

**BAL HARBOUR VILLAGE COUNCIL MEETING MINUTES**  
**REGULAR MEETING – MAY 28, 2013**

The Regular Meeting of the Bal Harbour Village Council was held on Tuesday, May 28, 2013, at the Bal Harbour Village Hall Council Chambers (655 – 96<sup>th</sup> Street, Bal Harbour, Florida).

**1. CALL TO ORDER/ROLL CALL:** The meeting was called to order at 7:01 p.m. by Mayor Rosenfield. The following were present:

Mayor Jean Rosenfield  
Assistant Mayor Joni D. Blachar  
Councilwoman Patricia Cohen  
Councilman Martin Packer  
Councilman Jaime M. Sanz

Jay R. Smith, Interim Village Manager  
Ellisa L. Horvath, MMC, Village Clerk  
Richard J. Weiss, Village Attorney

As a quorum was determined to be present, the meeting commenced.

**2. PLEDGE OF ALLEGIANCE:** The Pledge was led by Attorney Dan Gelber.

Mayor Rosenfield reported that the General Employees Retirement Board Meeting was cancelled until June 18th.

**3. AGENDA: REQUEST FOR DELETIONS/ADDITIONS:** None.

**4. SPECIAL PRESENTATIONS:**

**Update on Beach Renourishment - Brian Flynn, Miami-Dade County:** Mr. Flynn reported on the following three upcoming projects for the Village: existing sand on the beach to be spread at the end of June, Army Corps of Engineers large beach renourishment project (to move the beach out 200 feet) at the end of August, and an Army Corps of Engineers project to re-dredge the Haulover Cut and place the sand on the beach following the large renourishment project.

**Update on Solid Waste/Recycling Service – John Lawson, Choice Environmental and Marc Wexler, Village Consultant:** Mr. John Lawson was not in attendance.

***Marc Wexler (Pro-Resource Solutions LLC) - Village Consultant,*** reviewed the report in the agenda and noted that the most important concerns of timing of collections and recycling were being worked on. Councilman Packer discussed concerns that recycling was being co-mingled with the garbage. Mr. Wexler reported that Choice used the same truck, so the garbage was dumped, then the recycling was collected. He will look into the concern and thought that a separate truck needed to be used. Mr. Wexler reported that garbage at some of the buildings was not being picked up daily. Councilman Packer noted

that it was unacceptable for the trucks to be late. Councilwoman Cohen noted that the garbage was co-mingled with the recycling, in the Gated Area. Assistant Mayor Blachar spoke against having to pay a consultant, since the Village already knew that Choice wasn't doing the job correctly. She clarified that if Choice didn't do the job correctly, then they would be fired. She discussed the five day notice in the contract. Councilman Sanz discussed the problem with missed garbage collections and agreed that if Choice couldn't do it properly, then the Village would find someone else.

Councilman Packer suggested that the County be used. Mr. Wexler clarified that the County didn't offer side/back door service, which the Village had. He clarified for the record that he didn't recommend Choice, but had put the bid together. Councilman Packer suggested that the collection be split (use the County on the east side and another company for the gated community, if they wanted white glove service). Mayor Rosenfield spoke against doing so and thought that one company should be used for the entire community. She discussed the importance of the garbage and recycling being separated and not co-mingled, as had been reported.

**Carlos Ramirez, Choice/WSI**, thought that the service had improved and requested the requirements that needed to be cured in five days. He noted that Choice was acquired by WSI.

The Council gave five days notice to Choice. Assistant Mayor Blachar suggested that Choice pay Mr. Wexler's bill.

Mr. Weiss suggested that the contract be reviewed and a letter with the cure period and default items be sent to Choice. Mr. Smith and Mr. Wexler will draft the letter to send to Choice.

**It was the consensus of the Council for Mr. Smith to speak with Mr. Wexler and send notice to Choice.**

**It was the consensus of the Council to consider Tab F out of order.**

#### **Tab F - Motion Approving Agreement with Pro Resource**

**Solutions LLC:** Authorization was requested to execute an agreement with Pro Resource Solutions (Marc Wexler), to provide consulting services on an as needed basis, at a rate of \$100 per hour.

Mr. Smith will request Choice/WSI to pay the bill for Mr. Wexler.

**It was the consensus of the Council for Mr. Smith to use Mr. Wexler, at a \$100 hourly rate and a cap of five hours.**

**Lynne Bloch Mullen - 10160 Collins Avenue**, complained about the garbage service.

Mayor Rosenfield requested that the complaints be provided to Mr. Smith.

