



Bayshore Gateway Triangle CRA • Bayshore Beautification MSTU
Haldeman Creek MSTU

Haldeman Creek MSTU Advisory Committee Meeting

AGENDA

February 6, 2023

3:30 PM

3299 Tamiami Trail E 3rd Floor BCC Chambers, Naples, Florida 34112

Acting Chairman Roy Wilson

Jacob Dutry van Haeften, James King, Bill Robbins, Robert Wopperer

- 1. Call to order and Roll Call**
- 2. Pledge of Allegiance**
- 3. Adoption of Agenda**
- 4. Approval of Minutes**
 - a. January 9, 2023 Minutes (Attachment)
- 5. Community / Business – Presentations**
- 6. Old Business**
- 7. New Business**
 - a. Haldeman Creek Water Quality Monitoring, Pollution Control
 - b. Draft Goals/Priorities (Attachment)
 - c. Advisory Committee Vacancy – Application James King (Attachment)**Action Item**
- 8. Staff Report**
 - a. Priority Project Report – (Attachment)
 - b. Financials- (Attachment)
- 9. Correspondence and Communication**
 - a. SFWMD Proposed Rules for Rule 40E-7, Florida Administrative Code (Attachment)
- 10. Public Comment**
- 11. Staff Comments:**
- 12. Advisory Board General Communications**
- 13. Next meeting date:**
 - a. Next Meeting TBD
 - b. BCC/CRA/MSTU Workshop TBD
- 14. Adjournment**

January 9, 2023 meeting minutes

Item 4a

HALDEMAN CREEK MSTU MINUTES OF THE JANUARY 9, 2023 MEETING

The meeting of the Haldeman Creek MSTU Advisory Committee was called to order by Roy Wilson at 3:30 p.m. at 3299 Tamiami Trail E, 3rd Floor BCC Chambers, Naples, FL 34112.

- I. **Roll Call:** Advisory Board Members Present: Chair, Roy Wilson, Robert Wopperer, and Jim King. Bill Robbins and Jacob Dutry van Haeften were approved to attend via zoom.

MSTU Staff Present: Debrah Forester, CRA Director, Cristina Perez, Program Manager and Shirley Garcia, Operations Support.

- II. **Pledge of Allegiance-** Was led by Roy Wilson

- III. **Adoption of Agenda:** Jim King made a motion to approve the agenda as written, second by Robert Wopperer. Approved unanimously.

- IV. **Adoption of Minutes:** Robert Wopperer made a motion to approve the minutes as written, second by Jim King. Approved unanimously.

- V. **Community / Business – Presentations**

- VI. **Old Business:**

- VII. **New Business:**

a. Election of Officers-

- i. **Chair** -Jim King made a motion to nominate Roy Wilson as Chair, second by Robert Wopperer. Approved unanimously.

- ii. **Vice Chair** – Jim King made a motion to nominate Robert Wopperer as Vice Chair, second by Roy Wilson. Approved unanimously.

- b. **State Scan of the Creek-** Pawel Brzsky, Capital Project Planning/Impact Fees/Program Management – Ms. Forester provided handouts for the committee to review since Mr. Brzsky was unable to attend. The information provided was from the State of Florida to the County Division to review and provide additional information. A summary report from Mr. Brzsky provided website links and email links for the committee and community members to send additional information if something was not noted on the reports, they felt relevant to the State's work details. The committee will share the information and let staff know if there should be additional debris in the waterways that was not on the report.



- c. **Bay Days Clean Up April 1, 2023** – Ms. Forester noted that Bay Days will be held on April 1st this year and if the Committee would like to participate like they did last year. After much discussion from the committee Mr. Wilson felt it would impede the State's efforts to clean the waterway and did not want to interfere with the contractors doing their work. If the State is done before Coastal Cleanup usually held in September, he felt it best to wait and do the cleanup in the fall. The consensus of the committee was to wait until coastal cleanup and see if the State has the debris and boats removed. CRA staff will note it and put the coastal cleanup on their fall agenda.
- d. **Haldeman Creek 2023 Meeting Calendar** – Ms. Forester noted the 2023 Calendar and asked if anyone had any changes or input because we have most of the meeting dates to be determined since there are limited action items expected in the short-term. The committee agreed to leave it as is and staff will let them know there is a need to meet.

VIII. Staff Report:

- a. **Priority Project Report-** Ms. Forester provided the new priority project report format and asked if anyone had any questions.
- b. **Financials-** Ms. Forester provided the financial report if anyone had any questions.

IX. Correspondence and Communications:

- a. **Quality of Place Award-** Attached was the photo of the award that was accepted by the BCC and Chair of the CRA and Bayshore Beautification MSTU from the Florida Chapter of the American Planning Association.

X. Public Comments:

- XI. Staff Comments:** Ms. Forester noted that the upcoming advisory committee reapplication for Mr. King was open and if the committee wanted to approve his application in February, we should have the February or early March meeting held.

- XII. Advisory Committee Comments:** Mr. King advised he would apply, and Mr. Wilson recommended having a February meeting since he will not be able to attend in person after February, he will be back north. The consensus of the committee agreed on Feb. 6.

Mr. Wilson requested an update on the water quality of the creek. Ms. Forester will request an update from the Pollution Control Division at the February meeting.

XIII. Next Meeting Date:

- a. **February 6, 2023 @ 3:30pm**

XIV. Adjournment: 4:50 pm

Approved by: Roy Wilson, Chairman

DRAFT Haldeman Creek Goals and Priorities 2023 -2024

FOR DISCUSSION

Goal 1	Maintain Channel Markers
Strategy 1:	Coordinate with Collier County and City of Naples to complete repairs
Strategy 2:	Coordinate quarterly observation of the creek and marker locations -recruit assistance from Advisory Board members
Goal 2:	Maintain a navigable canal system
Strategy 1 :	Complete periodical analysis of the creek Last Analysis completed in 2019 Anticipate every 3 to 5 years depending on the conditions Budget for future analysis - 2024 to determine impacts from Hurricane Ian
Strategy 2:	Participate in County-wide Dredge Permit Nationwide Permit Status Check NWP for SAJ-2003-06964 (Collier County-Haldeman Creek) - Expiration March 2022 Will process a new 5 year permit once nationwide permit is issued.
Strategy 3:	Budget review millage rate annually to prepare for future dredge needs Partner with Collier County on other dredge projects to reduce costs
Goal 3:	Educate the public on the maintaining the water quality of the creek
Strategy 1:	Coordinate with County and state agencies on clean up efforts
Strategy 2:	Circulate educational materials on waterway maintenance and clean water

Haldeman Creek Dredging MSTU Goals -2017		
Vision Statement:	The vision of the Haldeman Creek MSTU Advisory Committee is to have Haldeman Creek and adjoining waterways recognized as a well-maintained, navigable, clean waterway, and to be a good partner with adjoining waterways.	
Mission Statement:	The mission of the Haldeman Creek MSTU Advisory Committee is to provide oversight, direction, structure, and work programs to maintain and improve the Haldeman Creek waterway system.	
structure work programs oversight direction		
Goal 1	Make and Keep Haldeman Creek waterways navigable.	
	Objective 1.1	Replace channel markers that have been damaged or are in disrepair.
	Objective 1.2	Remove rock, that impedes navigation, when consistent with financial obligations / restrictions / limitations of the MSTU.
Goal 2	Provide millage oversight.	
	Objective 2.1	Establish an annual and long-term budget with millage recommendations to the BCC.

