

**BAL HARBOUR VILLAGE COUNCIL MEETING MINUTES**  
**REGULAR MEETING – DECEMBER 17, 2013**

The Regular Meeting of the Bal Harbour Village Council was held on Tuesday, December 17, 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 7:00 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:** Mr. Gonzalez requested that Tabs D, L, and M be removed from the agenda. He clarified that Tab L was removed, since the contract was not finalized.

**4. SPECIAL PRESENTATIONS:** None.

Mr. Gonzalez introduced the new Police Chief, Mark Overton, and reviewed his resume.

Chief Overton addressed the Council, expressed his gratitude for the position, and welcomed community input.

Mayor Rosenfield and the Council welcomed Chief Overton to the Village.

**5. CONSENT AGENDA:**

Neil Alter – 9801 Collins Avenue, requested that Tab F be removed.

Approval was requested for the following remaining items:

Tab A: Minutes: Regular Council Meeting (11/19/2013)

Tab B: \$66,158.70 for the General Employee Bonus Program for 2013

- Tab C: \$2,830.00 for De Luca Air Conditioning and Refrigeration Services, Inc. to replace one of the air conditioning condenser units, at Village Hall
- Tab D: Removed from the agenda
- Tab E: Execution of Change Order #6 (\$71,624.42) to the Water Meter Installation Agreement with Kailas Construction
- Tab F: Removed from the agenda for discussion
- Tab G: **RESOLUTION NO. 2013-781**: A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, ESTABLISHING A MONEY PURCHASE RETIREMENT PLAN; EXECUTING A DECLARATION OF TRUST; AGREEING TO HAVE VILLAGE SERVE AS TRUSTEE; DESIGNATING THE VILLAGE MANAGER AS PLAN COORDINATOR; AUTHORIZING THE MAYOR TO EXECUTE THE ICMA RETIREMENT CORPORATION GOVERNMENTAL MONEY PURCHASE PLAN AND TRUST ADOPTION AGREEMENT ON BEHALF OF THE VILLAGE; AUTHORIZING THE MAYOR TO EXECUTE INCIDENTAL RELATED DOCUMENTS; AND PROVIDING AN EFFECTIVE DATE.
- Tab H: **RESOLUTION NO. 2013-782**: A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, ESTABLISHING A RETIREE HEALTH SAVINGS PLAN; EXECUTING A DECLARATION OF TRUST; AGREEING TO HAVE THE VILLAGE SERVE AS TRUSTEE; DESIGNATING THE VILLAGE MANAGER AS PLAN COORDINATOR; AUTHORIZING THE MAYOR TO EXECUTE THE ICMA RETIREMENT CORPORATION VANTAGECARE RHS PLAN DECLARATION OF TRUST, THE RETIREE WELFARE BENEFITS PLAN, AND THE VANTAGECARE RHS PLAN ADOPTION AGREEMENT ON BEHALF OF THE VILLAGE; AUTHORIZING THE MAYOR TO EXECUTE INCIDENTAL RELATED DOCUMENTS; AND PROVIDING AN EFFECTIVE DATE.
- Tab I: **RESOLUTION NO. 2013-783**: A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING AN AGREEMENT BETWEEN BAL HARBOUR VILLAGE AND THE STATE OF FLORIDA, OFFICE OF THE STATE ATTORNEY FOR THE ELEVENTH JUDICIAL CIRCUIT OF FLORIDA FOR THE REIMBURSEMENT OF THE COST OF STATE ATTORNEY PROSECUTIONS OF CERTAIN VIOLATIONS OF THE BAL HARBOUR VILLAGE CODE OF ORDINANCES; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

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

**Tab F – Motion Approving Replacement of Pavers at the 9600 Block of Harding Avenue:** Approval was requested of up to \$39,851.36, for paver replacement in the 9600 block of Harding Avenue.

Neil Alter – 9801 Collins Avenue, spoke in favor of installing the pavers.

Mr. Gonzalez reported that a replacement paver had been identified, but he would receive additional bids, in addition to considering other alternatives.