**Brian Mulheren - 10245 Collins Avenue**, complained about the garbage service. He spoke against a consultant and in favor of going out to bid again. He discussed the violation of the contract.

**Ree Stoppa, 77 Camden Drive**, thought that the Village should consider taking the garbage/recycling service over again.

**Update on Traveling Nurse Program - Dr. Martin Karp, Miami-Dade County Public School Board Vice Chair:** Dr. Martin Karp thanked the Village again for its partnership with Miami-Dade County Public Schools.

**Leslie Rosenfeld, City of Miami Beach**, reported that the Miami Beach Chamber had received the grant (from the South Florida Health Foundation), but there was a stipulation by the granting agency that the funds would be given, on a matched basis. She noted that North Bay Village had approved their portion of the share, so all five municipalities had agreed to partner, to fund the traveling nurse. She was also optimistic that the Children's Trust would get involved.

**Ava Goldman – Miami Dade County Public Schools**, thanked the Village for its partnership, to enhance the nursing services.

**Wilma Steiner – Miami Dade County Public Schools**, discussed the importance of the nurse at the school. She reported that the nurse would spend one to two days, at each school, and noted that each school had a health facilitator.

Assistant Mayor Blachar questioned why the School Board didn't pay for the nurse. Dr. Karp offered to speak to the Superintendent about that additional service. He explained that he hadn't received any contact that the school needed that additional service. Assistant Mayor Blachar spoke in favor of Dr. Karp looking into the School Board budgeting to pay for the nurse. Dr. Karp noted that he also served on the Children's Trust.

**Update on Forfeiture Inquiry – Attorney Dan Gelber:** Mr. Gelber reported that the Department of Justice (DOJ) Office of the Inspector General investigation report should be completed in a couple of weeks/months. He discussed the issues, which were spending money from the federal asset forfeiture account on salaries and the proper documentation of overtime paid from that fund. He explained that the other allegations regarding the Police Department were not investigated by the DOJ and had been referred to a Miami-Dade County Internal Affairs Unit (by the Village), which they had declined to investigate. He was not aware of any other investigations. Mr. Gelber clarified that he had not seen the final report yet.

**Joe Imbesi - 175 Camden Drive**, noted that Chief Hunker had reported that the Village was still owed \$9 million in forfeiture funds and felt that the Village should make receiving that money a priority.

Mr. Weiss discussed different ways for the issue to be resolved and the priority not to use general fund taxpayer money to do so.

**Brian Mulheren - 10245 Collins Avenue**, noted that the Inspector General only did audits, not investigations. He clarified that the Federal Government had requested that the County not interfere with the investigation, which was being done by the Department of Justice, as noted in a letter from them. He added that the final audit had not been provided by Marcum yet.

Mr. Gelber reported that no letter had been received regarding a criminal investigation. He

added that the draft audit from Marcum (the Village auditors) had been provided to the DOJ.

Councilman Sanz voiced concern on who else was investigating the Village and could ask for money. Mr. Gelber clarified that the DOJ was trying to find out if the Village had properly spent federal forfeiture money. He wasn't aware of anything else that was an exposure/liability to the Village.

### **Presentation on the Third Annual PAL Awards Picnic –**

**Jose Andrade: Jose Andrade (former Village Police Officer) – Surf Bal Bay Police Athletic League (PAL) Director**, thanked the Village for its support of the PAL over the past nine years. He invited everyone to attend the picnic on June 1st.

## **5. CONSENT AGENDA:**

***Dina Cellini - 211 Bal Cross Drive***, requested that Tabs E and M be removed.

***Brian Mulheren - 10245 Collins Avenue***, requested that Tabs Tab D, F, G, I, and L be removed.

Councilman Packer requested that Tabs H and J be removed.

Approval was requested for the following remaining items:

Tab C: April 16, 2013 Regular Council Meeting Minutes  
May 6, 2013 Special Council Meeting Minutes

Tab K: \$13,585.10 in Water and Sewer funds for the emergency repairs done by Kailas Contractors to the sewer lateral in front of 241 Bal Cross Drive

***A motion was offered by Assistant Mayor Blachar and seconded by Councilman Sanz to approve Tabs C and K, on the Consent Agenda. The motion carried (5-0).***

### **Tab D - Motion Approving Purchase of Lighting Ballasts:**

Approval was requested for \$10,350.00 (Beautification and Maintenance Fund), to purchase 30 replacement lighting ballasts from Cardello Lighting, for the palm trees.