Goal 3	As an advisory committee, ensure equal representation of MSTU constituents from all regions of the MSTU area.	
Goal 4	Find a way to get agencies,that already exist, energized to work on Haldeman Creek maintenance related items and not supplant another agency's work.	
	Objective 4.1	An organizational chart will be established clarifying which agencies are useful to assisting the MSTU realizing its vision for Haldeman Creek and relationships with these agencies will be established for the purpose of having MSTU issues prioritized.
Goal 5	Make and keep Haldeman Creek waterways clean and safe.	
	Objective 5.1	Establish an educational outreach program to educate property owners and agencies how they can contribute to keeping Haldeman Creek clean.
	Objective 5.2	Establish relationships with appropriate law enforcement and code enforcement agencies to enforce related codes and laws related to Haldeman Creek.
	Objective 5.3	Establish a Maintenance Program.
Goal 6	The Haldeman Creek Dredge MSTU will occasional review and revise its goals and objectives to reflect the priorities of its constituents and recommend updates to the enabling ordinance as necessary.	
Goal 7	The MSTU Advisory Committee will develop partnerships with other organizations with compatible goals and organizations to strengthen its capacity to realize its vision.	

Advisory Board Application Form

Collier County Government
3299 Tamiami Trail East, Suite 800
Naples, FL 34112
(239) 252-8400

Application was received on: 1/10/2023 7:10:50 AM.

Name: James D. King II **Home Phone:** 239-821-8399

Home Address: 3308 Captains Cove

City: Naples **Zip Code:** 34112

Phone Numbers

Business:

E-Mail Address: jdkingii@comcast.net

Board or Committee: Haldeman Creek Dredging Maintenance MSTU Advisory Committee

Category: Not indicated

Place of Employment: Database Financial Solutions

How long have you lived in Collier County: more than 15

How many months out of the year do you reside in Collier County: I am a year-round resident

Have you been convicted or found guilty of a criminal offense (any level felony or first degree misdemeanor only)? No

Not Indicated

Do you or your employer do business with the County? No

Not Indicated

NOTE: All advisory board members must update their profile and notify the Board of County Commissioners in the event that their relationship changes relating to memberships of organizations that may benefit them in the outcome of advisory board recommendations or they enter into contracts with the County.

Would you and/or any organizations with which you are affiliated benefit from decisions or

recommendations made by this advisory board?

Are you a registered voter in Collier County?

Do you currently hold an elected office?

Do you now serve, or have you ever served on a Collier County board or committee?

Please list your community activities and positions held:

Education:

Experience / Background

Bayshore Gateway Triangle CRA Division Priority Projects Update District 4

January 30, 2023



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District 4- Priority Projects

Project	Slide #
17 acres Pedestrian Connection to Sugden Regional Park	3
Access Management Plan	4
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Del’s Corner	8
Hamilton Avenue Beautification Project	9
Bayshore MSTU Short Term Maintenance	10
Holly Avenue Assessment	11

17 Acre Pedestrian Connection to Sugden Regional Park

District #: 4
Project #: 50208

Funding Source: CRA
Project Manager: Tami Scott
Director: Debrah Forester, Director CRA

Project Scope: Design & permit pedestrian connection from Bayshore Drive to Sugden Regional Park. Tasks include:
Task 1 - Development of Conceptual Plan/Site Development Plan
Task 2 - Stormwater Analysis/Investigative Services
Task 3 - Construction Plans and Permitting
Task 4 - Bidding Services
Task 5 – Post Design Services

Design Costs: \$344,932.30
Construction Costs (Estimated): \$2,000,000 EST
Architect/Engineer: Stantec Consulting Services, Inc.
Board Approval Date: 5/24/22
Notice to Proceed Date: 6/10/22
Completion of Tasks 1-4 – May 16, 2023
Estimated Construction Date: 60% OPC provided 12-26-22

Bayshore Gateway Triangle CRA – 17.89 Acres Location Map



Milestones/Challenges to date: 1-30-2023

- 60% Plans presented to the Advisory Board on December 6 and the BCC on December 13, 2022.
- Staff has prepared overview of the option to build pathway along south side of Kelly Court at the request of the BCC. EOR presented concept to the CRA on 1-17-2023.
- Parking – draft sketch requested by the BCC on parking options has been completed– The proposed parking is shown at the corner of Jeepers and Bayshore and on parcel A.
- EOR has provided an OPC for 60% drawings and south side of Kelly Court.
- Community meeting held on January 21, 2023 to review the concept plan and alternative southern pathway and parking.
- Bring item back to the BCC in February 2023 prior to finalizing the 100% plans.
- Presentation was given on January 18, 2023 to the Parks and Rec Advisory Board, who supported the project.

