

Don’t simply rubber stamp the NPDES report and submit it to the State. Educate yourselves on the requirements of the permit, commit yourself, and take an active role in reducing our contributions to these impairment issues.

The continued impairments of Spring Creek and Estero Bay will negatively affect our own property values and the health and well being of our residents. You were elected to serve our residents and we trust that you have our best interest.

Please be part of the solution, not part of the problem.

Thank you.”

JOINT BUSINESS ITEMS

FOURTH ORDER OF BUSINESS

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

The Boards agreed to commence with the Sixth Order of Business, as there was nothing else to report.

- **Discussion: NPDES Annual Report, Final Draft – Year 4, Cycle 4, 2021**

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

Mr. Kayne reported the following:

- The National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) Draft Annual Report was emailed to the Boards for review.
- Any changes or additions should be submitted to Mr. Kayne.

- The Report was based on all other previous permit criteria, utilizing Lee County's MS4 testing station in Spring Creek.
- Board Members should advise him if, in the future, they want to take a more robust approach at monitoring the stormwater runoff and water quality and include that data in future annual reports. While some detailed testing has been performed it did not give quite enough continued data for the annual report.
- Otherwise, all inspection thresholds are listed in the report, along with the current and prior year budget amounts and all other District coordination efforts.

A question was raised regarding what kind of equipment is at the monitoring station on Spring Creek and is there monitoring done in the area, reflected with a red star on the map, before it flows under US 41 and brings in a lot of pollutants, which the District has no control over. Mr. Kayne stated it was thought to be in a housing on a post containing certain probes and data collector equipment; however, it was not the case, as Mr. Shinouskis clarified that a Lee County Technician collects monthly water samples from the ponds that are then analyzed. There is no monitoring done at the tributary upstream, running diagonally across US 41 and picks up the roadside ditches along North of Pelican Landing Parkway, or east on Spring Creek coming in to the County's collection site, over which the CDDs have no control.

Mr. Janek expressed his frustration about the pollutants coming in from outside but the CDDs having to clean it up. Ms. Gravenhorst stated that the City of Bonita Springs was considering investing money to purchase lands to turn into detention areas so water can runoff immediately, and the City was also doing a lot of work trying to clean up Spring Creek. She stated that the CDDs are in the process of improving the quality from Spring Creek but, in her opinion, to assume that the CDDs are going to alter the standards coming in from the outside, a significant amount of work is going to be at least, if not impossible, in various areas.

Mr. Shinouskis stated that Pelican Landing represents about 30% of the overall Spring Creek watershed so it is not producing significant pollutant discharges.

Mr. Kayne stated that, as a sub-permittee of the County on the NDPES Report, the CDD is required to use the County's data for Spring Creek or another data source because the sample is taken at the tidal portion of the Creek and they cannot really determine if the water is

coming from the Bay or going out from the Creek and it does not represent the quality of water Pelican Landing is putting into the Creek.

Mr. Kayne stated that the County has several monitoring sites throughout the County and they are typically at the County's final outfalls; the location was chosen via the Interlocal Agreement, as it was within the proximity of the CDDs' outfall. The CDDs can decide to take other samples beyond the minimal standard. Mr. Cox stated he negotiated the Interlocal Agreement with the County and can renegotiate in Year 5 to change the terms of the sampling location.

Regarding whether Bonita Bay utilizes this data point or if it is CDD owned, Mr. Adams stated that Bonita Bay is not part of the NPDES Report; this is a County's chosen site. Mr. Cox stated that Bonita Bay is not a local governmental entity.

Mr. Janek commended Mr. Kayne on a spectacular job on the Report.

Mr. McCarthy submitted a copy of the NPDES Report with his questions and corrections and pagination issues, clarifying certain data, which would be provided to Mr. Adams and Mr. Kayne to make the appropriate changes.

The following changes would be made to the NPDES Annual Report, Final Draft – Year 4, Cycle 4, 2021:

Correct all formatting, spelling and pagination issues that arose from converting file to comply with the Americans with Disability Act (ADA) requirements.

Page 3 of 28, Last Bullet Item, Line 8: Change "their Association" to "the PLCA"

Page 5 of 28, Section IIIB, Line 11: Change "on average" to "level"

Page 5 of 28, Section IIIB, Line 12: Regarding "trend from 2017 to 2021", Mr. Kayne to incorporate in statement that "the spike in 2017 was due to Hurricane Irma" and clarify and connect sentences beginning with "The zinc concentrations" and "The current wet and dry"

Section V and beyond: Insert missing parentheses symbols

Page 8 of 28, Part IIIA3: Mr. Kayne to confirm the 5.5 miles and whether the 28,400 and 7.7 figures are correct.

