

**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 June 24, 2024 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/84137772934>, and via conference call at 1-929-205-6099, Meeting ID: 841 3777 2934 for both.

Present for Bayside Improvement CDD:

Walter McCarthy	Chair
Bill Nicholson	Vice Chair
Bernie Cramer	Assistant Secretary
Gail Gravenhorst	Assistant Secretary
Karen Montgomery	Assistant Secretary

Present for Bay Creek CDD:

James Janek (via phone/Zoom)	Chair
Robert Travers	Vice Chair
Jerry Addison	Assistant Secretary
Gary Durney	Assistant Secretary
Mary McVay	Assistant Secretary

Also present:

Chuck Adams	District Manager
Cleo Adams	District Manager
Shane Willis	Operations Manager
Greg Urbancic (via phone/Zoom)	District Counsel, Bayside Improvement CDD
Wes Kayne (via phone/Zoom)	District Engineer
Paul Kemp	Field Manager
Andy Nott	Superior Waterway
Dean Francis	Resident & Longlake Village HOA President
Jim Hoppensteadt	Pelican Landing General Manager
Gary Gibb	PLCA Landscape Committee Chair

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.

The Pledge of Allegiance was recited.

SECOND ORDER OF BUSINESS

Roll Call

For Bayside Improvement CDD, all Supervisors were present.

For Bay Creek CDD, Supervisors McVay, Travers, Durney and Addison were present.

Supervisor Janek attended via telephone/Zoom.

On MOTION for Bay Creek by Mr. Durney and seconded by Mr. Addison, with all in favor, authorizing the attendance and full participation of Mr. Jim Janek, via phone/Zoom, due to exceptional circumstances, was approved.

Mr. McCarthy stated that this is an election year and, as discussed in the past, three Bayside Board Seats and two Bay Creek Board Seats are up for election. All the incumbents filed for reelection and none are opposed; therefore, the Boards will remain the same. He expressed his appreciation for the community’s continued support of the CDDs.

THIRD ORDER OF BUSINESS

Public Comments: Agenda Items

Resident Dean Francis asked for an update on the Longlake Village piping issues and on work being done at the north and the main gates. He asked if any discussion was held with The Nest regarding replacing plants lost due to saltwater intrusion or installing additional plants to help reduce nitrogen in the water.

Mrs. Adams stated that water sampling will be done at Lake D9, for now; additional plants will be installed but planting littorals is delayed due to the saltwater intrusion.

JOINT BUSINESS ITEM(S)

FOURTH ORDER OF BUSINESS

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

Mr. Kayne reported the following:

- Work on the National Pollutant Discharge Elimination System (NPDES) Annual Report is underway; Mr. Savage will be working with Mr. Adams and Mrs. Adams in this regard.
- While Staff has not been on site recently to look at the conveyance of Infinity Parcels M and N, his understanding is that, since it was last checked, the pipe was installed and the conveyance is now going through the pipe and into the lake instead of the temporary swale that has been there for some time. He expects it to be checked soon.

A question that Mr. Cramer previously raised in response to soil samples and a resident inquiry about The Colony area, were discussed.

Mr. Kayne stated that he was not aware of the soil question. Mr. Adams recalled that pictures were taken of the area. Mr. McCarthy asked Mr. Adams to work with Mr. Kayne and email the Boards, if necessary.

FIFTH ORDER OF BUSINESS

Treatment Report: May 2024 – Superior Waterway Services, Inc. (Andy Nott)

- **Discussion: Lake A-16 Lab Notes and Service Agreement for Treatment**

Mr. Nott distributed the latest lab notes, which were not included in the agenda. He met with Pure Polymer, a water treatment company that does custom blends for water treatment, and several gallons of water were taken for testing; on that day, the water was at its lowest and it was still flowing from A-12. He dyed the lake with more than twice the amount needed and it did not last two weeks in the lake. He does not believe the dye treatments are worth it but he will present the findings. Additional treatment would cost \$5,000 and, with flow, additional water is flowing in. As Johnson Engineering advised, water testing is needed in A-11, A-12 and A-13 to determine the cause.