DESCRIPTION OF WORK

% COMPLETE

DESCRIPTION OF WORK	% COMPLETE
Procurement	100%
Design	60%
Construction	0%

Access Management Plan

District #: 4
Project #: 50174

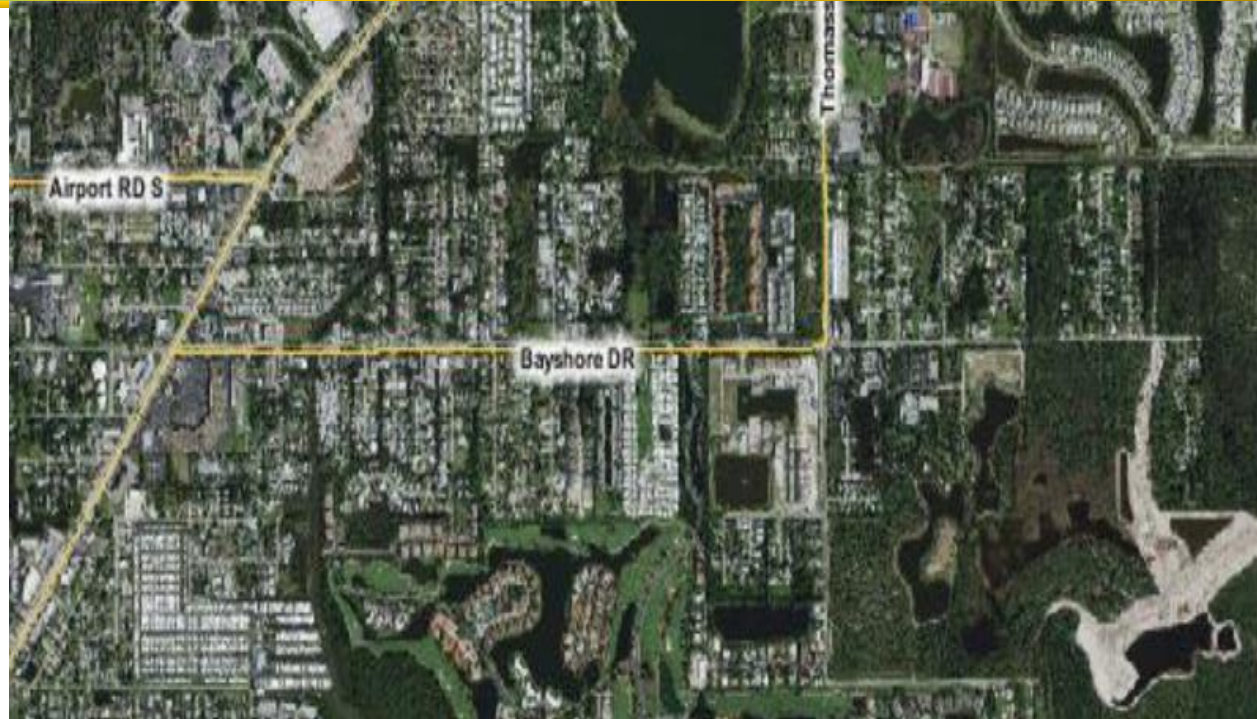
Funding Source: CRA and Bayshore Beautification MSTU
Project Manager: Tami Scott
Director: Debrah Forester

Project Scope: Access Management and Traffic Calming for Bayshore Drive.
US41 down to Thomasson Drive on Bayshore Drive
East/West sides of the roadway.

Design Costs: \$165,350.00
Architect/Engineer: Stantec Consulting Services, Inc.
General Contractor: N/A

Notice to Proceed Date: Design 11/29/2021 and
Kick off meeting held 1-20-2022
Change Order #1 approved.
Change order #2 pending approval.
Estimated Completion Date with CO#1: 3-6-2023
Change order #2 is being prepared to allow for an
addition 60 days.

New Completion Date with CO#2- 6-3-2023



Milestones/Challenges to date: 1-30-2023

- Meeting is scheduled for January 11 with Collier Transportation staff to review data and analysis and roundabout options.
- Transportation department has requested a meeting with CMO to discuss project, meeting has been scheduled for February XXXX
- Presentation to Advisory Board tentatively scheduled for March 2023
- Presentation to BCC tentatively scheduled for April 2023

DESCRIPTION OF WORK	% COMPLETE
Procurement	100%
Design	80%
Construction	0%

Bayshore Stormwater Phase 1

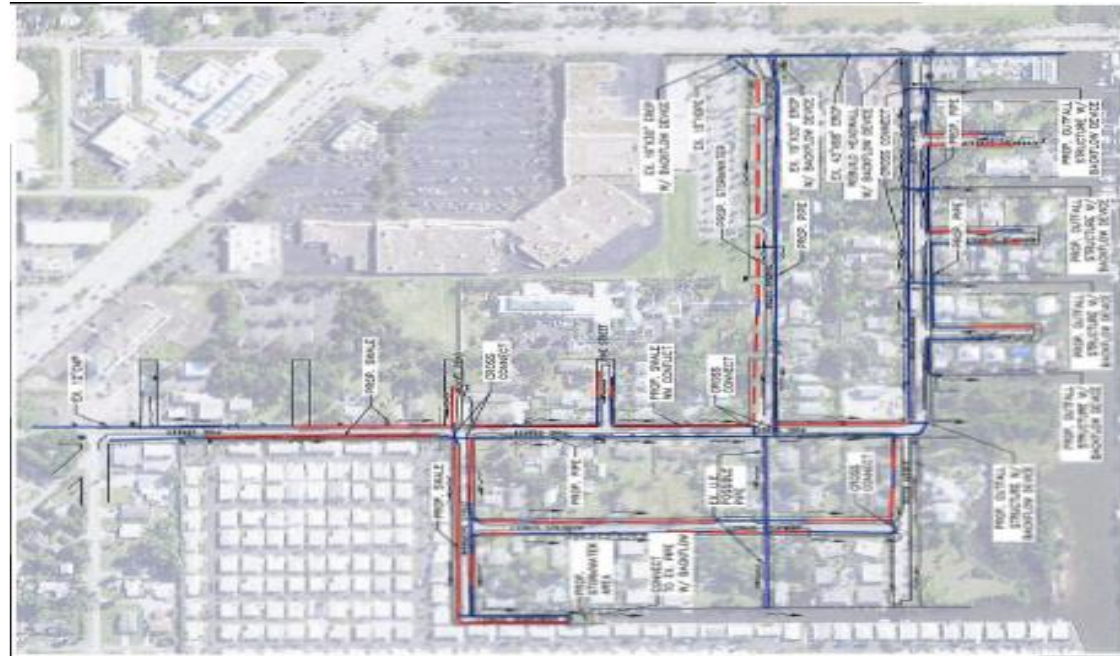
Commissioner District: 4
Project #: 50203

Funding Source: Bayshore CRA
Lead Project Manager: Richard Orth, Capital Improvements
CRA Project Manager: Tami Scott
Director: Debrah Forester
Project Scope: Stormwater study and design for Becca, Weeks, Pine.
Construction Budget: TBD
Architect/Engineer: Blot Engineer
Design Notice to Proceed Date: 11/16/21
Change Order approved -CO#1

Total Contract as of November 28, 2022: \$337,132
Contract Days – 1,320 includes post design services.

