

**MINUTES OF MEETING  
FLOW WAY  
COMMUNITY DEVELOPMENT DISTRICT**

The Regular Meeting of the Board of Directors of the Flow Way Community Development District was held on Thursday, July 18, 2024, at 1:00 P.M. at the Esplanade Golf and Country Club, 8910 Torre Vista Lane, Naples, FL 34119.

**Present and constituting a quorum:**

Zack Stamp	Chairperson
Ron Miller	Vice Chairperson
Bart Bhatla	Assistant Secretary
Tom Kleck	Assistant Secretary

**Absent:**

Martinn Winters	Assistant Secretary
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**Also present were:**

James P. Ward	District Manager
Richard Freeman	District Engineer
Michael Pawelczyk	District Counsel
Dylan Schwartz	FMS Bonds

**Audience:**

Dave Boguslawski

All residents' names were not included with the minutes. If a resident did not identify themselves or the audio file did not pick up the name, the name was not recorded in these minutes.

**PORTIONS OF THIS MEETING WERE TRANSCRIBED VERBATIM. ALL VERBATIM PORTIONS WERE  
TRANSCRIBED IN *ITALICS*.**

**FIRST ORDER OF BUSINESS**

**Call to Order/Roll Call**

Chairperson Stamp called the meeting to order at approximately 1:00 p.m. Roll call was conducted, and all Members of the Board were present, with the exception of Supervisor Winters, three in person, one on the phone, constituting a quorum.

**SECOND ORDER OF BUSINESS**

**Public Comments**

**Public Comments for non-agenda items (Limited to three (3) minutes). Individuals are permitted to speak on items on the agenda during that item and will be announced by the Chairperson.**

Chairperson Stamp reviewed public comment protocols.

**THIRD ORDER OF BUSINESS****Notice of Advertisement for Public Hearings****Notice of Advertisement for the Public Hearings**

The Meeting was duly noticed.

**FOURTH ORDER OF BUSINESS****Public Hearings****PUBLIC HEARINGS – FY 2025 BUDGET AND SPECIAL ASSESSMENTS**

Mr. Ward explained the Public Hearing process noting there were two public hearings, the first related to the Budget itself. He noted the Board spent the past four months reviewing the budget and it was approved at the last meeting for the purpose of setting the public hearing, and today was the final step in adoption of the FY2025 budget, setting in place the assessment rates for FY2025. He reported the current assessment rate was \$1,679.74 per unit, per year, and this would go up to \$1,845.00 per unit, per year for the 1,184 units within the boundaries of the District. He reported this budget was essentially the same as what was seen over the past few months. He indicated he made some changes for the purposes of this hearing, creating a year end schedule which was close to actual as it was July, and the estimates through the end of the fiscal year were possible. He stated based on what was anticipated through the year end, he also made a few changes to the internal workings of the specific line items in the operating budget; however, the overall assessment rate did not change for Fiscal Year 2025.

*Mr. Ward: Our projected cash balance at year end, this year, is anticipated to be approximately \$211,000 dollars. Based on our current year spending, we will add another \$60,000 dollars or so to that number, so our total cash balance as we go into fiscal year 2025 will be roughly \$270,000 dollars. As I mentioned to you before, this fall, Mr. Messick and I will be going through and preparing a longer term capital budget program that identifies all of the District's assets with greater specificity than we have done over the last couple of years and schedule those out in a format that we can begin to come up with an idea of how much our reserves should be moving into Fiscal Year 2026 and beyond. We will do that as a part of the Fiscal Year 2025 operating process that your staff will go through and then that will come back to the Board in the January/February time schedule of next year. I think we are going to do this over a five-to-six-year period. We are going to identify the total capital infrastructure assets we have in place and build a reserve around what our total values will be. In fiscal year 2025, also, in the capital program for erosion restoration, we have lake 2, lake 11, lake 14, and lake 15. We are not going to do lake 18 and lake 19, because based upon my discussions with Calvin Giordano, those lakes were done in the prior year. We are going to come back to you with a change in the plan for 2025 for those two lakes.*

*Mr. Bart Bhatla: Where did the extra \$60,000 dollars cash come from?*

*Mr. Ward: It's basically the amount of revenue over the expenditures. I also want to point out in terms of your capital budget, we only have \$9,000 dollars in the internal and external preserves for purposes of cleaning, and a little bit for fencing. We are starting to see, in the last few months, a little more vandalism going on with the fencing, the signage being torn down. I'm going to tell you up front the \$9,000 dollars is probably not going to be adequate for 2025, but we are going to live with it for the purposes of today's hearing and as we move into 2025, if we see more problems we are going to have a larger discussion with you about budgeting in 2026 for that.*

