

**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 September 27, 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>, or 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:

Mary McVay (via telephone)	Chair
Robert Travers	Vice Chair
James Janek	Assistant Secretary
R. Gary Durney (via telephone)	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
Marilyn Price (via Zoom)	Resident/PLCA Landscape Committee Chair and PLCA Board Member
Roy Hyman	PLCA General Manager
Joanna Muller (via Zoom)	Resident/PLCA Landscape Committee

Charlotte McCarthy
Howard Lowe (via Zoom)

Resident
Resident

FIRST ORDER OF BUSINESS

**Call to Order/Phone Silent Mode/Pledge of
Allegiance**

Mr. Travers called the meeting to order at 2:00 p.m. All present recited the Pledge of Allegiance.

On MOTION for Bay Creek by Mr. Janek and seconded by Mr. Addison, with all in favor, authorizing Mr. Durney's attendance and full participation, via telephone, due to exceptional circumstances, was approved.

SECOND ORDER OF BUSINESS

Roll Call

For Bay Creek CDD, Supervisors Janek, Addison and Travers were present, in person. Supervisor Durney was present via telephone. Supervisor McVay was not present at roll call. For Bayside Improvement CDD, all Supervisors were present in person.

THIRD ORDER OF BUSINESS

Public Comments: *Agenda Items*

No members of the public spoke.

JOINT BUSINESS ITEMS

FOURTH ORDER OF BUSINESS

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

Mr. Kayne stated that the initial draft of the NPDES Annual Report, Year 4, was in progress and would be submitted to District Management tomorrow, to enter their information and then it will be emailed to the Board for review. The Report is due to the County at the end of October and would be added to the October agenda.

Regarding the status of the South Florida Water Management District (SFWMD) conservation easement and the impact behind Bay Creek Drive, the proposal from SOLitude

Lake Management (SOLitude) to do the work was pending; Barraco & Associates completed the survey and Johnson Engineering completed the restoration plan. Mr. Cox would discuss penalty fees later in the meeting.

Ms. McVay joined the meeting via telephone at 2:04 p.m.

On MOTION for Bay Creek by Mr. Janek and seconded by Mr. Addison, with all in favor, authorizing Ms. McVay's attendance and full participation, via telephone, due to exceptional circumstances, was approved.

FIFTH ORDER OF BUSINESS

Waterway Inspection Report: *SOLitude Lake Management*

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

- All "Site A" sections were treated for shoreline growth, which was mostly torpedo grass.
- B-8: Observed patchy algae growth resulting from grass treatment.
- D-15: Observed slender spike rush aground the lake edge that is generating some algae.
- Lake F-6: Treated bacopa recently due to growth.
- A-18 and E1 through E5: Nano-bubbler sites were looking good. No severe algae blooms were observed and no complaints were received.
- E-5 Bacteria Study: Remains ongoing. Sampling was postponed until tomorrow due to limited perimeter availability last week. Two more months of sampling remain before the study is completed.

Mrs. Adams asked why bacopa at Lake F-6 was treated, as it is considered a beneficial plant. Ms. Kennedy agreed that it is a beneficial plant but it becomes overgrown when it is submersed in the water, which it was in this instance.

SIXTH ORDER OF BUSINESS

Committee Reports

A. PLCA Landscape Committee

Ms. Price reported the following activities:

- North Gatehouse: O'Donnell Landscaping completed installing up-to-code landscaping around the North Gatehouse, towards US41. She thanked the CDDs for their coordination.
 - All gatehouse landscaping projects for the entire community were completed.
 - Berm: The pennyroyal berm replenishing project was nearly finished; it would be completed once the additional plant materials arrive and are installed. She thanked the CDDs and Mr. Kucera for being very instrumental and helpful in the project, as some plants needed to be removed.
 - Medians: Work on smaller projects continued. Plans for the smaller medians off Gold Crest Drive were being prepared and plant materials have been ordered.
 - The tree trimming project and crown reduction project along Pelican Colony Boulevard completed last month by Johnson Tree Services was successful and several CDD Board Members and homeowners comments were favorable.
 - The next phase of the Fiscal Year 2021 projects to commence are the small medians at Pelican Colony Boulevard, identified as Median #1 at the Colony Circle towards Sanctuary, and Median #2 east of Sanctuary towards the gate. The PLCA is working with an Arborist on those plans. The Arborist is identifying hazardous and damaged trees, as there are plans to work with The Village of Estero to obtain approval to remove trees and work on a replacement plan. They hoped to complete the plan in the last quarter of 2021.
 - She thanked those who participated in the driving around tour of the Pelican Landing community.
 - Landscape Lighting: Plans were being finalized for the three gates, which project would commence within the next month.
- Ms. Price responded to questions from Mr. Cramer, as follows:
- It cost \$90 per tree to trim 100 oak trees.
 - Arborist Rick Joyce was hired specifically for the Pelican Colony Boulevard project and to implement The Village of Estero guidelines, as the PLCA had difficulty doing it efficiently.
 - The PLCA will continue monitoring the height of the newly installed dwarf bougainvillea at the main entrance points of Canoe Circle and Spring Creek Circle and other areas with line of site issues for drivers. Board Members discussed their own line of sight concerns and opinions

that the traffic circle was dangerous. It was noted that bougainvillea are known for rapid growth and those driving trucks or riding bicycles cannot identify this issue. The written height guidelines were not being followed because of directives, not because of the crews working the area.

B. Colony Landscape Committee

The report was included for informational purposes.

C. Water Quality Task Force

In Mr. Shinouskis' absence, Ms. Montgomery reported the following Water Quality Task Force (WQTF) activities:

- The WQTF will meet next month; last month's meeting was cancelled.
- The WQTF did not proceed with allowing Calusa Waterkeeper, Inc., to perform additional testing, due to the many concerns and reservations expressed at the last CDD meeting.
- She and Mr. Durney discussed and decided to postpone testing an additional lake in the northwest corner.
- The results from the third test will be analyzed at the WQTF next meeting and reported to the Boards.
- The WQTF plans to meet with City of Bonita Springs Representatives to discuss plans for benchmark water quality that may impact the CDDs, as the settlement is finalized. Mr. Feeney may advise about the City's plans at the next CDD meeting.

Mr. Durney stated that, based on the data received today, he recommended caution with distributing this information, until a course of action is determined.

SEVENTH ORDER OF BUSINESS

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

This item was presented in conjunction with the Eighth Order of Business.

EIGHTH ORDER OF BUSINESS

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

Mr. Adams distributed and explained the new Expanded Financial Statement Schedules, comprised of balance forecast and actual accrual year-end projections. A copy will be emailed to Mr. Durney and Ms. McVay. Due to timing constraints, the Expanded Financial Statement Schedules will be emailed to the Boards and distributed at meetings, instead of included in the agenda package.

Mr. Adams stated that, at the next meeting, he plans to present an option to outsource the palm pruning project, using Johnson Tree Service, and offset costs by removing two positions and the rental equipment costs, which would result in completing the project within four to six weeks instead of three to four months.

Mr. Adams was thanked for his efforts in creating the report. Discussion ensued regarding explaining the report, defining the Fiscal Year 2022 Bayside CDD one-time cost for well water from the RCS line in the Brooks, the pending connection cost and informing Mr. Hyman about which line provides water to the tennis courts. Mr. Adams discussed the process. He thought that installation would occur after the holidays.

The financials were accepted. This item would remain as a monthly agenda item.

NINTH ORDER OF BUSINESS

Approval of August 23, 2021 Joint Public Hearings and Regular Meeting Minutes

Mr. Travers presented the August 23, 2021 Joint Public Hearings and Regular Meeting Minutes.

On MOTION for Bay Creek by Mr. Travers and seconded by Mr. Addison, with all in favor, the August 23, 2021 Joint Public Hearings and Regular Meeting Minutes, as amended to include any changes submitted to Management, were approved.

