

**BAL HARBOUR VILLAGE COUNCIL MEETING MINUTES**  
**REGULAR MEETING – NOVEMBER 19, 2013**

The Regular Meeting of the Bal Harbour Village Council was held on Tuesday, November 19, 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

Jorge M. Gonzalez, Village Manager  
Ellisa L. Horvath, MMC, Village Clerk  
Richard J. Weiss, Village Attorney  
Jay R. Smith, Bal Harbour Village

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

**2. PLEDGE OF ALLEGIANCE:** The Pledge was led by Councilwoman Cohen.

**3. AGENDA: REQUEST FOR DELETIONS/ADDITIONS:** This item was discussed later in the meeting.

**4. SPECIAL PRESENTATIONS:**

**Oath of Office for Village Manager Jorge M. Gonzalez:** This item was done later in the meeting.

**Update on Beach Renourishment - Brian Flynn, Miami-Dade County:** This item was discussed later in the meeting.

**Viewing of “Trespassing Nature,” Winner of the Yale Environmental Film Festival – Javier Storch:** Mr. Storch presented his video.

**Presentation of Proclamation Recognizing November as Pancreatic Cancer Awareness Month:** This item was done later in the meeting.

**AGENDA: REQUEST FOR DELETIONS/ADDITIONS:**

None.

Mayor Rosenfield announced that the Council meetings were now being video recorded, in addition to audio.

Mayor Rosenfield commended Sergeant Deitado and Sergeant Young for their presentation at Michael Krop High School.

**5. CONSENT AGENDA:** Approval was requested for tabs B through E on the agenda.

Anamarie Kelly Stoppa – 77 Camden Drive, requested that Tab C be removed.

Brian Mulheren – 10245 Collins Avenue, requested that Tab E be removed.

Approval was requested for the following remaining items:

Tab B: Minutes: Regular Council Meeting (10/15/2013)  
Regular Council Meeting (03/21/2013)  
Regular Council Meeting (02/19/2013)

Tab D: \$7,320.00 for the Annual Snow Festival

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

**Tab C – Motion Approving the Following Recommendation of the Gated Residential Section Advisory Committee (RAC):** Approval was requested for the following:

- Landscaping Work in the 100 Block of Park Drive \$1,080.00

Anamarie Kelly Stoppa – 77 Camden Drive, spoke against the Council approving items for the Gated Area and the possibility of the Village having a prescriptive easement for that area, if it did. Mr. Weiss was looking at the issues raised by this and the Quarzo entrance.

**A motion was offered by Assistant Mayor Blachar and seconded by Councilwoman Cohen to approve Tab C. The motion carried (4-1), with Councilman Packer opposed.**

**Oath of Office for Village Manager Jorge M. Gonzalez:** Mrs. Horvath gave the oath of office to Mr. Gonzalez. Mr. Gonzalez thanked the Council for their appointment and the residents for their support.

**Tab E – Motion Approving Emergency Water Line Repairs:** Approval was requested for \$3,997.69, for Kailas Contractors to repair the water line in the 10200 block of Collins Avenue.

***Brian Mulheren - 10245 Collins Avenue***, spoke in favor of Consultatio paying for the repairs and reimbursing the Village for staff time, as well as providing a contribution to the Village for the inconvenience to residents, since they broke the water main.

Mr. Smith reported that Consultatio would pay for the water main that they broke, but this item was for another location (10205 Collins Avenue).

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

Update on Beach Renourishment - Brian Flynn, Miami-Dade

**County:** Mr. Flynn reported that sand would be pumped starting tonight or tomorrow morning. He explained that the project had been delayed, due to inclement weather. Mr. Gonzalez reported that his understanding was that proper notification had been sent to the oceanfront building managers, regarding the project. Mr. Flynn will notify the oceanfront buildings on the progression location of the work, in advance.

Mr. Gonzalez reported that Landscape Architect Bill O'Leary would be providing suggestions regarding the replenishment of the dune system. Mr. Gonzalez will provide pre-approval to reserve the sea oats and request purchase approval, at a future meeting. He noted that there were reserve funds in the resort tax budget, for beach renourishment projects.

Adam Petrillo -172 Camden Drive, spoke in favor of a study for a parallel reef or groin system, as a long term solution.