CRA Gateway Area 1 Pine Becca Week
Task -1 Utility Locates & Soft Digs-336 days
Task- 2 Survey- 336 days
Task- 3 Site Assessment-189 days
Task- 4 Design (& Task 5 Conflict Res.)- 392 days
Task- 6 Permitting- 266 days
Task -7 Bidding and Construction- 364 days
Task- 8 Project Closeout- 84 days

DESCRIPTION OF WORK	% COMPLETE
Procurement	100%
Design	30%
Construction	0%



Milestones/Challenges to date: 1-30-2023

- Change order #1 has been approved for the realignment of Weeks Avenue.
- Blot Engineering has provided for review the 30% drawings for the ROW alignment issue.
- Documents have been distributed to stormwater committee
- Review comments due back 1-20-2023
- General comment on realign weeks is that it is a much better design, however, will likely cost more to realign road and bury the 18" RCP.

Gateway Triangle Stormwater Phase 1

Commissioner District: 4
Project #: 50203

Funding Source: Bayshore CRA
Lead Project Manager: Richard Orth, Capital Improvements
CRA Project Manager: Tami Scott
Director: Debrah Forester

Project Scope: Bayside Street and Linwood Stormwater Improvements

Design Costs: \$257,542
Construction Budget: TBD
Architect/Engineer: Kissinger, Campo and Assoc
Status: work order and PO has been opened 1-13-2023
Design Notice to Proceed Date: January 16, 2023



Milestones/Challenges to date: 1-30-2023

- Engineer Firm Selection via Rotation process
- Work order completed and PO opened

DESCRIPTION OF WORK	% COMPLETE
Procurement	100%
Design	0%
Construction	0%

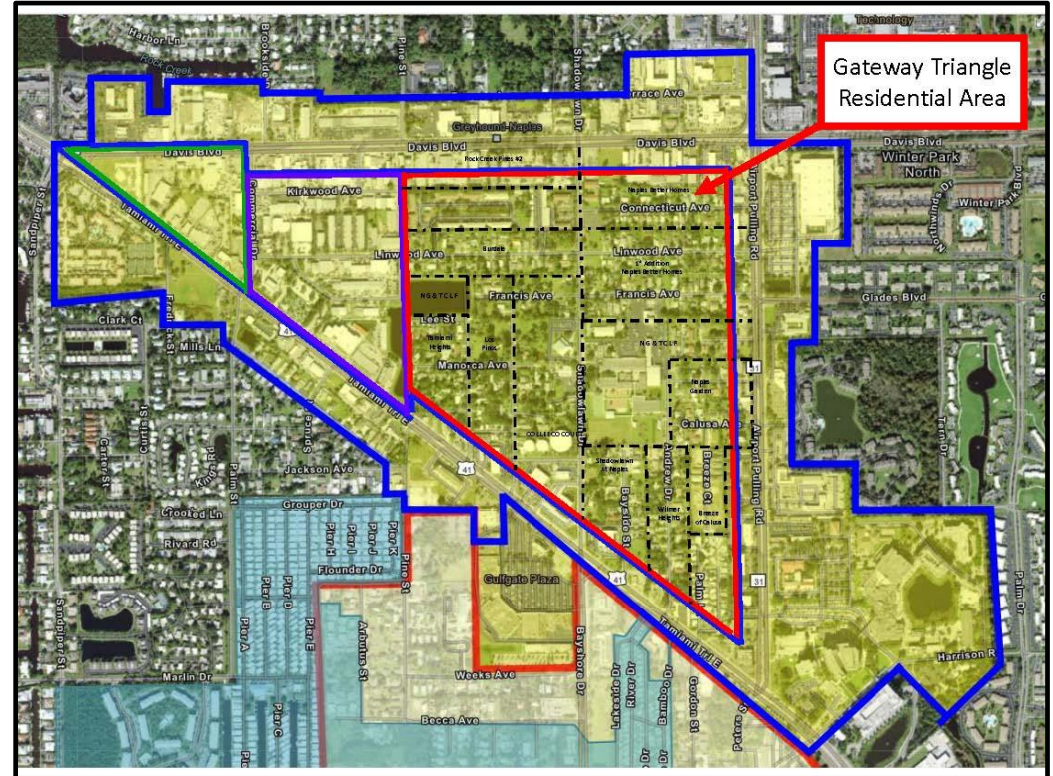
Gateway Triangle Master Plan

Commissioner District: 4
Project #: 50203

Funding Source: Bayshore CRA
CRA Project Manager: Cristina Perez
Director: Debrah Forester

Project Scope: Develop master plan for the Gateway Triangle neighborhood to further implement the BGTCRA Redevelopment Plan.

Design Costs: \$170,000 (estimate)
Architect/Engineer: Pending approval
Status: Drafting scope of work
Design Notice to Proceed Date: TBD



Milestones/Challenges to date: 1-30-2023

- Hurricane Ian severely impacted this area
- Area will be subdivided into neighborhoods/districts
- Scope of work drafted.
- CRA Advisory Board requested evaluation of Direct Select vs RFP process. Item will be brought forward at the February 9th meeting.
- Community Engagement process with residential neighborhood is scheduled for February 7th at the East Naples Baptist Church, 1697 Shadowlawn Drive.