Pages 9 of 28, Part IIIA3: Change header related to "1560"

Mr. McCarthy asked District Counsel if the Report was legally sufficient for submission. Mr. Urbancic replied affirmatively; he had no concerns about the submittal, subject to the format corrections made today.

Mr. McCarthy stated that any remediation issues would have to be a regional approach with the County; therefore, someone must take the lead as he wants a unified approach to prevent the front page of the newspaper from naming the CDDs as the pollutants of the Creek.

On MOTION for Bay Creek by Mr. Janek and seconded by Mr. Travers, with all in favor, the NPDES Annual Report, Final Year 4, Cycle 4, 2021, as amended, and authorizing the Chair to execute the final version, subject to the corrections, was approved.

On MOTION for Bayside by Mr. Cramer and seconded by Ms. Montgomery, with all in favor, the NPDES Annual Report, Year 4, Cycle 4, 2021, as amended, and authorizing the Chair to execute the final version, subject to the corrections, was approved.

On behalf of Bay Creek, Ms. McVay thanked Mr. McCarthy for his thorough review of the Report.

FIFTH ORDER OF BUSINESS

Waterway Inspection Report: *SOLitude Lake Management*

Ms. Kennedy presented the October Monthly Report and reported the following:

- Lakes A-11, D-12 and D-13 required further attention to treat weeds and some plankton.

Mr. McCarthy identified a small localized amount of alligator weed at A-2 and a run-off issue from the golf course, last week. He asked if the formal notice about the run-off was sent to Pelican's Nest Golf Club. Mr. Adams stated he contacted Mr. Zimmerman again.

Mr. Durney reported that the nano-bubbler at the south end of Lake D-6 was not working. Ms. Kennedy explained that the machines sometimes become unbalanced and need to be cleaned and adjusted. She would report the issue to Derek to schedule an inspection. Mrs. Adams stated that delays in repairs could be expected, due to supply chain issues.

SIXTH ORDER OF BUSINESS

Discussion: NPDES Annual Report, Final Draft – Year 4, Cycle 4, 2021

This item was presented following the Fourth Order of Business.

SEVENTH ORDER OF BUSINESS

Committee Reports

A. PLCA Landscape Committee

Ms. Price reported the following:

- North Gatehouse: Approval was received from the Village of Estero for the final North Gate expanded landscaping project.
- This concluded the six-part gatehouse landscape and expanded landscape projects; all were approved and completed.
- Pelican Colony Boulevard Project: The Arborist, familiar with the Village of Estero's requirements for tree removal, was working on a report to review with the Village this week. They hope to get most of the plans done, which focus on two major medians, identified as Median #1 from Sanctuary towards Colony Circle and Median #2 from Waterside close to the Sanctuary entrance, and to be completed in the last quarter of 2021.
- Pelican Landing Fiscal Year 2022 Budget: The PLCA budget was approved last week and landscaping funds were allocated to trim, thin and crown reduce the live oaks. The PLCA would coordinate this project with the CDDs. The PLCA wants to know how much the CDDs budgeted for Fiscal Year 2022 and wants to receive the detailed Pelican Landing tree trimming plans, as they are addressing the live oaks, not the palms, which typically fall under the CDDs' scope of work, to ensure no overlap, and that it complements the outside services the PLCA plans to use.
- PLCA Fiscal Year 2022 General Budget: Approved. As it is comprised primarily of plant enhancements and not necessarily replacement, the PLCA would continue coordinating with the CDDs regarding areas that need to be updated but are not within the scope of the CDDs.
- PLCA Fiscal Year 2022 Landscaping Project Budget: Approved to continue improvements. Plans were to focus on two locations to remove and replace landscaping beyond its natural maturity, including understory woody and overgrown plants coming in from the central gate towards the central fountain. The other location was coming in from the southern gate from the gatehouse towards Spring Creek Circle.

Ms. Price thanked the CDDs for all their support, on behalf of Pelican Landing, and particularly Mr. Kucera who was very responsive to their needs and continued to help them as they address the landscape needs of their residents.

Mr. McCarthy felt that the PLCA and the CDDs are in sync with each another and much of the credit goes to Ms. Price and her efforts. Ms. Price commended Mr. Adams, Mrs. Adams, Mr. Kucera, Mr. Kemp and CDD Staff for their efforts and for having the same objective as the PLCA for the community to be as beautiful as it can be.

Ms. Price reported the following:

- Of the \$300,000 PLCA Fiscal Year 2022 Budget, up to \$50,000 was allocated for major tree trimming of the oaks, another \$50,000 for general projects arising during the year, such as refreshing materials, and the remaining funds are for removing, refreshing and updating landscaping beyond its natural maturity and replacing it, such as the project in the median at the gatehouse coming into the community.
- There was concern about the PLCA sending its plans to Mr. Adams because, if a project is not reviewed, it may potentially affect the work that CDD Staff plans, such as irrigation, which are considered add-ons to a project. Mr. Adams stated he received the three PLCA gatehouse entry plans and noted that the Association included upgrading irrigation in the development planning stage; however, he continues working in coordination with Mr. Kemp on those items to ensure it sustains the new plant material sufficiently.

