

BAL HARBOUR

- V I L L A G E -

Councilman David Albaum
Councilwoman Patricia Cohen
Councilman Jeffrey Freimark
Councilman Gabriel Groisman
Councilman Seth E. Salver

Village Manager Jorge M. Gonzalez
Village Clerk Dwight S. Danie
Village Attorneys Weiss Serota
Helfman Cole & Bierman, P.L.

VILLAGE COUNCIL REGULAR MEETING AGENDA NOVEMBER 22, 2016 AT 7:00 P.M.

Bal Harbour Village Hall · 655 - 96th Street · Bal Harbour · Florida 33154

CALL TO ORDER/PLEDGE OF ALLEGIANCE

REQUESTS FOR ADDITIONS, WITHDRAWALS AND DEFERRALS

PRESENTATIONS AND AWARDS

REGULAR COUNCIL MEETING AGENDA

CONSENT AGENDA

C6 - COUNCIL MINUTES

- C6A** August, 2, 2016 Special Council Meeting Minutes
- C6B** September 30, 2016 Public Meeting and Executive Session Minutes
- C6C** October 31, 2016 Regular Council Meeting Minutes

C7 - RESOLUTIONS

- C7A** A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; AUTHORIZING AND APPROVING THE DONATION OF \$5,000.00 OF LAW ENFORCEMENT TRUST FUNDS TO "DO THE RIGHT THING OF MIAMI, INC."; PROVIDING FOR IMPLEMENTATION; AND PROVIDING AN EFFECTIVE DATE.

(POLICE DEPARTMENT)

- C7B** A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; DESIGNATING USED IPADS AS SURPLUS PROPERTY; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

(INFORMATION TECHNOLOGY)

R5 - ORDINANCES

- R5A** AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE VILLAGE CODE BY AMENDING CHAPTER 13, "PENSIONS AND RETIREMENT BENEFITS," IN ACCORDANCE WITH THE FAVORABLE DETERMINATION LETTER FROM THE INTERNAL REVENUE SERVICE; BY AMENDING THE POLICE OFFICERS' PENSION PLAN AT SECTION 13-42 "SAME-RETIREMENT DATES AND RETIREMENT BENEFITS", SECTION 13-45 "SAME-TERMINATION OF EMPLOYMENT", SECTION 13-49 "SAME-AMENDMENT, TERMINATION AND DISCONTINUATION OF PLAN"; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE. (First Reading)

(VILLAGE MANGER)

R7 - RESOLUTIONS

- R7A** A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; AFFIRMING THE VILLAGE'S OPPOSITION TO THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP) AND ENVIRONMENTAL REGULATION COMMISSION'S WEAKENING OF HUMAN HEALTH PROTECTIONS THROUGH NEW HUMAN HEALTH-BASED WATER QUALITY CRITERIA FOR OUR WATERS; URGING THE U.S. ENVIRONMENTAL PROTECTION AGENCY TO NOT APPROVE FLORIDA'S PROPOSED HUMAN HEALTH-BASED WATER QUALITY CRITERIA; DIRECTING THE APPROPRIATE VILLAGE OFFICIALS TO TAKE ANY AND ALL ACTIONS NECESSARY TO EFFECTUATE THE INTENT OF THIS RESOLUTION; DIRECTING THE VILLAGE CLERK TO TRANSMIT A COPY OF THIS RESOLUTION TO THE U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA), ALL STATE REPRESENTATIVES AND SENATORS REPRESENTING BAL HARBOUR VILLAGE AND THE OFFICE OF THE GOVERNOR; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

(VILLAGE MANAGER)

R9 - NEW BUSINESS AND COUNCIL DISCUSSION

- R9A** 2017 Meeting dates - Discussion of tentative dates for Council meetings in calendar year 2017.

- R9B** Public Comment

R10 - VILLAGE MANAGER REPORT

- R10A**

(VILLAGE MANAGER)

R11 - VILLAGE CLERK REPORT

R11A Village Lobbyist Registration Report

(VILLAGE CLERK)

R12 - VILLAGE ATTORNEY REPORT

R12A Kent Harrison Robbins legal fees update

R12B Update on the "Gate Park"

END OF REGULAR AGENDA

One or more members of any Village Committee/Board may attend this meeting of the Council and may discuss matters which may later come before their respective Boards/Committees.

The Other Business Section includes public comment. On public comment matters, any person is entitled to be heard by this Council on any matter; however, no action shall be taken by the Council on a matter of public comment, unless the item is specifically listed on the agenda, or is added to the agenda by Council action.

Any person who acts as a lobbyist, pursuant to Village Code Section 2-301 (Lobbyists), must register with the Village Clerk, prior to engaging in lobbying activities before Village staff, boards, committees, and/or the Village Council. A copy of the Ordinance is available in the Village Clerk's Office at Village Hall.

If a person decides to appeal any decision made by the Village Council with respect to any matter considered at a meeting or hearing, that person will need a record of the proceedings and, for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (F.S. 286.0105).

In accordance with the Americans with Disabilities Act of 1990, all persons who are disabled and who need special accommodations to participate in this proceeding because of that disability should contact the Village Clerk's Office (305-866-4633), not later than two business days prior to such proceeding.

All Village Council meeting attendees, including Village staff and consultants, are subject to security screening utilizing a metal detector and/or wand, prior to entering the Council Chamber, Conference Room, or other meeting area located within Village Hall. This is for the safety of everyone. Thanks for your cooperation.

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BAL HARBOUR

- V I L L A G E -

Mayor Martin Packer
Assistant Mayor Patricia Cohen
Councilman Gabriel Groisman
Councilman Seth E. Salver
Councilman Jaime M. Sanz

Village Manager Jorge M. Gonzalez
Village Clerk Dwight S. Danie
Village Attorneys Weiss Serota Helfman
Cole & Bierman, P.L.

VILLAGE COUNCIL SPECIAL MEETING MINUTES AUGUST 2, 2016 AT 6:00 P.M.

Bal Harbour Village Hall, 655 96th Street, Bal Harbour, Florida 33154

1. CALL TO ORDER - Mayor Packer called the meeting to order at 6:02 P.M.

The following were present:

Mayor Martin Packer
Councilman Gabriel Groisman
Councilman Seth Salver
Councilman Jaime Sanz

The following were not present:

Assistant Mayor Patricia Cohen

Also present:

Jorge M. Gonzalez, Village Manager
Dwight S. Danie, Village Clerk
Richard Weiss, Village Attorney
Stephanie Marquez, Deputy Village Clerk

2. PLEDGE OF ALLEGIANCE - The Pledge of Allegiance was led by Babak Raheb.
3. A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; AUTHORIZING THE PAYMENT OF LEGAL FEES TO THE LAW OFFICES OF KENT HARRISON ROBBINS FOR THE PROVISION OF LEGAL SERVICES; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

MOTION: A Motion to discuss the resolution was moved by Councilman Jaime Sanz and seconded by Mayor Martin Packer.

Mr. Weiss summarized the item, describing the lawsuit filed against Assistant Mayor Cohen, the authorization provided by Florida Statutes for the Council, if it elects to do

so, to pay the legal fees for her defense, and the selection of Attorney Kent Harrison Robbins by Assistant Mayor Cohen.

Council Sanz asked for clarification of representation of lawsuits against the Village, to which Mr. Weiss stated that the Village Attorney would represent the Village and Assistant Mayor Cohen has chosen to be represented by outside Counsel.

Councilman Groisman stated that there was no cause of action against the Village, that the Village was named for injunctive purposes. He requested a monthly status report on the fees, to which Mr. Weiss stated that a report from him should automatically be added to each Council agenda.

Mr. Weiss then added that he would like to request an Executive Session to discuss Flamingo Way vs. the Village of Bal Harbour.

Ree Kelly stated that her residence is 77 Camden Drive and asked if the League of Cities' insurance policy would cover the fees, to which Mr. Weiss responded that there was a specific exclusion in the policy for this. Ms. Kelley then asked if Village was addressing in what her opinion is a sham pleading.

Babak Raheb (128 Balfour Drive) commented that he was in support the Council in voting to pay attorney fees, then asked if the opposing attorneys could recover costs.

Lynn Bloch-Mullen (10150 Collins Ave) spoke in support of the Council voting in favor of covering attorney fees.

Mr. Weiss reiterated that he would report on the attorney fees on each (Regular Council) agenda, and he commented that he has not seen where an elected official had to reimburse attorney fees if they did not prevail in this type of lawsuit. He commented that if this were proven to be a sham lawsuit, that there is a possibility of recovering fees, but it would be difficult to do. He then commented that the opposing attorney could recover costs in the public records law suit, but not this one.

VOTE: The resolution passed by unanimous voice vote 4-0

Mr. Weiss announced that a discussion on the Zika Virus would follow but that the discussion is not part of the Special Meeting.

Councilman Groisman conveyed that Chief Mark Overton is chief going through a tough medical time and wished him a full and speedy recovery.

ADJOURN - The meeting was adjourned at 6:18 PM.

Mayor



Attest:

Dwight S. Danie, Village Clerk

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BAL HARBOUR

- V I L L A G E -

Mayor Martin Packer
Assistant Mayor Patricia Cohen
Councilman Gabriel Groisman
Councilman Seth E. Salver
Councilman Jaime M. Sanz

Village Manager Jorge M. Gonzalez
Village Clerk Dwight S. Danie
Village Attorneys Weiss Serota Helfman
Cole & Bierman, P.L.

VILLAGE COUNCIL PUBLIC MEETING AND EXECUTIVE SESSION MINUTES SEPTEMBER 30, 2016 AT 9:30 A.M.

Bal Harbour Village Hall, 655 96th Street, Bal Harbour, Florida 33154

1. CALL TO ORDER/ROLL CALL Mayor Packer called the meeting to order at 9:30 A.M.

The following were present:

Mayor Martin Packer
Assistant Mayor Patricia Cohen
Councilman Gabriel Groisman
Councilman Seth Salver
Councilman Jaime Sanz

Also present:

Jorge M. Gonzalez, Village Manager
Dwight S. Danie, Village Clerk
Richard Weiss, Village Attorney
Stephanie Marquez, Deputy Village Clerk

2. PLEDGE OF ALLEGIANCE - The Pledge of Allegiance was led by Joseph Serota.
3. A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; RESCHEDULING THE DATE OF THE OCTOBER 27, 2016 REGULAR COUNCIL MEETING; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

MOTION: the resolution was moved for discussion by Mayor Martin Packer. There was no second.

Mayor packer announced that he had a scheduling conflict for October 27 and that he would not be able to attend the scheduled meeting, and asked the Council to consider changing the meeting date.

Councilman Salver asked if there was a date to which Mayor Packer could attend. Assistant Mayor Cohen also asked if there was an alternative date and asked if the Mayor could attend via the Internet, to which Mayor Packer state that he could not.

Councilman Salver asked the Mayor if he could be available on an alternative date. He stated that the Charter required a monthly meeting, to which Mayor Packer replied that it does not.

Mr. Weiss stated that the Charter does require a monthly meeting, but there is no remedy provided in the event that a monthly meeting is not held, and it is up to the Council to decide. Councilman Salver reiterated that the Charter requires a monthly meeting.