DESCRIPTION OF WORK	% COMPLETE
Procurement	10%
Design	0%
Construction	0%

Del's Corner – Phase 2

Commissioner District: 4

Project #: 50206

Funding Source: Bayshore CRA

Project Manager: Debrah Forester

Director: Debrah Forester

Phase 1A- Demolition Completed

Demolition Budget: \$142,600

Final Completion: 10-6-2022

Phase 1B – Clearing

Project Scope: Remove exotics on Lot 4

Budget: \$17,325

Purchase Order opened January 24, 2023

Phase 2- Future Use Analysis

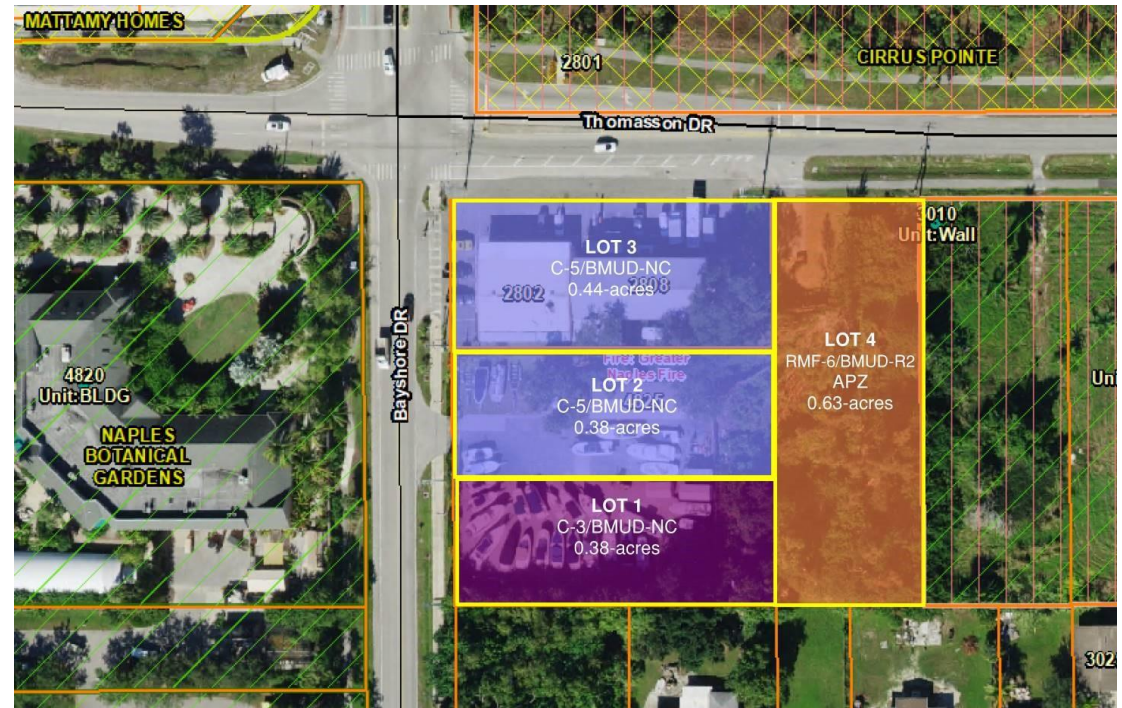
Project Scope- Public Input and site analysis – development of alternative development site plans based on public input.

Purchase Order: \$24,673

Design Notice to Proceed Date: February 1

Letter of Intent to Purchase Received December 12, 2022

CRA Advisory Board Presentation – January 12, 2023



Milestones/Challenges to date: 1-30-2023

Maintenance

- Lot 4 of the Del's purchase – vacant RMF-4 parcel has been hand cleared as allowed by code. Staff has received quotes for the removal of all exotics on that lot. and will proceed. Purchase Order was opened January 24, 2023. Vegetation Removal Permit was applied for on January 30th.
- New hose bib to be installed on the vacant grass area on Lot 3. Quote to replace fence due to Hurricane Ian damage pending.

Phase 2 - Community Engagement and Assessment – Stantec Consulting Scope of work approved by Advisory Board on December 6. Notice to Proceed pending approval from Procurement. Community visioning charette tentatively scheduled for mid-February.

Charette: February 25, 2023, Location: Naples Botanical Garden

DESCRIPTION OF WORK	% COMPLETE
Procurement	10%
Design	0%
Construction	0%

Hamilton Avenue Beautification

Commissioner District: 4

Project #: 50171

Funding Source: Bayshore MSTU/Parks & Recreation

Project Manager: Olivier Surreau

Project Scope: Construct 34 boat trailer parking spaces, multi-use path, streetlighting and landscape, new roadway, and sidewalks along Hamilton Avenue.

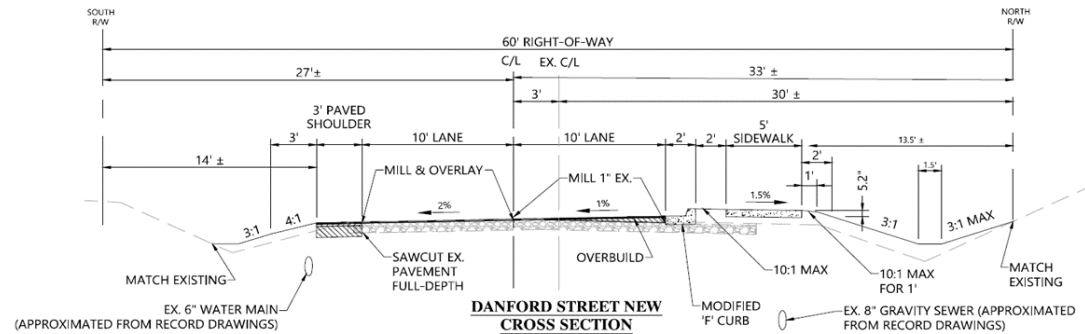
Construction Budget: \$3,246,304.75

Architect/Engineer: RWA

Design Notice to Proceed Date: 1-10-2022

Contractor : Haskins Construction

CEI Services: Johnson Engineering



Milestones/Challenges to date: 1-30-2023

- Project coming close to final completion, ROW inspection provided by Collier County, Haskins is wrapping up the punch list.
- Presentation was given on January 18 to the Parks & Rec Advisory Board.
- Parks and Recreation in the process of installing signage and trash cans along parking area.
- January 20 walking tour of area held to discuss landscape maintenance with contractor and Naples Botanical Garden.