Ms. Price stated that the new plans would be sent to Mr. Adams, Mr. Kucera and Mr. Kemp for review before going out to bid; however, the PLCA is working with the Village to obtain approval for tree removal and, once they identify which trees to plant, they would prepare and send those new plans. Mr. Adams confirmed that PLCA communication has not been overlooked; he had verbal input and review of the irrigation system.

Ms. Price was asked to keep using planting materials that are maintenance friendly and extend past the life span of what would be removed as one of her objectives, as she stated the goal is to keep native Florida materials but she was unsure if the understory plants were maintenance friendly or would extend past a 25-year life span. She noted that CDD Staff would also review the plans and the materials selected.

A Board Member noted that Mr. Adams and Mrs. Adams regularly attend the PLCA monthly landscape meeting, at which the plans are discussed, and have generally approved what the Committee selects, and had also provided maintenance costs to The Colony. Concerning protocol for redesign projects, Mr. Adams stated he advises the Committees when plantings they select would be labor intensive and, if they decide to proceed, he adjusts the budget.

Regarding whether the PLCA reserves funds to address 20-year life span plantings replaced with a five-year life span, it was noted that, as discussed several times in the PLCA Board meeting, the PLCA does not capitalize for landscape plant care, as it was not a generally accepted accounting practice for live materials; however, they do reserve for hardscape landscaping. Mr. Adams stated he was not concerned since the Maintenance Agreement identifies the areas and indicates that financial responsibility falls with the PLCA.

B. Colony Landscape Committee

The report was emailed and distributed during the meeting.

C. Water Quality Task Force

The WQTF PowerPoint presentation was emailed prior to the meeting.

Ms. Montgomery and Mr. Durney reported the following:

- The WQTF meeting was held at Pelican's Nest.
- The Report indicated that the WQTF saw no further need for additional testing. The WQTF was convinced the issue is total nitrogen and the CDDs should attempt to reduce total nitrogen as part of their discharge.
- Possible ways to reduce nitrogen levels would be to provide standards for the CDD and homeowner landscapers, such as reducing fertilizer use and requiring "no fertilizer buffer areas" around the lakes.
- Reclaimed water use at Bay Creek is a significant factor so the CDDs were asked for a map showing a location of reclaimed water use for irrigation so they can identify hot spots.
- Involving all stakeholders in the community and designating the Pelican Landing Eco Club to disburse communications and educational information to all involved was suggested.
- The WQTF's next meeting is November 11, 2021. Nutrient reduction alternatives would be discussed. The location is to be determined.

➤ Preparation of a Report to send to all stakeholders and the golf course was underway, along with a request that the CDDs consider reducing fertilizer use to reduce the amount of nitrogen in the environment.

As to whether Management considered this request, Mr. Adams replied no; the CDDs follow the County's guidelines. Discussion ensued about possibly holding back the amount of reclaimed water in Bay Creek, removing fertilization on turf, testing in a small area and waiting to develop a full program until all stakeholders agree as, while reducing nitrogen may be warranted, homeowners may complain if flowers do not bloom or grass is not green.

Ms. McVay offered to discuss this at the upcoming Bay Creek HOA meeting and ask if the homeowners would volunteer to be the experimental site.

EIGHTH ORDER OF BUSINESS

**Discussion: Johnson Tree Service Proposal
for Palm Pruning Project**

Mr. Adams distributed a revised proposal that included the lift rental cost. He explained that outsourcing the CDDs palm pruning project would enable the project to be completed in four weeks, as opposed to it taking in-house staff four months to complete. The cost would be offset by removing two positions, which Mr. Kucera confirmed would not affect his program or the hard cutbacks and it would allow the remaining Staff to focus on detailed work.

DUE TO TECHNICAL DIFFICULTIES, AUDIO WAS TEMPORARILY NOT AVAILABLE

THE FOLLOWING WAS TRANSCRIBED FROM THE MEETING NOTES

The Board asked to revisit the Palm Pruning Project and include it as a discussion item on the December agenda.

NINTH ORDER OF BUSINESS

**Presentation of Expanded Financial
Statement Schedules *(to be provided under
separate cover)***

Mr. Adams distributed and presented the Expanded Financial Statement Schedules. Mr. Adams was asked to distribute the Report prior to the meeting date, rather than at the meetings.

This item would remain as a monthly agenda item.

TENTH ORDER OF BUSINESS

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

Mr. Adams presented the Unaudited Financial Statements as of September 30, 2021.
The financials were accepted.