Mayor Packer asked if anything that could occur at the October 27 meeting could occur after the election and up until the 20th of November. Councilman Groisman commented that scheduling a vote after the election with the possibility of having someone voted off the Council voting on the issue was problematic.

Assistant Mayor Cohen suggested October 31st in the evening to which the Mayor responded that he might be able to attend. He asked if anybody would like to second the motion. A general discussion ensued regarding scheduling the meeting for the Halloween holiday, or before, with regards the the requirement of public notice.

Mayor Packer asked the Council if it were necessary for him to attend this meeting to which Assistant Mayor Cohen replied that it was.

MOTION: the resolution was moved for discussion by Assistant Mayor Cohen and seconded by Mayor Martin Packer.

Babak Raheb (128 Balfour Drive) commented that he believed in the separation of Church and State and that the Council should accommodate Mayor Packer's needs.

Penny Sepler (10275 Collins Ave.) commented that the present Council wanted to vote on it. Mr. Weiss repeated that there is no sanction for not having a meeting, to which Councilman Groisman responded that a monthly meeting was required by the Charter, otherwise, what is the purpose of the Charter.

Ree Kelly (2000 Towerside Ter., Miami Shores) commented that Halloween would be a perfect date.

Mr. Gonzalez commented that if the Council wished to abide by the Charter, the scheduled meeting for the 27th could occur with a subsequent meeting regarding the shops occurring a later date.

MOTION: a Motion to move the meeting to October 31, 2016 at 8:00 PM was made by Councilman Gabriel Groisman and seconded by Councilman Seth Salver.

Lynn Bloch-Mullen (10150 Collins Ave) spoke in favor of the October 31st meeting.

Amy Huber (Shubin Bass, Attorney for Bal Harbour Shops, LLLP) commented that she was not sure which item on the agenda was being discussed, but she was going to speak in objection to what was being discussed. Councilman Sanz left the dais. Ms. Huber commented that no notice was provided at the previous meeting therefore Shubin Bass had filed motion to withdraw. She stated that (changing hearing dates) cannot be done unilaterally and that no notice was provided for this meeting. application withdrawn. She stated her objection for the record and repeated that the application had been withdrawn.

Village Attorney Richard Weiss asked Ms. Huber if her intent was not to present the application either on the 27th or another chosen date, to no intention to present application to which Ms. Huber replied that the application has been withdrawn and that there is nothing to present. Mr. Weiss stated that in order for an application to be withdrawn, the applicant needed Council approval.

Beth Berkowitz (10160 Collins Ave.) commented that the public has a right to comment but this is ultimately a Council decision whether or not to defer the plan.

Councilman Salver expressed that he needed to leave and he left the dais.

Ree Kelly (2000 Towerside Ter., Miami, Shores) spoke.

Councilman Sanz returned to the dais.

VOTE: The motion passed by Role Call Vote (3-1) with Assistant Mayor Cohen voting in the negative.

ROLL CALL	Yes	No
Assistant Mayor Patricia Cohen		X
Councilman Gabriel Groisman	X	
Councilman Seth E. Salver	-----	-----
Councilman Jaime M. Sanz	X	
Mayor Martin Packer	X	

4. RECESS FOR EXECUTIVE SESSION

CALL TO ORDER/ROLL CALL - Mayor Packer called the Executive Session to order at 10:20 AM.

The following were present:

Mayor Martin Packer
Assistant Mayor Patricia Cohen
Councilman Gabriel Groisman
Councilman Jaime Sanz

The following were not present:

Councilman Seth Salver

Also present:

Jorge M. Gonzalez, Village Manager
Richard Weiss, Village Attorney

- A. Case Number 15-6568 CA 30 "Bal Harbour Yacht Club, Inc., and "Flamingo Way Enterprises, LLC v. Bal Harbour Village"
- B. Case Number 16-269-AP Flamingo Way Enterprises, LLC v. Bal Harbour Village"

5. RECONVENE PUBLIC MEETING

END OF AGENDA

The public meeting was adjourned at 10:23 AM

Mayor



Attest:

Dwight S. Danie, Village Clerk

BAL HARBOUR

- V I L L A G E -

Mayor Martin Packer
Assistant Mayor Patricia Cohen
Councilman Gabriel Groisman
Councilman Seth E. Salver
Councilman Jaime M. Sanz

Village Manager Jorge M. Gonzalez
Village Clerk Dwight S. Danie
Village Attorneys Weiss Serota
Helfman Cole & Bierman, P.L.

VILLAGE COUNCIL REGULAR MEETING MINUTES OCTOBER 31, 2016 AT 8:00 P.M.

Bal Harbour Village Hall · 655 - 96th Street · Bal Harbour · Florida 33154

CALL TO ORDER/PLEDGE OF ALLEGIANCE- Mayor Packer called the meeting to order at 8:02 P.M.

The following were present:

Mayor Martin Packer
Assistant Mayor Patricia Cohen
Councilman Gabriel Groisman
Councilman Seth Salver (8:05 PM)
Councilman Jaime Sanz

Also present:

Jorge M. Gonzalez, Village Manager
Dwight S. Danie, Village Clerk
Richard Weiss, Village Attorney
Susan L. Trevarthen, Village Attorney
Stephanie Marquez, Deputy Village Clerk

Eddie Block led the Pledge of Allegiance, which was followed by a moment of silence.

REQUESTS FOR ADDITIONS, WITHDRAWALS AND DEFERRALS (Council and LPA)

MOTION: A motion to defer R7E was moved by Councilman Groisman and seconded by Mayor Martin Packer.

VOTE: The motion passed by unanimous voice vote (5-0)

W- Request to withdraw pending development applications from Bal Harbour Shops, LLC

Mr. Gonzalez read a letter submitted by Bal Harbour Shops asking to withdraw their applications from consideration by the Village Council.

Councilman Sanz left the dais (8:05 PM).

Ms. Trevarthen summarized the item explained Section 21-51 of the Village Code. She stated that the effect of granting the request to withdraw the application would be that no application from the property, or any portion of it, would be granted a public hearing for a period of six months without Council approval. She further stated that if the request to withdraw is denied, the applications would be heard in this meeting, which could be approved or denied, and if denied, the same application could not be submitted for a public hearing for one year. She added that a revised application could be submitted.

Amy Huber (Shubin Bass, Representing Bal Harbour Shops, LLC) commented that the Council had deferred the Shops applications until January 2017 until current litigation was resolved, then unilaterally and without notice, scheduled the hearing in October, before the November election, leaving the applicant with no choice but to withdraw their application. She stated that the Council has no right not to grant the withdrawal and that her position was that there was no application before the Council and there was nothing to decide. She further stated that while litigation was pending, she did not believe that there could be a fair and impartial hearing.

Councilman Salver asked Ms. Huber if she agreed with the opinion that if the withdrawal was granted, no application regarding the property could be heard for a period of six months, to which Ms. Huber stated that she did not agree.

A general discussion ensued regarding the reasons for with deferring the application until January 2017, with the Ms. Huber's opinion that it was deferred until pending litigation was resolved, and with the Village's opinion that the item was deferred because the applicant was entitled to one deferral.

Daniel Holder (24 Bal Bay Dr.) urged the Council to deny the request for withdrawal.

Neil Alter (9801 Collins Ave.) asked the Council how many lawsuits the Shops has initiated against the Village, to which Mr. Weiss listed the five complaints. Mr. Alter then asked Mr. Gonzalez if the budget for legal services had been exceeded, to which Mr. Gonzalez replied that it had.

Mr. Weiss commented that Florida Courts have ruled that governmental bodies may have to reimburse costs for public records complaints.

Ree Kelly (2000 Towerside Ter., Miami Shores) stated that the motivations of the Shops was political and related to money, after which, she read from a letter from she said was from the attorneys of the Balmoral Condominium Association.

Irwin Shaab (9801 Collins Ave.) asked for clarification of the postponement of the Shop's application and clarification of a withdrawal versus a denial of the application, then urged the Council to tell the Shop's "we are not going to take it anymore." He then commented that as past president of the Balmoral Condo Association, he was not in agreement with the "deal made with the Bal Harbour Shops" and though he did not know the real story, the board was not supposed to coerce residents.

Lynn Bloch-Mullen (10150 Collins Ave.) commented that the Shops was not entitled to more than one deferral and urged the Council to deny the request for withdrawal.

Brian Mulheren (10245 Collins Ave. commented that the Village is not for sale, spoke against the Shops.

Mark Fisher (284 Bal Bay Drive) commented that something should be done (with the Shop's project) but not everything. He suggested that the whichever Council were to review the application in the future, they should recover the costs, accrued to date, in the negotiation process.

Kent Harrison Robbins (Representing Asst. Mayor Cohen) described the effort that he has undertaken to date on the public records lawsuit against Assistant Mayor Cohen.

MOTION: There was no motion to grant or deny the request to withdraw the application.

Councilman Sanz returned to the dais. (9:00 PM)

PRESENTATIONS AND AWARDS

PA1 Certificate of Appreciation for Ruth Karp

(MAYOR PACKER)

REGULAR COUNCIL MEETING AGENDA

CONSENT AGENDA

Assistant Mayor Cohen requested that items C7D and C7E be removed from the Consent Agenda for further discussion.

MOTION: A motion to approve the remainder of the Consent Agenda was move by Councilman Seth Salver and seconded by Councilman Jaime Sanz.

VOTE: The motion was approved by unanimous voice vote (5-0).

C6 - COUNCIL MINUTES

C6A 1st Budget Hearing and Regular Council Meeting Minutes - October 13, 2016

C6B 2nd Budget Hearing and Regular Council Meeting Minutes - October 20, 2016

C7 - RESOLUTIONS

C7A A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE APPROVING AND ACCEPTING FINAL SETTLEMENT FOR THE ACQUISITION OF PARCELS SS-01-01 and SS-00-03, OWNED BY MIAMI-BEACH HEIGHTS, A DISSOLVED CORPORATION, OF THE SANITARY SEWER UTILITY REPLACEMENT PROJECT; AND PROVIDING FOR IMPLEMENTATION; PROVIDING AN EFFECTIVE DATE.

(VILLAGE ATTORNEY)

C7B A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE APPROVING AND ACCEPTING FINAL SETILEMENT FOR THE ACQUISITION OF PARCEL SS-10-07, OWNED BY BAL HARBOUR MANOR CO-OP (10190 COLLINS AVENUE) OF THE SANITARY SEWER UTILITY REPLACEMENT PROJECT; AND PROVIDING FOR IMPLEMENTATION; PROVIDING AN EFFECTIVE DATE

(VILLAGE ATTORNEY)

C7C A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, ACCEPTING A UTILITY EASEMENT, BILL OF SALE AND AGREEMENT FROM CONSULTATIO BAL HARBOUR, LLC FOR WATER AND SEWER FACILITIES INSTALLED AT 10201 COLLINS AVENUE; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

(VILLAGE MANAGER)

C7D A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, APPROVING A BEACH ACCESS EASEMENT AGREEMENT FROM CONSULTATIO BAL HARBOUR, LLC TO OWNERS OF PROPERTY WITHIN DESIGNATED PLATS FOR BEACH ACCESS FROM COLLINS AVENUE TO AND FROM THE PUBLIC BEACH ON THE OCEANA PROPERTY LOCATED AT 10201 COLLINS AVENUE; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE

(VILLAGE MANAGER)

MOTION: The item was move for discussion by Councilman Seth Salver and seconded by Councilman Gabriel Groisman.

