

**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 Executive Session on March 22, 2021 at 1:00 p.m., at the Pelican Landing Community Center, 24501 Walden Center Drive, Bonita Springs, Florida 34134. The public were able to participate in the Joint Regular Meeting, via Zoom, at <https://us02web.zoom.us/j/83318571443>, and 1-929-205-6099, Meeting ID 833 1857 1443 for both.

For Bayside Improvement CDD, present were:

Walter McCarthy	Chair
Bernie Cramer	Assistant Secretary
James Nicholson	Assistant Secretary
Karen Montgomery	Assistant Secretary

For Bay Creek CDD, present were:

Mary McVay	Chair
Robert Travers	Vice Chair
James Janek	Assistant Secretary
R. Gary Durney	Assistant Secretary
Jerry Addison	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Adams	Assistant District Manager

Present via Zoom were:

Dan Cox	District Counsel, Bay Creek CDD
Greg Urbancic	District Counsel, Bayside Improvement CDD
Wes Kayne	District Engineer
Christina Kennedy	SOLitude Lake Management (SOLitude)
Gail Gravenhorst	Resident/Landscape Committee Member
Kim Stanton	Resident
Ed Shinouskis	Resident/Water Quality Task Force Member
Marilyn Price	Resident/PLCA Landscape Committee Chair and PLCA Board Member

FIRST ORDER OF BUSINESS

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

Mr. Adams called the meeting to order at 1:04 p.m.

SECOND ORDER OF BUSINESS

Roll Call

For Bay Creek CDD, all Supervisors were present, in person. For Bayside Improvement CDD, Supervisors McCarthy, Cramer and Montgomery were present, in person. Supervisor Jim Nicholson was not present at roll call. Supervisor Bill Nicholson was not present.

A moment of silence was held for the passing of Mr. Bill Nicholson's father.

THIRD ORDER OF BUSINESS

**Recess Regular Meeting/Commencement
of Executive Session**

Mr. Adams instructed the participants not involved in the Executive Session to disconnect from the call and dial back in at 2:00 p.m. He stopped the recording of the Regular Meeting and turned the recording of the Executive Session over to the Court Reporter.

The Regular Meeting recessed and the Executive Session commenced at 1:05 p.m.

FOURTH ORDER OF BUSINESS

**Termination of Executive
Session/Reconvene Regular Meeting**

The Executive Session was terminated and the Regular Meeting reconvened at 1:44 p.m.

FIFTH ORDER OF BUSINESS

**Consideration of Any Actions Resulting
from Executive Session**

This item was addressed during Item 17All.

SIXTH ORDER OF BUSINESS

**Recess Regular Meeting Until 2:00 P.M.
[Regular Start Time of Joint Board
Meeting]**

The Regular Meeting recessed until 2:00 p.m.

SEVENTH ORDER OF BUSINESS

Reconvene Regular Meeting

Mr. Adams reconvened the Regular Meeting at 2:02 p.m. For Bay Creek CDD, all Supervisors were present, in person. For Bayside Improvement CDD, Supervisors McCarthy, Cramer, Montgomery and Mr. Jim Nicholson were present, in person. Supervisor Bill Nicholson was not present.

EIGHTH ORDER OF BUSINESS

Public Comments: *Agenda Items*

No members of the public spoke.

JOINT BOARD ITEMS

NINTH ORDER OF BUSINESS

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

Mr. Kayne stated that the site observations for the sluice gates were completed and he was compiling the Annual Report to submit to the South Florida Water Management District (SFWMD) and the Districts, within the week. Mrs. Adams would coordinate the remediation of erosion identified during the inspections at one side of the headwall near Control Structure CS80, in Lake B-5, for which backfilling and re-stabilization were recommended by Mr. Kayne.

TENTH ORDER OF BUSINESS

Lake Maintenance Report: *SOLitude Lake Management*

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

- Sonar Treatments: Lakes B-6, E-11, E-15, F-4, B-9 and D-14 were treated for bladderwort and other issues. The treatment schedule was included in the Report.

Ms. McVay commended SOLitude staff's efforts maintaining the CDD lakes; in her opinion, the lakes looked fantastic.

Per requests made, Ms. Kennedy would coordinate the following actions:

- Lakes D-9 and D-14: Additional treatments to get the shoreline under control, where necessary, in conjunction with the routine maintenance visit.

- Lake D-14: Notify SOLitude staff to treat the entire shoreline of the Costa Del Sol area not just the areas due to wind direction.
- Lake D-7: Mrs. Adams would schedule an on-site educational meeting with concerned residents and Mr. Kurth, of SOLitude Lake Management.