ELEVENTH ORDER OF BUSINESS

**Approval of September 27, 2021 Joint
Regular Meeting Minutes**

Mr. McCarthy presented the September 27, 2021 Joint Regular Meeting Minutes and stated Board Members should have submitted their edits to Mrs. Adams prior to the meeting.

The following changes were made:

Line 153: Insert "Springs" after "Bonita"

Line 243: Change "to" to "of"

Line 22: Change "Chair" to Assistant Secretary"

Line 24: Change "Assistant Secretary" to "Chair"

On MOTION for Bay Creek by Mr. Durney and seconded by Mr. Janek, with all in favor, the September 27, 2021 Joint Regular Meeting Minutes, as amended to include the stated changes and any changes submitted to Management, were approved.

On MOTION for Bayside by Mr. Cramer and seconded by Ms. Montgomery, with all in favor, the September 27, 2021 Joint Regular Meeting Minutes, as amended to include the stated changes and any changes submitted to Management, were approved.

TWELFTH ORDER OF BUSINESS

Action Items

This item was not addressed.

THIRTEENTH ORDER OF BUSINESS

Old Business

There was no old business.

FOURTEENTH ORDER OF BUSINESS

Staff Reports

A. District Counsel

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

There was no report.

II. *Daniel Cox, Esq.*

There was no report.

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

I. Monthly Status Report: Field Operations

• Discussion/Presentation: Monthly Report Narrative

The Monthly Status Report was included for informational purposes.

Mr. Nicholson asked if the proposed improvements to the monuments and landscaping would impact the budget. Mrs. Adams replied no, as those projects were already accounted for during the Fiscal Year 2022 budget process.

II. NEXT MEETING DATE: December 6, 2021 at 2:00 P.M.

• QUORUM CHECK: *BAYSIDE IMPROVEMENT CDD*

All Supervisors confirmed their in-person attendance at the December 6, 2021 meeting.

• QUORUM CHECK: *BAY CREEK CDD*

Supervisors Addison, Travers and McVay confirmed their in-person attendance at the December 6, 2021 meeting. Mr. Janek was unsure. Mr. Durney would not attend.

FIFTEENTH ORDER OF BUSINESS

Supervisors' Requests

Mr. Cramer stated that the PLCA would petition the City about traffic issues. Mr. McCarthy suggested they use the Traffic Impact Study.

Ms. Montgomery reported that in Pelican Nest, on the south side of the lake, all grassy berms by the cart path were hard cut and the clippings were in the lake.

TRANSCRIPTION FROM AUDIO RESUMED

Ms. Montgomery asked Mr. Adams to work with Mr. Hyman to schedule a PLCA/CDD Workshop about traffic issues.

Mr. Hyman introduced Mr. Mark Puthoff, the PLCA Assistant Manager, and provided an overview of his professional experience. Mr. Puthoff was designated to oversee landscaping and attend CDD meetings, in lieu of Mr. Hyman. Mr. Puthoff stated he was interested in learning about and continuing the PLCA's relationship with the CDDs.

SIXTEENTH ORDER OF BUSINESS

Public Comments: *Non-Agenda Items*

No members of the public spoke.

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

This item was an addition to the agenda

There being no further Bayside business to discuss, the Bayside CDD meeting adjourned.

On MOTION for Bayside by Ms. Gravenhorst and seconded by Mr. Cramer, with all in favor, the meeting adjourned at 3:48 p.m.

▪ **Bay Creek CDD Item: Irrigation Rate Analysis Report - Bay Creek Community Development District**

This item was an addition to the agenda.

Mr. Adams distributed and presented the Irrigation Rate Analysis Report. As last year's figures were used in the formula, he reminded the Board that this was a very dry year; a wet year would result in issues. Residents would see an 11% rate increase on their bills and the Golf Course rates would increase from 77 cents per gallon to 86 cents per gallon.

On MOTION for Bay Creek by Mr. Janek and seconded by Ms. McVay, with all in favor, approving the Irrigation Rate Analysis to set the Public Hearing on December 6, 2021 and authorizing Staff to advertise the Rates, Rules and Charges, was approved.

SEVENTEENTH ORDER OF BUSINESS

Adjournment

There being no further business to discuss, the Bay Creek CDD meeting adjourned.

On MOTION for Bay Creek by Mr. Durney and seconded by Mr. Janek, with all in favor, the meeting adjourned at 3:56 p.m.

**BAYSIDE IMPROVEMENT
& BAY CREEK CDDS**

October 25, 2021

FOR BAYSIDE IMPROVEMENT:


Secretary/Assistant Secretary


Chair/Vice Chair

FOR BAY CREEK:


Secretary/Assistant Secretary


Chair/Vice Chair