*Mr. Bhatla: Is additional fencing a practical option to reduce vandalism? Because we can put in more fencing, more expensive, but that could be vandalized too.*

*Mr. Ward: I think the option for the external preserves because it's so big, is trying to keep it static, or the status quo, in terms of the type of fencing that we have and the gates up, and the signs up that say no trespassing, etc., which seem to be getting more play in terms of vandalism. But we will see what happens during the year. I just wanted to point that out to you.*

*Chairperson Stamp: The front fence that runs along Immokalee, we will talk a little bit about it later, but that's one where you can see that they pushed it down in a few places and the HOA is getting complaints about people in there fishing and they are hopping the fence somewhere, but if you drive along there slowly or walk it, you can see some places where it looks like somebody has gone over the fence, but we will talk about fencing options. But it is certainly not something we can afford to do much with this year.*

*Mr. Ward: The other major asset is your irrigation pump station and we are doing some major improvements to the pumps themselves and the station going into next year, and then the monument signs out front will see new pumps, motors and motor replacements more likely in the October time schedule this year since they are now a good 11 years old at this point.*

#### **a) FISCAL YEAR 2025 BUDGET**

##### **I. Public Comment and Testimony**

Chairperson Stamp asked if there were any public comments; there were none.

##### **II. Board Comment and Consideration**

Chairperson Stamp asked if there were any questions or comments from the Board. He opened the public hearing.

Mr. Bhatla asked what the balance projection for the end of fiscal year 2025 would be.

*Mr. Ward: If we spend the entire budget for 2025, our cash balances will not change much, other than if we do use the long-term capital planning among which is \$76,000 dollars. I'm going to tell you I anticipate we are going to use some of that for operations in 2025.*

*Mr. Bhatla: So, as far as the reserve is concerned, we don't have a reserve.*

*Mr. Ward: No. Because it takes roughly \$370,000 dollars to get us through from October 1 until we get our first tranche of operating assessments which are generally coming in the second week of December now. It's a lot earlier than when we used to get them, but we still need \$370,000 dollars to operate on.*

##### **III. Consideration of Resolution 2024-6, a resolution of the Board of Supervisors adopting the Annual Appropriation and Budget for Fiscal Year 2025**

Chairperson Stamp called for a motion.

**On MOTION made by Tom Kleck, seconded by Bart Bhatla, and with all in favor, Resolution 2024-6 was adopted, and the Chair was authorized to sign.**

Chairperson Stamp closed the public hearing.

**b) FISCAL YEAR 2025 IMPOSING SPECIAL ASSESSMENTS; ADOPTING THE ASSESSMENT ROLL AND SETTING AN OPERATIONS AND MAINTENANCE CAP FOR NOTICE PURPOSES**

Chairperson Stamp opened the second public hearing. He noted this public hearing was to impose the assessments.

Mr. Ward explained this public hearing was to consider two resolutions; one resolution was to set the assessment rate for Fiscal Year 2025 which was \$1,845.00 per unit across the 1,184 unit, and then the second resolution would establish the cap rate at \$2,214.00 dollars. *The cap rate, for purposes of the record, means we do not have to do mailed notice on an individual resident basis year over year until we go over the cap rate. Once we hit or go over that cap rate, then we must mail notices to all residents that year, like we have done this year.*

**I. Public Comment and Testimony**

Chairperson Stamp asked if there were any public comments; there were none.

**II. Board Comment and Consideration**

Chairperson Stamp asked if there were any Board comments; there were none.

**III. Consideration of Resolution 2024-7, a resolution of the Board of Supervisors imposing special assessments, and adopting an assessment roll**

Chairperson Stamp called for a joint motion for Resolutions 2024-7 and 2024-8.

**On MOTION made by Bart Bhatla, seconded by Tom Kleck, and with all in favor, Resolution 2024-7 and Resolution 2024-8 were adopted, and the Chair was authorized to sign.**

**IV. Consideration of Resolution 2024-8, a resolution of the Board of Supervisors setting an operations and maintenance cap rate**

Chairperson Stamp closed the public hearing.

**FIFTH ORDER OF BUSINESS**

**Consideration of Minutes**

**May 16, 2024 – Regular Meeting Minutes**

Chairperson Stamp asked if there were any corrections to the Minutes; hearing none, he called for a motion.

