

**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 and Public Hearing on January 24, 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	Chair
Bill Nicholson (via Zoom/phone)	Vice Chair
Bernie Cramer	Assistant Secretary
Gail Gravenhorst (via Zoom/phone)	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
Greg Urbancic (via Zoom/phone)	District Counsel, Bayside Improvement CDD
Wes Kayne (via Zoom/phone)	District Engineer
Christina Kennedy (via Zoom/phone)	SOLitude Lake Management (SOLitude)
Marilyn Price	Resident/PLCA Board Member & Landscape Committee Chair
Jason Zimmerman (via Zoom/phone)	Director of Greens and Grounds at Pelican's Nest Golf Club

**BAYSIDE IMPROVEMENT
& BAY CREEK CDDS**

January 24, 2022

William “Bill” Packard (via Zoom/phone)	Resident/PLCA HOA President
Frank Feeney (via Zoom/phone)	Project Engineer for Pelican’s Nest Golf Club
Mark Putcoff	PLCA Assistant Manager
Ed Shinouskis (via Zoom/phone)	Resident/WQTF
Howard Lowe (via Zoom/phone)	Resident
Charlette McCarthy	Resident
Howard Lowe (Zoom/phone)	Resident
Pamela Lolich (Zoom/phone)	Resident

FIRST ORDER OF BUSINESS

Call to Order/Phone Silent Mode/Pledge of Allegiance

Mr. McCarthy called the meeting to order at 2:07 p.m. All present recited the Pledge of Allegiance.

SECOND ORDER OF BUSINESS

Roll Call

For Bay Creek CDD, all Supervisors were present. For Bayside Improvement CDD, Supervisors Cramer, Montgomery and McCarthy were present in person. Supervisors Nicholson and Gravenhorst were attending via Zoom.

On MOTION for Bayside by Mr. Cramer and seconded by Ms. Montgomery, with all in favor, authorizing the attendance and full participation of Mr. Nicholson and Ms. Gravenhorst, via Zoom/phone, due to exceptional circumstances, was approved.

THIRD ORDER OF BUSINESS

Public Comments: *Agenda Items*

No members of the public spoke.

BAY CREEK ITEM

- **Discussion/Consideration: Pelican Nest Golf Course Request to Directional Bore Irrigation Main Under CDD Land Tract**

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

Mr. Adams explained that Mr. Zimmerman was told to engage an environmentalist to locate and plot the gopher tortoise holes in the conservation area and ensure there is no impact to the habitation areas, before this request could be presented to the Board.

Mr. Adams stated that the Golf Course's request is related to a project to tie into the two irrigation lines, which will help resolve the current water pressure and distribution issues. He and Mr. Kayne reviewed the aerial plans, found no issues with the request and recommended approval. The CDD will be provided with the as-builts, once the project is completed. He introduced Mr. Zimmerman and Mr. Feeney who were attending via Zoom.

Mr. Zimmerman, Mr. Feeney and Mr. Adams responded to questions, clarifying that the Bay Creek CDD would provide an easement to the Golf Course, as they would own the line. The line will be comprised of three valves; casings are not needed because the work is underground. One gopher tortoise was observed during inspection and the den locations were identified on the map in the agenda package. The bore would be under the identified nests and would not disturb them.

Ms. McVay stated that she, Mr. Zimmerman and Ms. Darling met at the entrance of the CDD. She expressed her support of the project and her hope that they would continue to help in the areas damaged by Hurricane Irma several years ago. Mr. Zimmerman stated the row of palms were already removed; the February agenda would include improving that area as well.

In response to Mr. Urbancic's suggestion, Mr. Adams will ask Mr. Cox to memorialize "the underground" and other related provisions into the Easement Agreement. Mr. Zimmerman will provide Mr. Adams with the documentation used to prepare the Agreement and the contact information for the Environmentalist, Ms. Marielle Nageon De Lestang of Turrell, Hall & Associates, Inc., to email to the Bay Creek Board.