Mr. Gonzalez summarized the item describing the Development Agreement with the Consultatio and the requirements for a Temporary Certificate of Occupancy (TCO) one of which is a 25-foot-wide beach access path with limited the access times and

electronic key fobs for the benefit of the residents west of Collins, inside and outside the gate, but not necessarily to the east side.

Asst. Mayor Cohen questioned why easement was not granted to all Bal Harbour residents and commented that access times seemed restrictive.

Carter McDowell (Bilzin Sumberg, Representing the Consultatio) described the agreed upon easement and the security issues expressed by the neighboring Plaza (of Bal Harbour Condo) and stated that easement was not granted to the general public or commercial properties. He stated that the access hours were specifically requested by the Plaza.

Assistant Mayor Cohen expressed her concern regarding the time limitations, noting that public access to the beach at the north and south was available 24 hours per day to which Mr. McDowell replied that he would be willing to work with the Village Attorney for a reasonable time frame during winter months when daylight hours were shorter, while maintaining the requirements of the development agreement with respect to the Plaza.

Councilman Groisman suggested amending the words "and/or" to "and" on Page 119, Paragraph 4; having a non-electronic option for the control system in addition to a fob; and adding language where the developer would not profit from the costs, and replacement costs, of the keys (fobs). Mr. McDowell expressed general agreement and said that he would explore language with the Village Attorney to address these concerns.

Mayor Packer added that the Kenilworth has a similar key solution for its residents.

Village Attorney Richard Weiss paused the discussion to ask members of the audience to restrain from talking so the court reporter could understand the conversation on the dais.

Irwin Shaab (9801 Collins Ave) expressed his concerns that a manual code, versus a key, could be problematic if it needed to be changed. He also commented that residents on the east side should have access rights even though they may not use it very often.

Beth Berkowitz (10160 Collins Ave.) asked access could be made available for the 70th Anniversary event, and commented that there has never been a complaint from the Plaza.

Penny Sepler (10275 Collins Ave.) commented that she could not understand the safety concerns of the Plaza that caused access times to be limited to which Mr. McDowell commented that the Council had voted on the conditions of the Development Agreement.

Councilman Groisman asked if there would be an issue to hearing this item at a future date, then left the dais (9:34 PM). Mr. McDowell replied that it would be an issue, then explained the reasons why this easement is not a public easement.

Councilman Salver suggested setting definite access times.

Village Attorney Richard Weiss suggested that Mr. McDowell and Gail Serota meet during this meeting to draft language that address the concerns expressed by the Council, then return later in the evening for Council consideration.

Councilman Groisman - returned to the dais (9:40 PM).

Brian Mulheren (10245 Collins Ave.) commented that the terms of the Development Agreement was never discussed in public, and that the access was required by fire code.

Steve Greenberg (9930 Collins Ave.) commented that Mr. McDowell should demonstrate clearly how the easement would work.

The item was deferred for consideration later on the Agenda.

Mr. McDowell that the terms discussed this evening were properly noticed and published in the Agenda, and that any perception of back-room dealing was inaccurate. (9:48 PM)

The item was brought before the Council at **11:03 PM**.

Gail Serota, Village Attorney explained the modifications to the beach access easement.

Steve Greenburg (9930 Collins Ave.) commented that easement should be given for special events held by the Village, to which Mr. McDowell stated that easement was given to property owners not the Village (public), and that the property owner could agree at any time to work with the Village.

Assistant Mayor Cohen commented that she did not feel there should be time restrictions.

MOTION: A motion to pass C7D with the proposed modifications

VOTE: The motion to approve the item with the proposed modifications passed by unanimous voice vote (4-0).

C7E A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, APPROVING A COLLINS AVENUE EASEMENT AGREEMENT FROM CONSULTATIO BAL HARBOUR, LLC TO OWNERS OF PROPERTY WITHIN DESIGNATED PLATS FOR ACCESS AND PASSIVE RECREATIONAL PURPOSES ON THE EASEMENT AREA SITUATED ALONG COLLINS AVENUE ON THE OCEANA PROPERTY LOCATED AT 10201 COLLINS AVENUE; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

(VILLAGE MANAGER)

MOTION: A motion to approve the resolution was moved by Councilman Salver and seconded by Councilman Groisman.

Village Manager Jorge M. Gonzalez summarized the item and commented that the Council may want to treat this item the same as C7D.

Asst. Mayor Cohen expressed concerns about limiting access times on an open green space, to which Mr. McDowell commented that some rule needed to be in place in the event of abuse of access rights, but that he was willing to work with the Village Attorney to provide reasonable access times.

Councilman Sanz questioned how many condominiums on the east side offer this amenity, and suggested that the Council allow Mr. McDowell the opportunity to work with the Village Attorney to address the concerns.

Mark Fisher (284 Bal Bay Drive) expressed that a contract had been made and he urged the Council to move forward.

The item was deferred for consideration later on the Agenda (9:56 PM).

The item was brought before the Council at **11:10 PM**.

VOTE: The motion to approve the item with the proposed modifications passed by voice vote (3-1) with Assistant Mayor Cohen voting in the negative.

C7F A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, ACCEPTING A BEACH EASEMENT AGREEMENT FROM CONSULTATIO BAL HARBOUR, LLC FOR THE BENEFIT OF THE PUBLIC FOR A BEACH PARCEL OF LAND BOUNDED ON THE EAST BY THE EROSION CONTROL LINE AND ON THE WEST BY THE EAST LINE OF TRACT A OF THE OCEANA PROPERTY LOCATED AT 10201 COLLINS AVENUE; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE

(VILLAGE MANAGER)

C7G A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; AUTHORIZING STAFF TO ENTER INTO AN AGREEMENT WITH LS SIGN STUDIO FOR THE CREATION AND INSTALLATION OF VILLAGE-WIDE INFORMATIONAL SIGNAGE; AUTHORIZING THE INSTALLATION OF NEW INFORMATIONAL SIGNAGE; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE

(TOURISM DEPARTMENT)

C7H A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; AUTHORIZING AND APPROVING AN AMENDMENT TO THE AGREEMENT BETWEEN BAL HARBOUR VILLAGE AND AMERICAN TRAFFIC SOLUTIONS, INC. FOR THE TRAFFIC SAFETY CAMERA PROGRAM AND EXPENDITURE OF A FIXED FEE OF \$4,250 PER MONTH; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

(POLICE DEPARTMENT)

Recess to convene Local Planning Agency Meeting

Councilman Sanz left the dais at 10:16 PM.

LOCAL PLANNING AGENCY MEETING

Ms. Trevarthen explained that procedures for the Local Planning Agency Meeting then read the language for quasi-judicial hearings into the record.

*The Village Council of Bal Harbour Village, sitting in its capacity as the Local Planning Agency, will hold a public hearing to consider and make recommendations to the Village Council, regarding the items described below. Items **LPA1** and **R5A** are the same, and Items **LPA2** and **R5B** are the same. These two items are legislative in nature, and are related to quasi-judicial Item **QJ1** because all three items relate to the Shops project. Therefore, all of the Shops-related items (**LPA1/R5A**, **LPA2/R5B** and **QJ1**) will be presented concurrently.*

For these items, the applicant and the Village staff will make presentations and the Mayor will then entertain public comment. If you wish to comment on one of these agenda items, please inform the Mayor when he asks for public input on it. An opportunity for persons to speak will be made available after the applicant and staff have made their presentations on the item. All testimony, including public testimony and evidence, will be made under oath or affirmation.

Additionally, for the quasi-judicial item QJ1 (the Shops Development Agreement), each person who gives or has given testimony may be subject to cross-examination under the Quasi-Judicial portion of the Regular Council Meeting Agenda. If you refuse either to be cross-examined or to be sworn, your testimony will be given its due weight (with regard to QJ1). The general public will not be permitted to cross-examine witnesses, but the public may request the Village Council to ask questions of staff or witnesses on their behalf. Persons representing organizations must present evidence of their authority to speak for their organization. Further details of the quasi-judicial procedures in Section 2-201, et seq., of the Village Code may be obtained from the Village Clerk.

LPA ROLL CALL- Mayor Packer called the LPA meeting to order at 10:23 P.M.

The following were present:

Mayor Martin Packer
Assistant Mayor Patricia Cohen
Councilman Gabriel Groisman
Councilman Seth Salver

Also present:

Jorge M. Gonzalez, Village Manager
Dwight S. Danie, Village Clerk
Richard Weiss, Village Attorney
Susan L. Trevarthen, Village Attorney
Stephanie Marquez, Deputy Village Clerk

Members of the Council disclosed any ex parte communications and asked Council members if they were willing and able to make their determination only on evidence to placed into the record to which all members of the Council answered, yes. The Village Clerk then swore in those who would be providing testimony.

Councilman Groisman asked for clarification that if either item fails, then the following items would not be heard, to which Ms. Trevarthen agreed.

Village Manager Jorge M. Gonzalez recommended hearing item LPA2 first.

Mr. Groisman then asked how the absence of the applicant would affect the hearing, to which Ms. Trevarthen recommended that the item should be heard.

LPA1 AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA APPROVING THE REQUEST OF BAL HARBOUR SHOPS, LLLP FOR A SMALL SCALE AMENDMENT TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN CHANGING THE LAND USE DESIGNATION OF ONE PARCEL CONSISTING OF APPROXIMATELY .62 ACRES FROM INST (INSTITUTIONAL) TO COMM (COMMERCIAL) LOCATED AT 501 96TH STREET AS LEGALLY DESCRIBED IN EXHIBIT "A"; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE.

LPA2 AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA AMENDING THE CODE OF ORDINANCES, CHAPTER 21 "ZONING," TO REVISE DEFINITIONS, TO CREATE A SPECIAL BUSINESS IMPROVEMENT AREA DESIGNATION IN THE B BUSINESS DISTRICT, AND TO PROVIDE FOR RELATED DEVELOPMENT STANDARDS; BY AMENDING CHAPTER 4 "ALCOHOLIC BEVERAGES" TO ADDRESS SPACING REQUIREMENTS FOR CERTAIN RESTAURANTS; PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, CONFLICTS, AND FOR AN EFFECTIVE DATE.

OPTION A: As Recommended by Administration

OPTION B: As Submitted by Applicant

MOTION: A motion to recommend denial of the ordinance for text amendments to the Village Code was moved by Councilman Groisman and seconded by Assistant Mayor Cohen.

Mr. Gonzalez described the sequence of events leading to the application in front of the Council this evening. He then described the changes between this application and the previous application, explaining that he had not negotiated the current agreement, per order of the Council.

Michael Miller, Village Planner provided a zoning history of the property and described the requested text amendments and recommend that the Council consider the Staff recommendations.