Mr. Flynn reported that the Army Corps of Engineers had designed a restructuring for new groins and funding was being worked on. Councilman Packer questioned the status of the sand transfer station. Mr. Flynn reported that the Interlocal Agreement needed to be approved by the County and the funding request was submitted to the State. He estimated that project for late 2015.

Neil Alter – 9801 Collins Avenue, questioned the cost for the groins, who would pay for them, and if resort tax funds could be used.

Mr. Flynn reported that project would most likely be a partnership between the State, County, Village, and Florida Inland Navigation District, at an estimated cost of \$11 million. Mr. Alter suggested that funding also be provided by the Army Corps of Engineers. Mr. Flynn discussed the difficulty in that.

Mayor Rosenfield requested that the item be placed on a future agenda.

Dan Holder – 24 Bal Bay Drive, discussed shredded tin cans on shore and suggested that the County maintain the beach more closely during the dredging. He also suggested that the Village negotiate with the oceanfront buildings, to block the openings behind their buildings (between the sand dunes) with sand bags, during hurricanes.

Stanley Tate – 9999 Collins Avenue, suggested that the Village file a petition through the Governor's office for funding, before the current legislative session started in two months. Mr. Gonzalez suggested that Village Lobbyist Ron Book include beach renourishment as a routine effort.

**6. PUBLIC HEARINGS:**

Quasi-Judicial Public Hearings: None.

Zoning Hearings/Quasi-Judicial Public Hearings: None.

**Ordinances Second Reading/Public Hearings:** The following Ordinance was read by title, by Mrs. Horvath:

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE VILLAGE CODE BY AMENDING CHAPTER 13 "PENSIONS AND RETIREMENT BENEFITS," BY AMENDING THE POLICE OFFICERS' PENSION PLAN AT SECTION 13-40 "DEFINITIONS," SECTION 13-41 "ELIGIBILITY," SECTION 13-48 "RETIREMENT BOARD," AND SECTION 13-49 "AMENDMENT, TERMINATION AND DISCONTINUANCE OF PLAN," AND SECTION 13-52 "MISCELLANEOUS PROVISIONS," TO COMPLY WITH FLORIDA LAW; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

**A motion was offered by Assistant Mayor Blachar and seconded by Councilman Sanz to approve the Ordinance.**

Mr. Gonzalez recommended that the item be continued until the next meeting.

Mayor Rosenfield opened the public hearing.

**A motion was offered by Councilman Packer and seconded by Councilman Sanz to continue the item to December 17, 2013, at 7:00 p.m. The motion passed (5-0).**

**Ordinances First Reading/Public Hearings:** None.

**Resolutions/Public Hearings:** None.

**7. ORDINANCES FIRST READING/PUBLIC INPUT:** None.

**8. RESOLUTIONS:** The following Resolution was read by title by Mrs. Horvath:

A RESOLUTION OF BAL HARBOUR VILLAGE, FLORIDA, ESTABLISHING SANITARY SEWER AND WATER RATES FOR THE 2013/2014 FISCAL YEAR; ESTABLISHING AN EFFECTIVE DATE.

Mr. Gonzalez explained that the water rate would remain at \$4.15 per thousand gallons and the sewer rate would increase from \$5.90 to \$6.60 per thousand gallons, in response to the cost charged by Miami-Dade County, at no financial benefit to the Village.

**A motion was offered by Assistant Mayor Blachar and seconded by Councilman Packer to approve the Resolution. The motion carried (5-0), thus becoming Resolution No. 2013-780.**

**Presentation of Proclamation Recognizing November as Pancreatic Cancer Awareness Month:** Mayor Rosenfield presented Jeanette Pressman, Pancreatic Cancer Action Network, with a Proclamation declaring November 2013 as Pancreatic Cancer Awareness Month. Ms. Pressman thanked the Council. Assistant Mayor Blachar encouraged awareness.

## **9. REPORTS:**

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

#### **Request for Ratification of Police Pension Board**

**Appointment:** Mr. Weiss explained that his office reviewed Ms. Cellini's suggestions and conferred with the State, which agreed that the Council needed to appoint the person selected by the Board.

**A motion was offered by Assistant Mayor Blachar and seconded by Councilman Sanz to ratify the appointment of Mr. Daniel Gold, as a trustee of the Police Officers' Pension Board. The motion carried (4-1), with Councilman Packer opposed.**

### **B. VILLAGE CLERK:**

#### **Lobbyist Registration Report: As of November 19, 2013:**

The report was provided in the agenda.