On MOTION for Bayside by Mr. McCarthy and seconded by Ms. Montgomery, with all in favor, the August 23, 2021 Joint Public Hearings and Regular Meeting Minutes, as amended to include any changes submitted to Management, were approved.

TENTH ORDER OF BUSINESS

Action Items

Active/Ongoing New Items: Items 1, 4, 5 and 6 were completed.

Active/Ongoing Carry Over from 07.26.21: Items 2 and 3 were completed.

Active/Ongoing Carry Over Older Than 07.26.21 Meeting: Items 4, 5, 6, 7, 8, 11, 12, 14 and 15 were completed.

Mr. Nicholson asked Staff to add the estimated target completion date to each action item.

On MOTION for Bayside by Ms. Gravenhorst and seconded by Mr. Cramer, with all in favor, directing Staff to add the estimated target completion date to each action item and the Manager's Report, when available, was approved.

On MOTION for Bay Creek by Mr. Travers and seconded by Mr. Addison, with all in favor, with all in favor, directing Staff to add the estimated target completion date to each action item and the Manager's Report, when available, was approved.

ELEVENTH ORDER OF BUSINESS

Old Business

There was no old business.

TWELFTH ORDER OF BUSINESS

Staff Reports

A. District Counsel

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

Mr. Urbancic reported the following:

- The Colony Disaster Revised Form of Agreement was finalized with the parties involved.
- The template to report the new Stormwater Needs Analysis was received and provided to Mr. Barraco.
- Everyone should be mindful of conducting Committee Meetings. The Appellate District Court opined that the Broward County School Board was in violation of the Sunshine Law for

using a Committee to review text books, as it did not provide notice of the Committee meetings.

➤ Everyone should be mindful of what is said in closed session meetings. There was an incident in, once the transcripts were released, the newspaper published an unflattering picture of the City's settlement discussions.

Possibly advertising and conducting Committee meetings in accordance with the Sunshine Law, PLCA Landscape Committee meetings and implications to the WQTF, were discussed.

Mr. Cox explained that the CDDs would start exercising their control of the WQTF or a non-profit organization when they fund projects recommended by a task force, committee, organization, etc.; however, the CDDs met the obligation of the Sunshine law if the PLCA forms a subcommittee and then asks the CDDs to fund a project during a public meeting.

II. Daniel Cox, Esq.

Mr. Cox reported the following:

➤ Bay Creek should discuss whether to fund a Traffic Study to determine if the traffic circle should be turned into an intersection, which would help to slow down golf cart users. The CDD would have to fund any modifications.

➤ The CDD should proceed with the action plan to address the Notice of Violation of Encroachment at the Bay Creek Drive property, which was sent to the homeowner. A resolution on the action plan Johnson Engineering prepared was reached with the SFWMD; however, the CDD will be responsible for the plantings and five-year viability timeline. The fines were \$5,100.

➤ The CDD should notify homeowners of what they can do to mitigate their areas and use the \$5,000 fine from the homeowner in violation to complete that project.

➤ The SFWMD stated that a sign reading, "Beyond this Point is a Conservation Area, No Access", must be posted in the preserve every 70'.

➤ The Board should ratify the SFWMD Agreement with the understanding that property owners will mitigate their own areas, according to the SFWMD standards, and consider using the \$5,100 fine payment to the CDD, instead of the SFWMD, for the resource permit educational use.

Ms. Montgomery agreed with Mr. Cox's suggestion to use funds for educational purpose, installing additional signage and posting information on the PLCA website to promote more interest.

Discussion ensued regarding the Bay Creek Committee working on developing information to provide to new homeowners and past incidents when the SFWMD notified the CDD of potential fines the next time homeowners cut down mangrove trees.

MOTION for Bay Creek by Mr. Janek and seconded by Mr. Travers, with all in favor, authorizing Staff to reply to the South Florida Water Management District and advise of the CDD's intent to install signage and to update the existing newsletter to homeowners to use for educational purposes, instead of paying the fine, was approved.

Mr. Durney asked Mr. Cox if he received any feedback from the City about the TV news story regarding the City approving the Settlement Agreement with the CDD related to stormwater. Mr. Cox stated that he did not; he felt that nothing negative would be coming out of that story.