Beth Berkowitz (10160 Collins Ave.) commented that the Zoning Code text amendment changes apply to all the properties in the Business District, to which Mr. Gonzalez responded that it would not apply to the SunTrust property.

David Paul (9801 Collins Ave) spoke as an owner and not a representative of the Balmoral Condo Association, opposing the proposed text amendments to the Village Code.

Daniel Holder (24 Bal Bay Dr.) spoke against the proposed text amendments to the Village Code.

Lynn Bloch-Mullen (10150 Collins Ave) spoke against the proposed text amendments to the Village Code and spoke against the Church by the Sea.

Irwin Shaab (9801 Collins Ave) commented on the absence of the applicant and spoke in favor of the denial of the request to amend the Zoning Code.

Brian Mulheren (10245 Collins Ave.) spoke against the Shops and commented that nothing should be approved for them commenting that they are not good neighbors.

Councilman Salver commented that he had gone over the proposed plans in significant detail and stated that the level of the ask does not justify the public benefit.

Councilman Groisman commented that the balance between the residential buildings, the residential homes and the Shops works, but that this application falls short in maintaining that balance in regards to community benefit.

VOTE: The motion to recommend denial of the ordinance for text amendment changes to the Village Code passed by unanimous voice vote (4-0).

ROLL CALL	Yes	No
Assistant Mayor Patricia Cohen	X	
Councilman Gabriel Groisman	X	
Councilman Seth E. Salver	X	
Councilman Jaime M. Sanz	-----	-----
Mayor Martin Packer	X	

Ms. Trevarthen stated that since this LPA2 failed, LPA1 was moot, and recommend adjourning the LPA meeting.

Adjourn and reconvene the Regular Council Meeting (10:59 PM)

REGULAR COUNCIL MEETING AGENDA

R5 - ORDINANCES

R5A AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA APPROVING THE REQUEST OF BAL HARBOUR SHOPS, LLLP FOR A SMALL SCALE AMENDMENT TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN CHANGING THE LAND USE DESIGNATION OF ONE PARCEL CONSISTING OF APPROXIMATELY .62 ACRES FROM INST (INSTITUTIONAL) TO COMM (COMMERCIAL) LOCATED AT 501 96TH STREET AS LEGALLY DESCRIBED IN EXHIBIT "A"; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE.

R5B AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA AMENDING THE CODE OF ORDINANCES, CHAPTER 21 "ZONING," TO REVISE DEFINITIONS, TO CREATE A SPECIAL BUSINESS IMPROVEMENT AREA DESIGNATION IN THE B BUSINESS DISTRICT, AND TO PROVIDE FOR RELATED DEVELOPMENT STANDARDS; BY AMENDING CHAPTER 4 "ALCOHOLIC BEVERAGES" TO ADDRESS SPACING REQUIREMENTS FOR CERTAIN RESTAURANTS; PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, CONFLICTS; AND FOR AN EFFECTIVE DATE.

- OPTION A: As Recommended by the Administration
- OPTION B: As Submitted by the Applicant

Ms. Trevarthen explained that R5A is moot and recommended that the Council now consider R5B, noting that the representatives of the Shops were not present.

MOTION: A motion to accept the recommendation of the LPA and deny the ordinance for text amendments to the Village Code was moved by Mayor Martin Packer and seconded by Assistant Mayor Cohen.

VOTE: The motion passed by unanimous voice vote (4-0).

ROLL CALL	Yes	No
Assistant Mayor Patricia Cohen	X	
Councilman Gabriel Groisman	X	
Councilman Seth E. Salver	X	
Councilman Jaime M. Sanz	-----	-----
Mayor Martin Packer	X	

QJ- QUASI JUDICIAL ITEMS (FOLLOWING THE PROCEDURES OF SECTION 2-201 ET SEQ., VILLAGE CODE)

Ms. Trevarthen stated that QJ1 was moot.

QJ1 A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA APPROVING A DEVELOPMENT AGREEMENT BETWEEN BAL HARBOUR SHOPS, LLLP AND BAL HARBOUR VILLAGE; AUTHORIZING VILLAGE AGREEMENT; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE AGREEMENT; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE ANY NECESSARY DOCUMENTS TO IMPLEMENT THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

R7 - RESOLUTIONS

R7A A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING A SIGN PERMIT FOR A MONUMENT SIGN TO BE LOCATED AT 10201 COLLINS AVENUE, CONSISTENT WITH THE VILLAGE CODE OF ORDINANCES; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE. (*Oceana*)

(BUILDING DEPARTMENT)

This item was considered at **9:57 PM**.

MOTION: The resolution was moved for discussion by Mayor Martin Packer and seconded by Councilman Jaime Sanz.

Village Manager Jorge M. Gonzalez summarized the item describing location and the design of the proposed sign.

Councilman Groisman commented that the law does not permit the Council to make a determination on the design of the sign, only whether or not it meets the Village Code.

VOTE: The resolution was approved by unanimous voice vote (5-0).

R7B A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING A PERMIT FOR TWO STATUES TO BE LOCATED AT 10201 COLLINS AVENUE, CONSISTENT WITH THE VILLAGE CODE OF ORDINANCES; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE (*Oceana*)

(BUILDING DEPARTMENT)

Village Manager Jorge M. Gonzalez summarized the item.

MOTION: The resolution was moved for discussion by Councilman Seth Salver and seconded by Councilman Gabriel Groisman.

VOTE: The resolution was approved by unanimous voice vote (5-0).

R7C A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING A PERMIT FOR A STATUE TO BE LOCATED AT 10205 COLLINS AVENUE, KENILWORTH CONDOMINIUM, CONSISTENT WITH THE VILLAGE CODE OF ORDINANCES; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

(BUILDING DEPARTMENT)

MOTION: The resolution was moved for discussion by Councilman Groisman and seconded by Councilman Jaime Sanz.

Village Manager Jorge M. Gonzalez summarized the item describing the proximity of the sculpture to the sidewalk.

VOTE: The resolution was approved by unanimous voice vote (5-0).

Councilman Sanz commended the Kenilworth in helping the Village bring art to Bal Harbour.

Mayor Packer described an upcoming Art Chat that would highlight the Kenilworth art collection.

R7D A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING AN AGREEMENT WITH SAFEGUARD AMERICA, INC. D.B.A. AMERICAS TRANSPORTATION.COM AND THE VILLAGE OF BAL HARBOUR TO OPERATE SCHEDULED COMMUNITY SHUTTLE SERVICES AND ADDITIONAL SHUTTLE SERVICE AS REQUIRED AT ESTABLISHED RATES, IN THE AMOUNT NOT TO EXCEED ANNUAL APPROPRIATED FUNDS FOR THESE SERVICES, FOR AN INITIAL THREE YEAR TERM; AUTHORIZING THE VILLAGE MANAGER TO RENEW THE AGREEMENT FOR SUBSEQUENT THREE YEAR PERIODS AS REQUIRED; AUTHORIZING THE EXPENDITURE OF ANNUAL APPROPRIATED FUNDS; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

(PARKS AND PUBLIC SPACES DEPARTMENT)

MOTION: The resolution was moved for discussion by Mayor Martin Packer and seconded by Assistant Mayor Patricia Cohen.

Village Manager Jorge M. Gonzalez summarized the item commenting that the recent contract, having expired, is on a month-to-month arrangement, and that the current vendor has expressed a desire to continue with the Village, but with increased costs. He then explained that staff then researched other vendors.

Assistant Mayor Cohen reaffirmed that the bus was owned by the Village.

Councilman Groisman suggested changes to the contract language on Page 3 of 13 of the agreement and adding willful or intentional conduct to broaden indemnification.

Assistant Mayor Cohen commended John Oldenburg, Director of Parks and Public Spaces.

VOTE: The resolution passed by unanimous voice vote (5-0).

R7E A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE DECLARING THAT ACQUISITION THROUGH NEGOTIATED CONVEYANCE OR EMINENT DOMAIN OF PRIVATE PROPERTY INTERESTS IN THE PARK SITE LOCATED AT THE INTERSECTION OF COLLINS AVENUE AND HARBOUR WAY WILL SERVE A PUBLIC PURPOSE AND IS NECESSARY TO PROVIDE ADEQUATE RECREATIONAL OPEN SPACE TO VILLAGE RESIDENTS LIVING IN MULTIFAMILY HOUSING; AUTHORIZING THE VILLAGE MANAGER AND ALL OTHERS ACTING ON HIS BEHALF TO ACQUIRE THE NECESSARY PROPERTY INTERESTS

THROUGH NEGOTIATED CONVEYANCE OR EMINENT DOMAIN; AUTHORIZING THE VILLAGE MANAGER AND ALL OTHERS ACTING ON HIS BEHALF TO TAKE SUCH FURTHER ACTIONS AS ARE REASONABLY NECESSARY; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE. **(DEFERRED)**

(VILLAGE ATTORNEY)

R9 - NEW BUSINESS AND COUNCIL DISCUSSION

R9A Department of Environmental Protection's (DEP) Toxic Water Quality Rule.

(COUNCILMAN SETH SALVER)

Councilman Salver summarized the item. Councilman Groisman suggesting having a colleague (Paul Schwiep), knowledgeable in this area, explore the issue and make recommendations for a resolution to be brought back in front of the Council.

R9B Public Comment

Steve Greenberg (9930 Collins Ave.) commended Councilman Groisman, Mr. Gonzalez, Mayor Packer, Assistant Mayor Cohen, and Councilman Salver and Joe Imbesi. He then asked Mr. Gonzalez to provide the status of the crosswalk. Councilman Groisman commented on the timing of the crosswalk in front of the Consultatio.

R10 - VILLAGE MANAGER REPORT

R10A

(VILLAGE MANAGER)

R11 - VILLAGE CLERK REPORT

R11A Village Lobbyist Registration Report
(VILLAGE CLERK)

R12 - VILLAGE ATTORNEY REPORT

R12A Kent Harrison Robbins legal fees update

END OF REGULAR AGENDA

ADJOURN

The meeting was adjourned at 11:18 PM

Mayor



Attest:

Dwight S. Danie, Village Clerk

BAL HARBOUR

- V I L L A G E -

COUNCIL ITEM SUMMARY

Condensed Title:

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; AUTHORIZING AND APPROVING THE DONATION OF \$5,000.00 OF LAW ENFORCEMENT TRUST FUNDS TO DO THE RIGHT THING OF MIAMI, INC.

Key Intended Outcome Supported:

N/A

Supporting Data (Surveys, Environmental Scans, etc.):

N/A

Issue:

Should the Village Council approve the contribution of \$5,000.00 to the Do the Right Thing of Miami, Inc., program from the Law Enforcement Trust Funds?

Item Summary/Recommendation:

The Do the Right Thing program has been sustained for 25 years through a sponsorship with local law enforcement agencies using Law Enforcement Trust Fund (L.E.T.F.) monies. Do the Right Thing services all school-age children throughout Miami-Dade County by rewarding their positive behavior, actions and good deeds.

The Bal Harbour Police Department would like to support this organization and join other local agencies in this community wide crime prevention initiative which impacts all jurisdictions.

The Administration recommends approval of the resolution.

