

BAL HARBOUR VILLAGE COUNCIL MEETING MINUTES
SPECIAL MEETING – JULY 30, 2013

A Special Meeting of the Bal Harbour Village Council was held on July 30, 2013, at the Bal Harbour Village Hall Council Chambers (655 – 96th Street, Bal Harbour, Florida).

1. CALL TO ORDER/ROLL CALL: The meeting was called to order at 6:02 p.m. by Mayor Rosenfield. The following were present:

Mayor Jean Rosenfield
Assistant Mayor Joni D. Blachar¹
Councilwoman Patricia Cohen
Councilman Martin Packer
Councilman Jaime M. Sanz

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

2. PLEDGE OF ALLEGIANCE: The Pledge was led by the Council.

3. RESOLUTION: The following Resolution title was read by Mrs. Horvath:

A RESOLUTION OF BAL HARBOUR VILLAGE, FLORIDA, RELATING TO THE PROVISION OF SECURITY AND LANDSCAPE SERVICES, FACILITIES AND PROGRAMS IN THE GATED RESIDENTIAL SECTION OF BAL HARBOUR VILLAGE, FLORIDA; DESCRIBING THE METHOD OF ASSESSING SECURITY AND LANDSCAPE COSTS AGAINST ASSESSED PROPERTY LOCATED WITHIN THE GATED RESIDENTIAL SECTION OF BAL HARBOUR, FLORIDA; DETERMINING THE COST OF SECURITY AND LANDSCAPE SERVICES, FACILITIES AND PROGRAMS AND THE INITIAL SECURITY AND LANDSCAPE ASSESSMENTS; DIRECTING THE PREPARATION OF AN ASSESSMENT ROLL; AUTHORIZING A PUBLIC HEARING AND DIRECTING THE PROVISION OF NOTICE THEREOF; AND PROVIDING AN EFFECTIVE DATE.

It was the consensus of the Council to discuss the following item out of order:

4. UPDATE ON U.S. DEPARTMENT OF JUSTICE (DOJ) INVESTIGATION:

Report on Meeting with U.S. Department of Justice Officials – Attorney Dan Gelber: Mr. Gelber provided an update on the following:

¹ Assistant Mayor Blachar arrived after the Pledge of Allegiance.
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- 1.) **Investigative Audit #1:** Mr. Gelber reported that the investigation was a review of the Department of Justice (DOJ) asset forfeiture funds, to determine if the funds were appropriately spent, primarily whether or not the Village was paying for employees with forfeiture funds, which generally wasn't allowed. He noted that the DOJ was contemplating what to do, as a result of that audit.
- 2.) **Current Audit:** Mr. Gelber reported that the investigation was a review of whether or not the forfeiture funds were properly being spent for overtime. He noted the following from the Inspector General Audit Report:
 - The Audit suggested that 70% of overtime (from 2010 to 2012) from the VIN unit was insufficiently documented (over 2,000 forms - around \$657,000.00), to be consistent with DOJ requirements.
 - A review was being conducted of transponder use, to determine if someone was working or not.
 - The concern was that the Village supplanted a budget item with overtime.

Mr. Gelber concluded that DOJ's main concern was that the 2,000+ overtime forms were paid for with federal asset forfeiture funds and didn't have sufficient documentation.

Mr. Gelber reported that he and Assistant Mayor Blachar met with the Department of Justice Asset Forfeiture Unit Chief, Deputy Chief, and the Agent involved in the review. He explained that the Village had been given 30 days to provide additional supporting documents for the 2,000 overtime forms, which the Village was in the process of doing, and the DOJ would then decide if the Village owed any money. Assistant Mayor Blachar noted that it was 2,600 overtime slips. Assistant Mayor Blachar didn't want to wait until the last minute, to provide the supporting documents.

Discussion of Meeting with Miami-Dade County State

Attorney: Mr. Gelber discussed the Inspector General allegations versus findings, in the report. He explained that Mr. Smith referred the report to the FDLE (Florida Department of Law Enforcement) and the State Attorney Office, to review the allegations in the report. Mr. Gelber reported that the FDLE agent had suggested that the Village wait until after the 30 days, before further review of the allegations.

It was the consensus of the Council to open up the discussion to the floor.

The following members of the public provided comments:

Anamarie Kelly Stoppa - 77 Camden Drive
Beth Berkowitz - 10160 Collins Avenue
Dina Cellini - 211 Bal Cross Drive
Steve Greenberg - 9800 Collins Avenue
Raj Singh - 53 Camden Drive

Mr. Gelber explained that the Village had returned federal forfeiture money, not taxpayer money. He clarified that since the Federal Government had decided (October 2012) that the Village was no longer eligible to be in the equitable sharing program that money could no longer be spent and the DOJ had requested the money to be returned. He further clarified that the Village was in the program, per the terms of the arrangement, and the

federal government money had to be given back (\$1.3 million). He spoke in favor of returning that money.

