

**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 Joint Public Hearings and a Joint Regular Meeting on August 26, 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 (via phone/Zoom)	Assistant Secretary

Present for Bay Creek CDD:

James Janek (via phone/Zoom)	Chair
Robert Travers	Vice Chair
Jerry Addison	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
Frank Savage (via phone/Zoom)	District Engineer
Paul Kemp	Field Manager
Andy Nott	Superior Waterway
Jim Hoppensteadt	Pelican Landing General Manager
Bill Dietz (via phone/Zoom)	Resident/Pelican Landing Eco Club Advisory Group Member
Anne Cramer	Resident
Dean Francis	Resident
Angéle Boyd Myers	Resident
Nancy Cohen	Resident

Mary McCarthy

Resident

FIRST ORDER OF BUSINESS

Call to Order/Phone Silent Mode/Pledge of Allegiance

Mr. Adams 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, Supervisors Addison, Travers and McVay, were present. Supervisor Janek attended via telephone. Supervisor Durney was not present.

For Bayside Improvement CDD, Supervisors Cramer, Gravenhorst, Nicholson and McCarthy were present. Supervisor Montgomery was not present at roll call.

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

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

THIRD ORDER OF BUSINESS

Public Comments: Agenda Items

Mr. McCarthy asked residents Anne Cramer and Angéle Boyd Myers, who submitted public comment cards, to wait until that agenda item to speak. Both agreed.

JOINT PUBLIC HEARINGS

FOURTH ORDER OF BUSINESS

Joint Public Hearing on Adoption of Fiscal Year 2024/2025 Budget

A. Proof/Affidavit of Publication

Mr. McCarthy asked Mr. Urbancic if he reviewed the affidavit of publication for legal sufficiency. Mr. Urbancic replied affirmatively and stated that, due to the assessment increase, a Mailed Notice was sent to the property owners; the CDD fulfilled the notification requirements.

B. Consideration of Resolutions Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2024 and Ending September 30, 2025; Authorizing Budget Amendments; and Providing an Effective Date

Mr. McCarthy opened the Joint Public Hearing.

Resident Angéle Boyd Myers stated that she hopes Board Members will push back on Pelican Landing’s landscape spending, specifically at the front entrance, so the CDD does not have to proportionally increase CDD assessments; she hopes the Board does whatever it can to minimize assessments increasing.

Mr. McCarthy closed the Joint Public Hearing.

- I. Resolution 2024-06, Bay Creek Community Development District**
- II. Resolution 2024-06, Bayside Improvement Community Development District**

On MOTION for Bay Creek by Mr. Travers and seconded by Mr. Addison, with all in favor, Resolution 2024-06, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2024, and Ending September 30, 2025; Authorizing Budget Amendments; and Providing an Effective Date, was adopted.

On MOTION for Bayside by Ms. Montgomery and seconded by Mr. Nicholson, with all in favor, Resolution 2024-06, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2024, and Ending September 30, 2025; Authorizing Budget Amendments; and Providing an Effective Date, was adopted.

FIFTH ORDER OF BUSINESS

Joint Public Hearing to Hear Comments and Objections on the Imposition of Special Assessments for Operations and Maintenance for Fiscal Year 2024/2025 Pursuant to Florida Law

A. Proof/Affidavit of Publication

- B. Mailed Notice(s)**
- C. Consideration of Resolutions Making a Determination of Benefit and Imposing Special Assessments for Fiscal Year 2024/2025; Providing for the Collection and Enforcement of Special Assessments; Certifying an Assessment Roll; Providing for Amendments to the Assessment Roll; Providing a Severability Clause; and Providing an Effective Date**

Mr. McCarthy opened the Joint Public Hearing.

No affected property owners or members of the public spoke.

Mr. McCarthy closed the Joint Public Hearing.

- I. Resolution 2024-07, Bay Creek Community Development District**
- II. Resolution 2024-07, Bayside Improvement Community Development District**

On MOTION for Bay Creek by Mr. Travers and seconded by Ms. McVay, with all in favor, Resolution 2024-07, Making a Determination of Benefit and Imposing Special Assessments for Fiscal Year 2024/2025; Providing for the Collection and Enforcement of Special Assessments; Certifying an Assessment Roll; Providing for Amendments to the Assessment Roll; Providing a Severability Clause; and Providing an Effective Date, was adopted.