DESCRIPTION OF WORK	% COMPLETE
Procurement	100%
Design	100%
Construction	95%

Bayshore MSTU On-Going Maintenance

District #: 4

Project #: Bayshore MSTU

Funding Source: Bayshore Beautification MSTU

Project Manager: Tami Scott

Director: Debrah Forester

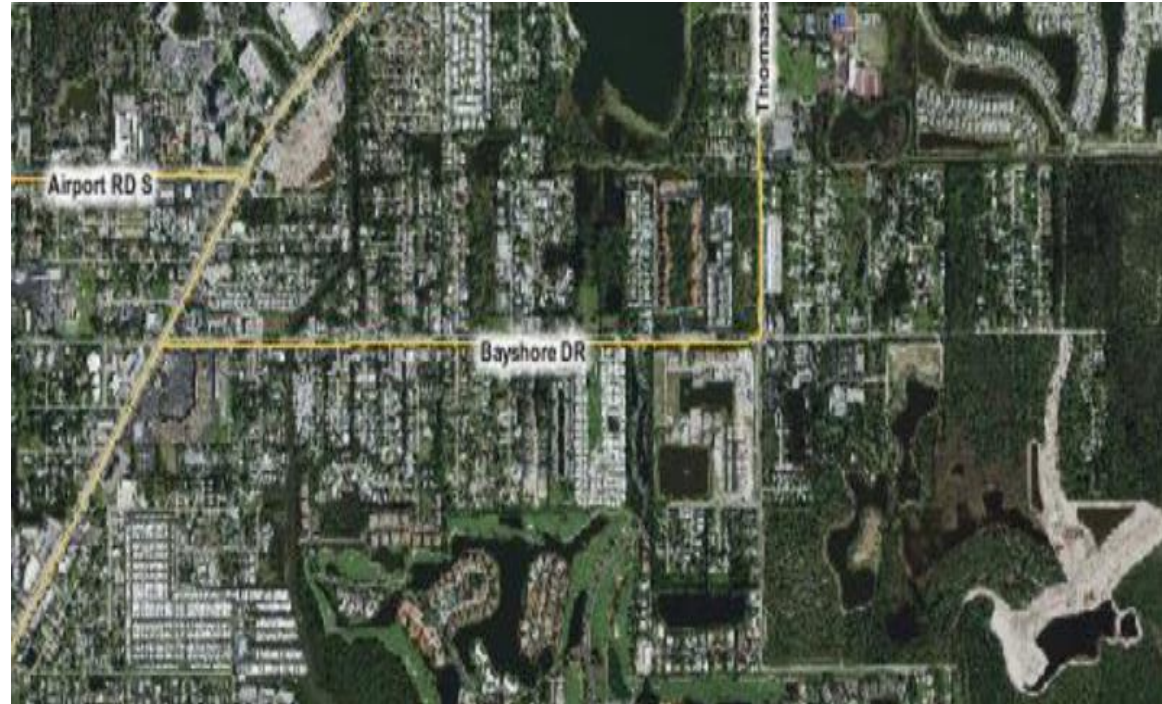
Project Scope: Coordinated maintenance and repairs within the Thomasson Drive, Bayshore Drive and Hamilton Avenue right-of-ways.

Landscape contractor – A&M

FY23 Annual Maintenance Contract: \$153,220.82

FY23 Annual Maintenance Incidentals Budget: \$70,000

Notice to Proceed Date: Nov. 12, 2019 (3-year contract)



Milestones/Challenges to date: 1-30-2023

- Median 23 - Staff received a quote for new ground cover in Median on Bayshore Drive \$8,000. MSTU approved the quote on 12-14-2022. Waiting on FDOT project to be completed prior to replanting, staff is working on PO.
- **Irrigation**
Electrical fire has been repaired
Motors have been replaced on both irrigation pumps
FLP pole has been reenergized
Breaker in panel has been replace
3 separate break in 3 separate locations to the 4" main line repairs completed.
- Large section of sidewalk to be replaced by RM on Bayshore, damaged from canopy Trees. MSTU staff met with RM on 1-11-2023 repairs are scheduled.
- January 11 MSTU Advisory Board approved the expenditure to remove the trees.

DESCRIPTION OF WORK

% COMPLETE

DESCRIPTION OF WORK	% COMPLETE
Procurement	100%
Ongoing Maintenance	25%

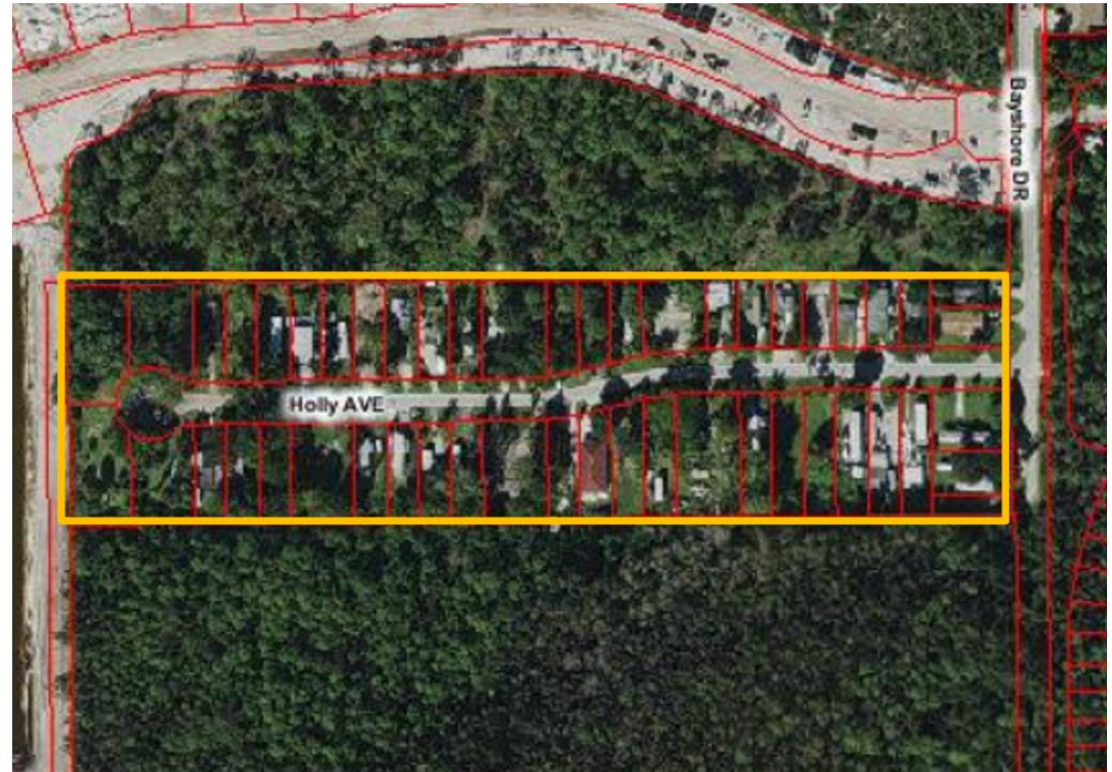
Holly Avenue Assessment

Commissioner District: 4
Project #: 50203

Funding Source: Bayshore CRA
CRA Project Manager: Cristina Perez
Director: Debrah Forester

Project Scope: Neighborhood assessment of potential opportunities for life quality enhancement to further implement the BGTCRA Redevelopment Plan.

Design Costs: TBD
Architect/Engineer: TBD
Status: Coordination of meetings to initiate assessment
Design Notice to Proceed Date: TBD



Milestones/Challenges to date: 1-30-2023

- Hurricane Ian severely impacted this area
- Resident requested a community meeting be held to gather input on needs and opportunities.
- County and Agency Staff met on January 19th to prepare for community meeting.
- Neighboring Gathering February 11th @ 9am-11am Location: CRA Property 4825 Bayshore Dr.