***Brian Mulheren - 10245 Collins Avenue***, suggested that the old lighting system be evaluated, for replacement/upgrading. Mr. Smith will provide a report on the 15 year old system, at the next meeting.

***A motion was offered by Councilman Packer and seconded by Assistant Mayor Blachar to approve Tab D. The motion carried (5-0).***

### **Tab E - Motion Approving Reappointment of Gated**

**Residential Section Advisory Committee (RAC) Members:** The Council was requested to consider the reappointment of Mr. Daniel Gold, Mr. Daniel Holder, Dr. Ira Lelchuk, and Mr. Stuart Sobel to the Gated Residential Section Advisory Committee, for another two-year term.

**Dina Cellini - 211 Bal Cross Drive**, spoke in favor of soliciting resumes from the residents, for all four positions. She noted that Mr. Gold's home was under contract and that, at the least, he should be replaced, instead of waiting until he left.

*A motion was offered by Councilman Packer and seconded by Councilman Sanz to solicit resumes for the four positions on the Gated Residential Section Advisory Committee (RAC). The motion carried (5-0).*

Assistant Mayor Blachar noted that the current Committee had done an outstanding job.

### **Tab G - Motion Approving Additional Palm Tree Maintenance**

**Work:** Approval was requested for \$12,605.00, for the additional scope of service for the Medjool Date Palms (\$5,460.00 rejuvenation for 13 additional trees and \$7,145.00 for seed removal).

**Brian Mulheren - 10245 Collins Avenue**, requested the amount that Brickman would credit the Village. He noted that the dates were still on some of the trees and were only being removed sporadically.

Councilman Packer commended Mr. O'Leary, for the rejuvenation work on the trees.

Mr. Smith additionally requested approval of \$4,680.00, to remove four Medjool Date Palms, on the south side of 96<sup>th</sup> Street (in Surfside), which needed to be relocated due to a construction project. Mr. Smith will look at locations, for the trees to be moved to.

*A motion was offered by Councilman Packer and seconded by Councilwoman Cohen to approve Tab G, as well as the additional \$4,680.00. The motion carried (5-0).*

### **Tab H - Motion Approving Repair Work for Sewer Pumps:**

Approval was requested for \$33,920.08 (Water Sewer Fund), for Hydra Service, Inc. to overhaul two sewer pumps.

**Peter Kunen, Craig A. Smith & Associates**, explained that only one proposal was solicited, since that company was the factory authorized representative for the pumps.

*A motion was offered by Councilman Packer and seconded by Councilman Sanz to approve Tab H. The motion carried (5-0).*

### **Tab I - Motion Approving Fire Hydrant Replacement at the**

**Balmoral:** Approval was requested for \$26,869.90 (Water Sewer Funds), for the emergency fire hydrant replacement done by Kailas Contractors, in the 9800 block of Collins Avenue.

**Brian Mulheren - 10245 Collins Avenue**, suggested that the entire hydrant system be evaluated, to determine if an upgrade was needed.

**Peter Kunen, Craig A. Smith & Associates**, explained the future report on the water utilities. He discussed the aged infrastructure and inoperable valves, which affected repairs. He discussed the process to replace a hydrant. He noted that an evaluation could be done of the hydrants, which could be addressed during the utilities project.

*A motion was offered by Assistant Mayor Blachar and seconded by Councilman Packer to approve Tab I. The motion carried (5-0).*

**Tab J - Motion Approving Emergency Water Break Repairs:**

Approval was requested for \$10,816.97 (Water Sewer Fund), for the emergency repair of the cracked line done by Kailas Contractors.

No comments were provided.

*A motion was offered by Assistant Mayor Blachar and seconded by Councilman Sanz to approve Tab J. The motion carried (5-0).*

**Tab L - Motion Approving Change Order #5 for Water Meter**

**Replacement at the Majestic Condominium:** Approval was requested for \$14,288.52 (Water Sewer Fund), for Change Order #5 to the Water Meter Replacement Project, done by Kailas Contractors.

***Brian Mulheren - 10245 Collins Avenue***, questioned why the old water meters hadn't been removed when the new ones were installed and why there weren't separate meters for the regular water and water for the lawns.

Councilman Packer requested that the Majestic's concerns regarding their increased water bill be addressed.