**On MOTION made by Ron Miller, seconded by Bart Bhatla, and with all in favor, the May 16, 2024, Regular Meeting Minutes were approved.**

#### **SIXTH ORDER OF BUSINESS**

#### **Consideration of Resolution 2024-9**

**Consideration of Resolution 2024-9, a Resolution of the Board of Supervisors designating the dates, time, and location for regular meetings of the Board of Supervisors for Fiscal Year 2025**

Chairperson Stamp explained Resolution 2024-9 set the dates, time, and location of the Board's meetings for Fiscal Year 2025 for the third Thursday of each month at 1:00 p.m. He asked if there were any questions; hearing none, he called for a motion.

**On MOTION made by Tom Kleck, seconded by Bart Bhatla, and with all in favor, Resolution 2024-9 was adopted, and the Chair was authorized to sign.**

#### **SEVENTH ORDER OF BUSINESS**

#### **Review of Bonds**

**Review of the District's Series 2013 Special Assessment Bonds – financing outline, Timing of Issuance, Interest Rate forecast**

*Mr. Ward: As we have talked before, when you hit 10 years from the date of issuance of a series of bonds, the District has the ability to refinance those bonds to hopefully achieve a lower interest rate and essentially a savings. We are at that point with the bonds that were issued by the District in 2013. At your last meeting we retained FMS bonds to assist as the underwriter with respect to the proposed financing and Dylan Schwartz is on audio with us today to go through the proposed financing, ideas that we have for this financing, and at the end of that we will give you an outline of the procedure that we are going to do.*

*Mr. Dylan Schwartz with FMS Bonds: The bonds were originally issued at just over \$7 million dollars to fund some of the infrastructure necessary to build the community. The bonds came out with a 6.5% percent rate on the longer end of the bond. They are outstanding currently in the amount of \$5.92 million dollars and they can be refinanced and called on November 1, 2024. The internal revenue code allows for the bonds to actually be refinanced up to 90 days prior to the call date, so starting August 1<sup>st</sup> we can get moving on the bonds and we plan to come back to you guys on August 15<sup>th</sup> to adopt bond documents to start that process. I want to go over with you an overview of the history of interest rates for municipal bonds and a summary of the structure we have planned for you guys and what the savings look like using that structure. As you can see this is the last 13 or so years of historical interest rates for the 30-year triple A municipal index. All municipal bonds prices spread over this index; even triple A rated bonds will be slightly higher than this index. You can see that there is a slow grind lower over the course of the years 2011 to 2021 and then it shot higher as the fed began their interest hikes. The triple A went all the way up to a 460, that was at the beginning of this year, November of last year, and you can see now we are down to about 370, almost 100 basis points lower. So, the bond market has gotten very strong over the last 7 to 8 months. Now is a very good time to capitalize on that strength. The*

*spreads, which are the amount of basis points that we price over this triple A rated yield, are actually very narrow in comparison and now is a good a time as ever to capitalize on the strength of the bond market. Some of the key terms associated with this refinancing. The principal amount of bonds will not increase. It will either stay the same or it will be less. We assume that the principal amount of your bonds will decrease as a result of this financing. The maturity will not change. It will not be extended. The maturity will stay in 2024. Typically, when you refinance your mortgage, you have options; there is the standard 15 year mortgage or the standard 30 year mortgage, and if you want to refinance your mortgage you can refinance your mortgage with a 15 year mortgage or kick out a new 30 year mortgage. Here that is not the case. You are going to stay with the exact same maturity of 2044 as the original issuance, so it is true savings. The interest rate today for a nonrated refinancing is about 5.15% and we provided some analysis today about why we would expect to do a nonrated refinancing versus rated. The reserve fund that's necessary for a nonrated refinancing is only \$50,000 dollars; there is currently about \$540,000 dollars sitting in the reserve fund and that can't be touched. Well, if you do not do a refinancing, that cannot be touched until the final year of maturity of the bonds and would be used to pay the last year's debt service 20 years from now. That said, with the refinancing today, you could take advantage of that \$540,000 dollars to pay for your cost of issuance, as well as to reduce the principal amount of bonds that are outstanding. The reserve fund would pay for the cost of the transactions. All of the savings' numbers I will provide on the following pages show your savings net of all the costs. With regard to timing, August 15, the next board meeting, we can come back with a set of bond documents. The delegation resolution provides us the authority to delegate on your behalf an interest rate. We would market the bonds; we would price the bonds a week after that board meeting and that pricing would lock in your interest rate and then we would close about a month thereafter and then we would redeem the 2013 bonds on 11/01/2024 as that's the call date.*

