

**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 January 23, 2023, 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	Vice Chair
Bernie Cramer	Assistant Secretary
Gail Gravenhorst	Assistant Secretary
Karen Montgomery	Assistant Secretary

For Bay Creek CDD, present were:

James Janek	Chair
Mary McVay	Assistant Secretary
Gary Durney	Assistant Secretary
Jerry Addison	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Adams	District Manager
Shane Willis	Operations Manager
Dan Cox (via telephone)	District Counsel, Bay Creek CDD
Greg Urbancic (via telephone)	District Counsel, Bayside Improvement CDD
Wes Kayne	District Engineer
Carl Barraco	Barraco and Associates, Inc. (Barraco)
Jamie Wilson	Roncon Design Engineer
Tim Denison (via Zoom)	Johnson Engineering
Ean Sims (via Zoom)	SOLitude Project Manager
Mark Puthoff	PLCA General Manager
Bill Packard	Resident/HOA/Landscape Committee
Walt Beaver	Resident
Neale Montgomery	Counsel for Property Owner/Developer
Bob Loos	Resident

James “Joe” Borneman (via Zoom)	Resident
Stefan Johansson	Resident
Jack Yern	Resident
Other Residents	

FIRST ORDER OF BUSINESS

Call to Order/Phone Silent Mode/Pledge of Allegiance

Mr. Adams called the meeting to order at 2:01 p.m. All present recited the Pledge of Allegiance.

SECOND ORDER OF BUSINESS

Roll Call

For Bayside Improvement CDD, all Supervisors were present. For Bay Creek CDD, Supervisors Janek, Addison, Durney and McVay, were present. Supervisor Travers was not present.

THIRD ORDER OF BUSINESS

Public Comments: *Agenda Items*

Based on the damages Hurricane Ian caused, Resident Walt Beaver voiced his opinion that the CDDs have not taken the influence the M & N Project will have on Castella Drive into full consideration. He is concerned about floodwaters adversely affecting the property and his unit.

Ms. Montgomery, Counsel to the Property Owner/Developer stated she can respond to questions about the M & N Project, which is the Fifth Order of Business. She stated that all environmental issues will be addressed, as an Environmental Research Permit is required.

Resident Stefan Johansson deferred his comments regarding Parcels M & N.

Resident Bob Loos stated he sent two emails regarding Parcels M & N. He referred to Barraco & Associates’ (Barraco) Report and a conflict of interest and request for the CDDs to engage another Engineering firm. He deferred his comments to the Fifth Order of Business.

Resident Joe Borneman discussed his professional Engineering background and the overall design and recent changes to the stormwater system over time. Having reviewed all the proposed Infinity project applications, he felt that Barraco’s behavior indicates a strong conflict of interest and that it is the CDDs’ decision, not Barraco, to perceive if there is a conflict of interest. He felt that Barraco should have notified the Boards in early 2022 of the Ronto Group

(Ronto) engaging them for this project. He thinks the Bayside Supervisors should identify other potential engineering firms with water quality engineering expertise and engage one promptly.

JOINT BUSINESS ITEMS

FOURTH ORDER OF BUSINESS

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

There was no report.

FIFTH ORDER OF BUSINESS

Discussion: Colony Parcels M & N Drainage Design/Permitting

Mr. Barraco addressed the earlier comments concerning conflict of interest as follows:

- On February 28, 2022, the Boards were advised of Barraco’s work with Ronto and were asked then if anyone perceived a conflict of interest, which is reflected in the minutes.
- The Engineer of record for the project typically serves as the District Engineer, too.
- As District Engineer for the CDD and Engineer for the Developer, he did not see how they could do anything that could benefit one over the other.

Mr. Barraco served as District Engineer earlier in the project but Mr. Kayne is now working as the District Engineer for the CDDs and Ms. Jamie Willson is the Design Engineer for The Colony projects. Another assurance is that the South Florida Water Management District (SFWMD) and the City will review any construction plans that are submitted.

Mr. Barraco responded to questions concerning conflict of interest. He discussed the requirement to comply with Florida Statutes, read a portion of the February 28, 2022 meeting minutes and stated that Ms. Jamie Wilson’s work is totally independent of the CDDs.

Resident Jack Yern alleged that, rather than complying with SFWMD’s request for a letter or Resolution from the CDD on the M & N Project, Barraco instead responded that there is no need for the CDDs to be involved. He felt that the Boards must now decide whether to be involved with the project and, if so, engage an outside Engineer before the 30-day deadline to submit comments on the SFWMD permit.

Ms. Montgomery discussed her involvement with the project since its inception and the permit. She stated that the intention of Florida Statute Chapter 190.022 is that CDDs do not have

development permitting power. The Development Order for this project states it must comply with the SFWMD Rules. She stated there are repercussions if the CDDs impede this project and cause delays and financial damages. If there are comments, she hoped they are in accordance with the rights and limited to the requirements of the applicant's handbook.

A resident felt that the issue is not zoning; rather, it is whether the system is going to work properly after the extra water is put into the ponds.