Mr. Nott reviewed the lab results and the recommendations and noted that some treatments can reduce nutrients and some can reduce color but none can do both. While there is no test for odor, the odor has been reduced greatly, over time, since aerators were installed; no complaints regarding odor have been received about Lake A-16. He does not recommend the treatment, which would cost \$5,120, as the water is flowing and incoming water likely has the same issue.

The consensus was not to treat the lake and to reevaluate it in dry season.

Mr. Nott stated the lakes look good, overall. Water levels have risen and some algae and torpedo grass are expected and will be treated as they occur.

Mr. McCarthy thanked Mr. Nott for his efforts.

SIXTH ORDER OF BUSINESS

Continued Discussion: Water Quality

The Board and Staff discussed an article related to pollution in the aquatic preserve and the importance of littorals.

Mr. McCarthy stated that, unfortunately, most of the A lakes were constructed with a 4:1 slope and are unable to accept littorals; however, most of the rest are not so affected. Mr. Adams stated the lakes built in 1993 and later have a flatter slope on which plants can survive.

SEVENTH ORDER OF BUSINESS

**Continued Discussion: Maintenance Facility
Deferred Maintenance items**

Discussion ensued regarding the ongoing Request for Qualifications (RFQ) process for District Engineering Services, for which W.J. Johnson & Associates (W.J. Johnson) was the only respondent.

Mr. Adams stated that W.J. Johnson was previously deemed a qualified respondent and, as the only respondent, W.J. Johnson can be deemed responsive and the Board can entertain a proposal. He noted difficulty getting a contract executed due to the legal requirements for certain provisions in CDD contracts.

Mr. Urbancic discussed the requirements of the Consultants' Competitive Negotiation Act (CCNA) and stated the first contract is subject to a threshold because the CDD did not go through the RFQ process. Contract items to be addressed include a law that must be included in the contract, proposed change orders beyond the not-to-exceed amount of the contract and the requirement for insurance.

Mr. Adams stated that the first two components were previously authorized; having completed the CCNA requirements, the CDD can exceed the \$35,000 threshold. He noted that the third proposal was approximately \$29,000 and stated the three components can be combined into one large contract. The proposals specify the number of hours and hourly billing rates but allow for additional hours, if necessary. The scope of work has not changed; a Time and Material contract can be set with a not-to-exceed amount and can be revisited, if necessary.

Mr. McCarthy noted that the professional services fee and the technical side of preparing a scope of work would cost approximately \$65,000. He estimated that the project expenditure could total \$700,000 and voiced his opinion that due diligence regarding the source of funds is needed.

It was noted that funds for these improvements would come from the CDDs' General Fund, with Bayside bearing 65% of the cost and Bay Creek bearing 35% of the cost.

The Board and Staff discussed the scope of work and the possibility of taking out a five-year note rather than imposing an assessment.

Mr. Nicholson thinks the projects are driven by growth and catching up and stated the question in his mind is whether the CDDs can deal with those challenges and, if so, he thinks that, in principle, spending \$65,000 answers the question of total cost by growth and expansion and catching up on maintenance. He supports exploring the project.

Mr. McCarthy discussed the original maintenance concept process in 2008, which had an \$800,000 budget, and expressed concern that this project does not have a budget.

Discussion ensued regarding the pump station replacement project, the need to determine a scope and a budget and the desire for a firm price.

Mr. McCarthy stated he does not believe all the services can be provided for the prices quoted.

On MOTION for Bayside by Mr. Nicholson and seconded by Ms. Montgomery, with Mr. Nicholson, Mr. Cramer, Ms. Gravenhorst and Ms. Montgomery in favor and Mr. McCarthy dissenting, ranking W.J. Johnson & Associates, the #1 ranked respondent to the RFQ for Engineering Services, was approved. [MOTION PASSED 4-1]

Mr. McCarthy stated that his confidence in this vendor was shaken due to the refusal to agree to the not-to-exceed amount after attending the meeting.