ELEVENTH ORDER OF BUSINESS

Committee Reports

A. PLCA Landscape Committee

Ms. Price reported the following:

- The south and central gatehouse projects were essentially completed; however, the Landscape Architect was working on relocating certain palm trees at the central gate to address crowding, as the new plants that were installed were much larger than expected.
- CDD Staff's overall cooperation and help in addressing irrigation issues and support and participation in the PLCA's monthly meetings was appreciated.
- Bids for the north gate landscape project were underway and would be provided to the Districts. The PLCA was working with the City to determine the restrictions and what compensation items are needed, as the project may require potential tree removal.
- As the annuals at the south gate were not doing well, the planting schedule might be moved up sooner.

Mr. Janek noted that several residents commented on "how beautiful the medjool date palm trees at the south gate were". Mr. Cramer suggested sending an e-blast to residents about the projects and plantings in the community. Ms. McVay asked Ms. Price to convey the need for the Landscape Committee to determine the lifespan of the landscape materials and to reserve landscape funds for replacement purposes in the future. Mr. Travers stated that the landscaping in the community was the best he has seen in over six years and commended the Landscape Committee and CDDs for their efforts.

B. Colony Landscape Committee

The agenda package did not contain a Report, as there was little to report. Ms. Gravenhorst stated that three incumbents were recently re-elected. The Committee recognized responsibility for mitigating, in the event of a hurricane, and arranging for a line-of-credit.

Counsel for The Colony would set up a meeting with District Counsel to prepare an Agreement that would include verbiage suitable for both parties.

C. Water Quality Task Force

Ms. Montgomery presented the March 12, 2021 WQTF Report and reviewed the Action Items, taken from the February meeting, in which the key mitigation strategy was to focus on total nitrogen levels at 33 test sites. Mr. Durney asked if the sampling Johnson Engineering performs annually could be integrated with the needs of the WQTF, if expanding the stormwater sampling plan proceeds. Mr. Adams stated that there were no funds budgeted for SOLitude to perform specific testing, unless the Boards want to repurpose the funds originally slotted for Johnson Engineering, who performed the sampling for monitoring purposes and not as a requirement of the Districts.

Mr. Durney stated that the WQTF would like to proceed with sampling to determine the quality of the incoming water and the quality of what is going out, which requires approval and funding from the Districts. Board Members discussed the matter, requested revisions in the letter to residents and decided to take no action until the WQTF makes a determination and reports its findings. The position of the new PLCA Board and other affected parties was discussed, along with its involvement and willingness to provide financial support of this effort and obtain costs to test discharge ponds and incoming ponds.

Mr. Shinouskis noted he was designated as the PLCA Board Representative to the WQTF and was scheduled to meet with the new PLCA Board Members to obtain their position in supporting the WQTF. He stated that he reviewed the program to test all 33 testing sites with Mr. Kurth and he supported proceeding with the Plan. Discussion ensued regarding the CDDs' responsibilities with regard to the permit and Stormwater Management Plan.

TWELFTH ORDER OF BUSINESS

**Continued Discussion/Presentation:
Modified Financials and Monthly Report
Narrative (to be provided under separate
cover)**

Mr. Adams reported the following:

- Modified Financials and Monthly Report: The Controller was currently reviewing the modifications that were made to the Report but was busy with audit season. A meeting with

the Controller to go over the Report would be scheduled within the next two weeks. This item would remain on the agenda.

- The Monthly Summary Report indicated no red flags and complaints in the field decreased; however, telephone and email traffic increased.
- Monday.com, the new activity tracking software, was engaged and the Account Manager was entering data. The cloud-based program was expected to be implemented by the end of April. BOSS services would be cancelled and budgeted funds would be redirected to the new system.

THIRTEENTH ORDER OF BUSINESS

**Acceptance of Unaudited Financial
Statements as of February 28, 2021**

Mr. Adams presented the Unaudited Financial Statements as of February 28, 2021. To address budget related questions, Mr. Adams would research the general ledger regarding what the “Revenues-Miscellaneous” budget line item is and determine why “Landscaping-Minor operating equipment and Fountain maintenance” neared or exceeded budget. Mrs. Adams stated that, as certain costs were due to a power surge and Florida Power & Light (FPL) denied responsibility, she submitted a claim with the Districts’ Insurance carrier. The financials were accepted.

FOURTEENTH ORDER OF BUSINESS

**Approval of February 22, 2021 Joint
Regular Meeting Minutes**

Mr. McCarthy presented the February 22, 2021 Joint Regular Meeting Minutes.

On MOTION for Bayside by Mr. Jim Nicholson and seconded by Mr. Cramer, with all in favor, the February 22, 2021 Joint Regular Meeting Minutes, as amended to include any changes submitted to Management, were approved.

On MOTION for Bay Creek by Mr. Janek and seconded by Ms. McVay, with all in favor, the February 22, 2021 Joint Regular Meeting Minutes, as amended to include any changes submitted to Management, were approved.

FIFTEENTH ORDER OF BUSINESS

Action Items

Active/Ongoing New Items: Items 1, 2, 3, 5, 7, 8 and 9 were completed.

Active/Ongoing Carry Over from 01.25.21 Meeting: Item 2 was completed.