Councilman Packer suggested smooth concrete sidewalks, similar to those at the Consultatio project (Oceana), in lieu of the pavers, as a solution until all of the sidewalks were redone. Mr. Gonzalez agreed that pavers were not a good long term solution. Councilwoman Cohen discussed the mismatch of different materials used on various areas of the sidewalks and spoke in favor of reviewing the materials for all of the sidewalks.

Peter Kunen, Village Engineer – Craig A. Smith & Associates, reported that the pavers for the 9600 Block area had been removed last year, as part of the DOT project (summer 2012), and the paver style was no longer available. He recommended the concrete as a short term solution, until all of the sidewalks were reviewed. Mayor Rosenfield agreed.

Brian Mulheren – 10245 Collins Avenue, spoke in favor of using the proper concrete and also suggested replacing some of the other pavers with concrete, for uniformity.

Daniel Holder – 24 Bal Bay Drive, suggested contacting the County for the type of concrete they used, for minimal staining. He also suggested that all of the sidewalks be addressed, when the water lines were repaired.

Mr. Gonzalez requested authorization, in lieu of the pavers, to proceed with concrete as a temporary solution, to develop a comprehensive style, and bring back various options.

Penny Sepler – 10275 Collins Avenue, spoke in favor of using the same type of concrete that was used in front of the Oceana (Consultatio) project.

**A motion was offered by Councilman Packer and seconded by Councilwoman Cohen for the Village Manager to research and do a concrete solution, with a more comprehensive style in mind, instead of the pavers. 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:** 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.**

Mr. Gonzalez explained the Ordinance, which included a 300-hour cap on overtime (for pension calculations) and other minor administrative changes, as required by State law.

**A motion was offered by Assistant Mayor Blachar and seconded by Councilwoman**

**Cohen to approve the Ordinance.**

Mayor Rosenfield opened the public hearing. There being no comments, Mayor Rosenfield closed the public hearing.

**The motion carried (5-0), with the roll call vote as follows: Mayor Rosenfield yes; Assistant Mayor Blachar yes; Councilwoman Cohen yes; Councilman Packer yes; and Councilman Sanz yes; thus becoming Ordinance No. 2013-572.**

**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 THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; ACCEPTING A PROPOSAL FOR THE PROVISION OF AUDITING SERVICES FROM MARCUM, LLP.; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.**

Mr. Gonzalez explained the Resolution and recommended approval, due to time limitations to procure additional proposals. He expected to go out to bid for the services, in the future.

**A motion was offered by Assistant Mayor Blachar and seconded by Councilman Sanz to approve the Resolution. The motion carried (5-0), thus becoming Resolution No. 2013-784.**

**9. REPORTS:**

**A. VILLAGE MANAGER:**

**Approval of Recommendation of Gated Residential Section Advisory Committee for Approval of the Kent Security Agreement for Guardhouse Services:** This item was removed from the agenda.

**Approval of Change Order #3 and Landscaping Bid for the Bus Shelter Project:** This item was removed from the agenda.

**B. VILLAGE CLERK:**

**Lobbyist Registration Report: As of December 17, 2013:**  
The report was provided in the agenda, with no new registrants from the prior month.

**C. VILLAGE ATTORNEY:**

**Discussion Regarding the Status of the Ad Hoc Budget**

**Committee:** Mr. Weiss clarified that the Budget Committee was terminated, when the Village's budget was adopted. Mr. Gonzalez spoke in favor of a new Budget Committee, when the budget process started, and will provide guidelines to the Council regarding that.

Mr. Weiss requested direction from the Council on dealing with time consuming items from citizens (questions/calls/meetings), which may involve a cost. He explained that some letters from residents had requested legal advice, information, research, etc.

Assistant Mayor Blachar spoke in favor of Mr. Weiss continuing to handle the simple items and bringing anything more complicated to the Council for direction.