On MOTION for Bayside by Mr. Nicholson and seconded by Mr. Cramer, with all in favor, Resolution 2024-07, Making a Determination of Benefit and Imposing Special Assessments for Fiscal Year 2024/2025; Providing for the Collection and Enforcement of Special Assessments; Certifying an Assessment Roll; Providing for Amendments to the Assessment Roll; Providing a Severability Clause; and Providing an Effective Date, was adopted.

JOINT BUSINESS ITEM(S)

SIXTH ORDER OF BUSINESS

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

Mr. Savage reported the following:

- Work on the draft National Pollutant Discharge Elimination System (NPDES) Annual Report is underway. It will be presented before it is submitted by the October 2024 deadline.

➤ Ongoing observations of the Infinity Project and the NPDES preventions is ongoing. Some pieces were identified that requires remediation by the contractor, which was communicated to the contractor. Staff will verify they were addressed.

Mr. Savage stated that he will try to reach Mr. Cramer again about an outstanding item.

SEVENTH ORDER OF BUSINESS

Treatment Report: July 2024 - Superior Waterway Services, Inc. (Andy Nott)

The monthly Treatment Report was included for informational purposes.

Mr. Nott distributed and presented the Benchmark EA South test results for Lakes A-16 and A-17. E. coli levels were detected in Lake A-16 at 24,000, which is “off the charts” when compared to the County’s 2,400 levels. He recommends testing the upstream lakes at a cost of about \$130 per pond, to determine baseline levels and help identify the source, before considering further costly tests to determine if the source is human or aviary.

Discussion ensued regarding identifying test lakes, locating the source, determining if the source is environmental and whether further testing and/or treatment is necessary.

It was noted that the Lake A-17 levels were 199 and there was a recommendation to conduct multiple water testing to obtain a baseline. Mr. Willis stated PLCA Staff had the lift station by the canoe launch inspected and did not detect E. coli. Mr. Nicholson thinks the next step is additional testing of all the chain lakes, starting with Lake A-6 and retesting Lakes A-16 and A-17. Mr. Nott stated if they choose to test all thirteen lakes, he will reduce the cost to \$100 per lake.

On MOTION for Bayside by Mr. Nicholson and seconded by Mr. Cramer, with all in favor, authorizing Superior Waterway Services, Inc., to test all the upstream lakes starting with Lake A-6 and retesting Lakes A-17 and A-16 for E. Coli, was approved.

On MOTION for Bay Creek by Mr. Travers and seconded by Mr. Addison, with all in favor, authorizing Superior Waterway Services, Inc. to test all the upstream lakes starting with Lake A-6 and retesting Lakes A-17 and A-16 for E. Coli, was approved.

Mr. Nott will send the Work Authorization to Mrs. Adams for approval, along with the results to distribute to the Boards.

A. Consideration of Service Agreement Water Testing

I. Lakes A-16 & A-16

The title of this agenda should be “Lakes A-16 & A-17”. This item was voided.

II. Lakes A-1, A-2, A-16, A-17, D-8, F-16, A-26 at Outfall and T-1 Canal

This item was presented during the Ninth Order of Business.

EIGHTH ORDER OF BUSINESS

Continued Discussion: Water Quality

This item was presented following the Ninth Order of Business.

NINTH ORDER OF BUSINESS

Consideration of Proposals for Water Quality Monitoring and Reporting 2024

Mr. McCarthy recommended approving the Superior Waterway proposal behind Tab 7B and noted that the Earth Tech Environmental Quote did not include E. coli testing.

Mr. Adams compared the proposal amounts.

A. Earth Tech Environmental Quote Number 2672

B. Johnson Engineering, Inc. Professional Services Agreement

Mr. Cramer asked if the CDDs should notify the community if breakage is detected. Mr. Adams stated the information will be turned over to Bonita Springs Utilities for them to issue a public announcement.

On MOTION for Bayside by Mr. Cramer and seconded by Mr. Nicholson, with all in favor, the Superior Waterway Services, Inc., Service Agreement for Water Testing of Lakes A-1, A-2, A-16, A-17, D-8, F-16, A-26 at the Outfall and T-1 Canal, in a not-to-exceed amount of \$7,500, was approved.