On MOTION for Bay Creek by Mr. Travers and seconded by Mr. Durney, with all in favor, the Pelican Nest Golf Course Request to Directional Bore Irrigation Main Under CDD Land Tract, was approved.

JOINT BUSINESS ITEMS

FOURTH ORDER OF BUSINESS

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

Mr. Kayne reported the following:

- A Pointe Creek homeowner was observed trimming, removing and leaving fallen materials on the ground in the conservation area; as a result, a survey impact map will be provided to the Bay Creek Board, once an inspection is completed.
- The annual observation of the sluice gates is upcoming. The Annual Report will be presented to the Boards and then be submitted to the South Florida Water Management District (SFWMD).

Ms. Gravenhorst arrived in person, at the meeting at 2:20 p.m.

Mr. McCarthy asked about the enforcement ability of the Bay Creek CDD against persons responsible for causing damages and requiring the person to reimburse the CDD for any costs incurred, if the person refuses to pay. Mr. Urbanic stated that the CDD can request reimbursement if there is evidence or if the person is observed in the act. If the homeowner refuses, the CDD would have to pursue a civil claim with the court. Mrs. Adams stated that she already discussed the issue with the homeowner who apologized. The homeowner understands she will need to reimburse the CDD for costs incurred to determine the impact to the area and to return it to its original condition.

Mrs. Adams stated Mr. Cox asked her to obtain authorization from the Bay Creek Board, on his behalf, to send the letter to a homeowner who is refusing to reimburse the CDD more than \$22,000 for costs incurred, with the caveat that they must respond within seven days and send payment within 20 days to avoid a court complaint being filed.

Discussion ensued regarding photographs that Mr. Janek received from other homeowners concerned about the amount of debris left in the area and Mr. Addison's concerns about liability in the event of a lightning strike.

FIFTH ORDER OF BUSINESS

Waterway Inspection Report: *SOLitude Lake Management*

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

- Lakes A-8, A-11, A-12, A-18, D-8, F-3, F-12 required further attention to treat varied conditions.
- Nano-bubbler machines at Sites E-3, E-4 and E-5 were still down. The manufacturer has been unresponsive to SOLitude’s calls for parts and repairs.
- A proposal to repair the aeration located in D-14 was submitted to Mrs. Adams. Mrs. Adams stated that she sent the executed agreement to SOLitude last week.
- The aeration located on D-6 has an air leak that needs to be patched. The technician believed an alligator bit it and damaged it.

Regarding whether she only inspects the lakes listed in the Report, Ms. Kennedy replied affirmatively. She inspects one-quarter of the total number of lakes each month; each lake is inspected quarterly.

In response to a question of what “Routine maintenance next visit” means, Ms. Kennedy stated that five technicians are assigned to specific sections and conduct weekly routine maintenance four times a month.

Ms. Montgomery stated that the Site D-11 photograph on Page 6 is a good example of a “No Mow Zone” area that is still attractive, which is something the Water Quality Task Force (WQTF) is exploring. Discussion ensued regarding the difficulty in routinely maintaining a no maintenance zone on the HOA side versus the Golf Course side. Mr. McCarthy asked if the CDDs are being charged when the nano-bubblers have not been working properly for a while. Ms. Kennedy stated she would ask Mr. Kurth about the possibility of suspending the lease fee until the nano-bubblers are operational. She will report her findings at the next meeting.

SIXTH ORDER OF BUSINESS

Committee Reports

A. PLCA Landscape Committee

Ms. Price reported the following regarding the PLCA Landscaping Plans memo distributed during the meeting.

- Pelican Colony Boulevard Project: Received approval of the plans from the Village of Estero on December 21, 2021.