*Mr. Bhatla: The sheet we just saw, is that the term sheet?*

*Mr. Schwartz: It is not. That is an estimate. This is a summary of key terms. So, when we state that the principal amount will not increase, we state it with a lot of confidence. When we state that the maturity of the bonds will not be longer than the current maturity, that is a fact as well. The debt service will be level through maturity meaning it's not going to vary. That is true. The interest rate is an estimate today. There is a bit of cushion.*

*Mr. Bhatla: A couple of meetings ago we talked about an interest rate of 3.5%. I was told that these bonds, now that we have the infrastructure completely in place, the interest rates would come down. What is the interest rate at the moment?*

*Mr. Schwartz: Your interest rate currently is 6.5%.*

*Mr. Bhatla: I was thinking we would get 3.7% or something.*

*Mr. Ward: Those days ended two years ago.*

*Mr. Ron Miller: I think on the previous page you showed the current rate around 3.7% and you mentioned paying something, a few basis points in excess of that, and now we are looking at a page where it says the 5.15% interest rate, a nonrated rate. Help me understand the difference between the two. And which one are we really going to be facing?*

*Mr. Schwartz: As I show you here, 3.73%, 3.74%, that's for a triple A index for triple A rated bonds. CDDs do not obtain a triple A rating. CDDs typically come in at the A- or triple B+ range which generates a spread above this triple A index of about 135 basis points. So, that's why we can state with a degree of confidence that the long end of the bond, if you're at 3.73 here, 135 basis points over on the long end would be approximately 5.1% for a rated A- or triple B+ rated bond. A nonrated bond in today's market prices about 15 basis points higher than that, so we are talking about 5.25%. But, because that's just the long end of the curve, obviously as you go further out it gets higher, we tranche the bonds into segments. There were serial bonds that mature in one to five years from now, and then a 10-year maturity and then a 20-year maturity and that blends the yield to a lower amount. If we were to do a rated refinancing, it would come in about blended 125 basis points over this 3.73, so we are talking about 5%. And if we did a nonrated it would come in about 5.15%, so this is a basket of the highest possible rated bonds in the United States, and even some triple A bonds, which are the highest rated, come in above this. A- or a triple B+ generate a wider spread and then a nonrated bond also generates a slightly wider spread, but the interesting thing about the market today is that typically the gap between a nonrated bond and a triple B+ or an A- rated bond, usually that's 30 to 40 basis points of spread. Today because the mutual funds have a lot of cash, a lot of investors have been piling into fixed income ETFs, the spreads have narrowed. The spread between a nonrated bond and an A- or triple B+ bond is only 15 basis points instead of the usual 30 to 40 basis points. So, this being the case, it makes more sense to go ahead with a nonrated transaction. I think it's easier to let the numbers do the talking here. I can show you the numbers and then I will summarize them. You can see here the interest rate is 5% for the rated transaction. For the nonrated transaction we are estimating it will be 5.15%. The difference is the bonds that will be outstanding as a result of this refinancing. There is about a \$215,000 dollar difference here. That comes from two areas, the reserve fund. The rating agency requires a reserve fund that is half of one year's annual debt service, so if you do a rated transaction the reserve fund is going to be \$236,000 dollars. You also have to pay the rating agency about \$25,000 dollars to provide that rating. On a nonrated transaction we can do maybe a \$50,000 dollar reserve fund instead of \$236,000 dollars, so that saves \$186,000 dollars and then the cost of issuance is less because you don't have to pay the rating agency. You can see that with a lower principal amount of bonds the slightly higher interest rate actually yields greater annual savings for the District. 15% versus 12.7% or 12.8%, and that's about another \$230,000 dollars total savings. The process: a nonrated transaction you can get done quicker; the rating agency takes a fair amount of time to complete their analysis. The reserve fund, the rating agency requires a debt service reserve fund of 50% of one year's total assessments. Those funds can otherwise be used to pay down additional debt during the transaction, so I quantified it, that 50% reserve fund costs you what would be the equivalent of a quarter of a percentage point of your interest rate. That being said, the nonrated transaction currently only has about 0.15% higher interest rate, so you can see that's where the meat of the savings comes from. The higher reserve fund requirement ends up outweighing the benefit of obtaining the rating because the interest rate is not low enough to offset that difference. That's why we are proposing a nonrated transaction. It lowers your principal amount of debt, and it reduces your annual payment, even though the interest rate is slightly higher, you benefit from a lesser annual payment and if you ever want to prepay your assessments prior to maturity, the prepayment amount would be less as well. It's a win-win.*