On MOTION for Bay Creek by Mr. Travers and seconded by Mr. Addison, with all in favor, the Superior Waterway Services, Inc., Service Agreement for Water Testing of Lakes A-1, A-2, A-16, A-17, D-8, F-16, A-26 at the Outfall and T-1 Canal, in a not-to-exceed amount of \$7,500, was approved.

▪ **Continued Discussion: Water Quality**

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

Mr. McCarthy asked if there further discussion is necessary. Ms. Montgomery felt that the past two motions were adequate for discussion of Water Quality.

This item will be removed from future agendas.

TENTH ORDER OF BUSINESS

Consideration of W.J. Johnson Engineering, LLC Professional Services Agreement

Ms. Gravenhorst distributed and presented her written comments, as follows:

“Point of Order: Before we get started, I wish to point out that an action taken at our July 29th meeting was incorrect.

I believe that it is due to a lack of knowledge on how Parliamentary procedure deals with the past action. I was so concerned about the process, that I called Greg Urbancic to ask if we had acted legitimately. Greg was not familiar on the rules for this.

After researching parliamentary procedure, this is what I discovered. The majority of both Bayside and Bay Creek agreed to sign the contract with Johnson Engineering, stipulating that an agreement on the contract language be agreed.

Out of respect to the Bayside Chair, although the only dissenting Bayside vote on the matter, he was given the floor to express his concerns. They were echoed by the only other dissenting vote, the Chair of Bay Creek, Mr. Jim Jansen. This was totally out of Parliamentary procedure but it gets worse due to our lack of knowledge on the rules.

Mr. Jansen made a motion to table a motion that has already been passed. In fact the dissenting votes on a passed motion cannot make a motion to table. Ergo that was not a legitimate motion. In fact it takes 2/3s votes of the positive voters to approve a motion to rescind a prior action. Bayside did not make a motion to table. Not only that but if the original motion created a contract and the contracting party has been notified, rescinding it is not an option.

A motion to reconsider needs to be made on the same day as when the motion was originally voted, so it cannot be a motion to reconsider.

I hope that we never find ourselves in this situation again, but if we do I believe the Robert's Rules of Order were set in place to protect majority rule."

Ms. Gravenhorst stated she thinks it is important for the Boards to understand the process because the CDDs are operating as governmental bodies and need to have a process that is clear and transparent to all those who want to go back and refer to this.

Mr. McCarthy stated that he will have to review the minutes but thinks the item required an action by the Boards and that the motion was to table the agenda item until the 1B next meeting. He appreciates her work on this, he thinks she is not on target as to what the issue was.

In response to Mr. McCarthy's comments, Ms. Gravenhorst recalled that the Boards stipulated that the language needed to be clear and Mr. Urbanic started the conversation that the Boards had agreed upon the terms out of the language. She brought copies of the different motions from the minutes that started in March to show clarity of the motions.

Mrs. Adams and Mr. Adams reviewed the actions taken and motions approved in the June 24, 2024 and July 29, 2024 Joint Meetings. The contract includes a 30-day termination clause that allows either party to terminate the contract; if Bay Creek chooses to terminate the contract due to process concerns, Bayside can pay for this expense themselves.

Discussion ensued about tabling the contract to this meeting, Ms. Gravenhorst's concerns about the processes in several meetings and some Board Members belief that the Engineer's cost to provide building specs and the cost estimate to build the project are excessive.

Asked if the motion to table the item was in order, Mr. Urbanic replied affirmatively and stated that the Boards must decide whether to follow Robert's Rules of Order exactly; however, if the Boards decide to do so, it will be a major task.

Board Members expressed their opinion on both matters, the project scope, costs, ability to fund the project, the overall process that took place and a suggestion to create a committee as Staff is able to prepare the project scope.

For Bayside, Mr. McCarthy moved to approve the Agreement. Bay Creek did not motion.

Mr. Travers asked why there is a motion to proceed if Bay Creek has no money to fund the project. Mr. McCarthy stated that the alternative is for Staff to reduce costs by engaging individual CDD contractors in lieu of Proposal 3, attached to the contract.

