

**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 Multiple Joint Public Hearings and a Regular Meeting on August 23, 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 via Zoom, at <https://us02web.zoom.us/j/88969163185>, and 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:

James Janek (via telephone)	Chair
Robert Travers	Vice Chair
R. Gary Durney	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
Bill Kurth	SOLitude Lake Management (SOLitude)
Christina Kennedy (via Zoom)	SOLitude
Ed Shinouskis (via Zoom)	Resident/Water Quality Task Force Member (WQTF)
Marilyn Price	Resident/PLCA Landscape Committee Chair and PLCA Board Member

Donna Overly

Resident

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. All present recited the Pledge of Allegiance.

SECOND ORDER OF BUSINESS

Roll Call

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

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

THIRD ORDER OF BUSINESS

Public Comments: *Agenda Items*

Resident and WQTF Member Ed Shinouskis discussed his request for the Boards to approve proceeding with the recommendation of allowing Calusa Waterkeeper, Inc., to perform isotope testing to determine the sources of the high nitrogen levels being discharge from the community into Spring Creek and Estero Bay. The testing would be done at no cost to the CDDs. These results would allow the WQTF to make effective recommendations about how to reduce nutrient levels going forward.

JOINT BUSINESS ITEMS

FOURTH ORDER OF BUSINESS

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

Mr. Kayne reported the following:

- The conservation easement line behind 3661 Bay Creek Drive was staked; an exhibit depicting the impact within the easement was being prepared.
- Cypress Island Monument Sign: As confirmation was made that the sign straddled the Lakemont Drive right-of-way (ROW) and CDD property, a sketch and legal description was being prepared, in order to grant an easement for the sign.

FIFTH ORDER OF BUSINESS

Waterway Inspection Report: *SOLitude Lake Management*

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

- Of the seven lakes that were treated along the shoreline, D-14 required additional treatment for shoreline weeds and E-5 for slender spike rush. Mr. Kurth would inspect Lake D-14 today.
- Ongoing Bacteria Study at Lake E-5: The fourth water sampling was set for tomorrow and would be added to the data collection for the project.

Mr. McCartney stated that he asked Mr. Kurth to inspect Lake A-2, as an issue with surface materials occurred over the weekend.

Mr. Kurth reported the following:

- Toured the lakes today to determine if there was any improvement since the date of Ms. Kennedy's Report; however, it was too soon to tell.
- He would be more involved, as Mr. Land was no longer employed with SOLitude, and the SOLitude Field Operations Manager was not yet familiar with the property.
- The purpose of the bacteria trial was to assess muck reduction and potentially convert the muck to be less organic.
- Results of the two studies, here and in another community, have proven successful; good water clarity and almost no algae growth in the lakes was observed. SOLitude would most likely start using this product.
- A-2: Inspected the lake and believed the issue was due to grass clippings, as he identified Bermuda grass clippings, which will break down over time; there was no algae growth.

Mr. Kurth stated that he contacted Mr. Zimmerman the Superintendent of the Pelican Nest Golf Club, and was informed they were doing an aggressive cut last week and there happened to be a lot of rainfall.

Regarding whether he is certain that sod was more inclined to cause these issues, Mr. Kurth stated that anything that goes into the lake contributes to nutrient loading. He noted that the sod was not residential.

Mr. Durney stated that he observed the Golf Course remove the littoral growth near Hurricane Fairway-13 and D-6 and raking grass clippings. Mrs. Adams stated that the golf course is responsible for maintaining areas above the high-water mark, as it is their property.

Mr. McCarthy noted, for the WQTF, that this is an example as to why there are high nitrogen levels in the lakes and that Lake A-2 historically has the highest muck level. Discussion ensued regarding SOLitude's bacteria testing of the new product, determining if it helps reduce nitrogen levels, ending the six-month study in December to have more accurate results, quarterly testing and actions in line with the WQTF.

Mr. McCarthy asked that a formal letter be sent to the Pelican's Nest Golf Club recording the Lake A-2 incident and noting that it was an illicit discharge and in violation of the National Pollutant Discharge Elimination System (NPDES) permit. The Boards should be copied on the letter.

SIXTH ORDER OF BUSINESS

Committee Reports

A. PLCA Landscape Committee

Ms. Price reported that the Committee worked a lot on planning not plantings. She highlighted the following activities:

- The lantanas, which were not practical for maintaining in that area, were replaced with dwarf bougainvillea. She recommended the Boards tour Spring Creek Circle.
- Gatehouse Landscaping Project: Five of the six projects were completed. The City of Estero just approved the scope of work to expand the north gatehouse. Planting was expected to be completed in the next couple of weeks, which would require removing sable palms in the median west of the gatehouse.