Ms. Wilson and Mr. Baracco clarified points about water flow, drainage and the CDDs' outfall structure. They reviewed the site map and responded to questions. Ms. Wilson stated that the discharge will not be any more than what is already being discharged into the mangrove. Mr. Barraco stated Ms. Wilson is discussing rainfall events. Hurricane Ian damages were driven by wind, not rainfall; no matter what happened, the elevation of the tidal surge will not change.

Mr. Loos reiterated his belief that this is a conflict of interest and that a separate independent Engineer should be engaged.

Due to technical issues, Mr. Adams asked Zoom attendees to leave and rejoin the meeting.

Mr. Barraco stated, if an independent Engineer is engaged, he will fully cooperate. He asked that one person in his office to be the point of contact.

On MOTION for Bayside by Mr. Nicholson and seconded by Ms. Gravenhorst, with all in favor, engaging an independent Engineering firm to provide a peer review of Barraco & Associates' involvement of this project, was approved.

On MOTION for Bayside by Ms. Montgomery and seconded by Mr. Nicholson, with all in favor, authorizing Mr. McCarthy to work with Mr. Adams on selecting an Engineering firm and to send documentation to Mr. Adams to circulate to the Boards, was approved.

In response to Mr. Barraco's questions, Mr. McCarthy stated that he and Mr. Adams will communicate the CDD position to the SFWMD. He appointed Mr. Barraco as the point of contact to provide the information needed on this matter.

SIXTH ORDER OF BUSINESS

**Presentation of 2022 Water Quality
Monitoring Report – *Johnson Engineering,
Inc.***

Mr. Denison presented the 2022 Water Quality Monitoring Report. The results remain relatively stable and no worse or any better. He was asked to add footnotes to the Report. Regarding the National Pollutant Discharge Elimination System (NPDES) permit, Mr. Denison is not aware of a requirement for the numeric pollutant criteria to be met for the CDDs, as a whole.

Discussion ensued regarding the NPDES permit, the criteria for testing outfall structures discharging into Spring Creek and F-12 and Estero Bay, obtaining a benchmark in anticipation of the Federal Government or State setting the Total Maximum Daily Loads (TMDL) and standards for everyone to operate under.

Mr. Janek stated Bay Creek did not participate in Bayside's motion because this is outside the boundaries of Bay Creek but Bay Creek conveyed its concern about the communities.

Mr. Urbancic stated that cap on the amount for Bayside's new Engineering contract should be set. Mr. Adams did not expect the cost of the peer review to exceed the Consultants' Competitive Negotiation Act (CCNA) threshold of \$35,000.

SEVENTH ORDER OF BUSINESS

**Waterway Inspection Report: January 2023
- *SOLitude Lake Management, LLC***

Mr. Sims presented the Monthly Report. He responded to questions regarding damages due to salinity and explained the reasons for foaming, which typically occurs in winter and takes care of itself. Mr. Adams will have this researched and report the findings at the next meeting.

Mr. Durney asked if there are delays repairing the nano-bubblers. Mrs. Adams stated she will check the status of her original request. Mr. Adams noted delays obtaining parts.

EIGHTH ORDER OF BUSINESS

Committee Reports

A. PLCA Landscape Committee

A written Report will be provided after the Committee meeting next week.

B. Colony Landscape Committee

The Report was included for informational purposes. The Horticulturist's formal report on the recent assessment of the community is pending.

NINTH ORDER OF BUSINESS

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

Mr. McCarthy presented the following and Mr. Adams explained the process:

- A. Resolution 2023-02, *Bayside Improvement Community Development District***
- B. Resolution 2023-03, *Bay Creek Community Development District***

On MOTION for Bayside by Ms. Gravenhorst and seconded by Mr. Cramer, with all in favor, Resolution 2023-02, Declaring Certain Tangible Personal Property Surplus Equipment and Authorizing the District Manager to Sell or Dispose of Said Equipment as Expeditiously as Possible and Providing for an Effective Date, was adopted.

On MOTION for Bay Creek by Mr. Janek and seconded by Mr. Durney, with all in favor, Resolution 2023-03, Declaring Certain Tangible Personal Property Surplus Equipment and Authorizing the District Manager to Sell or Dispose of Said Equipment as Expeditiously as Possible and Providing for an Effective Date, was adopted.

JOINT BOARD ITEMS

TENTH ORDER OF BUSINESS

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

Mr. Adams will email the Monthly Budget and Year End Projection Report by the end of the week.

ELEVENTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of December 31, 2022

Mr. Adams presented the Unaudited Financial Statements as of December 31, 2022. He stated the, "Attorney" line item for The Colony still needs to be added under street lights. He responded to questions about the project and \$20,000 expense incurred in Fiscal Year 2023.

Mr. McCarthy asked if lighting is covered under the CDDs' insurance. Mrs. Adams stated she sent everything to the insurance company; she is waiting on more information to send them.

Discussion ensued regarding lighting, determining who owns what outside The Colony, being aware that the PLCA Finance Committee is accruing funds to repair monuments for which the PLCA is no longer responsible. Mr. Puthoff and Mr. Cox will research their records to locate the spreadsheet that originated in 2000.