Mr. Nicholson stated that he is not prepared for Bayside CDD to pay the full amount, as that would be unfair to the Bayside constituents. Mr. Adams stated that Staff can obtain bids instead of engaging an Engineer. Mr. Adams asked for clarification. Mr. McCarthy stated that Staff will handle Project Scopes 1, 3 and 4, as outlined in Proposal 1. He volunteered to participate in certain processes.

On MOTION for Bayside by Ms. Gravenhorst and seconded by Mr. Cramer, with all in favor, the W.J. Johnson Engineering, LLC Professional Services Agreement, to provide Scope of Services attached as Exhibits, in a not-to-exceed amount of \$59,175, was not approved.

ELEVENTH ORDER OF BUSINESS

Presentation/Consideration of Plant Replacement Proposal for Pennyroyal Berm and Adjacent Cul-De Sacs

Ms. Cramer recalled prior Pennyroyal berm landscaping activities over the years and the idea to plant low maintenance plants that need little watering. She asked the Boards to choose a layout specific to berms and not just replace a group of plants with what was there. If possible, she wants circled areas planted in a circular pattern, similar to the Point and The Colony.

Mr. Adams presented directives Mr. Kemp and Mr. Willis were given regarding landscape at the Pennyroyal berm and adjacent cul-de sacs, which determined that the majority of the loss was due to maintenance. Mr. Kemp presented the proposal, which identifies deficient areas. He thinks this is a PLCA Landscape Committee type project, when it comes to concept and design, since this is not his specialty and the CDDs are only responsible for maintenance and plant replacement. Mr. Adams asked if the Boards want the PLCA to look into another redesign.

Board Members Gravenhorst, Nicholson, Travers, McVay, Carmer and McCarthy provided input regarding design and plant selection. Mr. Kemp provided input on the ability to maintain new plantings before approving a project and involving the PLCA Landscape Committee.

Mr. Willis recalled the PLCA Manager commenting about the possibility about the Renaissance project installing a wall on top of the berm, as part of the sound deafening project. Mr. Adams stated that would happen if the Renaissance project proceeds. Ms. McVay noted an

error on Page 22, Section 10 of the Sunny Grove Landscaping Inc. Proposal. Mr. Hoppensteadt stated that should have been omitted from the proposal.

Mr. Adams will provide the agenda materials to Mr. Hoppensteadt and the suggestion to re-evaluate the berm. Mr. Cramer recalled that the PLCA had no interest in the Pennyroyal berm; if that is the case, he thinks the PLCA should do what it agreed upon, by coming to the CDDs and ensuring they are in agreement with the CDDs regarding the irrigation, etc.

Discussion ensued about the PLCA budget freeze and deciding who will incur expenses.

It was noted that Mr. Adams' response to the Longlake Committee Chair who asked if Mr. Kemp can replant the Cassia Court Circle was that the CDDs cannot make exemptions.

TWELFTH ORDER OF BUSINESS

Consideration of Goals and Objectives Reporting [HB7013 - Special Districts Performance Measures and Standards Reporting]

Mr. Adams presented the Memorandum detailing this new requirement and explained that newly adopted legislation requires special districts to establish and report annual goals and objectives and develop performance measures and standards to assess the achievement of the goals and objectives. District Management and District Counsel collaborated on developing general performance measures, identifying Community Communication and Engagement, Infrastructure and Facilities Maintenance, and Financial Transparency and Accountability as the key categories to focus on for Fiscal Year 2025 and develop statutorily compliant goals for each.

Mr. Urbancic stated that the statute is very general and does not provide guidance as to what to include, he is seeing other CDDs using some variation of this form.

- A. Bay Creek Community Development District**
- B. Bayside Improvement Community Development District**

On MOTION for Bay Creek by Ms. McVay and seconded by Mr. Addison, with all in favor, the Goals and Objectives and the Performance Measures/Standards & Annual Reporting Form, were approved.

On MOTION for Bayside by Ms. Montgomery and seconded by Mr. Nicholson, with all in favor, the Goals and Objectives and the Performance Measures/Standards & Annual Reporting Form, were approved.

THIRTEENTH ORDER OF BUSINESS

Committee Reports

A. PLCA Landscape Committee

There was no report.