➤ Working with the electrician for landscape lighting to highlight the major trees added at the three gatehouses. The Boards would be advised when the project would commence; she hoped it could start within the next six weeks. This would complete the gatehouse projects.

➤ The Pelican Colony Drive property within the gatehouse, towards Colony Circle, would be the next project, once the lighting project is completed.

➤ She was working on plans and with the Arborist to do a complete thinning, cleaning and trimming of canopies from the North Colony gate to the Colony Circle on Pelican Colony Drive. The work would be coordinated with the CDDs for advisement on how to commence the trimming project, since the materials cross over the easement and homeowner property. It was hoped that the work would be completed by the end of September or early October, so that the planting initiative along Pelican Colony Drive, which is being defined, can be submitted to the Village of Estero and City of Bonita Springs for approval to commence work.

➤ A driving tour is scheduled for September 7, 2021.

➤ Regarding whether Mr. Adams received copies of the PLCA's plans, Ms. Price stated she would forward the gatehouse and tree trimming plans to him to transmit to the Boards.

➤ The goal was to use less funds for the planning and more towards plantings.

Mr. Janek asked what was being planted in place of the trees that were removed at the South gate, across the lake. Ms. Price stated there were no plans; however, Ms. Gravenhorst believed royal poincianas were planted she but did not know if it was near the lake.

➤ Regarding whether the PLCA Arborist is working alongside the tree trimming company, Ms. Price replied affirmatively and stated Johnson Tree Trimming will work under the direction of the Arborist, who will give recommendations on the type of cut for each tree that he selects.

➤ The pentas were not thriving.

Discussion ensued regarding the next flower rotation, the expectation that flowers are expected to last four months, Club Care's guarantee for the first month, the suggestion to move the schedule up 15 days, designating funds in the budget to replace struggling plants and preparing the grounds.

Mr. Adams would contact Amy, with Club Care, to determine what crops are available, discuss the possibility of planting begonias and if it would be possible to move the rotation date up to October 15, 2021.

B. Colony Landscape Committee

The report was emailed to the Boards and Staff, due to timing of the Committee meetings.

C. Water Quality Task Force

- **Approval of One Additional Nitrogen Sampling Site in the NE Corner of the District**

Mr. Durney stated the WQTF suggested sampling a lake that is less developed to determine if nitrogen levels varied much from developed properties. He was unsure if this needed to be brought before the Boards for budget approval. Mr. McCarthy recalled that the Boards approved testing in a not to exceed amount of \$4,500.

- **Approval of Nutrient Source Tracking Sampling at Three Sites Funded by the Caloosahatchee Water Keepers**

Mr. Durney stated that the WQTF was working with the Caloosahatchee Water Keepers on water quality. Additional testing of the samples would be performed to identify the source of the nitrogen, whether its sewage, fertilizer or a natural occurrence in the soil.

Mr. Cramer commented on Mr. Shinouskis' comments to the Caloosahatchee Water Keepers. Ms. Gravenhorst asked if there are consequences to the CDDs for doing these tests and its presence in the NPDES.

Mr. Cox stated that the CDDs agreed with the City of Bonita Springs to conduct a testing program. He asked if the Boards wanted to expand the oversight beyond what the CDDs agreed to in the settlement, as it would become public record. He felt that, if tracking is done upstream, it would be a good thing, as anything measured inside inputs should be considered carefully. He did not recommend testing discharge beyond the required area; the goal is for the CDDs to show that what is being done is helping the City reduce the ultimate discharge of contaminants that originate in the City. Mr. Shinouskis commented that the purpose of the WQTF was to make recommendations that are data driven and not based on a hunch.

The Boards decided to take no action at this time.

Ms. Montgomery stated the WQTF was mentioned by “In the Buzz” and that Ms. Digby, of the PLCA, and Marybeth, the Activity Director, agreed to post the WQTF’s latest happenings on the resident website and offered the same services to the CDDs to improve communication related to disaster response events. Mr. Cramer believed this to be a great opportunity.

BAYSIDE IMPROVEMENT ITEMS

SEVENTH ORDER OF BUSINESS

**Public Hearing to Hear Comments and
Objections on the Adoption of District’s
Final Budget for Fiscal Year 2021/2022,
Pursuant to Florida Law**

The Boards agreed to conduct the Budget and Assessment Public Hearings for both Districts simultaneously.