***Peter Kunen, CAS & Associates***, clarified that the thought had been to keep the old meters, as a backup system. He explained that they had since determined that the old meters were getting some water through old valves that did not close properly, which was why the old meters were now being removed.

Councilman Packer requested that the Majestic be given a credit. Mr. Kunen reported that he was looking at the issue with the Finance Department, to remedy that.

Councilman Sanz discussed the expenses spent and requested that the item be fixed the first time.

*A motion was offered by Councilman Packer and seconded by Councilwoman Cohen to approve Tab L. The motion carried (5-0).*

**Tab M - Motion Approving Mutual Aid Agreement with North**

**Miami Beach Police Department:** Approval was requested to re-enter into a Mutual Aid Agreement, with the City of North Miami Beach Police Department.

***Dina Cellini - 211 Bal Cross Drive***, reviewed Section V (Forfeiture) of the agreement and questioned if the Police Department was still engaged in forfeiture cooperation.

Mr. Weiss explained that was standard language in the mutual aid agreement, to provide for incidental forfeitures. He wasn't aware of any forfeiture items that the Village had gained through a mutual aid agreement.

*A motion was offered by Councilman Packer and seconded by Assistant Mayor Blachar to approve Tab M. The motion carried (5-0).*

**6. PUBLIC HEARINGS:**

Quasi-Judicial Public Hearings: None.

Zoning Hearings/Quasi-Judicial Public Hearings: None.

Ordinances Second Reading/Public Hearings: None.

Ordinances First Reading/Public Hearings: None.

Resolutions/Public Hearings: None.

*It was the consensus of the Council to consider Tab R, out of order.*

**Discussion of Village Manager Search:** Mayor Rosenfield reported that the Council had decided at the May 6<sup>th</sup> meeting, to look at a new methodology, to select the new Village Manager.

Assistant Mayor Blachar discussed the expenditure for the Stierheim search firm and the Council's decision not to hire Mr. Alexander. She spoke in favor of the Council considering David Hebert, who had been chosen as the Council's second top candidate, during the process with Mr. Stierheim. She noted that Darcee Siegel (Village resident and City of North Miami Beach Attorney) and Richard Kuper (Miami-Dade County League of Cities) had both noted the importance of having someone local and who was familiar with Florida statutes.

David Hebert was in attendance.

Councilman Packer spoke in favor of continuing the search with one of the two firms that provided proposals, since Mr. Stierheim's letter had indicated that he didn't want to continue.

Councilman Sanz requested to hear from the two firms that had provided proposals and discussed the importance of the selection of a Manager.

Assistant Mayor Blachar noted that Merrett Stierheim (Cannon Stierheim Productivity Management Teamwork) had indicated in his letter that he would, at no additional cost, review the resumes received from his search, as well as the applicants from the Town of Surfside search (to include those applicants that were not local). She again spoke in favor of Mr. Hebert, since he was the Council's second choice, and would not cost more money for another search.

***Sean Baenziger - Colin Baenziger & Associates***, distributed information and reviewed his proposal. He will review the Village's timeline and provide input.

***W.D. Higginbotham Jr. – Senior Vice President, The Mercer Group, Inc. (former Surfside Town Manager)***, distributed information and reviewed his proposal.

Councilman Packer suggested that the meeting be continued to another day, due to the time. The rest of the Council spoke against doing so.

Councilman Packer spoke against selecting a Manager, who came in second.

It was the consensus of the Council that additional time was needed, to review the proposals.

**Penny Sepler - 10275 Collins Avenue**, suggested speaking with Coral Gables and others, as a reference for Colin Baenziger & Associates. She spoke against continuing the entire meeting to another day.

A motion was offered by Councilman Packer and seconded by Councilman Sanz to defer the item to select a Village Manager search firm, to a Special Council Meeting, on June 4, 2013, at 6:00 p.m.

**Dan Holder - 24 Bal Bay Drive**, spoke in favor of the Council's second candidate, from the Stierheim search (David Hebert), if he was a good candidate.

The motion carried (4-1), with Assistant Mayor Blachar voting no.