On MOTION for Bay Creek by Mr. Durney and seconded by Mr. Addison, with Mr. Durney, Mr. Addison, Ms. McVay and Mr. Travers in favor and Mr. Janek dissenting, ranking W.J. Johnson & Associates, as the #1 ranked respondent to the RFQ for Engineering Services, was approved. [MOTION PASSED 4-1]

Mr. Nicholson motioned to add up all three projects and to negotiate with W.J. Johnson for that total to be the not-to-exceed amount for the scope of work, and if that is not agreed to, the deal is off. It was noted that the scopes of the three projects were previously defined.

On MOTION for Bayside by Mr. Nicholson and seconded by Mr. Cramer, with Mr. Nicholson, Mr. Cramer, Ms. Gravenhorst and Ms. Montgomery in favor and Mr. McCarthy dissenting, placing all three previously approved projects into one contract with the not-to-exceed amount being the total cost of the three projects, was approved. [MOTION PASSED 4-1]

On MOTION for Bay Creek by Mr. Durney and seconded by Mr. Travers, with Mr. Durney, Mr. Addison, Ms. McVay and Mr. Travers in favor and Mr. Janek dissenting, placing all three previously approved projects into one contract with the total not-to-exceed amount being the total cost of the three projects, was approved. [MOTION PASSED 4-1]

Ms. Gravenhorst stated that, this week, she and Mr. Nicholson received the following email from Mr. Bob Loos, President of The Colony Foundation:

“It is my understanding that the CDD is in the process of formulating its budget for the coming fiscal year. In connection with preparing such budget The Colony Foundation requests that the CDD include sums for the streetlights in The Colony in order to refresh the painting, repair and correct any leaning light poles as well as to unify the lighting with the designated 3000K (warm light) bulbs in order for The Colony to present in a uniform appearance. Thank you for your attention to this for the 24/25 season.”

Mr. McCarthy stated the requested work will be discussed at the July 19, 2024 workshop.

Mr. Nicholson noted that he received the same email several days ago. He stated the scope of work must be determined. He distributed a proposal to inventory and diagram all street light pole locations and stated that he has it on good authority that W.J. Johnson will perform an inventory and estimate repair costs for a not-to-exceed amount of \$5,000.

Ms. Gravenhorst stated that she did her own informal count and counted 129 light poles.

Mr. Nicholson stated that W.J. Johnson advised that they are willing and able to complete the work within 30 days, which would sync with the Fiscal Year 2025 budget process and would allow the CDDs to ask Mr. Loos if The Colony has room for some adjustment in its budget.

On MOTION for Bayside by Mr. Nicholson and seconded by Ms. Gravenhorst, with all in favor, authorizing W.J. Johnson to perform a light pole survey in The Colony, in a not-to-exceed amount of \$5,000, was approved.

EIGHTH ORDER OF BUSINESS

Committee Reports

A. PLCA Landscape Committee

Mr. McCarthy asked why no report was submitted.

Mr. Durney stated that the Committee members prefer that the Chair be the spokesperson for the Committee. He noted that there are two projects that the Committee is undertaking. The first is refreshing landscaping at all three entrances and the second is refreshing some landscaping within the gate, some to community entrances and some to circles.

Ms. Gravenhorst thinks the PLCA is willing to refresh nine places that were identified, at its expense, according to the Agreement. Some other areas were identified that do not fall under the category of a refresh but have some needs that fall under the category of CDD work, such as bushes that failed to thrive. She presented a proposal for the refresh of the entrances and noted that the PLCA asked for the CDDs to be involved from the beginning, to provide input regarding what to install; before the CDDs agree to maintain the landscaping, Mr. Kemp will have the opportunity to inspect it to ensure that it meets his expectations and advise Mr. O'Donnell or the Committee if it needs to be modified. Mr. Kemp stated that is his understanding.