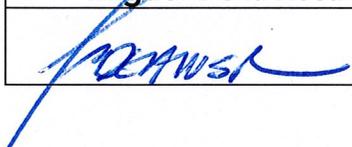
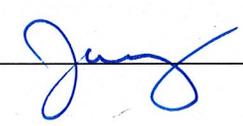
Advisory Board Recommendation:

N/A

Financial Information:

Amount	Account	Account #
\$ 5,000.00	Management Expense - Law Enforcement Trust Fund	12-21-504901

Sign Off:

Police Captain	Finance Director	Village Manager
Miguel De la Rosa	Amber Riviere	Jorge M. Gonzalez
		

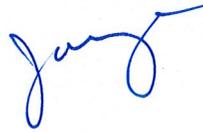
BAL HARBOUR

- V I L L A G E -

COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager



DATE: November 22, 2016

SUBJECT: **A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; AUTHORIZING AND APPROVING THE DONATION OF \$5,000.00 OF LAW ENFORCEMENT TRUST FUNDS TO DO THE RIGHT THING OF MIAMI, INC. PROVIDING FOR IMPLEMENTATION; AND PROVIDING AN EFFECTIVE DATE.**

ADMINISTRATIVE RECOMMENDATION

Approve the Resolution.

BACKGROUND

The Do the Right Thing program has been sustained for 25 years through a sponsorship with local law enforcement agencies using Law Enforcement Trust Fund (L.E.T.F.) monies. Do the Right Thing services all school-age children throughout Miami-Dade County by rewarding their positive behavior, actions and good deeds.

CONCLUSION

The Bal Harbour Police Department would like to support this organization and join the following local agencies in this community wide crime prevention initiative which impacts all jurisdictions:

- Bay Harbour Islands Police Department
- Coral Gables Police Department
- Golden Beach Police Department
- Hialeah Gardens Police Department
- Indian Creek Police Department
- Key Biscayne Police Department
- Miami Beach Police Department
- Miami Shores Police Department
- North Miami Beach Police Department
- Pinecrest Police Department
- South Miami Police Department
- Town of Cutler Bay Police Department

AGENDA ITEM C7A

Therefore, based on the aforementioned information, I recommend the approval of this resolution for a donation of \$5,000.00 to Do the Right Thing of Miami, Inc.

Attachments:

1. Invoice from Do the Right Thing of Miami, Inc.
2. Signed Affidavit

RESOLUTION NO. ____

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; AUTHORIZING AND APPROVING THE DONATION OF \$5,000.00 OF LAW ENFORCEMENT TRUST FUNDS TO “DO THE RIGHT THING OF MIAMI, INC.”; PROVIDING FOR IMPLEMENTATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Do the Right Thing of Miami, Inc. (“DTRT”) is a 501(c)(3) non profit organization that distinguishes exceptional school-age children who choose to be drug and crime free, exhibit non-violent behavior, do well in school, make difference in their communities and demonstrate turnaround behavior by rewarding excellent behavior, actions, and good deeds; and

WHEREAS, the Village Council desires to support the mission of DTRT by making a donation in the amount of \$5,000.00 out of the Village’s State Law Enforcement Trust Funds (the “Donation”); and

WHEREAS, in accordance with Section 932.7055, Fla. Stat., the Village Chief of Police has certified that the Donation is an appropriate expenditure of Law Enforcement Trust Funds.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AS FOLLOWS:

Section 1. Recitals. That the above stated recitals are hereby adopted and confirmed.

Section 2. Donation Authorized. That the donation of \$5,000.00 of Law Enforcement Trust Funds to Do the Right Thing of Miami, Inc. is hereby authorized and approved.

Section 3. Implementation. That the Village Manager is hereby authorized to take all actions necessary to implement this Resolution.

Section 4. Effective Date. That this Resolution shall take effect immediately upon the adoption hereof.

PASSED AND ADOPTED this 22nd day of November, 2016.

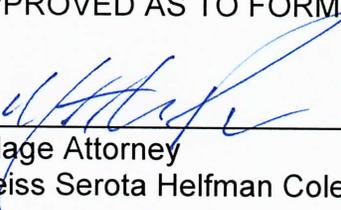
Mayor

ATTEST:



Dwight Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:



Village Attorney
Weiss Serota Helfman Cole & Bierman, P.L.

Reviewed and Approved by Village Attorney Matthew J. Pearl



DO THE RIGHT THING OF MIAMI, INC.

C/O CITY OF MIAMI POLICE DEPARTMENT
400 N.W. 2ND AVENUE / ROOM 201-J / MIAMI, FL 33128
PHONE: 305-579-3344/FAX: 305-350-7919
WEBSITE: WWW.DOTHERIGHTTHINGINC.ORG

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Trina Robinson/NBC 6

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Jaquelyn Calzadilla
Priscila Eidam
Jacqueline Gonzalez-Cuba
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Selection Committee

Cristina De Varona
Sergio Guerrero
Richard Perez
Lynda Roberts
Aileen Rodriguez

Staff

Jodi Atkison
Executive Director

Ariadna Espinosa
Program Coordinator

INVOICE

Bal Harbour Police Department
c/o Chief Mark Overton
655 Ninety-Sixth Street
Bal Harbour, FL 33154

Do The Right Thing Law Enforcement Partnership Campaign:

Sponsorship of the Do The Right Thing Program to assist in recognizing and rewarding Miami-Dade County students for their positive behavior, actions, and good deeds in conjunction with local law enforcement.

Please make check payable to Do The Right Thing and remit payment to:

Do The Right Thing, Inc.
c/o Miami Police Department
400 N.W. 2nd Avenue, Room 201-J
Miami, FL 33128

TOTAL: \$5,000.00

AFFIDAVIT

STATE OF FLORIDA:

: SS

COUNTY OF MIAMI-DADE:

Before me this day personally appeared Miguel De la Rosa who deposes and says that:

I, Miguel De la Rosa, Police Captain of, Village of Bal Harbour, do hereby certify that this \$5,000.00 donation and/or expenditure from the Village of Bal Harbour's Forfeited Assets Fund for "Do the Right Thing of Miami, Inc." program complies with the provisions of Florida State Statute 932.7055, known as the Law Enforcement Trust Fund (LETF), as amended. It also complies with the requirements of the Federal Asset Forfeiture Statutes under which the Village of Bal Harbour Police Department seizes assets.



Miguel De la Rosa
Police Captain
Bal Harbour Police Department

Subscribed and sworn to before me this ___ day of November, 2016 by Miguel De la Rosa who is personally known to me.

**NOTARY PUBLIC
STATE OF FLORIDA
AT LARGE**

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BAL HARBOUR

- VILLAGE -

COUNCIL ITEM SUMMARY

Condensed Title:

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA;
DESIGNATING USED IPADS AS SURPLUS PROPERTY.

Key Intended Outcome Supported:

N/A

Supporting Data (Surveys, Environmental Scans, etc.):

N/A

Issue:

Should the Village Council declare two devices as surplus equipment and transfer ownership to former Mayor Packer and former Councilmember Sanz?

Item Summary/Recommendation:

The current iPad tablets were issued to the Village Council over two years ago and will not be re-assigned to the newly elected Councilmembers. The resolution also designates the devices utilized by former Mayor Packer and former Councilmember Sanz surplus property and transfers ownership to these former Councilmembers.

THE ADMINISTRATION RECOMMENDS APPROVAL OF THE RESOLUTION.

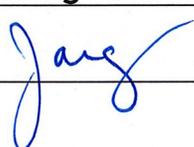
Advisory Board Recommendation:

N/A

Financial Information:

	Amount	Account	Account #

Sign Off:

Mgt. Svcs. Administrator Chanelle Pough		Village Manager Jorge M. Gonzalez
		

BAL HARBOUR

- V I L L A G E -

COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager

DATE: November 22, 2016

SUBJECT: **A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; DESIGNATING USED IPADS AS SURPLUS PROPERTY; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.**

ADMINISTRATIVE RECOMMENDATION

Approve the Resolution.

BACKGROUND

In November 2014, the Village issued Councilmembers iPad computer tablets to assist in their official duties. These used or pre-owned iPad tablets will not be re-assigned to newly elected Councilmembers.

The iPads have little value if sold, but could still be utilized by the former Mayor and Councilmember; however, any value derived from the sale would be offset by the staff time involved in erasing data on the devices and managing the resale process. The resolution allows former Mayor Packer and former Councilmember Sanz to keep the iPad tablet that they were issued in 2014, with the ownership transferring to them.

CONCLUSION

This resolution seeks authorization from the Council to provide the surplus iPads to the Mayor and Councilmember for \$25 for good and consideration.

I am therefore recommending approval of this resolution.

AGENDA ITEM C7B

RESOLUTION NO. ____

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; DESIGNATING USED IPADS AS SURPLUS PROPERTY; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village purchased iPad computer tablets for use by Councilmembers in 2014; and

WHEREAS, the iPad computer tablets will not be re-assigned to newly elected Council Members; and

WHEREAS, the Village Council desires to designate two of the original iPad tablets as surplus property and transferring their ownership to the former Councilmembers to whom they were assigned for \$25 for good and consideration.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That the above stated recitals are hereby adopted and confirmed.

Section 2. Surplus Property Transferred.

- a. That the iPad computer tablets utilized by former Mayor Martin Packer and former Councilmember Jaime Sanz are obsolete and no longer needed for the administration of Village business and are declared to be surplus property.
- b. That the Village Manager is hereby authorized to transfer ownership of the surplus iPad computer tablets for \$25 for good and consideration to former Mayor Martin Packer and former Councilmember Sanz respectively.

Section 3. Implementation. That the Village Manager is hereby authorized to take all actions necessary to implement the Plan and this Resolution.

Section 4. Effective Date. That this Resolution shall take effect immediately upon the adoption hereof.

PASSED AND ADOPTED this 22nd day of November, 2016.

Mayor



ATTEST:

Dwight Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Weiss Serota Helfman Cole & Bierman, P.L.
Village Attorney

Reviewed and Approved by Village Attorney Matthew J. Pearl

BAL HARBOUR

- VILLAGE -

COUNCIL ITEM SUMMARY

Condensed Title:

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE VILLAGE CODE BY AMENDING CHAPTER 13, "PENSIONS AND RETIREMENT BENEFITS," IN ACCORDANCE WITH THE FAVORABLE DETERMINATION LETTER FROM THE INTERNAL REVENUE SERVICE; BY AMENDING THE POLICE OFFICERS' PENSION PLAN AT SECTION 13-42 "SAME-RETIREMENT DATES AND RETIREMENT BENEFITS", SECTION 13-45 "SAME-TERMINATION OF EMPLOYMENT", SECTION 13-49 "SAME-AMENDMENT, TERMINATION AND DISCONTINUATION OF PLAN"

Supporting Data (Surveys, Environmental Scans, etc.):

N/A

Issue:

Should the Village Council approve the resolution amending the Bal Harbour Police Officers' Pension Plan?

Item Summary/Recommendation:

The IRS has issued a favorable determination letter regarding this matter. The Village's Police Officer Pension Plan was deemed qualified under the Internal Revenue Code (IRC) and is operating in accordance with terms as approved by the IRS. In order to conform with the terms as approved by the IRS, it is necessary to adopt an Ordinance amending the Plan as set forth in Chapter 13 of the Village Code of Ordinances. The Village Council has already passed a similar Ordinance for the Bal Harbour General Employees' Pension Plan.