B. Colony Landscape Committee

The Report was included for informational purposes.

FOURTEENTH ORDER OF BUSINESS

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

The Monthly Year-End Financial Forecast was emailed to the Boards.

FIFTEENTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of July 31, 2024

Mr. Nicholson asked Mr. Adams if the figures are proportionately in line with what is expected at year end. Mr. Adams replied yes; they are more accurate than six months ago.

Mr. McCarthy pointed out that the assessment revenues exceed budget.

The financials were accepted.

SIXTEENTH ORDER OF BUSINESS

Approval of July 29, 2024 Joint Regular Meeting Minutes

On MOTION for Bay Creek by Mr. Addison and seconded by Mr. Travers, with all in favor, the July 29, 2024 Joint Regular Meeting Minutes, as amended to include any changes submitted to Management, were approved.

On MOTION for Bayside by Mr. Cramer and seconded by Mr. Nicholson, with all in favor, the July 29, 2024 Joint Regular Meeting Minutes, as amended to include any changes submitted to Management, were approved.

SEVENTEENTH ORDER OF BUSINESS

Action/Agenda Items

The Action Items list will be updated following the meeting.

EIGHTEENTH ORDER OF BUSINESS

Old Business

There was no old business.

NINETEENTH ORDER OF BUSINESS

Staff Reports

A. District Counsel: Coleman Yovanovich Koester, P.A. [Gregory Urbancic, 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 DATE: September 23, 2024 at 2:00 PM

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

Bayside Supervisors McCarthy, Cramer, Gravenhorst and Montgomery confirmed their attendance at the September 23, 2024 meeting. Supervisor Nicholson will not be present.

All Bay Creek Supervisors confirmed their attendance at the September 23, 2024 meeting.

TWENTIETH ORDER OF BUSINESS

Supervisors' Requests

Ms. McVay asked for the fire bush removed from the cul-de-sac to be replaced. She asked for a copy of the Agreement between the Bay Creek HOA and the CDD and the treatment schedule for the roundabout. Mr. Kemp stated the plants will be replaced next week. Mr. Adams will prepare a memorandum of historical intent, as he was unable to locate the Agreement or a vote in the meeting minutes regarding the Bay Creek gate left open during the day, as the CDD would be able to maintain the landscaping behind the gate.

Ms. Gravenhorst asked about the vines in the preserves and throughout the CDDs. Mrs. Adams stated those are non-invasive vines that occur yearly at this time; residents should email Mrs. Adams and Mr. Willis about areas where it is visible.

TWENTY-FIRST ORDER OF BUSINESS

Public Comments: Non-Agenda Items

Resident Nancy Cohen expressed concerns about hazardous palms fronds and line of sight issues. Mr. Adams discussed maintenance protocols. Mr. Cramer stated that he emailed the note Ms. Cohen sent him to Mr. Adams and other parties.

Resident Dean Francis, speaking on behalf of the Long Lake Village HOA President, asked about the bypass getting connected and about the catch basins. Mr. Kemp stated that the schedule from the contractor is pending. Mr. Francis asked the Boards to revisit asking Long Lake Village to pay for half the costs, since the error was made 27 years ago. Mr. Adams stated that his statement is incorrect, Long Lake Village wants to install a filter that creates having to isolate the line, which is something the CDD is not obligated to do but decided to split the cost. Mrs. Adams stated that the catch basin inspection and cleaning was completed.

TWENTY-SECOND ORDER OF BUSINESS

Adjournment: [Bayside Improvement CDD]

The Bayside Improvement meeting adjourned at 4:04 p.m.

BAY CREEK BUSINESS ITEMS

TWENTY-THIRD ORDER OF BUSINESS

Discussion/Consideration: Irrigation Rates Proposed Changes

Mr. Adams stated information will be presented at the next meeting in order to set the Public Hearing for October to adopt the proposed Irrigation User Fee.

TWENTY-FOURTH ORDER OF BUSINESS

Adjournment: [Bay Creek CDD]

The Bay Creek meeting adjourned at 4:07 p.m.

FOR BAYSIDE IMPROVEMENT


Secretary/Assistant Secretary


Chair/Vice Chair

FOR BAY CREEK:


Secretary/Assistant Secretary


Chair/Vice Chair