A. Proof/Affidavit of Publication

Mr. Urbancic confirmed the affidavit of publication met the public hearing noticing criteria. Mr. Cox was unable to respond due to technical difficulties.

B. Consideration of Resolution 2021-08, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2021 and Ending September 30, 2022; Authorizing Budget Amendments; and Providing an Effective Date

Mr. McCarthy opened the Public Hearings for both CDDs.

Mr. McCarthy stated that resident Wallace R. Wade sent his written objections to Management regarding the Bayside CDD irrigation assessment. The objection was distributed and would be presented later during Item 8C.

Resident Donna Overly had a comment regarding landscaping. Since it was not budget related, she was asked to present it during the public comments section, later in the meeting.

Mr. Shinouskis asked for the Fiscal Year 2022 budgets to include proper funding for ongoing monitoring and implementation of an effective stormwater management program.

Mr. McCarthy closed the Public Hearings for both CDDs.

Mr. McCarthy presented Resolution 2021-08.

On MOTION for Bayside by Mr. Cramer and seconded by Ms. Montgomery, with all in favor, Resolution 2021-08, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2021 and Ending September 30, 2022; Authorizing Budget Amendments; and Providing an Effective Date, was adopted.

Mr. McCarthy presented Bay Creek Resolution 2021-08.

Mr. Durney referred to the Enterprise Fund budget and asked if the CDD underestimated the "Irrigation revenue" amount, when compared to expenses. Mr. Adams stated this would trigger an irrigation rate change, as the CDD will need to generate revenues to meet the budget.

Mr. Janek asked how fees are collected from homeowners whose irrigation usage exceeds \$400. Mr. Adams stated that the Coral Springs Improvement District (CSID) provides billing services for the CDD. He explained the billing and collection process.

On MOTION for Bay Creek by Mr. Travers and seconded by Mr. Janek, with all in favor, Resolution 2021-08, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2021 and Ending September 30, 2022; Authorizing Budget Amendments; and Providing an Effective Date, was adopted.

EIGHTH ORDER OF BUSINESS

Public Hearing to Hear Comments and Objections on the Imposition of Special Assessments for Operations and Maintenance for Fiscal Year 2020/2022, Pursuant to Florida Law

A. Proof/Affidavit of Publication

Mr. Urbancic confirmed that the affidavit of publication met the public hearing noticing criteria. Mr. Cox was unable to respond due to technical difficulties.

B. Mailed Notice(s)

A copy of the Mailed Notice was provided for informational purposes.

C. Consideration of Resolution 2021-09, Making a Determination of Benefit and Imposing Special Assessments for Fiscal Year 2021/2022; 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 Public Hearings for both CDDs.

Mr. McCarthy read resident Wallace R. Wade’s written objections to the Bayside CDD, exceptionally large irrigation assessment increase, which was distributed during the meeting, and will be attached to the meeting minutes.

Mr. Adams explained the items causing the budget and assessment levels to increase for Bayside CDD. Mr. Nicholson questioned the explanation. Mr. Adams stated that the causes were because “Insurance” increased 40%, “Personnel” increased 10% and “Other contractual services: culverts/drains” increased 50%.

Mr. McCarthy closed the Public Hearings for both CDDs.

Mr. McCarthy presented Bayside Resolution 2021-09.

On MOTION for Bayside by Ms. Montgomery and seconded by Mr. Nicholson, with all in favor, Resolution 2021-09, Making a Determination of Benefit and Imposing Special Assessments for Fiscal Year 2021/2022; 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.

Mr. McCarthy presented Bay Creek Resolution 2021-09.

On MOTION for Bay Creek by Mr. Travers and seconded by Mr. Durney, with all in favor, Resolution 2021-09, Making a Determination of Benefit and Imposing Special Assessments for Fiscal Year 2021/2022; 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.

BAY CREEK ITEMS

NINTH ORDER OF BUSINESS

Public Hearing to Hear Comments and Objections on the Adoption of District's Final Budget for Fiscal Year 2021/2022, Pursuant to Florida Law

- A. Proof/Affidavit of Publication**
- B. Consideration of Resolution 2021-08, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2021 and Ending September 30, 2022; Authorizing Budget Amendments; and Providing an Effective Date**

These items were presented during the Seventh Order of Business.