THE ADMINISTRATION RECOMMENDS APPROVAL OF THE RESOLUTION.

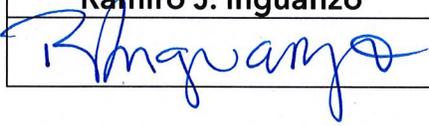
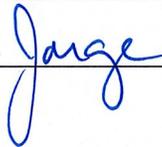
Advisory Board Recommendation:

N/A

Financial Information:

	Amount	Account	Account #

Sign Off:

Assistant Village Manager		Village Manager
Ramiro J. Inguanzo		Jorge M. Gonzalez
		

AGENDA ITEM R5A

BAL HARBOUR

- V I L L A G E -

COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager



DATE: November 22, 2016

SUBJECT: **AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE VILLAGE CODE BY AMENDING CHAPTER 13, "PENSIONS AND RETIREMENT BENEFITS," IN ACCORDANCE WITH THE FAVORABLE DETERMINATION LETTER FROM THE INTERNAL REVENUE SERVICE; BY AMENDING THE POLICE OFFICERS' PENSION PLAN AT SECTION 13-42 "SAME-RETIREMENT DATES AND RETIREMENT BENEFITS", SECTION 13-45 "SAME-TERMINATION OF EMPLOYMENT", SECTION 13-49 "SAME-AMENDMENT, TERMINATION AND DISCONTINUATION OF PLAN"; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.**

ADMINISTRATIVE RECOMMENDATION

It is recommended the Village Council approve the Ordinance amending the Bal Harbour Police Officer's Pension Plan (the "Plan") consistent with terms as approved by the Internal Revenue Service (IRS) in order to achieve a favorable letter of determination for the Plan.

BACKGROUND

In January 2014, Holland & Knight filed an application for a determination letter for the Plan. On April 20, 2016, the IRS issued a favorable determination letter to the Village in response to its application for said letter. The Village's Plan was deemed qualified under the Internal Revenue Code (IRC) and is operating in accordance with terms as approved by the IRS. In order to conform with the terms as approved by the IRS, it is necessary to adopt an ordinance amending the Plan as set forth in Chapter 13 of the Village Code of Ordinances.

Agenda Item R5A

ANALYSIS

DETERMINATION LETTER

Governmental Pension Plans are not required to submit a request for a determination from IRS, however receipt of a favorable determination letter serves to minimize the risk that the IRS will disqualify the plan upon audit due to non-compliance with applicable tax-qualification requirements. A favorable determination letter indicates that the proposed plan meets legal requirements, complies with IRS code, and has qualified status. Without the benefit of the favorable determination letter the IRS could retroactively disqualify the plan back to the date of any defective amendments and the plan could lose the benefits of being tax-qualified for all affected years; or the plan sponsor would have to enter into a special closing agreement with the IRS to preserve the plan's tax-qualified status.

As with any plan, a governmental plan must timely update for recent law changes, this applies to the Village General Employee's and Police Pension Plans. In 2005, the IRS announced that it was creating a 5-year staggered review and amendment period for individually designed plans such as the Village Police Officer's Pension Plan which do not fit onto a preapproved plan document format, and that such plans could request a determination letter from the IRS with respect to an amended and restated plan document only during the plan's assigned period within the 5-year cycle. Under the IRS guidance, governmental plans were assigned to a cycle beginning February 1, 2008 and ending January 31, 2009. During this cycle, the IRS announced that governmental plans had the option to file an application for a determination letter during an upcoming cycle.

Application for Determination Letter

Holland & Knight, on behalf of the Plan, filed an application for a determination letter upon the first opportunity in January 2009. The application included amendments to the pension ordinance in proposed form which were intended to bring the plan into compliance with tax law changes and which were to be presented and enacted by the Village Council after a determination letter was obtained. Based upon this a favorable determination letter was received in May 2011. The Village Council approved and enacted the tax law changes in the ordinance which had been approved by the IRS in June 2011.

The Pension Protection Act of 2006 (PPA) and the Heroes Earnings Assistance and Relief Tax (HEART) Act contained provisions which required certain amendments to pension plans. The deadline for the Police Officer's Pension Plan to adopt the required changes under the PPA was the last day of the first plan year beginning on or after January 1, 2011 or September 30, 2012, for the Village. The deadline for the GEP to adopt the required changes under the HEART Act was the last day of the first plan year beginning on or after January 01, 2012, or September 30, 2013, for the Village.

Holland & Knight, on behalf of the Plan, filed an application for a new determination letter in January 2014, upon the second opportunity presented. The application included amendments to the pension ordinance in proposed form which were intended to bring the plan into compliance with tax law changes that became effective during the preceding five years, Holland & Knight understood these amendments would be approved and enacted by the Village Council after a determination letter was obtained. The IRS agent assigned to review the application, asked Holland & Knight for evidence that the Employee's Pension Plan had approved the changes for the PPA and HEART Act by the applicable deadlines. Holland & Knight, conducted a review of the governing body's meetings minutes, and did not find evidence of amendment approval prior to including the amendments in proposed form with the application to the IRS. In order to correct the failure to timely approve such amendments, the agent offered to enter into a closing or settlement agreement which requires Council approval the amendments *prior to* entering into the closing agreement. Accordingly, the changes are advanced in ordinance format for Council's approval, which upon approval will enable the completion of the closing agreement with the IRS a favorable determination letter.

The Village Council has already passed a similar ordinance for the Bal Harbour General Employees' Pension Plan.

CONCLUSION

The changes to the Plan, if adopted as proposed, will advance the closing agreement with the IRS and a favorable determination letter indicating the plan meets legal requirements, complies with IRS code, and has qualified status. It should be noted however, that the Plan has been and is in practice, operationally compliant with IRS amendments.

ORDINANCE NO. _____

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE VILLAGE CODE BY AMENDING CHAPTER 13, "PENSIONS AND RETIREMENT BENEFITS," IN ACCORDANCE WITH THE FAVORABLE DETERMINATION LETTER FROM THE INTERNAL REVENUE SERVICE; BY AMENDING THE POLICE OFFICERS' PENSION PLAN AT SECTION 13-42 "SAME-RETIREMENT DATES AND RETIREMENT BENEFITS", SECTION 13-45 "SAME-TERMINATION OF EMPLOYMENT", SECTION 13-49 "SAME-AMENDMENT, TERMINATION AND DISCONTINUATION OF PLAN"; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Bal Harbour Village (the "Village") maintains a defined benefit pension plan for its certified police officers, which is known as the Bal Harbour Village Police Officers' Pension Plan and Trust (the "Plan"), and which is codified in Chapter 13 of the Village Code of Ordinances; and

WHEREAS, on April 20, 2016, the Internal Revenue Service (IRS) issued a favorable determination letter to the Village in response to its application for said letter, wherein the Village's Plan has been deemed qualified under the Internal Revenue Code (IRC) and is operating in accordance with terms as approved by the IRS; and

WHEREAS, to conform with the terms as approved by the IRS, it is necessary to adopt an ordinance amending the Plan as set forth in Chapter 13 of the Village Code of Ordinances.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AS FOLLOWS:¹

¹ Additions to existing Village Code text are shown by underline; deletions from existing Village Code text are shown by ~~striketrough~~. Additions between first and second reading are shown in double underline; deletions between first and second reading are shown in ~~double striketrough~~.

Section 1. Recitals Adopted. That each of the above stated recitals is hereby adopted and confirmed.

Section 2. Village Code Amended. That Section 13-42 “Same—Retirement dates and retirement benefits” of Article II “Employee’s Pension Plan” of Chapter 13 “Pensions and Retirement Benefits” of the Village Code is hereby amended to read as follows:

Sec. 13-42. - Same—Retirement dates and retirement benefits.

* * *

(h) Optional forms of retirement benefit payments. Each Participant shall have the right at any time prior to his or her actual retirement or his or her early, normal or deferred retirement date to elect to have his or her retirement benefit payable under any of the options set forth in this subsection in lieu of the retirement benefits otherwise provided in this section, and to revoke any such elections and make a new election at any time prior to actual retirement. The value of optional retirement benefits shall be actuarially equivalent to the value of benefits otherwise payable. The Participant shall make such an election by written notice to the Retirement Board.

* * *

- (2) Option 2—Life ~~annuity~~ Annuity. A retiring Participant may elect to receive an increased retirement benefit payable during his or her remaining lifetime and ceasing upon his or her death.
- (3) Option 3—Other. In lieu of the other optional forms enumerated in this section, retirement benefits may be paid in any form so long as Actuarial Equivalence with the benefits otherwise payable is maintained, and provided further that any death benefits resulting may be no more than incidental.
- (4) Option 4—Lump ~~sum~~ Sum. In lieu of the normal and other optional forms of benefit payment enumerated in this section, a lump sum benefit payment shall be available to Participants as follows:

* * *

(j) Required distributions. Commencing after December 31, 1983, the entire interest of a Participant shall either be distributed to him or her not later than the taxable year in which he or she attains age 70½ or retires, or in the alternative, distribution shall commence in such year and be payable over a period of time not exceeding the limitations set forth in the following provisions:

* * *

- (3) Provided further, any method of distribution selected and made in writing by a Participant prior to January 1, 1984, and which is in compliance with the Village Code prior to said date, shall be permitted hereunder even though not otherwise in accordance with the above ~~2 provisions~~ provisions as applied to distributions beginning after December 31, 1983.

In no event may a Participant's retirement benefit be delayed beyond the later of the April 1 following the calendar year in which the Participant attains age 70½ or the April 1 of the year following the calendar year in which the Participant retires. Distributions under this plan will be made in accordance with Regulations under Internal Revenue Code Section 401(a)(9). Provisions of Internal Revenue Code Section 401(a)(9) shall override any distribution options in the plan that may be inconsistent with such section.

Notwithstanding any other provision of this plan to the contrary, where a form of retirement income payment has commenced in accordance with the preceding paragraphs and the Participant dies before his entire interest in the plan has been distributed, the remaining portion of such interest in the plan shall be distributed no less rapidly than under the form of distribution in effect at the time of the Participant's death.

* * *

(m) Rollover of Distributions. This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at any time and in any manner prescribed by the Retirement Board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. For the purposes of this section the following definitions shall apply:

(1) DIRECT ROLLOVER. A payment by the plan to the eligible retirement plan specified by the distributee. Effective as of January 1, 2008, a non-spouse Beneficiary may make a direct rollover only to an "inherited" individual retirement account as described in Section 408(b) of the Internal Revenue Code.

(2) DISTRIBUTEES. An employee or former employee. In addition, the employee's or former employee's surviving spouse is a distributee with regard to the interest of the spouse. Effective as of January 1, 2008, an Employee's or former Employee's non-spouse Beneficiary is a distributee with regard to the interest of the Employee or former Employee.