*Mr. Miller: How many units are in phase 1?*

*Mr. Ward: 316 units.*

*Mr. Miller: Does this mean, with the savings, that the future assessment for each resident would go down by \$254 dollars?*

*Mr. Ward: Look in the savings column off to the right. Your savings run from \$149 dollars up to \$456 dollars depending on the lot.*

*Mr. Schwartz: Each unit gets 14.93% savings. He displayed and discussed the savings as presented on the savings sheet. That's the extent of the summary of the refinancing, of the structure and the savings. The end of the presentation was an overview of our firm, but I believe you received a far more extensive overview of our firm in a previous meeting, but we are the industry leader in CDD underwriting in the State of Florida and we have worked with your District for the 2013, 2015, 2016, 2017 and 2019 bonds. We are honored and appreciative that you chose to work with us for the 2024 refinancing.*

*Mr. Miller: What we are talking about here only pertains to the Phase 1 lots which are now ten years old. This is not the refinancing of all of the Phases. Are there five phases?*

*Mr. Ward: Yes.*

*Mr. Miller: So, if there are other people on this call who are not in Phase 1, this does not apply to them. Their turn will come as we move forward, and their bonds become ten years old as well.*

*Mr. Ward: Today there is no action required of you. I just want to reiterate what Dylan said, we will come back to you at the next board meeting with what we call a delegation bond resolution which will set the maximum limits that we can issue bonds. It will identify the par amount, the interest rate, the term, prepayment provisions and a number of other things. The bond counsel we retained last month are working on the delegation bond resolution. What the delegation bond resolution does is sets the maximum parameters that we could issue the bonds at. FMS Bonds, and Dylan and his Firm will go into the market, and market the bonds. They will come in below the maximum levels. We call it a delegation resolution because it delegates to the Chairperson the authority to approve the final pricing of the bonds because it is physically just not possible to do that in a timely manner through board meetings. We will do that. We will close, and then at a board meeting subsequent to closing, we will do additional resolutions with you to true up the original delegation resolution to the final numbers after issuance. The delegation resolution will be at your August board meeting. The next resolution, we will do that probably in September.*

*Mr. Miller: Will this be on a best efforts or guaranteed marketing?*

*Mr. Schwartz: We will be able to underwrite the entirety of the bonds. We don't have any issues with execution. We do three of these a week. They are always oversubscribed. If we need to take inventory down for any reason, we will, so the entirety of the deal will be underwritten with our guarantee.*

*Mr. Miller: Who are the actual purchasers of these bonds?*

*Mr. Schwartz: High yield mutual funds, Goldman Sachs, Franklin Templeton, First Trust, Vanguard, etc.*

*Mr. Miller: There is no marketing to individuals then, it's all institutions.*

*Mr. Schwartz: For the most part. 95%. We are actually the largest privately retail brokerage for mutual bonds in the United States. We have about 50 retail professionals who sell to high net worth individuals, but our investment banking division does the vast majority of our business institutional. This is a very*



*quality credit from a credit perspective. It's a great community, good area, high land value. It is up the alley of some of our retail professionals to the extent that if they wanted to offer some of the bonds to a couple of their clients, we typically make it available, but I would say 95% of the deal will go institutional, if not all of it.*

Chairperson Stamp asked if there were any more questions; there were none.

Mr. Ward and Chairperson Stamp thanked Mr. Schwartz.

## **EIGHTH ORDER OF BUSINESS**

### **Staff Items**

#### **I. District General Counsel - Billing, Cochran, Lyles, Mauro & Ramsey, P.A.**

*Mr. Michael Pawelczyk stated he had no specific items to present. At the last meeting in May we authorized execution of the easement and the cost share agreement with the HOA. Those were executed shortly after your meeting with the HOA. That has been completed.*

*Mr. Bhatla: What is the status of the Bonita Springs emergency stormwater disposal? Have they voted on it?*

*Chairperson Stamp: That's all on hold. We haven't heard anything. The last feedback we heard from them they told staff they had to go back and do a lot more work. It has not been approved.*

*Mr. Bhatla: I would like to propose that we prepare a document for potentially receiving compensation if they use our property.*

*Mr. Ward: I would recommend, at least for now, as the Bonita Springs thing is on hold right now at the county level, to hold until this resurfaces again; that would be most appropriate time to do something.*

*Mr. Bhatla: I think we own the property and I think this hold essentially (indecipherable).*