Ms. Gravenhorst stated the proposal for the north, middle and south entrances and the Spring Creek area totals \$207,000.

Mr. Cramer voiced his belief that the CDDs were meant to advise the Landscape Committee and objected to CDD Board Members voting on Landscape Committee decisions. Mr. Nicholson stated that the Landscape Committee serves to advise the PLCA Board of Directors, which approves or does not approve the project and the cost.

Pelican Landing General Manager Mr. Hoppensteadt stated that it was made very clear that the Committee has no spending authority; the Committee advises him and the PLCA Board. As it stands, the PLCA Board approved the funds; there are some impediments to the monuments, such as Ficus trees impacting the monument. this will go before the PLCA Board this

month. According to the Landscape Agreement, the PLCA will execute it and the CDDs will maintain the landscaping.

It was noted that the monuments are on PLCA property, with the exception of The Colony monuments, which were purchased with the 1998 bond.

Ms. Montgomery thanked Ms. Gravenhorst and Mr. Durney for their service on the Committee.

Mr. Durney reiterated his preference for the reports to come from the Landscape Committee Chair. PLCA Landscape Committee Chair Gary Gibb stated that he will present reports each month.

Ms. McVay stated she observed that the traffic circle outside of Bay Creek seems to have a strip of weeds that can be killed or replaced with mulch.

B. Colony Landscape Committee

The report was included for informational purposes.

NINTH ORDER OF BUSINESS

Consideration of Johnson's Tree Service & Stump Grinding Estimate 13893 for Ficus Tree Removal and Stump Grinding

Mr. McCarthy presented Johnson's Tree Service & Stump Grinding Estimate 13893 for Ficus Tree Removal and Stump Grinding. Regarding why the Ficus trees are being removed, Mr. Kemp stated that it became evident that the Ficus trees are impacting the monument walls, which fall under the purview of the CDDs.

On MOTION for Bayside by Ms. Montgomery and seconded by Ms. Gravenhorst, with all in favor, Johnson's Tree Service & Stump Grinding Estimate 13893 for Ficus Tree Removal and Stump Grinding, in the amount of \$22,000, was approved.

On MOTION for Bay Creek by Mr. Travers and seconded by Mr. Addison, with all in favor, Johnson's Tree Service & Stump Grinding Estimate 13893 for Ficus Tree Removal and Stump Grinding, in the amount of \$22,000, was approved.

TENTH ORDER OF BUSINESS

Presentation of Monthly Year-End Financial Forecast (under separate cover)

Mr. Adams stated the report was emailed to the Boards. All funds are solvent with the exception of Bay Creek’s Irrigation Fund. He expects a good revenue swell due to golf course watering, which will trigger the penalty tier.

Mr. McCarthy stated that the \$87,000 that Bayside loaned to Bay Creek was restored. Mr. Adams stated that Bayside has \$1.2 or \$1.3 million in the BankUnited account, earning interest.

Mr. Adams responded to questions about the Bay Creek Enterprise Fund.

Mr. Durney asked if the “Property, plant and equipment” line item currently being depreciated includes the pump stations. Mr. Adams stated that it includes the pump stations and wells. Asked if the money for the roof replacement will need to come from the Enterprise Fund, Mr. Adams stated that, in a shortfall situation, money is transferred from the General Fund to the Enterprise Fund. The entry on the Balance Sheet gives a “Due to” or “Due from” amount. Mrs. Adams stated that Jason’s group is supposed to reimburse 50%.

Discussion ensued regarding noncash assets, accounts receivable, available cash and irrigation revenues.

Mr. Adams discussed modified accrual accounting methods.

Mr. McCarthy stated that he was under the impression that an Enterprise Fund can transfer money to a government fund but that it cannot be transferred in any other direction. Mr. Adams stated that excess money in an Enterprise Fund can be transferred to a General Fund and it never has to be transferred back.

ELEVENTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of May 31, 2024

This item was discussed in conjunction with the Tenth Order of Business.

The financials were accepted.

TWELFTH ORDER OF BUSINESS

Approval of May 20, 2024 Joint Regular Meeting Minutes

On MOTION for Bayside by Mr. Nicholson and seconded by Ms. Montgomery, with all in favor, the May 20, 2024 Joint Regular Meeting Minutes, as amended to include any changes submitted to Management, were approved.

On MOTION for Bay Creek by Mr. Durney and seconded by Mr. Travers, with all in favor, the May 20, 2024 Joint Regular Meeting Minutes, as amended to include any changes submitted to Management, were approved.

THIRTEENTH ORDER OF BUSINESS

Action/Agenda Items

This item was not discussed.

FOURTEENTH ORDER OF BUSINESS

Old Business

There was no old business.

FIFTEENTH ORDER OF BUSINESS

Staff Reports

A. District Counsel: Coleman Yovanovich Koester, P.A. [Gregory Urbancic, Esq.]

Mr. Cramer asked if any of the legislation related to HOAs has a direct or indirect effect on the CDDs. Mr. Urbancic stated that there are no direct effects from HOA legislation. The CDDs are impacted by legislation related to developing objectives, policies and performance measures.

Regarding the ethics training that must be completed by December 31, 2024, Mr. Urbancic stated that completion of the requirement will be reported when filing Form 1 in 2025.

Mr. Adams stated that Supervisors should have received an email from the Florida Commission on Ethics (FCOE) guiding them to complete a short registration process with FCOE, which will enable them to file Form 1 electronically, beginning in 2024; Form 1 must be filed electronically by July 1, 2024.

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

I. Monthly Status Report: Field Operations

The Monthly Report was included for informational purposes.

II. UPCOMING MEETINGS

- July 19, 2024 at 9:00 AM [Joint Budget Workshop]
- July 29, 2024 at 2:00 PM [Joint Regular Meeting]
- QUORUM CHECK

SIXTEENTH ORDER OF BUSINESS

Supervisors' Requests

Ms. McVay stated that Staff is looking into the saltwater concentration in Lake B-9 before any littoral planting is done. Mr. Adams believes that the salinity levels might have dropped now; a quick field test will be done to verify.

Ms. Gravenhorst asked for a brief synopsis to be written regarding the lamp posts. Mrs. Adams suggested the District Engineer prepare it.

Mr. Cramer stated he emailed regarding the last PLCA Board Meeting, where several modifications on Gold Crest Drive, including sidewalks and drainage, were discussed. He thinks the CDDs would be involved directly with the drainage. Mr. Adams stated that the inlets and roadside drainage go with the road; the CDDs' only involvement is the Cleaning Agreement for the inlets. He stated that good monthly communications are occurring; he will have a conversation about it at the appropriate time.

Discussion ensued regarding drainage improvements around the tennis courts.

Mr. Cramer stated that the catch basin behind the dumpster was full of garbage and should be cleaned after the dumpster is emptied.

Mr. Nicholson stated that he will be absent from the July meetings.

Mr. McCarthy stated that, in his meeting with the PLCA earlier today, Mr. Hoppensteadt indicated that the PLCA is sending a taco truck at lunchtime, as an expression of gratitude to Staff for all the things they do for the community. He expressed his gratitude on behalf of the Boards.

SEVENTEENTH ORDER OF BUSINESS

Public Comments: Non-Agenda Items

No members of the public spoke.

EIGHTEENTH ORDER OF BUSINESS

Adjournment

There being nothing further to discuss, the meeting adjourned at 3:27 p.m.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

FOR BAYSIDE IMPROVEMENT:


Secretary/Assistant Secretary


Chair/Vice Chair

FOR BAY CREEK:


Secretary/Assistant Secretary


Chair/Vice Chair