(3) ELIGIBLE RETIREMENT PLAN. An individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity account described in Section 408(b) of the Internal Revenue Code, an individual retirement plan described in Section 403(a) of the Internal Revenue Code, or a qualified trust described in § 401(a) of the IRC, that accepts the

distributee's eligible rollover distribution. Effective for distributions made after December 31, 2001, an eligible retirement plan shall also mean an annuity contract described in Section 403(b) of the Internal Revenue Code and an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan.

(4) ELIGIBLE ROLLOVER DISTRIBUTION. Any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) of the distributee and the distributee's designated beneficiary, for a specified period of ten years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; and, the portion of any distribution that is not includable in gross income.

Section 3. Village Code Amended. That Section 13-45 “Same—Termination of employment” of Article II “Employee’s Pension Plan” of Chapter 13 “Pensions and Retirement Benefits” of the Village Code is hereby amended to read as follows:

Sec. 13-45. - Same—Termination of employment.

* * *

(c) Voluntary termination. If such termination of Continuous Employment shall be the voluntary act of the Participant, or if the Participant shall be terminated by the Village for any reason not included in subsection (d) of this section, he or she shall be entitled to receive an amount equal to the larger of the amount provided in subsection (c)(1) of this section or the actuarial equivalent of the amount provided in subsection (c)(2) of this section, as follows:

* * *

(e) Payment of benefits. Such payments shall be made in the form of deferred monthly retirement benefits or in accordance with optional forms of benefit set forth in subsection 13-42(h). In addition, such payments shall be made only upon a written request by the Participant in a form and manner determined by the Retirement Board.

* * *

Section 4. Village Code Amended. That Section 13-49 “Same—Amendment, termination and discontinuance of Plan” of Chapter 13 “Pensions and Retirement Benefits” of the Village Code is hereby amended to read as follows:

Sec. 13-49. - Same—Amendment, termination and discontinuance of Plan.

* * *

- (c) Termination of trust. Although it is the intention of the Village to continue this trust indefinitely, the Village may by action of its Council terminate the trust at any time by ordinance adopted by the Village. Upon termination of the trust by the Village for any reason or because of a transfer, merger, or consolidation of governmental units, services, or functions as provided in chapter 121, or upon written notice by the Village to the Retirement Board that contributions under the system are being permanently discontinued, the rights of all members to benefits accrued to the date of such termination or discontinuance and the amounts credited to the members' accounts are non-forfeitable and 100% vested. The fund shall be distributed by the Retirement Board in accordance with the following procedures:

* * *

Section 5. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of the this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining section, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, if being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 6. Inclusion in the Code. It is the intention of the village Council, and it is hereby ordained that this Ordinance shall become and be made a part of the Bal Harbour Village Code; that the sections of this Ordinance may be renumbered or relettered to accomplish such intention; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 7. Conflict. That all sections or parts of sections of the Village Code, all ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict with this Ordinance are repealed to the extent of such conflict.

Section 8. Effective Date. That this Ordinance shall be effective immediately upon adoption on Second Reading, except as otherwise specifically provided herein.

PASSED AND ADOPTED on first reading this ____ day of _____,
2016.

PASSED AND ADOPTED on second reading this ____ day of _____,
2016.

Mayor

ATTEST:

Dwight S. Danie, Village Clerk

Approved as to Form and Legal Sufficiency:



Village Attorney
Weiss Serota Helfman Cole & Bierman, P.L.

Reviewed and Approved by Village Attorney

BAL HARBOUR

- VILLAGE -

COUNCIL ITEM SUMMARY

Condensed Title:

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; AFFIRMING THE VILLAGE'S OPPOSITION TO THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP) AND ENVIRONMENTAL REGULATION COMMISSION'S WEAKENING OF HUMAN HEALTH PROTECTIONS THROUGH NEW HUMAN HEALTH BASED QUALITY CRITERIA FOR OUR WATERS; URGING THE U.S. ENVIRONMENTAL PROTECTION AGENCY TO NOT APPROVE FLORIDA'S PROPOSED HUMAN HEALTH-BASED WATER QUALITY CRITERIA; DIRECTING THE APPROPRIATE VILLAGE OFFICIALS TO TAKE ANY AND ALL ACTIONS NECESSARY TO EFFECTUATE THE INTENT OF THIS RESOLUTION; DIRECTING THE VILLAGE CLERK TO TRANSMIT A COPY OF THIS RESOLUTION TO THE U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA), ALL STATE REPRESENTATIVES AND SENATORS REPRESENTING BAL HARBOUR VILLAGE AND THE OFFICE OF THE GOVERNOR.

Issue:

Should the Village Council affirm their opposition to DEP's water quality criteria changes?

Item Summary/Recommendation:

At the October 2016 Council Meeting, Councilman Seth Salver requested a discussion item be placed on the agenda regarding the Florida Department of Environmental Protection's (DEP) intent to change the water quality criteria in the State. After a brief discussion, the Council directed staff to prepare a Resolution for the upcoming November agenda. DEP has fast-tracked this new criteria which will increase several limits for carcinogens and thereby potentially increase the exposure of these carcinogens to Florida wildlife, seafood, and ultimately people. If Council finds that opposing the Florida DEP's weakening of water quality standards for toxic chemicals and thereby allowing an increase in the discharge of these toxic chemicals into Florida waters is in the best interest of the health, safety, and welfare of the Village, then it should affirm the Village's opposition.

THE ADMINISTRATION RECOMMENDS APPROVAL OF THE RESOLUTION.

Financial Information:

Amount	Account	Account #

Sign Off:

		Village Manager
		Jorge M. Gonzalez
		

AGENDA ITEM R7A

BAL HARBOUR

- V I L L A G E -

COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager



DATE: November 22, 2016

SUBJECT: **A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; AFFIRMING THE VILLAGE'S OPPOSITION TO THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP) AND ENVIRONMENTAL REGULATION COMMISSION'S WEAKENING OF HUMAN HEALTH PROTECTIONS THROUGH NEW HUMAN HEALTH BASED QUALITY CRITERIA FOR OUR WATERS; URGING THE U.S. ENVIRONMENTAL PROTECTION AGENCY TO NOT APPROVE FLORIDA'S PROPOSED HUMAN HEALTH-BASED WATER QUALITY CRITERIA; DIRECTING THE APPROPRIATE VILLAGE OFFICIALS TO TAKE ANY AND ALL ACTIONS NECESSARY TO EFFECTUATE THE INTENT OF THIS RESOLUTION; DIRECTING THE VILLAGE CLERK TO TRANSMIT A COPY OF THIS RESOLUTION TO THE U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA), ALL STATE REPRESENTATIVES AND SENATORS REPRESENTING BAL HARBOUR VILLAGE AND THE OFFICE OF THE GOVERNOR; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

ADMINISTRATIVE RECOMMENDATION

The Administration recommends approval of this resolution.

BACKGROUND

At the October 31, 2016 Village Council Meeting, Councilman Seth Salver requested a discussion item be placed on the agenda regarding the Florida Department of Environmental Protection's (DEP) intent to change the water quality criteria in the State. After a brief discussion, the Council directed staff to prepare a Resolution for consideration and to place the item on the upcoming November agenda.

On July 26, 2016, the Florida Environmental Regulation Commission ("ERC"), in fast-tracking the decision to vote on the rule, approved proposed Human Health-Based Water Quality Criteria ("HHWQC") by a 3 to 2 vote, with 2 vacant Commission positions remaining unfilled representing, respectively, the "environment" and "local government" seats, and with the "lay person" seat occupied by a recent member of the DEP general counsel. The Florida DEP only held three workshops statewide, none of which were in south Florida, and published one legal notice in the Florida Administrative Register that

was described by the Joint Administrative Procedures Committee (Legislative branch) as "incomprehensible."

The approved criteria allow an increase of toxic and/or carcinogenic chemicals to be discharged into Florida waters that are used for sources of drinking water, shellfish harvesting, fishing and swimming. The Florida DEP revised 43 existing human health criteria. For 42 of those 43 carcinogens, the Florida DEP revised limits are higher than the limits recommended by the EPA. Overall, 67 chemicals have higher limits than those recommended by the EPA.

Increasing the amount of these toxic chemicals in our waterways will increase Floridians' risk of getting cancer from use of Florida's waters and consuming Florida-caught seafood. This further degradation of our waters from these toxics under the ERC approval increases the risk of developing cancer to nearly one in 10,000 individuals or higher (per chemical) for individuals who eat Florida-caught seafood daily, such as subsistence fishermen and tribal communities, and to one in 100,000 for individuals who eat Florida-caught seafood on a weekly basis. The weakening of Florida's water quality criteria will encourage more industrial discharge including new highly polluting industrial activities such as oil and gas drilling (including fracking operations), to locate in Florida to the detriment of the safety of our State waters and the public.

Higher levels of toxic chemicals in Florida's waters will likely result in more pain and suffering as well as higher health care costs from diseases such as cancer, leukemia, nervous and immune system disorders, birth defects and other serious diseases. Passage of the HHWQC rule will harm Florida's wildlife and environment and Florida's tourism, recreational and commercial fishing industry, real estate, and water-based economy. Such an important health-related decision impacting all citizens of Florida, should only follow a fully transparent public discussion after the Florida DEP has provided all documents and explanations regarding the impact of the decision at numerous workshops held around the state at times and locations that are convenient to most people. If Council finds that opposing the Florida DEP's weakening of water quality standards for toxic chemicals and thereby allowing an increase in the discharge of these toxic chemicals into Florida waters is in the best interest of the health, safety, and welfare of the Village, then it should affirm the Village's opposition.

CONCLUSION

Council should affirm the Village's opposition to the Florida Department of Environmental Protection ("DEP") and Environmental Regulation Commission's weakening of human health protections.