*Mr. Ward: The agreement Bonita Springs wanted, the County was not in a position to enter into, and clearly, we objected also. So, there is no agreement in place. If they want to discharge water into the District's system at the moment, they have to go to South Florida Water Management District every single time and get approval to do that. The last big storm we had Bonita Springs flooded.*

*Mr. Bhatla: This doesn't mean we shouldn't be compensated because our property would be used for their benefit. We need to position ourselves and approach Bonita Springs for an agreement to be in place.*

*Chairperson Stamp: They are not going to agree to anything. The mechanism would be to sue them if they dumped water onto our property, because why would they agree to compensate us?*

*Mr. Bhatla: I think we should advance the cause at least and see what they say, because I think alternatively if they are forced, they will have to make arrangements to spend a lot of money. So, we*

*are on the receiving end and if we don't push for it, everybody is in their comfort zone, they don't care until an emergency is declared. If a true emergency is declared our property could be used.*

*Mr. Pawelczyk: This is the first I've heard of it. I haven't been asked to look into it before. So, I guess the first question I would have would be, if there are any prior easement rights in place for the City to discharge into the CDD system. If not, I think the supervisor is correct, there is a value to that, and there is an amount that can be attributed to that, but I am speaking in general terms because I don't have any history of this, but I could certainly speak to Jim and Jimmy. I don't know if we should spend a lot of time on it, but I think we should all know what the status is and be prepared to move forward if the CDD has any right to compensation.*

*Mr. Ward: I agree with Zach that with local governments in Florida you are never going to get an agreement. You can ask till the cows come home, but you're not going to get an agreement with Bonita Springs to compensate you. But the better question is, do we want an agreement that allows them to discharge that filthy dirty water into a preserve that we have now are in the process of spending three quarters of a million dollars to upgrade, so my response to you would be, we wouldn't want an agreement because we don't want that water discharging into those external preserves at all. In my opinion we should fight that, and we should not pursue an agreement. We should continue to work with Collier County to ensure that Bonita Springs cannot discharge that filthy water from that area of Bonita Springs that doesn't have a property drainage system into a multimillion dollar preserve. We have to push back.*

*Mr. Bhatla: When the emergency takes over nobody has any say in it, and I think in the interim, until a solution is found, I think we would like to be compensated because we are spending all that money on the preserves, and there is a case to be made, an environmental case to be made, that such an amount of water can be discharged, etc., in an emergency condition, and that is an option we are giving to Bonita Springs under emergency conditions, so we can be compensated.*

*Mr. Ward: I would strongly urge you not to put yourself in the position of trying to negotiate an agreement to allow them to put that water into our preserves. They are never going to agree to compensation.*

*Mr. Bhatla: We won't have a choice. Under emergency conditions it will be done.*

*Mr. Ward: Yes, but you're never going to get an agreement either.*

Discussion ensued regarding whether or not the District should work to get an agreement with Bonita Springs for compensation in exchange for allowing Bonita Springs to release stormwater into the preserve area in an emergency situation; whether it was worth the amount of money it would cost in engineering fees and legal fees to determine how much the preserves were worth in terms of the agreement.

Mr. Bhatla stated he wanted the engineers to determine how much the District should ask in exchange for release of water into the preserves.

Chairperson Stamp stated he would worry about what South Florida Water Management District would think about the CDD entering into an agreement seeming to imply that Bonita Springs had the right to release water into the District. He noted this would probably be in violation of the CDD's

permits and would probably also make it easier for SFWMD to say, “well, looks like you signed off on it, let’s just let it happen.”

*Mr. Bhatla: That will put the pressure on them to come up with an alternative. As I see it, we go along in two months, they have an emergency, it will be done, and here we are paying a lot of money for the preserves.*

*Mr. Miller: I think what I'm hearing from Jim is the whole thing is in remission right now. And what I'm hearing from Bart is essentially when the big emergency comes, they are going to do it anyway with or without permission. I don't understand that part. How would they just be able to do it without the approval from anybody?*

*Mr. Bhatla: This starts with the Governor of the State, and they give the authority to the South Florida Water Management District, and they will implement under an emergency, and I think all that is saving a great deal of money for Bonita Springs because they don't want to develop an alternative.*

*Mr. Miller: You think when the big number ten happens, South Florida Water Management District will give Bonita Springs permission to pump their water into the Esplanade preserves?*

*Mr. Bhatla: Yes.*

*Chairperson Stamp: But if you assume that, why wouldn't Bonita Springs say essentially “screw you, when the emergency comes, we are going to get to do this, so why should we sit down and sign an agreement with you?”*