- Item 7: Insurance coverage for the Districts for cyber attacks was being secured and Management’s revised insurance policy would be forwarded to Mr. Urbancic.

SIXTEENTH ORDER OF BUSINESS

Old Business

Mr. Janek asked Mr. Addison if he ever observed the trees at the south gate blooming in summer. Mr. Addison replied no. Mr. Adams would have the Horticulturist, Mr. Boyd, inspect the trees and determine if there are any deficiencies before deciding to have them removed.

SEVENTEENTH ORDER OF BUSINESS

Staff Reports

A. District Counsel

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

Mr. Urbancic presented the Village of Estero’s recent revisions to the Interlocal Agreement with the Bayside District, which included a stipulation that the Village was not obligated to accept Walden Center until it determines it met the Village’s standards. The Bayside Board approved the Agreement, with the stipulation that Mr. Urbancic submit the proposed change of inserting “that it meets the Village standards that existed when it was constructed”.

On MOTION for Bayside by Mr. Cramer and seconded by Mr. Jim Nicholson, with all in favor, the Interlocal Agreement with the Village of Estero, to accept North Commons Drive and Walden Center, subject to the Village accepting the District’s changes to the Agreement, and authorizing the Chair to execute the final version, was approved.

Mr. Urbancic discussed potential new legislation that, if passed, may affect the Districts. House Bill 1103 would require Special Districts and potentially CDDs to conduct performance

audits, in addition to the financial audits. Another bill involved raising sovereign immunity caps for governmental entities. He would continue monitoring this legislation.

II. Daniel Cox, Esq.

- Update: Litigation and Proposed Amendment to Ordinance

▪ **Consideration of Any Actions Resulting from Executive Session**

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

On MOTION for Bayside by Mr. Cramer and seconded by Mr. Jim Nicholson, with all in favor, authorizing Mr. Cox, in cooperation with Mr. Urbancic, to memorialize the Settlement Agreement with the City of Bonita Springs, as discussed in the Executive Session, and present it to the Board for further discussion and action at the next public meeting, was approved.

On MOTION for Bay Creek by Mr. Janek and seconded by Mr. Addison, with all in favor, authorizing Mr. Cox, in cooperation with Mr. Urbancic, to memorialize the Settlement Agreement with the City of Bonita Springs, as discussed in the Executive Session, and present it to the Board for further discussion and action at the next public meeting, was approved.

Mr. Cox was asked to email the Modernization of Stormwater Quality Rules article to Mr. Adams to distribute to the Boards.

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

I. Monthly Status Report: Field Operations

The Monthly Status Report was included for informational purposes.

Mrs. Adams discussed additional updates to the Report and scheduled Sonar treatments for several additional ponds. The culvert/catch basin project was delayed until the contractor can reinspect them, due to the proposal being outdated.

II. NEXT MEETING DATE: April 26, 2021 at 2:00 P.M.

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

The next meeting would be held on April 26, 2021 at 2:00 p.m.

**BAYSIDE IMPROVEMENT
& BAY CREEK CDDS**

March 22, 2021

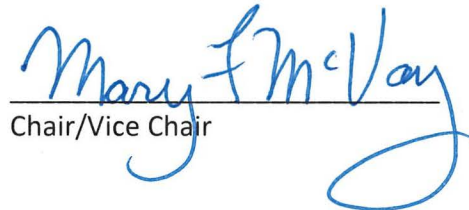
FOR BAYSIDE IMPROVEMENT:


Secretary/Assistant Secretary


Chair/Vice Chair

FOR BAY CREEK:


Secretary/Assistant Secretary


Chair/Vice Chair

EIGHTEENTH ORDER OF BUSINESS

Supervisors' Requests

Ms. Montgomery stated that today was World Water Day and noted that the organization Calusa Waterkeeper released information regarding fecal matter in the waterways of Lee County and several others, which is a primary concern and dangerous health hazard. Discussion ensued regarding the Village of Estero actively working on correcting impairments to the river and Bonita Springs' attempts to get the septic systems under control.

Mr. Durney asked Mr. Adams if the Districts had water quality samples from the various wells. Mr. Adams replied affirmatively and stated just chlorides. Mr. Adams was asked to follow up with Mr. Cox to email the instructions on how to access the active waterway map to the Boards.

Mr. Durney asked how often the sidewalks at Pelican Nest Drive are cleared of debris. Mr. Adams stated that the mowing/blowing schedule would change to weekly on April 1, 2021.

Mr. Cramer asked if it was possible to measure the type of water that may potentially come from The Brooks. Mr. Adams explained that those are two separate systems; the BSU water coming from The Brooks is excess well water that would be used for irrigation purposes and the water is similar to the Districts' well water.

NINETEENTH ORDER OF BUSINESS

Public Comments: *Non-Agenda Items*

No members of the public spoke.

TWENTIETH ORDER OF BUSINESS

Adjournment

There being no further business to discuss, the meeting adjourned at 3:31 p.m.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]