### **C. VILLAGE ATTORNEY:**

#### **Report on Architectural Review Board Authority:** Susan

L. Trevarthen – Village Attorney, summarized that the Village Code did not provide for the Board to review and approve Certificates of Appropriateness for the Business District (BD), which the Board was concerned about. She explained that the Board played a role in the site plan review process within the Business District, by providing recommendations to the Council. She noted that any changes in the Board's review would involve a Code amendment.

Stanley Tate – 9999 Collins Avenue, questioned the jurisdictional issues of the Board versus the Council's authority. Mr. Weiss will contact Mr. Tate to discuss his questions.

Doug Rudolph – 212 Bal Bay Drive, requested more information on the item.

Ms. Trevarthen provided additional information. She explained the Ordinance passed in November 2012, which provided a process for major site plan review by the Board, for the Business District. She explained that the Business District was exempt from review by the Board for other items for a Certificate of Appropriateness.

Mr. Weiss clarified that the Board had requested their powers to be expanded, to include review of the Business District.

Mr. Gonzalez clarified that if an item didn't meet the criteria of a major site plan review in the Business District, then it currently wouldn't be reviewed by the Board.

Amy Huber, Attorney (Shubin & Bass – 46 S.W. 1 Street, Third Floor, Miami, FL) - representing the Bal Harbour Shops, spoke against expanded Board jurisdiction, since the site plan ordinance already provided for their review. She voiced concern with the Board's request, which would require permits for changing the interior to the Shops, but exterior to the buildings (doors, windows, etc.), and would require repeated hearings and unburdened delay to the Shops' daily business and change of tenants.

Assistant Mayor Blachar agreed that the Village didn't want to micromanage the Shops.

Mr. Weiss didn't think it was the intention of the Council to micromanage the Shops, by being involved with the facades of the stores inside the shopping center. He will review the site plan ordinance, to make sure the exterior of the Shops was covered for paint color, etc.

Beth Berkowitz – 10160 Collins Avenue, spoke in favor of reviewing the exterior of the buildings in the Business District facing Collins Avenue, Park Drive, and Bal Bay Drive.

Anamarie Kelly Stoppa – 77 Camden Drive, spoke in favor of Board review.

Dina Cellini – 211 Bal Cross Drive, spoke in favor of Board review, excluding the storefronts of the individual stores. She noted the limitation on site plan review, which did not include external appearance.

Jose Biton – 168 Park Drive, spoke in favor of Board review, excluding storefront changes.

Dan Holder – 24 Bal Bay Drive, spoke in favor of Board review, as well as the importance of proper review of traffic and noise impact.

Mr. Gonzalez noted that it could be structured for Board approval, prior to Council review.

Ms. Trevarthen reviewed the site plan ordinance.

Mr. Gonzalez discussed the gap between a site plan review and regular review by the Board.

Isaac Salver – 10155 Collins Avenue (Bay Harbor Councilman), suggested that the Architectural Review Board be changed to a planning and zoning board, to separate the Council from the process.

Mayor Rosenfield requested Mr. Gonzalez to review the issue.

Stanley Tate – 9999 Collins Avenue, spoke in favor of Board review.

Mr. Gonzalez will provide something for the Council's consideration to include a Code amendment, requiring Board review for items viewed from the public right-of-way, and providing the Board with more authority.

Mr. Gonzalez discussed the process in Miami Beach.

Mr. Smith reported that the City of Aventura handled everything administratively. Mr. Gonzalez spoke against doing that.

Assistant Mayor Blachar spoke against creating another board and requested guidance from Mr. Gonzalez.

**Request for Executive Session:** Mr. Weiss requested an Executive Session for the litigation that the Bal Harbour Shops filed against the Village, dealing with the Fairfield Manor and the curb cut. He clarified that the litigation was pending dealing with the Council reversing the decision of the Building Official to grant the curb cut.

Mr. Weiss will schedule an Executive Session, if needed.

Anamarie Kelly Stoppa – 77 Camden Drive, requested that the Council discuss whether or not the streets in the Gated Area were a prescriptive easement to the Village. She requested that it be clarified that the streets were an easement and were not owned by anyone. She noted that the Church by the Sea was in the residential section and Camden Drive disappeared.