- Mr. Joyce, the Arborist familiar with the Village of Estero, was recognized for his efforts and help streamlining the administrative process and costs.
- The Committee would continue working with Mr. Adams on the understory plants.
- Proposals are being obtained from three vendors, who were provided with the specs. Mr. O'Donnell was commended for his help in the process and the other Landscape Committee Members were thanked.
- Demolition is scheduled for the week of February 7, 2022, followed by installation on February 17 and irrigation upgrades after installation.
- Regarding obtaining approval from the PLCA, Ms. Price would review the minutes as she thought that the PLCA agreed to approve the plans once competitive bids are obtained.
- The Orchids on the north side will be replaced in Phase II; the south side looked good.
- The CDDs' Plant Replacement budget line-item will fund the supplemental plantings.

B. Colony Landscape Committee

The report was emailed to the Boards.

C. Water Quality Task Force

The Board agreed with the suggestion to defer this to the next meeting to allow sufficient time to review the WQTF Plans that were emailed to the Boards and for them to provide comments. Ms. Gravenhorst stated that The Colony Board is taking the plan under advisement until their next meeting, to determine the ramifications, if any, since a similar version was presented to them. Ms. Montgomery suggested that the Board Members identify the most impactful and most achievable things to do and then get started.

SEVENTH ORDER OF BUSINESS

Consideration of Award of Contract – Lake Maintenance

Mrs. Adams presented her Memorandum regarding the Lake Management Contract. SOLitude Lake Management (SOLitude), the current contractor, was the only respondent to the bid request. Mr. Durney asked why only one bid was received. Mrs. Adams stated that three of the four companies invited to the pre-bid meeting attended and only SOLitude submitted a response. The single response might be because most companies were unfamiliar with the size

of the project or do not have enough man power. Discussion ensued regarding the bid amount, which was below the budgeted amount.

On MOTION for Bay Creek by Ms. McVay and seconded by Mr. Travers, with all in favor, awarding the Lake Maintenance Contract to SOLitude Lake Management, in a not-to-exceed amount of \$265,992.00 for the first year and \$273,972.00 for the second year, was approved.

On MOTION for Bayside by Ms. Gravenhorst and seconded by Ms. Montgomery, with all in favor, awarding the Lake Maintenance Contract to SOLitude Lake Management, in a not-to-exceed amount of \$265,992.00 for the first-year and \$273,972.00 for the second year, was approved.

EIGHTH ORDER OF BUSINESS

**Discussion: Clarification of Responsibilities
Between the CDDs Supervisors and PLCA
BOD**

Ms. Gravenhorst requested this item on the agenda, suggested the Boards review questions that arose at the Colony HOA Meeting, and asked that a workshop be scheduled once the PLCA's elections are completed; in order to clarify responsibilities and answer those questions. Discussion ensued regarding scheduling another driving tour for interested parties, the Sunshine Law and the requirement to schedule a meeting. The possibility of using the PLCA communication systems to inform homeowners and the purpose of the Design Review Committee (DRC) were discussed. Mr. Adams was asked to update the existing document and email it to the Boards for review.

Resident and HOA Board President William Packard was in favor of holding a joint workshop. He felt that it would help residents delineate between the CDD and HOA landscape expenses and budgets and educate the new General Manager being hired.

Ms. Montgomery thought a workshop would be the ideal time to discuss water quality, in the context of the settlement with the City. She noted that the CDDs are charged with this and are proactively working on this matter.

Ms. Price introduced Mr. Mark Putcoff, the PLCA Assistant General Manager. She suggested that the CDDs prepare a communication similar to the one about the DRC that was in the Pelican Buzz.

NINTH ORDER OF BUSINESS

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

Mr. Adams presented the “Combined General Fund Monthly Budget and Year End” Projection Schedules, in combination with the Unaudited Financial Statements as of December 31, 2021. The “Expanded” Schedule, which was renamed, was emailed to the Boards on Friday, as well as distributed during the meeting.

Mr. Adams stated that, in March, there were plans to fill three open landscape positions due to staff who left for higher wages. Due to the labor shortage, it might be necessary to review entry level salaries again. Mr. Adams responded to questions about plans to use unused funds to offset higher wages, reviewing efficiency of all projects and entry level wages rising from \$13 to \$16 or \$17 an hour. Discussion ensued regarding having the palm pruning contractor return to remove all the hangers.