DESCRIPTION OF WORK	% COMPLETE
Procurement	0%
Design	0%
Construction	0%

Fund 164 Haldeman Creek MSTU

Fund / Comm Item	BCC Adopt Budget	Tot Amend Budget	Commitment	Actual	Available
**** Grand Total-Fund/ CI			8,887.50	144,607.53-	135,720.03
*** 164 HALDEMAN CREEK MSTU			8,887.50	144,607.53-	135,720.03
** REVENUE Sub Total	1,043,700.00-	1,052,112.50-		160,499.57-	891,612.93-
* REVENUE - OPERATING Su	192,000.00-	192,000.00-		160,499.57-	31,500.43-
311100 CUR AD VALORE	188,600.00-	188,600.00-		156,238.01-	32,361.99-
361170 OVERNIGHT INT				2,806.15-	2,806.15
361180 INVESTMENT IN	3,400.00-	3,400.00-		1,367.88-	2,032.12-
361320 INTEREST TAX				87.53-	87.53
* CONTRIBUTION AND TRANS	851,700.00-	860,112.50-			860,112.50-
486600 TRANS FROM PR					
486700 TRANS FROM TA					
489200 CARRY FORWARD	861,300.00-	861,300.00-			861,300.00-
489201 CARRY FORWARD		8,412.50-			8,412.50-
489900 NEG 5% EST RE	9,600.00	9,600.00			9,600.00
** EXPENSE Sub Total	1,043,700.00	1,052,112.50	8,887.50	15,892.04	1,027,332.96
* OPERATING EXPENSE	21,300.00	29,712.50	8,887.50	325.00	20,500.00
631400 ENG FEES		8,412.50	8,412.50		
634970 INDIRECT COST	500.00	500.00	250.00	250.00	
634980 INTERDEPT PAY	500.00	500.00			500.00
634999 OTHER CONTRAC	20,000.00	20,000.00			20,000.00
645100 INSURANCE GEN	300.00	300.00	225.00	75.00	
* TRANSFERS	11,300.00	11,300.00		11,300.00	
911870 TRANS TO 187	11,300.00	11,300.00		11,300.00	
* TRANSFER CONST	6,500.00	6,500.00		4,267.04	2,232.96
930600 PA BUDGET TR	1,800.00	1,800.00		642.28	1,157.72
930700 TC BUDGET TR	4,700.00	4,700.00		3,624.76	1,075.24
* RESERVES	1,004,600.00	1,004,600.00			1,004,600.00
993000 RESV FOR CAPI	1,004,600.00	1,004,600.00			1,004,600.00



**Manson
Bolves
Donaldson
Tanner**

Item 9a

Attorneys at Law
Integrity•Intelligence•Diligence

MEMORANDUM

TO: Florida Association of Special Districts

FROM: Manson Bolves Donaldson Tanner, P.A.

RE: SFWMD Proposed Rules for Rule 40E-7, Florida Administrative Code, Address Ongoing Operations and Maintenance Concerns Resulting from Aquatic Vegetation and Debris that Enters the District's Central and Southern Florida Flood Control Project

DATE: January 6, 2023

This memorandum provides an overview of the South Florida Water Management District's (District) rulemaking for Rule 40E-7, Florida Administrative Code, and provides insight on the draft rule language.

On December 8, 2022, the District's Governing Board approved publication of a Notice of Proposed Rule (Notice). The Notice was published in the Florida Administrative Register on December 27, 2022, and the District published draft rule language on January 5, 2023. The District's draft rule language includes 5 proposed rules, each rule is discussed in more detail below.¹

Draft Rule 40E-7.700, Florida Administrative Code, is a Policy and Purpose provision – it includes a description of the Central and Southern Florida Flood Control Project (C&SF System).

The C&SF System consists of 2,200 miles of canals, 2,100 miles of levees, over 1,500 water control structures, and 89 pump stations and these are recognized Works of the District (Works). The agency has the desire to prevent hazards from accumulating in the C&SF System and other Works and to keep these facilities free of vegetation, trash, and other debris. The draft rule identifies Collier, Broward, Glades, Hendry, Highlands, Lee, Martin, Miami-Dade, Okeechobee, Orange, Osceola, Palm Beach, Polk, and St. Lucie counties as specific areas of concern.² The draft rules are being promulgated to ensure that the District can carry out its mission without the destruction and financial burdens caused by aquatic vegetation, trash, and other

¹ The draft rule language is available at <https://www.sfwmd.gov/our-work/flood-control>

² Monroe County and Charlotte County are excluded from this list.

Tampa

Tallahassee

West Palm Beach

109 North Brush Street, Suite 300 Tampa, FL 33602 (T) 813.514.4700 (F) 813.514.4701

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debris that enter the C&SF System from secondary and tertiary water management systems owned and operated by water management system owners and special districts.

Draft Rule 40E-7.701, Florida Administrative Code, is a definitions provision and defines the following terms –

- 1) “C&SF System” is the Central and Southern Florida Flood Control Project³ as referenced in Chapter 373, Florida Statutes.

Note: The Central and Southern Florida Flood Control Project is not specifically defined within Chapter 373, Florida Statutes. There are numerous references to the project as a whole, but no explicit identification of canals, pumps, waterbodies, etc., exists. This term is also undefined in the District’s applicant’s handbook for consumptive use permitting. The undefined nature of this term has been criticized in other District rulemaking efforts. To date, no specific definition exists for this project.

- 2) “Works of the District” means the canals, levees, structures, lands, waterbodies, and other associated facilities that have been adopted as such by the South Florida Water Management District’s Governing Board.

Note: This definition is an adoption of Section 373.019(28), Florida Statutes. Section 373.084, Florida Statutes, gives the District the ability to permit, special districts, including water conservation districts, drainage, and other improvement districts, along with federal, state, and local government, the authority to operate and maintain District Works. Similar to the definition of C&SF System, there is no list or a clear identification of what exactly constitutes a Work. Noted above, the CS&F System includes thousands of miles of levees and canals, along with over 80 pump stations and 1,500 water control features. How is a special district supposed to know what is (or is not) a Work?

- 3) “Water management system owner” or “system owner” means the owner of any water management system or water management feature that connects to or makes use of the C&SF System or other Works.

Note: Presumably, this definition includes both stormwater and surface water management systems that connect to the C&SF System or other Works. This definition should be revised so special districts and other system owners can have a clear understanding of what types of systems connect to the larger system.

Draft Rule 40E-7.702, Florida Administrative Code, identifies the counties that are subject to these draft rules –

³ The Central and Southern Florida Flood Control Project was authorized by the Federal Governing in Section 203 of the Flood Control Act of 1948 (62 Stat. 1176) and was created by Chapter 25270, 1949 Laws of Florida.