RESOLUTION NO. _____

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; AFFIRMING THE VILLAGE'S OPPOSITION TO THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP) AND ENVIRONMENTAL REGULATION COMMISSION'S WEAKENING OF HUMAN HEALTH PROTECTIONS THROUGH NEW HUMAN HEALTH-BASED WATER QUALITY CRITERIA FOR OUR WATERS; URGING THE U.S. ENVIRONMENTAL PROTECTION AGENCY TO NOT APPROVE FLORIDA'S PROPOSED HUMAN HEALTH-BASED WATER QUALITY CRITERIA; DIRECTING THE APPROPRIATE VILLAGE OFFICIALS TO TAKE ANY AND ALL ACTIONS NECESSARY TO EFFECTUATE THE INTENT OF THIS RESOLUTION; DIRECTING THE VILLAGE CLERK TO TRANSMIT A COPY OF THIS RESOLUTION TO THE U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA), ALL STATE REPRESENTATIVES AND SENATORS REPRESENTING BAL HARBOUR VILLAGE AND THE OFFICE OF THE GOVERNOR; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, this Council strives to provide its citizens and visitors with clean water for all uses and activities; and

WHEREAS, clean water is vital to the health of Florida's environment, citizens, and economy; and

WHEREAS, on July 26, 2016, the Florida Environmental Regulation Commission ("ERC"), in fast-tracking the decision to vote on the rule, approved proposed Human Health-Based Water Quality Criteria ("HHWQC") by a 3 to 2 vote, with 2 vacant Commission positions remaining unfilled representing, respectively, the "environment" and "local government" seats, and with the "lay person" seat occupied by a recent member of the DEP general counsel; and

WHEREAS, the new HHWQC rules were derived by statistical methods not used for this purpose by the EPA or any other state in the nation; and

WHEREAS, the approved criteria allow an increase of toxic and/or carcinogenic chemicals to be discharged into Florida waters that are used for sources of drinking water, shellfish harvesting, fishing and swimming; and

WHEREAS, increasing the amount of these toxic chemicals in our waterways will increase Floridians' risk of getting cancer from use of Florida's waters and consuming Florida-caught seafood; and

WHEREAS, this further degradation of our waters from these toxics under the ERC approval increases the risk of developing cancer to nearly one in 10,000 individuals or higher (per chemical) for individuals who eat Florida-caught seafood daily, such as subsistence fishermen and tribal communities, and to one in 100,000 for individuals who eat Florida-caught seafood on a weekly basis; and

WHEREAS, the weakening of Florida's water quality criteria will encourage more industrial discharge including new highly polluting industrial activities such as oil and gas drilling (including fracking operations), to locate in Florida to the detriment of the safety of our State waters and the public; and

WHEREAS, higher levels of toxic chemicals in Florida's waters will likely result in more pain and suffering as well as higher health care costs from diseases such as cancer, leukemia, nervous and immune system disorders, birth defects and other serious diseases; and

WHEREAS, passage of the HHWQC rule will harm Florida's wildlife and environment; and

WHEREAS, passage of the HHWQC rule will harm Florida’s tourism, recreational and commercial fishing industry, real estate, and water-based economy;

WHEREAS, such an important health-related decision impacting all citizens of Florida, should only follow a fully transparent public discussion after the Florida DEP has provided all documents and explanations regarding the impact of the decision at numerous workshops held around the state at times and locations that are convenient to most people; and

WHEREAS, the Florida DEP only held three workshops statewide and none in south Florida,

WHEREAS, Florida DEP published one legal notice in the Florida Administrative Register that was described by the Joint Administrative Procedures Committee (Legislative branch) as “incomprehensible”; and

WHEREAS, the Village Council finds that opposing the Florida DEP’s weakening of water quality standards for toxic chemicals and thereby allowing an increase in the discharge of these toxic chemicals into Florida waters is in the best interest of the health, safety and welfare of the Village Residents.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; AS FOLLOWS:

Section 1. Recitals. That the above stated recitals are hereby adopted and confirmed as being true and correct and are hereby made a specific part of this Resolution.

Section 2. DEP Rule Opposed. That the Village Council of Bal Harbour Village hereby opposes the Florida Department of Environmental Protection’s proposed Human

Health Toxics Criteria and the increasing of the risk level for cancer used to develop the criteria.

Section 3. Process Inadequate. That the Village Council of Bal Harbour Village hereby finds the public engagement process utilized by the Florida Department of Environmental Protection's proposed Human Health-Based Water Quality Criteria rule to be insufficient and lacking.

Section 4. Environmental Protection Agency Action Encouraged. That the Village Council of Bal Harbour Village urges the U.S. Environmental Protection Agency to:

- 1) Reject Florida's Human Health-Based Water Quality Criteria and provide the State of Florida with notification of failure to meet federal standards under §303(c)(3) of the Clean Water Act (CWA) when the rule is formally submitted to the EPA.
- 2) Hold more public meetings, to accept public comment on the proposed rules that would weaken Florida's water quality standards under §303(c) of the Clean Water Act (CWA).
- 3) Promptly prepare and publish proposed regulations setting forth a revised or new water quality standard under §303(c)(4) of the Clean Water Act (CWA).

Section 5. Implementation. That the Village Manager is hereby authorized and directed to take any and all action necessary to effectuate the intent of this Resolution.

Section 6. Transmittal of Resolution. That the Village Clerk is hereby directed to transmit a copy of this Resolution to the United States Environmental Protection Agency, all federal and state representatives and senators representing Bal Harbour Village and Governor Rick Scott.

Section 7. Conflict. That all resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 8. Severability. That if any clause, section, or other part or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or applications of this Resolution.

Section 9. Effective Date. This Resolution shall become effective immediately upon passage and adoption.

PASSED AND ADOPTED this ____ day of November, 2016.

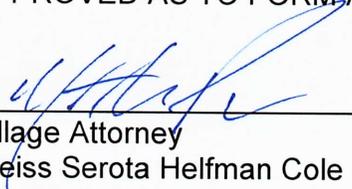
Mayor



ATTEST:

Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:



Village Attorney
Weiss Serota Helfman Cole & Bierman, P.L.

Reviewed and Approved by Village Attorney Matthew J. Pearl

BAL HARBOUR

- V I L L A G E -

COUNCIL MEMORANDUM

TO: Jorge M. Gonzalez, Village Manager

FROM: Honorable Mayor and Village Council 

DATE: November 22, 2016

SUBJECT: **Discussion Regarding the Selection of Upcoming Meeting Dates**

ADMINISTRATIVE RECOMMENDATION

I am proposing dates and time for the 2017 Village Council Meetings.

BACKGROUND

Section 22 of the Village Charter requires that the Village Council meet at least once each month, with the exception of August. For several years, the Village Council has opted to meet on the third Tuesday of each month at 7:00 p.m.

Should it be your pleasure to continue with this practice, there does not appear to be a conflict with this pattern in 2017, with the exception of the month of April, which is being moved to the fourth Tuesday (25th) due to anticipated Holy Week events. Additionally, September requires two meetings for the adoption of the fiscal year budget.

CONCLUSION

I am therefore proposing the following meeting schedule for 2017:

January 17, 2017	May 16, 2017	September 19, 2017
February 21, 2017	June 20, 2017	October 17, 2017
March 21, 2017	July 18, 2017	November 21, 2017
<u>April 25, 2017</u>		December 12, 2017

I would ask that approval be given to the meeting dates above, with a start time of 7:00 p.m.

Attachment:

1. Bal Harbour Charter Section 22
2. 2017 Calendar of Potential Meeting Dates

JANUARY

M	T	W	T	F	S	S
					1	
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

FEBRUARY

M	T	W	T	F	S	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28				

MARCH

M	T	W	T	F	S	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

APRIL

M	T	W	T	F	S	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	+	29	30

MAY

M	T	W	T	F	S	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

JUNE

M	T	W	T	F	S	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

JULY

M	T	W	T	F	S	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

AUGUST

M	T	W	T	F	S	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

SEPTEMBER

M	T	W	T	F	S	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

OCTOBER

M	T	W	T	F	S	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

NOVEMBER

M	T	W	T	F	S	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

DECEMBER

M	T	W	T	F	S	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

JANUARY

- 1 - New Year's Day
- 1 - Solemnity of Mary
- 16 - Martin Luther King

FEBRUARY

- 11 - Tu Bishvat
- 20 - Presidents Day

MARCH

- 1 - Ash Wednesday
- 12-13 - Purim

APRIL

- 7-19 Passover/ Spring Break
- 9 - Palm Sunday
- 13 - Holy Thursday
- 14 - Good Friday
- 16 - Easter

MAY

- 25 - Ascension of the Lord
- 29 - Memorial Day
- 31 - Shavuot

JUNE

- 1 - Shavuot (continued)

JULY

- 4 - Independence Day

AUGUST

- 1 - Tisha B'Av
- 15 - Assumption of the Virgin Mary

SEPTEMBER

- 4 - Labor Day
- 21-22 - Rosh Hashanah
- 24 - Fast of Gedaliah
- 30 - Yom Kippur

OCTOBER

- 5-11 - Sukkot
- 12 - Shmini Atzeret

NOVEMBER

- 1 - All Saints Day
- 10 - Veterans Day (observed)
- 23-24 - Thanksgiving

DECEMBER

- 8 - Feast of the Immaculate Conception
- 13-20 - Hanukkah
- 24 - Christmas Eve
- 25 - Christmas Day
- 31 - New Year's Eve

 Proposed Dates
 Holidays
 Weekends

BAL HARBOUR

- V I L L A G E -

MEMORANDUM

TO: HONORABLE MAYOR AND COUNCIL

FROM: DWIGHT S. DANIE, VILLAGE CLERK 

DATE: NOVEMBER 16, 2016

RE: **LOBBYIST REGISTRATION REPORT**

In compliance with Village Code Section 2-301 (Lobbyists), please be advised that the following are currently registered with the Village as Lobbyists:

Name of Lobbyist	Principal Represented	Date Registered
Alfredo J. Gonzalez Greenberg Taurig	Merci, Merci Me, LLC	01/12/16
Stanley F. Whitman	Bal Harbour Shops, LLLP	01/13/16
Randall A. Whitman	Bal Harbour Shops, LLLP	01/13/16
Matthew W. Lazenby	Bal Harbour Shops, LLLP	01/13/16
John K. Shubin, Shubin & Bass	Bal Harbour Shops, LLLP	01/13/16
Amy E. Huber, Shubin & Bass	Bal Harbour Shops, LLLP	01/13/16
Deana Falce, Shubin & Bass	Bal Harbour Shops, LLLP	01/13/16
Henry Fandrei Fandrei Consulting	Bal Harbour Shops, LLLP	01/13/16
Bernard Zyscovich Zyscovich Architects	Bal Harbour Shops, LLLP	01/13/16
Howard J. Berlin Berger Singerman LLP	Bal Harbour Shops, LLLP	01/13/16
Ivor N. Massey aka Nik Massey	Bal Harbour Shops, LLLP	01/13/16
Michael D. Katz Katz Barron Squitero Faust	Bal Harbour Shops, LLLP	01/13/16
Howard L. Friedberg Katz Barron Squitero Faust	Bal Harbour Shops, LLLP	01/13/16
Elias Benjamin, Whitman Family Development	Bal Harbour Shops, LLLP	01/13/16
Raymond Jungles, Raymond Jungles Arch.	Bal Harbour Shops, LLLP	01/13/16

Name of Lobbyist	Principal Represented	Date Registered
Roberto Bezold, Zyscovich Architects	Bal Harbour Shops, LLLP	01/13/16
Thomas Butcher, Walker Parking	Bal Harbour Shops, LLLP	01/13/16
Jonathan H. Kaskel, Gunster	Bal Harbour Yacht Club, Flamingo Way Enterprises	01/26/16
Mario Garcia-Serra	Flamingo Way Enterprises	3/18/16
W. Tucker Gibbs	Bal Harbour Citizens Coalition	3/22/16
Lucia A. Dougherty	Bal Harbour Community Partnership Inc. Bal Harbour Alliance for Leadership	4/12/16
Jeffrey Bercow	Howard D Cohen	4/18/16
Angel Cortinas	Bal Harbour Yacht Club, Flamingo Way Enterprises	4/19/16
Amy Huber	Church by the Sea	4/26/16
Juan M. Muniz	Flamingo Way Enterprises	5/23/16
Rob Curtis	Howard D. Cohen	6/14/16
Michael J. Marrero	Ronald Finvarb	7/19/16
Pedro M. Villa	Bal Harbour Quarzo	10/17/16
William W. Riley	Bal Harbour Quarzo	10/17/16