A Board Member reported that Mr. Kucera was overseeing the palm pruning contractor and would be inspecting today, to ensure they do not damage the hedges.

TENTH ORDER OF BUSINESS

**Acceptance of Unaudited Financial
Statements as of December 31, 2021**

This Item was presented during the Ninth Order of Business.

The financials were accepted.

ELEVENTH ORDER OF BUSINESS

**Approval of December 6, 2021 Joint Regular
Meeting Minutes**

Mr. McCarthy presented the December 6, 2021 Joint Regular Meeting Minutes.

On MOTION for Bay Creek by Mr. Janek and seconded by Ms. McVay, with all in favor, the December 6, 2021 Joint Regular Meeting Minutes, as amended to include any changes submitted to Management, were approved.

On MOTION for Bayside by Ms. Montgomery and seconded by Mr. Cramer, with all in favor, the December 6, 2021 Joint Regular Meeting Minutes, as amended to include any changes submitted to Management, were approved.

TWELFTH ORDER OF BUSINESS

Action/Agenda Items

Active/Ongoing New Items: Items 4, 5, 7 and 8 were completed.

Active/Ongoing Carry Over from 10.25.21: Item 1 was completed.

The following Action Items were discussed:

Item 4: SOLitude and EarthBalance strongly suggested against installing littoral islands, as it is not in the CDDs' best interest and brings no benefit to the lakes.

Item 5: Verbiage corrected to "Mr. Adams to discuss with Mr. Zimmerman the means and methods and where they can improve mowing the lake bank edges."

Mr. Zimmerman stated that the straight trimmer program was being used along the edge. Mr. Adams stated he would schedule a visit to see a demonstration of the new straight trimmer equipment that cuts, rotates and throws the cuttings up onto the bank; suggestions, if any, for improvement would be provided. He reported they also invested in a hover mower but it does not cut at the correct height.

In response to a question, Mr. Adams stated he wants to keep the lines of communication open and did not mention the recommendation to turn the matter over to the City to enforce Best Management Practices (BMPs) to the Boards.

Item 7: Mr. Nicholson voiced his opinion that the Expanded Financial Statement Schedule is more beneficial for the Boards to review than the Unaudited Financial Statements.

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.*

Mr. Urbancic stated that he was monitoring several bills in the current state legislative session pertaining to changing the limited waiver for sovereign immunity. Updates would be provided.

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.

Mrs. Adams reported the following:

- Tract D/Bay Creek Drive Update: Mr. Cox requested authorization to proceed with sending the letter and proposed legal complaint to the homeowner refusing to reimburse the Bay Creek CDD for the mitigation costs incurred.

On MOTION for Bay Creek by Ms. McVay and seconded by Mr. Janek, with all in favor, authorizing Mr. Cox to send the letter and proposed legal complaint to the Bay Creek homeowner, requesting a response within seven days and payment to the CDD within 20 days, was approved.

II. NEXT MEETING DATE: February 28, 2022 at 2:00 P.M.

- QUORUM CHECK: *BAYSIDE IMPROVEMENT CDD***
- QUORUM CHECK: *BAY CREEK CDD***

The next meeting would be held on February 28, 2022.

FIFTEENTH ORDER OF BUSINESS

Supervisors' Requests

Ms. McVay asked about Ms. Darling’s request to have the electrical box at Bay Creek updated, which she was told is necessary because it was believed to control the gates and the uplights. Mr. Adams stated he would check on this today; although, it was believed to be a Bay Creek HOA matter. No one could recall receiving the initial request.

SIXTEENTH ORDER OF BUSINESS

Public Comments: *Non-Agenda Items*

No members of the public spoke.

SEVENTEENTH ORDER OF BUSINESS

Adjournment (Bayside Improvement CDD)

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

On MOTION for Bayside by Ms. Montgomery and seconded by Ms. Gravenhorst, with all in favor, the Bayside CDD meeting adjourned at 3:35 p.m.