## **7. ORDINANCES FIRST READING/PUBLIC INPUT:**

The following Ordinance was read by title, by Mrs. Horvath:

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE BAL HARBOUR VILLAGE CODE OF ORDINANCES, BY AMENDING SECTION 2-191 "SCHEDULE CIVIL PENALTIES" OF ARTICLE V "CODE ENFORCEMENT" OF CHAPTER 2 "ADMINISTRATION", AND BY AMENDING ARTICLE IV "DANGEROUS INTERSECTION SAFETY" OF CHAPTER 19 "TRAFFIC AND MOTOR VEHICLES" TO ENSURE CONSISTENCY WITH SECTION 316.0083, FLORIDA STATUTES, "THE MARK WANDALL TRAFFIC SAFETY ACT", AS AMENDED BY THE FLORIDA LEGISLATURE THROUGH THE ENACTMENT OF CS/CS/HB HOUSE BILL 7125 DURING THE 2013 LEGISLATIVE SESSION; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR CLERK DESIGNATED; PROVIDING FOR SAVINGS; PROVIDING FOR AN EFFECTIVE DATE.

A motion was offered by Councilman Packer and seconded by Councilman Sanz to approve the Ordinance.

Mayor Rosenfield requested public input. No comments were provided.

The motion carried (5-0), with the roll call vote as follows: Assistant Mayor Blachar yes; Councilwoman Cohen yes; Councilman Packer yes; Councilman Sanz yes; Mayor Rosenfield yes.

The following Ordinance was read by title, by Mrs. Horvath:

AN ORDINANCE OF BAL HARBOUR VILLAGE AMENDING THE BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2012, AND ENDING SEPTEMBER 30, 2013, AND ESTABLISHING AN EFFECTIVE DATE.

The following revised Ordinance title was provided by the Village Attorney:

**AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING ORDINANCE NO. 2012-563 WHICH ORDINANCE ADOPTED A BUDGET FOR THE 2012/2013 FISCAL YEAR BY REVISING THE 2012/2013 FISCAL YEAR OPERATING AND CAPITAL BUDGET AS OUTLINED IN EXHIBIT "A" ATTACHED HERETO; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.**

**A motion was offered by Assistant Mayor Blachar and seconded by Councilwoman Cohen to approve.**

Mayor Rosenfield requested public input.

**Dina Cellini - 211 Bal Cross Drive**, reviewed the Ordinance and requested confirmation that the total amount of the budget was \$22 million. She discussed the discrepancy of the Ordinance online and in the agenda.

Mr. Smith explained that the Village Attorney's office had provided a revised Ordinance, which was later revised online, and Ms. Cellini had the first version that was posted online.

**Chris Wallace, Finance Director**, reported that the total of all the Village funds was approximately \$22 million.

Ms. Cellini discussed the vehicle list. She suggested that the spare vehicles assigned to the Police Department be used, in lieu of absorbing some of the proposed vehicles with leases in excess of \$400 monthly. Mr. Smith explained that five of the leases would be returned shortly. He reviewed the list of spare vehicles. Ms. Cellini noted that there were still spare vehicles that could be used. She requested that the Ordinance be postponed, for further review of the issue.

Councilwoman Cohen requested a vehicle list.

No additional comments were provided.

**A motion was offered by Councilwoman Cohen and seconded by Councilman Sanz to defer the item. The motion carried (4-1), with Assistant Mayor Blachar voting no.**

## **8. RESOLUTIONS:**

The following Resolution was read by title, by Mrs. Horvath:

**A RESOLUTION OF BAL HARBOUR VILLAGE, FLORIDA, CERTIFYING SPECIAL ELECTION RESULTS; PROVIDING FOR AN EFFECTIVE DATE.**

**A motion was offered by Assistant Mayor Blachar and seconded by Councilwoman Cohen to approve the Resolution. The motion carried (5-0); thus becoming Resolution No. 2013-772.**

The following Resolution was read by title, by Mrs. Horvath:

**A RESOLUTION OF THE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, DIRECTING THE CREATION OF AN ANTI-BULLYING POLICY THAT**

ESTABLISHES AN AWARENESS CAMPAIGN AND REPORTING SYSTEM FOR BULLYING, HARASSMENT, AND INTIMIDATION OF CHILDREN IN VILLAGE FACILITIES; DIRECTING THE VILLAGE MANAGER TO CREATE A PROGRAM OF EDUCATION AND REPORTING OF BULLYING; AND REQUESTING SURROUNDING COMMUNITIES JOIN IN SUCH EFFORTS AND TO ESTABLISH A COLLABORATIVE INITIATIVE THROUGH AN INTERLOCAL BOARD TO DEVELOP AND IMPLEMENT AN AWARENESS CAMPAIGN AND ANTI-BULLYING POLICY; PROVIDING FOR AUTHORIZATION; PROVIDING FOR AN EFFECTIVE DATE.