**It was the consensus of the Council for Mr. Weiss to forward the letters to the Council and if a Councilmember wanted a letter responded to, then it would be placed on the Council agenda to provide direction.**

Ree Stoppa – 77 Camden Drive, suggested following the Public Records Statue and providing requests in writing to Mrs. Horvath, to be forwarded to Mr. Weiss, for determination of the time and effort involved. Mr. Weiss reviewed the Public Records law procedure, which was followed by the Village. Ms. Stoppa was overall satisfied with the procedure followed by the Village, but requested to be told if a document she requested didn't exist.

Stanley Tate – 9999 Collins Avenue, noted that the Village Attorney was only obligated to report on the laws that had been passed and not on opinion, unless that opinion was accepted by the Council. He clarified that the Attorney was an employee of the Council, not the residents.

Mr. Weiss understood the consensus of the Council.

**D. MAYOR AND COUNCIL:**

**Consideration of Annual Performance Bonuses for the**

**Village Manager and Village Clerk:** Mr. Weiss reported that both the Village Manager and Village Clerk had historically received a five percent bonus (of their annual salary).

**A motion was offered by Assistant Mayor Blachar and seconded by Councilwoman Cohen to approve a five percent bonus for the Village Manager and Village Clerk. The motion carried (5-0).**

**10. OTHER BUSINESS:**

**Public Comment:**

Dan Holder – 24 Bal Bay Drive, spoke in favor of a smooth surface for the sidewalks and offered to work with Mr. Gonzalez, on the ADA requirements. He questioned the status of the annual letters sent to residents, for contributions to the Village Employee Holiday Fund. Mr. Weiss explained that the County Commission on Ethics and Public Trust had provided

an opinion that the Council was not permitted to send that type of letter, so it was discontinued.

Mr. Gonzalez explained that in lieu of the contributions from residents, the Village employees were eligible for an annual bonus and Village Hall would be closed early on Christmas Eve and New Year's Eve, in acknowledgement of their hard work. He added that any money that had been sent in for the Employee Holiday Fund would be returned. He added that the Village abided by the County Code of Ethics, regarding gifts to individual employees.

Stanley Tate – 9999 Collins Avenue and Bal Harbour Citizens Coalition Member, discussed the Coalition meeting and the uniform opinion of those in attendance against the proposed Shops expansion. He discussed the lack of the submittal of a traffic study report, for the expansion project. He spoke in favor of an independent traffic study, by the Village. He requested that the Council consider a 90-day moratorium on building permits, to allow investigation and review of the Shops expansion reports. Mr. Tate voiced concern about a lawsuit against the Village, if a permit for the Shops project was not issued timely, after the submittal of their plans.

Councilwoman Cohen explained that there would be complete Council review, prior to the issuance of any permit, and no permits had been issued for the Shops expansion. Mr. Gonzalez agreed and added that there wasn't a pending permit. Councilwoman Cohen spoke against the necessity for a moratorium.

Mr. Gonzalez clarified that the Village had received two versions (one including Village Hall and one not including Village Hall) of plans, for a proposed Shops expansion. He continued that the plans would not go through the building permit process or to the building department, until the site plan process was completed and Council approval was given. He explained that studies would be provided, as part of that review process, and the project would go through a very public process.

Councilman Packer discussed a pre-emptive traffic study, by an independent entity. Mr. Gonzalez spoke against a traffic study now, since the design/discussion could change and a traffic study would be done at the proper time. Mr. Weiss agreed and clarified that a traffic study was part of the site plan review process. Mr. Gonzalez clarified that there was no clock ticking at this time.

Ree Kelly – 77 Camden Drive, discussed the permit that was issued and rescinded for a curb cut on Bal Cross Drive (at Bal Harbour Shops), which the Village was now in mediation for. She noted that the Village's Traffic Engineering Firm reviewed the traffic study, provided by the Consultatio project, and the Village didn't conduct an independent study. She spoke in favor of a moratorium, for review of the methodology of permitting (proof of ownership, etc.). She spoke against using the County Property Appraiser site as proof of ownership, since it had a disclaimer on it and had inaccurate information on ownership.