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.

The following matters were discussed:

- Bid responses for the Lake Maintenance contract, expiring January 31, 2022, will be included on the January agenda. SOLitude acquired the Woods & Wetland, Inc., Company.
- Culvert/Catch Basin Projects: Mrs. Adams would reword the description regarding the criteria and expending an additional \$30,000 to complete certain areas, not the entire community.
- Work at Wetland 15/Lake A-19 was completed in August.
- EarthBalance did not commence work at Wetland 13/Lake A-2 yet.

- The \$650 Work Order to treat and remove vines at Bay Creek Circle was executed today; it is not part of the conservation area.
- A Board Member reported constant flooding of the catch basin by the Children’s Park and asked MRI Staff that were on site to put up cones. A Board Member asked if all the catch basins were identified with numbers. It was noted that Board Members and Staff inspect and report overflowed catch basins during heavy rain events to Mr. and Mrs. Adams.
- Mr. Nicholson referred to the reported “Safety and Accident” matter. Mr. Adams stated that a staff member tested positive for COVID.
- Mr. Travers stated that a staff member was planning to retire soon.

II. NEXT MEETING DATE: October 25, 2021 at 2:00 P.M.

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

All Supervisors confirmed their in-person attendance at the October 25, 2021 meeting.

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

All Supervisors confirmed their in-person attendance at the October 25, 2021 meeting.

THIRTEENTH ORDER OF BUSINESS

Supervisors’ Requests

Ms. Gravenhorst referred to the Bonita Springs Settlement and asked for the “per door” cost in legal fees to save PLCA homeowners \$25 per door. Once known, she wanted to know how the Estero residents can participate in the \$25 per door in savings that the Bonita homeowners will enjoy. Mr. Cox stated that, as long as there is participation, the discounts continue and there will never be an assessment; Estero may use the CDDs as precedent to adopt the same model. Legal costs to adopt the Settlement Agreement was estimated at \$5,000 to \$7,500, equating to about \$1.50 per door.

Ms. McVay commended Mrs. Adams on an outstanding job of setting the Bay Creek HOA up with MRI, which resolved their issue expeditiously.

Mr. Cramer suggested that the PLCA replace the landscape buffer at the Children’s Park with a fence to stop children from smoking in the area and homeowners from walking their dogs in the area.

Ms. Gravenhorst recommended the CDDs and PLCA hold a workshop to prepare a written list of their areas of responsibilities. Mr. Adams would forward the latest PowerPoint to Mr. Hyman to work on together.

Mr. Nicholson referred to Bayside Board Members receiving an email from Pennyroyal resident Susan Demarco requesting additional enhancements to the monument. As Ms. Demarco is not interested in speaking to Mr. or Mrs. Adams, Mr. Cramer offered to advise her that the CDD is following the same protocol as for Long Lake Village and that her area is not being treated differently.

Ms. Montgomery suggested posting information about the services provided for monument enhancements and specifying the CDD and HOA responsibilities; a link could be emailed to homeowners. The CDDs are only responsible for landscaping and landscape lighting.

Mr. McCarthy asked if the new Gold Crest sign is located within an easement. Mr. Adams stated it is on PLCA property, possibly in the road right-of-way (ROW) easement.

FOURTEENTH ORDER OF BUSINESS

Public Comments: *Non-Agenda Items*

No members of the public spoke.

FIFTEENTH ORDER OF BUSINESS

Adjournment – *Bay Creek Community Development District*

There being no further business to discuss, Bay Creek CDD adjourned at 4:06 p.m.

BAYSIDE IMPROVEMENT BUSINESS ITEMS

SIXTEENTH ORDER OF BUSINESS

Consideration of Coleman Yovanovich Koester Proposal for District Counsel General Legal Representation

This item was included in error; the Agreement was executed in 2020.

SEVENTEENTH ORDER OF BUSINESS

Adjournment – *Bayside Improvement Community Development District*

There being no further business to discuss, the meeting adjourned at 4:07 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