*A motion was offered by Councilman Sanz and seconded by Councilman Packer to approve the Resolution. The motion carried (5-0); thus becoming Resolution No. 2013-773.*

## **9. REPORTS:**

### **A. VILLAGE MANAGER:**

**Discussion of Village Manager Search:** This item was discussed earlier in the meeting.

**Discussion of Budget Process:** Mr. Smith discussed the budget process and suggested that a Council Workshop meeting be scheduled, for further direction. The Council discussed scheduling a Council Workshop meeting.

Councilman Packer suggested that a budget committee be appointed. Councilman Sanz agreed. Mayor Rosenfield was not opposed to a Committee, but discussed the time limitation, as well as the public's ability to comment at the budget workshop meetings.

***Dina Cellini – 211 Bal Cross Drive***, agreed to serve on the Committee, upon the Council's request.

***Michael Krop - 9601 Collins Avenue***, spoke in favor of a budget committee and suggested that each Councilmember select a business person or someone with the proper skills. He agreed to serve on the Committee, upon the Council's request.

***Seth Salver - 10155 Collins Avenue***, expressed his interest to serve on the Committee, upon the Council's request.

***Beth Berkowitz - 10160 Collins Avenue***, declined to serve on the Committee, as she thought there were more qualified people that could serve.

Mr. Smith discussed the strain on Village staff for additional meetings and committees, which may necessitate work being outsourced.

*A motion was offered by Assistant Mayor Blachar and seconded by Councilman Sanz to appoint the following members to a Budget Committee: Councilman Martin Packer (Chair), Seth Salver, Michael Krop, Dina Cellini, and a member appointed by Councilman Packer to be ratified by the Council at the June 4<sup>th</sup> meeting. The motion carried (5-0).*

**Discussion of Interim Village Manager Salary – Mayor Rosenfield:** Mayor Rosenfield requested and the Council agreed to take this item out of

order. She suggested that Mr. Smith be compensated for his service as Interim Village Manager, retroactive to January 16, 2013.

*A motion was offered by Mayor Rosenfield and seconded by Assistant Mayor Blachar to approve an annual salary of \$150,000.00, for Mr. Smith to serve as Interim Village Manager, retroactive to January 16, 2013. The motion carried (5-0).*

**Discussion of Sewer Infrastructure Project: Greg Jeffries, CAS & Associates**, reviewed a Powerpoint presentation on the sewer infrastructure.

Mayor Rosenfield clarified that the sanitary sewer system was handled by the Village, but the drainage system was handled by the Department of Transportation (DOT). Mr. Jeffries agreed and added that some upcoming drainage improvements were planned. Councilman Packer questioned if any of that was the County's responsibility. Mr. Jeffries advised that it was not and clarified that the Village owned the sewer and water system, in the Village.

Mr. Jeffries reported that the next step was to formulate a proposal to bring to the Council, for consideration.

Mayor Rosenfield clarified that part of the project was to move the meters and the mains. Mr. Jeffries agreed.

***Peter Kunen – CAS & Associates***, discussed the building code changes to elevation, which encroached onto the water meter area making them difficult to access. He clarified that the water meters would be moved to the front, for easier access and to meet backflow requirements.

***Beth Berkowitz - 10160 Collins Avenue***, questioned if the project would correct the problem with flooding. Mr. Jeffries reported that would be a stormwater issue, handled by the Department of Transportation.

A workshop meeting will be scheduled for the project. Mr. Jeffries estimated the cost to be \$15 million.

**Request for Approval of Collins Avenue 12" Water Main Replacement Project: A motion was offered by Councilman Packer and seconded by Assistant Mayor Blachar to authorize Craig A. Smith and Associates to seek proposals for the project. The motion carried (5-0).**

**B. VILLAGE CLERK:**

**Lobbyist Registration Report: As of May 28, 2013:** The list of lobbyists was provided in the agenda.

**C. VILLAGE ATTORNEY:**

**Legal Opinions Related to Forfeiture Expenditures:** Mr. Weiss provided correspondence in the agenda, regarding the firm's legal opinions regarding the forfeiture expenditures, per Councilwoman Cohen's request.

Councilwoman Cohen discussed the emails, in which the Village Attorney had alerted Village staff not to use forfeiture funds for salaries or overtime. She requested to be advised when the staff was provided with an important opinion not to do something.