TENTH ORDER OF BUSINESS

Public Hearing to Hear Comments and Objections on the Imposition of Special Assessments for Operations and Maintenance for the Fiscal Year 20201/2022, Pursuant to Florida Law

- A. Proof/Affidavit of Publication**
- B. Mailed Notices**
- C. Consideration of Resolution 2021-09, Making a Determination of Benefit and Imposing Special Assessments for Fiscal Year 2021/2022; 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**

These items were presented during the Eighth Order of Business.

JOINT BOARD ITEMS

ELEVENTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of July 31, 2021

Mr. Adams presented the Unaudited Financial Statements as of July 31, 2021. As it would be necessary to initiate an irrigation rate increase, he would prepare the new base and

penalty rates for Fiscal Year 2022. This increase would require noticing a public hearing within the next couple of months.

Discussions ensued regarding the following motion to proceed with a request to have a balance forecast and actual accrual year-end projections included in the financial statements. Mr. Adams discussed the status of implementing the template, cause of the delay and creating the component in an excel spreadsheet, as Management's accounting system would not change. Mrs. Adams was provided with a copy of the written motion, which would be attached to the meeting minutes. The financials were accepted.

On MOTION for Bayside by Mr. Nicholson and seconded by Ms. Gravenhorst, with all in favor, authorizing Staff to modify, implement, debug and publish revisions to all monthly financial reports for use starting with the September 27, 2021 Regular Meeting, incorporating 1) the forecasted / projected balance of year spending for each line item, 2) the expected / projected total year spending for each line item, and 3) clearly indicate Over / (Under) spending projection versus Approved Budget for each line, in total for each category, and in total for each budget, was approved.

On MOTION for Bay Creek by Mr. Travers and seconded by Mr. Durney, with all in favor, with all in favor, authorizing Staff to modify, implement, debug and publish revisions to all monthly financial reports for use starting with the September 27, 2021 Regular Meeting, incorporating 1) the forecasted / projected balance of year spending for each line item, 2) the expected / projected total year spending for each line item, and 3) clearly indicate Over / (Under) spending projection versus Approved Budget for each line, in total for each category, and in total for each budget, was approved.

TWELFTH ORDER OF BUSINESS

Approval of Minutes

Mr. McCarthy presented the following:

- A. July 16, 2021 Joint Budget Workshop**
- B. July 26, 2021 Joint Regular Meeting**

On MOTION for Bay Creek by Mr. Durney and seconded by Mr. Addison, with all in favor, the July 16, 2021 Joint Budget Workshop 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 16, 2021 Joint Budget Workshop Minutes, as amended to include any changes submitted to Management, were approved.

On MOTION for Bay Creek by Mr. Travers and seconded by Mr. Durney, with all in favor, the July 26, 2021 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 26, 2021 Joint Regular Meeting Minutes, as amended to include any changes submitted to Management, were approved.

THIRTEENTH ORDER OF BUSINESS

Action Items

The following items were discussed:

- Item 3: MRI was onsite today to clean blocked storm structures.
- Item 4: Mrs. Adams reported that the homeowner at 3661 Bay Creek Drive conveyed his apologies and his willingness to work with the CDD to address the encroachment issues. His contractors would like to remove the riprap and crushed stone and the CDD will install plantings and other related items.

Active/Ongoing New Items: Items 2, 3, 4 and 7 were completed.

FOURTEENTH ORDER OF BUSINESS

Old Business

There was no old business to discuss.

FIFTEENTH ORDER OF BUSINESS

Staff Reports

A. District Counsel

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

As Mr. Cox' continued having difficulty connecting to the meeting, due to the aftermath of Tropical Storm Fred, Mr. Urbancic conveyed his suggestion that the Boards should pursue entering into a Joint Agreement with the Village of Estero and the City Bonita Springs, with respect to landscaping; rather than having to submit plans for both entities to review. Mr. McCarthy explained that submittals must be sent to the entity holding jurisdiction.

II. Daniel Cox, Esq.

There was no report.

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

I. Monthly Status Report: Field Operations

- **Discussion/Presentation: Monthly Report Narrative (to be provided under separate cover)**

The Monthly Status Report was provided for informational purposes.

II. NEXT MEETING DATE: September 27, 2021 at 2:00 P.M.

- **QUORUM CHECK: BAYSIDE IMPROVEMENT CDD**

All Supervisors confirmed their in-person attendance at the September 27, 2021 meeting.