Dan Holder – 24 Bal Bay Drive, thanked Jay Smith for his work as Interim Village Manager.

**D. MAYOR AND COUNCIL:**

**Discussion of Value Adjustment Board Representation – Councilwoman Cohen:** Councilwoman Cohen discussed the possibility of the Village disputing the requests for reduced taxes. Mr. Gonzalez will research the amount of appeals granted last year and the affect on the Village.

Stanley Tate – 9999 Collins Avenue, explained the appeal process and reported that municipalities could appear before that Board.

Brian Mulheren – 10245 Collins Avenue, suggested that Mr. Gonzalez determine the cases to challenge and send a Village Attorney to represent the Village.

**A motion was offered by Councilwoman Cohen and seconded by Assistant Mayor Blachar for Mr. Gonzalez to establish some criteria of when the Village should dispute the requests for reduced taxes. The motion carried (5-0).**

**10. OTHER BUSINESS:**

**Public Comment:**

Brian Mulheren – 10245 Collins Avenue, spoke in favor of addressing the deteriorated beach path/signs during the beach renourishment project. Mr. Gonzalez was directed to look into that.

Doug Rudolph – 212 Bal Bay Drive, commended Jay Smith for his service as Interim Village Manager and welcomed Jorge Gonzalez.

Neil Alter – 9801 Collins Avenue, discussed the deteriorated sidewalks, specifically at 96<sup>th</sup> and Harding Avenue. Councilman Packer discussed the tripping hazard, due to the asphalt. Mr. Smith reported that the pavers for that area would be on the next agenda.

Councilman Packer discussed the Department of Transportation signs that were on the ground for two weeks (96<sup>th</sup> Street and Collins Avenue). Mr. Smith will have the signs picked up.

Beth Berkowitz – 10160 Collins Avenue, requested Council assistance in the lack of access to the beach, since the path next to the Consultatio project was closed. She also discussed the lack of parking at the lot under the bridge, due to the number of construction workers that parked there. Mr. Gonzalez will review the issue, but reported that Consultatio was looking into other access possibilities. Councilwoman Cohen spoke in favor of

Consultatio (Oceana) providing a small path for access.

Ms. Berkowitz also voiced concern with ticketing cyclists on the sidewalk, especially tourists, since it was dangerous for them to share Collins Avenue with construction vehicles. She also voiced concern regarding drivers parking on Bal Cross Drive, which weren't ticketed by the Police.

Mayor Rosenfield requested that the Police Department be directed to check the Bal Cross Drive area more often. She suggested that warnings be issued to cyclists on the sidewalks, but discussed the difficulty in tracking the amount of warnings given to the same person. Councilman Sanz spoke against cyclists on the sidewalks and noted that a path was provided for them to use, on the beach.

Penny Sepler – 10275 Collins Avenue, spoke against allowing bikes on the sidewalks.

Anamarie Kelly Stoppa – 77 Camden Drive, reported that the Consultatio Development Agreement required that they provide beach access. She spoke against allowing cyclists on the sidewalks. She suggested that the apartment buildings and hotels be notified that cyclists could ride on the beach bike path, as well as providing directional signage.

Mr. Gonzalez will provide Councilwoman Cohen with the procedure followed by Code Enforcement, for cyclists on the sidewalks.

Councilwoman Cohen spoke in favor of discussing the possibility of a bike lane.

Assistant Mayor Blachar spoke in favor of providing directional signs to the bike path, looking into providing a bike lane, and reviewing the Consultatio Development Agreement regarding the closure of their beach access path. She also requested that the construction workers be requested not to park at the lot under the bridge. Councilwoman Cohen didn't think the construction workers were for the Consultatio (Oceana) project.

Mr. Gonzalez will review the Development Agreement further, but thought that Consultatio had the right to close the access to the beach during construction.

Mayor Rosenfield expressed her gratitude to Jay Smith for his service as Interim Village Manager.

**11. ADJOURN:** There being no further business, a motion was offered by Assistant Mayor Blachar and seconded by Councilwoman Cohen to adjourn. The motion carried (5-0) and the meeting was adjourned at 9:30 p.m.

Attest:

  
Ellisa L. Horvath, MMC, Village Clerk

  
Mayor Jean Rosenfield