*Mr. Bhatla: So, everybody is (indecipherable).*

*Chairperson Stamp: We are on record with South Florida, at a couple meetings, where I've testified, David Boguslawski testified, and we had previous legal counsel, and Jimmy testified, and we are pretty much on record about this.*

*Mr. Bhatla: What is the implication of all of that? It will just happen. I have looked into it. The stormwater is discharged into Corkscrew preserve, and that's allowed, and they do it.*

*Chairperson Stamp: Accepting your premise, why would you sign anything that said when the emergency comes, we are going to pay you?*

*Mr. Bhatla: It would be a regular payment regardless of an emergency because we are allowing them a contingency that if anything happens and we are spending money on our preserves, therefore, they should be paying us X amount every year and regulatory agencies are drawn in automatically because that is an alternative available unless they force them to come up with an alternative.*

*Chairperson Stamp: We can have Michael look into this, but again, I can't imagine South Florida Water Management District letting us sign a document saying we will accept \$50,000 dollars a year to give you the right to pump when the emergency comes.*

*Mr. Bhatla: The concept is this, the preserves, in an emergency, is considered an alternative for disposal. Alternatively, they could create another area which would cost them money. So, at least I envision they would have to pay us \$250,000 dollars every year, emergency or no emergency, because when an emergency happens, and those calculations can be made, they are very valid calculations. I think we should consider this.*

*Chairperson Stamp: Okay.*

## **II. District Engineer – Calvin, Giordano & Associates**

### **a. Engineer’s Report**

#### **1. Strategic Operational Plan**

##### **1) Current Operations**

- i. Landscape Maintenance**
- ii. Lake Maintenance**
- iii. Irrigation Pump House**
- iv. Entrance Maintenance**
- v. External Preserves Compliance**

##### **2) Capital Projects**

- i. Lake Bank Restoration**
- ii. Drainage System Maintenance**

##### **3) Future Operations**

##### **4) Prior Board inquiries**

*Chairperson Stamp noted Mr. Messick was not present. I have a comment on a couple of the items just for information.*

*Mr. Kleck: I was going to ask Richard before he left, is there any follow-up from Don with the crew on lake 7 where the bank is eroded from drainage issues?*

*Mr. Ward: We need to wait for the water levels to drop so we can go in and do the repair.*

*Mr. Kleck: Do they have a program when they went to kill the weeds in the lake and the lily pads and all that, is there a distance that they can go out into the lake to dispose or get rid of that? I noticed on most of the lakes there is a 25 to 30 foot area from the water level out that is all weeds and grasses. The middle looks great, but close to the lake bank it is different. Is there a restriction they are not coming up to the top of the water level by the bank?*

*Mr. Ward: Generally, it’s because they don’t grow there. That’s what I normally see in the areas. They usually will go out as far into the lake as they can grow. So, the bottom of the lake has to be no more than 3.5 to 4 feet, that will allow the littorals to grow. Any deeper they just won’t grow. That’s why you don’t always see them right up against the lake bank.*

*Chairperson Stamp: The irrigation pump house, as you know, we put money in the budget for next year for four pumps, and we are doing one already, and the way we are able to do that is we are not doing the backup well, so we are able to move that money over to get started on the pumps. For information of the Board, I’ve been in my car twice with my wife and almost hit bicycles coming out of the front gate down toward Immokalee, and they zip through that walkway on bikes and*

*you can't see them because of the shrubs and the monument, so we need to put a speed bump in there.*

Mr. Kleck discussed his similar experience.

*Chairperson Stamp: So, we are going to put a speed bump on the walkway to slow down the bikes.*

Discussion ensued regarding the speed bump and the bicycles.

Mr. Bhatla discussed the dangerous U-turn area.

### **III. District Manager – JPWard & Associates, LLC**

#### **a. Financial Statements for period ending May 31, 2024 (unaudited)**

#### **b. Financial Statements for period ending June 30, 2024 (unaudited)**

*Mr. Ward: We have two seats up for election, Zach's seat and Martinn's seat. No one qualified for seat 4, Martinn's seat, this year. So, the way the statute works, on the second Tuesday in November you have to declare the seat vacant, and you have 120 days from that date to either appoint the same individual or put another individual on the Board who meets the qualifications. That's just a qualified elector residing in the District. You will see a resolution on the Agenda in the fall that has that information on it.*

Discussion ensued regarding the empty seat and finding a candidate.