All water management system owners, including special districts, within Collier, Broward, Glades, Hendry, Highlands, Lee, Martin, Miami-Dade, Okeechobee, Orange, Osceola, Palm Beach, Polk, and St. Lucie are subject to these rules.

Draft Rule 40E-7.703, Florida Administrative Code, includes required measures that special district and water management system owners must comply with –

Special districts and water management system owners shall establish a vegetation and debris management plan that will prevent the discharge of vegetation, trash, and other debris into the C&SF System or other Works through Best Management Practices (BMP). Plans must include an implementation and maintenance schedule with preventative BMP measures.⁴ Special districts and water management system owners are required to maintain records demonstrating its plan and obtain/maintain the requisite equipment. Special districts and water management system owners will be required to provide the District with a copy of these records upon request – failure to provide the records within 7 days is deemed a violation of these rules.

Draft Rule 40E-7.703, Florida Administrative Code, includes remedial actions the District will take to enforce compliance with these rules –

The District recognizes it can and will use all of the remedies available in Chapter 373, Florida Statutes, in enforcing compliance with these rules. Specifically, if the District determines that a special district or water management system owner is in violation or has violated these rules by failing to establish or implement a management plan, it will proceed with issuing a written notice.

A written notice may include the requirement to pay civil penalties up to \$15,000.00 per day, per violation. Special districts and water management system owners who receive a written notice shall respond to the written notice within 30 days and the response must include a management plan that complies with Rule 40E-7.703, above. Extensions of time for the response window will be provided for good cause if the request is made in writing.

Conclusion

Overall, there is an opportunity for the District to improve the draft rule and provide special districts and other water management system owners with a better understanding of who these rules will impact. At a minimum, the proposed definitions should be revised to provide additional clarity on the C&SF System and Works of the District. These definitions are critical building blocks and will determine the scope of the rules application and who are subject to these rules.

The District's first rulemaking workshop will be held on Tuesday, January 10, 2023. Public comment will be accepted during the meeting.

⁴ Preventative BMP measures include mechanical removal, herbicide application, and installation features that block transmission or facilitate removal (i.e., manatee grates).

40E-7.700 Policy and Purpose

The South Florida Water Management District (District) is responsible for the operation and maintenance of the Central and Southern Florida Flood Control Project (C&SF system) consisting of 2,200 miles of canals, 2,100 miles of levees, over 1,500 water control structures, and 89 pump stations. The C&SF system provides flood control, water supply, navigation, water management, and recreational benefits to South Florida. The District must maintain its Works, including the C&SF system, free of vegetation, trash, and other debris that can lead to blockage of canals and structures resulting in increased risks of flooding, navigational hazards, and impediments to water supply. Hazards arising from the accumulation of vegetation, trash, and other debris in the C&SF system are particularly prevalent in Collier, Broward, Glades, Hendry, Highlands, Lee, Martin, Miami-Dade, Okeechobee, Orange, Osceola, Palm Beach, Polk, and St. Lucie Counties. The rules in this chapter ensure the District's ability to carry out its responsibilities and objectives under Chapter 373, Florida Statutes, without the destruction and financial burdens caused by aquatic vegetation, trash, and other debris discharging into the C&SF system from secondary and tertiary water management systems owned and operated by water management system owners and special districts that connect to and make use of the C&SF system or other Works of the District.

Rulemaking Authority: 373.044, 373.113, F.S.

Laws Implemented: 373.085, 373.086, F.S.

40E-7.701 Definitions

- (1) "C&SF system" means the Central and Southern Florida Flood Control Project as referenced in Chapter 373, Florida Statutes.
- (2) "Works of the District" means the canals, levees, structures, lands, water bodies, and other associated facilities that have been adopted as such by the South Florida Water Management District's Governing Board.
- (3) "Water management system owner" or "system owner" means the owner of any water management system or water management feature that connects to or makes use of the C&SF system or other Works of the District.

Rulemaking Authority: 373.044, 373.113, F.S.

Laws Implemented: 373.085, 373.086, F.S.

40E-7.702 Regulated System Owners

All water management system owners, including special districts, located in Collier, Broward, Glades, Hendry, Highlands, Lee, Martin, Miami-Dade, Okeechobee, Orange, Osceola, Palm Beach, Polk, or St. Lucie County that connect to or make use of the C&SF system or other Works of the District for any purpose, are required to comply with the provisions of this rule chapter.

Rulemaking Authority: 373.044, 373.113, F.S.

Laws Implemented: 373.085, 373.086, F.S.

40E-7.703 Measures Required to Prevent Discharges of Aquatic Vegetation, Trash, and Other Debris into C&SF System or Other Works of the District

System owners shall establish and implement a vegetation and debris management plan (Management Plan) to prevent the discharge of aquatic vegetation, trash, and other debris into the C&SF system or other Works of the District through best management practices (BMP). The Management Plan must include an implementation and maintenance schedule with preventative BMP measures, which may include mechanical removal, herbicide application, and installation of features to block transmission and facilitate removal. System owners shall maintain records demonstrating implementation of the Management Plan and maintenance of any equipment required to implement the plan. System owners shall provide the Management Plan and implementation records to District staff upon request. Failure to provide the Management Plan or implementation records to the District within 7 days of the request shall constitute a violation of this rule chapter.

Rulemaking Authority: 373.044, 373.113, F.S.

Laws Implemented: 373.085, 373.086, F.S.

40E-7.704 Remedial Action

- (1) The District shall have all remedies available to it under Chapter 373, F.S., and the rules adopted thereunder to enforce compliance with this rule chapter.
- (2) If the District determines a system owner is violating or has violated the rules in this chapter by failing to establish or implement a Management Plan to prevent the discharge of aquatic vegetation, trash, and other debris into the C&SF system or other Works of the District:
 - (a) The system owner will be subject to enforcement actions by the District upon written notice, which may include the requirement to pay civil penalties of up to \$15,000.00 per day, per violation in accordance with Section 373.129(5), Florida Statutes.
 - (b) If the noticed violation includes the failure to establish or timely provide a Management Plan, the system owner shall respond in writing to the District's notice within 30 days, and the response must include a Management Plan that complies with 40E-7.703. An extension of time may be approved by the District upon a showing of good cause from the system owner submitted in writing to the District within the 30-day response window.

Rulemaking Authority: 373.044, 373.113, F.S.

Laws Implemented: 373.085, 373.086, 373.119, 373.129, F.S.