Neil Alter – 9801 Collins Avenue, discussed the Coalition meeting regarding the Shops expansion, which Councilwoman Cohen, Councilman Packer, and Mr. Gonzalez attended. He invited the Councilmembers to attend the Coalition meetings, to gain the views of the community. He discussed the project's impact on traffic and public safety. He spoke in favor of a moratorium.

Assistant Mayor Blachar noted that the Council meetings provided the proper forum, for residents to advise the Council, about their views regarding the Shops expansion project.

Brian Mulheren – 10245 Collins Avenue, discussed the Coalition meeting. He spoke in favor of a proper traffic study for the Shops expansion project. He also spoke in favor of reviewing the permits that were given for the Quarzo project and in favor of a moratorium.

Beth Berkowitz – 10160 Collins Avenue, spoke against setting criteria on residents having their questions answered by the Village Attorney. She didn't think the residents were being heard at the Council meetings and spoke in favor of an open forum.

Assistant Mayor Blachar spoke against being penalized for not attending the Coalition meeting and spoke in favor of residents also attending the Council meetings, to voice their concerns.

Mayor Rosenfield noted that the Council did listen to the residents and it was unfair to say the Council didn't attend the Coalition meeting or didn't allow people to speak. She discussed the rules that were adopted by the Council, for its meetings.

Stuart Sobel – 271 Bal Cross Drive, explained that the residents elected the Council to make the decisions for them. He thought that the Council did allow people to speak numerous/extended times at the meetings. He spoke against a moratorium.

Councilwoman Cohen was not against reviewing the process that staff followed. She suggested that Mr. Gonzalez review the building permit process.

Mr. Gonzalez noted that it wasn't an unusual process for a city to have an independent person review a presented traffic study, but he would recommend that the Village do its own traffic study for the Shops expansion, when the time was right. He agreed to review the overall building permit process (ownership issues, etc.).

Councilwoman Cohen discussed the Village allowing the Applicants to speak for an unlimited time, while the residents could only speak for a limited time. Mayor Rosenfield explained the meeting process. She discussed the impact on the Village's traffic, from other areas.

Stanley Tate – 9999 Collins Avenue, noted that Alan Tinter (Traffic Engineer) was hired by both the Consultatio Developer and the Village, for the Consultatio project traffic study. He reviewed a letter dated December 20, 2012, from Mr. Tinter to Alfred Treppeda (Village Manager).

Mr. Gonzalez clarified that his understanding was that the Consultatio Developer used The Corradino Group (Traffic Engineers) to do their traffic study and the Village hired Alan Tinter to review that traffic study.

Anamarie Kelly Stoppa – 77 Camden Drive, spoke in favor of investigating the recordation of an easement in which the Quarzo was forced to pay the Civic Association \$5,000.00, for land whose ownership was being discussed. She spoke in favor of action on who owned that street and if the Civic Association had the right to charge anyone for that easement.

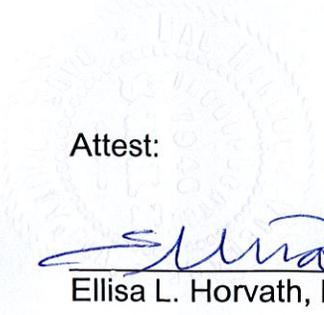
Councilwoman Cohen spoke in favor of a public event, to introduce the new Village Manager and Police Chief. **It was the consensus of the Council to do so.**

Assistant Mayor Blachar requested that the Village look into providing the information on Channel 77 through other entities, since some residents didn't have that cable company. Mr. Gonzalez will look into that.

Councilman Sanz spoke in favor of increased transparency and a strong Building Official. Councilwoman Cohen spoke in favor of an in-house Building Official.

**11. ADJOURN:** There being no further business, a motion was offered by Councilwoman Cohen and seconded by Assistant Mayor Blachar to adjourn. The motion carried (5-0) and the meeting was adjourned at 8:57 p.m.

Attest:



  
Ellisa L. Horvath, MMC, Village Clerk

  
Mayor Jean Rosenfield