## **NINTH ORDER OF BUSINESS**

### **Supervisor's Requests**

*Chairperson Stamp: There is some information on fencing in the Board Packet. There are three or four different proposals for basically the same length with barbed wire. That's only for information. It's not an action item. We are going to continue to have discussions as we continue to have people jump the fence to come in and fish, and I know there are people concerned about whether they are coming in to fish or coming in to steal and just acting like they are fishing.*

*Mr. Kleck: What is the current height of the fence in place?*

*Mr. Ward: I think it's 6 feet.*

*Mr. Kleck: How high can we go?*

*Mr. Ward: With chain link fence you can go to 8 feet usually. I don't know about concrete fencing. Permitting is substantively more difficult. But you can probably change the height to whatever you want it to be.*

*Chairperson Stamp: It's not 6 feet most of the way around. It is around the (indecipherable), but it's easily jumped over by a 20 year old kid.*

Discussion continued about the fencing height and trespassers entering to fish, and the possibility of trespassers entering to steal under the pretense of fishing; the tearing down of no trespassing signs and fencing; the HOA receiving many complaints about trespassers fishing.

*Mr. Ward: We are going to keep this, the fencing, on the plate for the fall when we do the rest of our asset reviews, so you can have this in the scope of the larger picture that we are looking at this year.*

*Chairperson Stamp: We are not taking action on any of those fences. I wanted to get an idea of what the options were and what it would cost. We don't have the money in the budget for any of them.*

Discussion continued regarding the complaints about people fishing; someone's grandson being accused of being a trespasser; which lakes trespassers tended to fish on; people fishing in the Flow Way canal; and how big a problem this really was.

*Mr. David Boguslawski: I just want to say, I think, especially after the pocketbooks were stolen at the Waterside Shops and we had the cops come running through our neighborhoods and all, I think there was a heightened awareness of anybody wandering through our club, but there could be 2 to 4 kids fishing on any given day, especially in the front ponds of the community, and what you never want to have happen is have a member go out and challenge the kids and have the kids do something to the member and you have a member get hurt. The kids come in, they climb the fence, they walk across the dam, which is scary, so basically there is the "are we doing enough?" question. You have signs up. We are looking to put some signs up. We've actually had management go out and talk to the kids and they've committed to not come back and yet a week goes by, and they come back. The volume is not extreme, and we are changing out the gate access vendor too and we are going to engage the new vendor once they are here to do a little bit more than the current vendor. You just don't know what the liability risk to the club is and the members who are living there hate it. We have been very active in this space, but unsuccessful so far.*

## TENTH ORDER OF BUSINESS

## Public Comments

**Public Comments: Public comment period is for items NOT listed on the Agenda, comments are limited to three (3) minutes per person, assignment of speaking time is not permitted, however the Presiding Officer may extend or reduce the time for the public comment period consistent with Section 286.0114, Florida Statutes**

Chairperson Stamp asked if there were any comments.

*Mr. Boguslawski: You mentioned the issue at the front gate. We have actually met with Commissioner Saunders. We spent 2 hours with him and a team of a dozen people at their offices deep down at Collier County going through, putting a traffic light at our front exit, moving the U-turn, we went through all this stuff. We went with the leadership as well, and their comment to us, while they tried to be cooperative, their basic comment was "you and everyone else along Immokalee wants changes and we're not going to do anything." So, this happened quite some time ago. We've had more than one meeting. On the Bonita water dumping, yeah, you could make a showing to the regulator. To me the question is, can a regulator order a fee? If South Florida Water Management District cannot order a fee by Bonita to dump water, we are wasting our time. Yes, you can do a calculation that says an alternative is to put a stormwater drain or pipe to move the water past our preserves, and it's going to cost \$10 million dollars, amortized over 40 years that's \$250,000 dollars year. Anybody can do that calculation, but the key is how do you put it in place? It's not going to happen by leading with your chin and saying here's a proposal. If you go that route, then it starts getting triggered during non-emergencies potentially. To me, tickling the dragon is not where we want to be. Several of us spent a lot of time on*

*this issue when it was hot and talked through lots of the alternatives, and again, unless you have a hammer, they are not going to volunteer.*

**ELEVENTH ORDER OF BUSINESS**

**Announcement of Next Meeting**

**Announcement of Next Meeting – Regular Meeting August 15, 2024**

**TWELFTH ORDER OF BUSINESS**

**Adjournment**

The meeting was adjourned at approximately 2:15 p.m.

**On MOTION made by Tom Kleck, seconded by Bart Bhatla, and with all in favor, the Meeting was adjourned.**

Flow Way Community Development District

  
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James P. Ward, Secretary

  
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Zack Stamp, Chairperson