Mayor Rosenfield noted that there would be a lengthy discussion with the new manager regarding that.

Mr. Weiss clarified that the Village staff had always followed their advice, so he hadn't felt the need to follow up. He agreed to alert the Council, if something similar came up.

***Dina Cellini - 211 Bal Cross Drive***, discussed the need to hold the person responsible that didn't follow the Attorney's advice.

***Anamarie Stoppa - 77 Camden Drive***, agreed that those that didn't listen needed to be held accountable. She suggested that legal counsel be sought, to see what action could be taken.

Mayor Rosenfield questioned if it was a criminal act not to follow the advice of counsel. Mr. Weiss advised that it was not.

Councilman Cohen suggested that Mr. Gelber be asked. Mr. Weiss didn't see criminal intent. Assistant Mayor Blachar agreed.

***Dina Cellini - 211 Bal Cross Drive***, discussed civil liability for negligence. She suggested holding off to see the total expense and liability, and to revisit the issue at that time.

***Brian Mulheren - 10245 Collins Avenue***, discussed the staff who went against the advice of counsel and against the federal law. He felt that it was a breach of office of the Manager, Chief, and anyone else that disregarded the Attorney's advice. He thought that the Manager was responsible.

Mr. Weiss suggested that the investigation be finished, the Council hear from Mr. Gelber, and then the issue could be discussed.

**D. MAYOR AND COUNCIL:**

**Discussion of Interim Village Manager Salary – Mayor Rosenfield:** This item was discussed earlier in the meeting.

**Bus Shelter Update – Councilman Sanz: Peter Kunen - Craig A. Smith & Associates**, anticipated the project to be completed by the end of June, not including the paver design and landscaping. He will present a new paver to the Council, since the company for the prior paver selected went out of business.

Councilman Packer reminded the residents that the community wanted a custom shelter, not one from a catalog, which is what the other communities had done.

Mr. Smith reported that he had requested an extension until August.

Councilman Packer noted that Village had also received money, from the Consultatio Development Agreement, for the bus shelters.

**Brian Mulheren – 10245 Collins Avenue**, questioned why the process had been so slow for the shelters.

Mr. Kunen explained demolition of the old shelters, placement of concrete, and weather caused the delays.

Mr. Kunen will have some pavers for the June 4th Council meeting.

#### **Discussion of Park Land – Councilman Packer:**

Councilman Packer requested the Village Attorney to use any type of legal means to acquire the park land (in front of the residential gated area guardhouse on Harbour Way) property for the Village, for benches/artwork, since nobody owned it.

**It was the consensus of the council to do so.**

Assistant Mayor Blachar didn't have a problem with some benches and/or artwork at that location, but was against placing playground equipment there. Councilwoman Cohen and Councilman Packer agreed that it should be a green space area.

**Anamarie Stoppa - 77 Camden Drive**, noted that area was platted park land in the dedication and was granted for the use and enjoyment and was not deeded. She clarified that it was owned by the original developer.

Mr. Weiss will look into it.

#### **Discussion of Beach Exercise Course – Councilman**

**Packer:** Councilman Packer spoke in favor of an exercise course on the beach, which the Village had received money through the Consultatio Development Agreement to fund. Mayor Rosenfield suggested a survey of the residents, to determine interest for that. She discussed the old course that was removed, without complaints. Assistant Mayor Blachar spoke against using the money for exercise equipment on the beach and pointed out that it could be used for other things.

**The majority of the Council was against having beach exercise equipment on the beach (Councilman Packer was the only member in favor).**

#### **Discussion of Bus Route Modifications - Councilwoman**

**Cohen:** Councilwoman Cohen suggested that the item be discussed at another meeting, due to the time.

Assistant Mayor Blachar requested that the route include a stop at Mt. Sinai.

This item will be discussed another time.

### **10. OTHER BUSINESS:**

#### **Public Comment:**

**Dan Holder - 24 Bal Bay Drive**, discussed the lack of flags on the beach, denoting the

beach conditions. Mr. Smith will look into that.

**11. ADJOURN:** There being no further business, a motion was offered by Councilman Packer and seconded by Assistant Mayor Blachar to adjourn. The motion carried (5-0) and the meeting was adjourned at 11:43 p.m.

Attest:



Mayor Jean Rosenfield



Ellisa L. Horvath, MMG, Village Clerk