Ms. McVay thanked Mr. Hyman for his helpfulness in working with the CDDs.

BAY CREEK ITEM

EIGHTEENTH ORDER OF BUSINESS

**Continued Discussion/Consideration:
Consent to Use of Easement Agreement for
Continued Encroachment of Retaining Wall
and Landscape, McKinney Residence, 25131
Ridge Oak Drive**

Mr. Adams and Mrs. Adams reported the following:

- Several parties toured the site with Mr. McKinney and his Landscape Architect/Contractor and Mr. Durney took photographs.
- Mr. McKinney was very amenable to the CDD’s request for him to fill an additional 3’ into the lake and to incorporating language into the Agreement requiring him to restore the 4:1 slope.
- Mr. McKinney emailed confirmation that Bonita Springs did not require a permit.

Mr. Adams stated that once the property line is restored the CDD will address the littoral shelf.

Discussion ensued regarding Board Members touring the site individually to avoid a violation of the Sunshine Law and the lot size not supporting the size of the home. Mr. Adams stated that the erosion was due to a huge down spout issue.

On MOTION for Bay Creek by Mr. Travers and seconded by Ms. McVay, with all in favor, the Consent to Use of Easement Agreement for Continued Encroachment of Retaining Wall and Landscape at the McKinney residence, 25131 Ridge Oak Drive, as amended to incorporate language that the homeowner agrees to restore and return the slope to 4:1 slope, from the base of the new planter, was approved.

NINETEENTH ORDER OF BUSINESS

Public Hearing to Hear Public Comment and Objections to the Adoption of an Amendment to the Rules of Procedure, Related to the Rates and Charges for Irrigation Utility Usage, Pursuant to Sections 120.54 and 190.035, Florida Statutes

A. Affidavits of Publication

- I. Notice of Rule Development**
- II. Notice of Intent**

These items were included for informational purposes.

B. Consideration of Resolution 2022-01, Amending the District's Rules Relative to Its Irrigation Utility Regulations and Rates and Charges for Utility Service; and Providing an Effective Date

Mr. Adams presented Resolution 2022-01. The Irrigation Rate Analysis Report was unchanged since it was approved in October, for the purposes of setting this public hearing.

Discussion ensued regarding sending a communication to homeowners and Staff typically notifying the HOAs so they budget accordingly. Ms. McVay was unhappy with the new way information is displayed on the bill because it no longer indicates if they exceeded excessive use.

Mr. Adams opened the Public Hearing.

Mr. Cramer agreed with the other Board Members that it is in everyone's best interests to have this information conveyed to the constituents. Mr. Adams stated Bayside's increase will be forthcoming and upon further discussion, a communication to include in the newsletter would be prepared.

Mr. Adams closed the Public Hearing.

On MOTION for Bay Creek by Mr. Travers and seconded by Mr. Addison, with all in favor, Resolution 2022-01, Amending the District's Rules Relative to Its Irrigation Utility Regulations and Rates and Charges for Utility Service; and Providing an Effective Date, was adopted.

TWENTIETH ORDER OF BUSINESS

Discussion/Consideration: Pelican Nest Golf Course Request to Directional Bore Irrigation Main Under CDD Land Tract

This item was presented following the Third Order of Business.

TWENTY-FIRST ORDER OF BUSINESS

Adjournment (Bay Creek CDD)

There being no further business to discuss, the Bay Creek CDD meeting adjourned at 3:49.

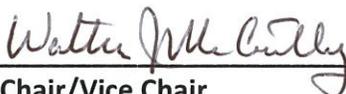
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**BAYSIDE IMPROVEMENT
& BAY CREEK CDDS**

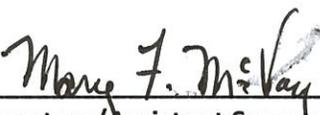
January 24, 2022

FOR BAYSIDE IMPROVEMENT:


Secretary/Assistant Secretary


Chair/Vice Chair

FOR BAY CREEK:


Secretary/Assistant Secretary


Chair/Vice Chair