- **QUORUM CHECK: BAY CREEK CDD**

Supervisors Addison, Travers and Janek confirmed their in-person attendance at the September 27, 2021 meeting. Supervisor Durney would not attend.

SIXTEENTH ORDER OF BUSINESS

Supervisors' Requests

Mr. Durney reported about a downed compressor below the bridge on Pelican Nest Drive, just before Pinewater.

SEVENTEENTH ORDER OF BUSINESS

Public Comments: Non-Agenda Items

No members of the public spoke.

EIGHTEENTH ORDER OF BUSINESS

Adjournment

There being no further business to discuss, the meeting adjourned at 3:43 p.m.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

**BAYSIDE IMPROVEMENT
& BAY CREEK CDDS**

August 23, 2021

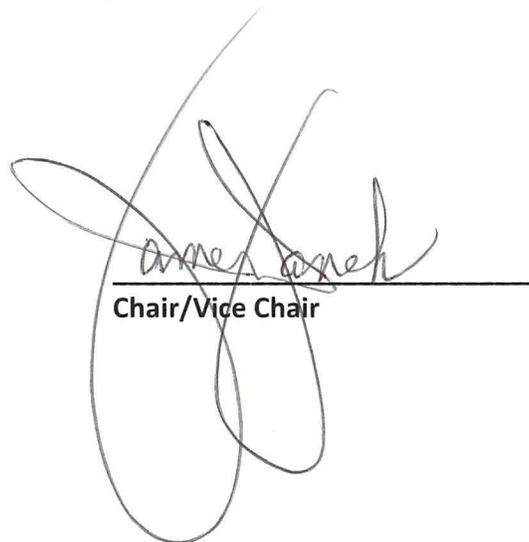
FOR BAYSIDE IMPROVEMENT:


Secretary/Assistant Secretary


Chair/Vice Chair

FOR BAY CREEK:


Secretary/Assistant Secretary


Chair/Vice Chair

EXHIBIT

**WALLACE R. WADE
ASSESSMENT OBJECTION**

Hand out

Wallace R. Wade
23671 Waterside Drive
Estero, Florida 34134
Phone: 239-390-3364
Email: wrwade1@gmail.com

August 21, 2021

Mr. Chuck Adams
District Manager, Bayside Improvement Community Development District
9220 Bonita Beach Road, Suite 214
Bonita Springs, FL 34135

Re: Written Objections,
Notice of Hearing on Assessments to Property, Dated August 3, 2021
Bayside Improvement Community Development District

Dear Mr. Adams:

In accordance with the provisions of the letter of August 3, 2021 to Property Owners entitled, Bayside Improvement Community Development District (CDD), Notice of Hearing on Assessments to Property, I am submitting my written objections to you as District Manager within 20 days of the date of the referenced letter.

The referenced letter announced proposed increases in the operations and maintenance assessment of \$20.83 or 3.6% ($\$20.83 / (\$599.33 - \$20.83)$) and in the irrigation assessment of \$30.35 or 59% ($\$30.35 / (\$81.81 - \$30.35)$).

The 3.6% increase for the operations and maintenance increase may be reasonable and in line with inflation increase, but the 59% for the irrigation increase does not appear to be reasonable. The CDD did not provide a justification for this exceptionally large increase in the letter to Property Owners.

The CDD is requested to provide Property Owners with the justification for this exceptionally large 59% increase in the irrigation assessment. Unless this increase can be fully justified, the CDD is encouraged to reconsider the increase in the irrigation assessment.

Thank you for your consideration of my objections to the proposed increase in the irrigation assessment.

Sincerely,

Wallace R. Wade

Wallace R. Wade

EXHIBIT

MOTION RELATED TO UNAUDITED FINANCIAL STATEMENTS CONTENT

Motion #2 - Background:

In an effort to help ensure that the Bayside CDD operates within budget, and that the best year end forecast information is available each month for review by the Supervisors, I make the following Motion:

Motion: - That the Staff modify, implement, debug, and publish revisions to all monthly financial reports for use starting with the September 27th, 2021 Regular CDD Meeting, incorporating:

- The forecasted / projected balance of year spending for each line item
- The expected / projected total year spending for each line item
- Clearly indicate the Over / (Under) spending projection vs. the Approved Budget for each line item, in total for each category, and in total for each budget

Epilogue: This will allow the Bayside Supervisors to clearly and easily understand the financial performance of the Bayside CDD year to date, as well as projected yearend financial spending vs. the Approved Budget.

Item 11