The financials were accepted.

Mr. McCarthy stated the City designated the Royal Poinsettia tree outside The Colony as the "Tree of the Season". He commended those involved in its upkeep.

TWELFTH ORDER OF BUSINESS

Approval of December 5, 2022 Joint Regular Meeting Minutes

Mr. Janek presented the December 5, 2022 Joint Regular Meeting Minutes.

On MOTION for Bayside by Ms. Montgomery and seconded by Mr. Cramer, with all in favor, the December 5, 2022 Joint Regular Meeting Minutes, as amended to include any changes submitted to Management, were approved.

On MOTION for Bay Creek by Mr. Addison and seconded by Mr. Durney with all in favor, the December 5, 2022 Joint Regular Meeting Minutes, as amended to include any changes submitted to Management, were approved.

THIRTEENTH ORDER OF BUSINESS

Action/Agenda Items

The Action Items were updated following the meeting.

FOURTEENTH ORDER OF BUSINESS

Old Business

There was no old business.

FIFTEENTH ORDER OF BUSINESS

Staff Reports

A. District Counsel

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

- **Update: Second Amendment and Restated Bylaws of Pelican Landing Community Association, Inc.**

Mr. Urbancic stated that PLCA Counsel is aware of the CDDs' request to remove certain language in the Bylaws; it and other comments received will be reviewed at the PLCA February meeting. He will remind PLCA Counsel of the request to remove Section 7.4Bii and any reference to the CDDs. He is monitoring the legislative session regarding an ethics bill that might impact Special Districts.

II. *Daniel Cox, Esq.*

There was no report.

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

I. Monthly Status Report: Field Operations

The Monthly Report was included for informational purposes.

II. NEXT MEETING: February 27, 2023 at 2:00 P.M.

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

All Supervisors confirmed their attendance at the February 27, 2023 meeting.

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

Supervisors Addison, Janek and McVay confirmed their attendance at the February 27, 2023 meeting. Supervisor Durney will not be present.

SIXTEENTH ORDER OF BUSINESS

Supervisors' Requests

Mr. Cramer stated the Developer is holding an open house on February 24, 2023 and asked to use 100 of the PLCA's beach parking spots. He suggested requesting financial assistance to help with removing the horticultural materials currently on site.

Mr. Janek stated that the landscaping along most of U.S. 41 was trimmed below the fence. Mr. Adams stated it was done this way to get ahead of the hard cuts and to flush new growth; going forward, it will be maintained at the top of the fence.

Mr. Durney stated that the PLCA Landscape Committee is considering making improvements to the entry monuments. He asked Staff to send information to the Committee about the original installation of the fountains that were added at the central entrance.

Discussion ensued about CDD ownership of the monuments at the north entry, PLCA ownership of the tracts as of 2016 and this type of information being available on the pelicanlandcdds.net website, under GIS District Map.

Mr. Nicholson asked that a Board vote be required for future items that might be considered a conflict of interest. Mr. Adams agreed. Regarding the matter with Barraco, Mr. McCarthy asked the Board Members to reflect on what transpired and if they feel action is necessary and to discuss it at the next meeting.

SEVENTEENTH ORDER OF BUSINESS

Public Comments: *Non-Agenda Items*

Resident/HOA Board and PLCA Landscape and Finance Committee liaison Bill Packard stated the PLCA Board recently approved expending \$85,000 to repair the fencing around the perimeter of the property. He discussed using Reserve Study funds to fund the entry monuments and fountains project. He asked for clear definitions of ownership and the entity responsible for maintenance and replacement costs of this and lighting items so which entity needs to reserve funds can be determined.

Discussion ensued regarding assessing and determining the entity responsible for certain projects, prioritizing and funding projects, screening in Spring Creek Village.

PLCA General Manager Mark Puthoff thanked Mr. Adams and Mrs. Adams for attending the PLCA's recent meeting and providing a lot of information; repair of the screens and some of the fences is already underway. He is waiting on documentation regarding the PLCA.

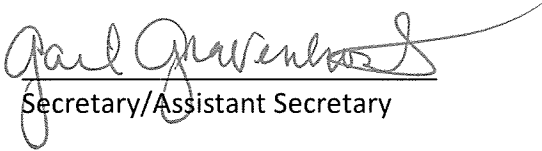
EIGHTEENTH ORDER OF BUSINESS

Adjournment

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.

On MOTION for Bayside by Mr. McCarthy and seconded by Mr. Cramer, with all in favor, the meeting adjourned at 3:56 p.m.

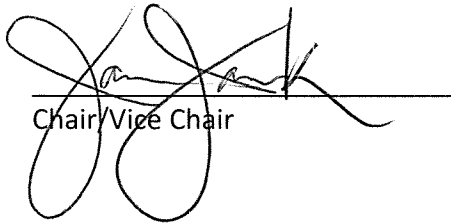
FOR BAYSIDE IMPROVEMENT


Secretary/Assistant Secretary


Chair/Vice Chair

FOR BAY CREEK:


Secretary/Assistant Secretary


Chair/Vice Chair