Mr. Gelber clarified that the documents that the Village had were given to the DOJ. He explained that the Police Department was looking for additional supporting documents, to address the request from the DOJ. He clarified that he wasn't tasked with looking into the volume of overtime.

Mr. Gelber clarified that the DOJ had requested additional documentation for \$657,000.00 worth of overtime. He noted that they had mentioned a \$150,000.00 transfer to Glades County (the Village's partner in the task force), but that wasn't included in the report. He hoped that the process to provide additional documentation would reduce or alleviate the \$657,000.00.

Mr. Weiss clarified that the DOJ didn't focus on the salary issue, but it wasn't off the table. He would add both those figures together (\$657,000.00 – overtime and \$660,000.00 - salaries). Mr. Gelber estimated that the worst case scenario would be \$1.3 million, for overtime and salaries.

Mr. Gelber clarified that the Village would not receive the federal forfeiture money that was in the pipeline, unless the Village joined another task force in the future. He noted that there may still be an equity argument.

Mr. Gelber discussed the points account (residual money from the undercover operations), which he estimated to be over \$200,000.00 and may potentially be spent to address some of the issues.

Mr. Weiss noted that the regulations may require that the money, from the sale of items purchased with the forfeiture funds, go back to the federal government.

Mr. Gelber reported that his fees were paid by the Village, but he didn't know if the points account could be used for that. He thought that Glades County was part of the DOJ review as well. He noted that it wasn't uncommon to provide the "VIN" wording on an overtime form, for task force overtime.

Mr. Smith clarified that the Officers were being paid on-duty, not overtime, to provide the additional documentation.

There being no additional comments, Mayor Rosenfield closed the meeting to public comments.

Councilwoman Cohen suggested that the Village review the amount of overtime that other agencies had for task forces. Mr. Gelber will review that. He clarified that there was focus on the Village, because the task force had received a lot of money through the equitable sharing program. Mr. Gelber noted that someone had made an allegation that there were overtime issues, which is why the DOJ had requested additional documentation.

Councilman Packer questioned why the documentation wasn't provided three years ago. Mr. Gelber clarified that the Village just found out that the DOJ wasn't satisfied with the

“VIN” wording written on the overtime forms. He noted that the Village had given every document that was requested.

Assistant Mayor Blachar discussed her conversation at the meeting with the DOJ, on behalf of the Council and residents. She highlighted not wanting the residents to have to pay for the mistakes that were made, the Village acted swiftly when this occurred, changes had been made regarding the Police Chief and Village Manager, in the process of hiring a new Finance Director. She also noted the use of the forfeiture funds for less fortunate schools, kids programs, charity, etc. She stressed to the DOJ that the Village wanted to move forward and would provide what was needed to resolve the issue.

Councilman Packer noted that the residents would be paying pension funds, due to the overtime, out of the Village budget and some things were not 100% right. Assistant Mayor Blachar explained that was why it was being investigated. Mr. Gelber reported that law enforcement supervisors had signed the overtime forms.

Councilman Sanz questioned if there had been a freeze on overtime. Mr. Smith clarified that only essential overtime was allowed (court and holiday pay), per the contract. Councilman Sanz spoke in favor of a cap for overtime, when a new Village Manager started. Mr. Smith noted that he now also signed the overtime slips, to ensure it met the essential requirement. Councilman Sanz suggested reviewing the scheduling, to minimize overtime. He discussed the overtime in pensions. Mr. Smith discussed the cap on overtime now.

Councilwoman Cohen estimated that the officers worked 60 hours a week, for a year, to meet the amount of overtime noted. Mr. Smith reported that was no longer happening.

Mayor Rosenfield noted that additional comments regarding overtime could be made in the future, with the new Village Manager.

RESOLUTION: A motion was offered by Assistant Mayor Blachar and seconded by Mayor Rosenfield to approve the Resolution.

Chris Wallace – Finance Director, explained the initial assessment resolution for the Gated Residential Section. He reported that the assessment had been decreased 26% from the current rate, used the same methodology, and would be sent out on the property tax notices. Assistant Mayor Blachar reviewed the assessment amounts for single family homes (\$2,616.50) and explained that the assessment was decreased, due to the increased contingency fund. Mr. Wallace explained that an assessment roll was provided for the multi-family apartment rates, since they varied depending on the number of units.

The following members of the public provided comments:

Anamarie Kelly (Ree) Stoppa - 77 Camden Drive
Stuart Sobel - 271 Bal Cross Drive
Beth Berkowitz - 10160 Collins Avenue
Steve Greenberg - 9800 Collins Avenue
Lynne Bloch Mullen - 10150 Collins Avenue

Seth Salver - 10155 Collins Avenue
Dina Cellini - 211 Bal Cross Drive
Raj Singh - 53 Camden Drive

Mayor Rosenfield questioned if the Gated Residential Section Advisory Committee (RAC) had considered hiring a manager, outside of the Village. Assistant Mayor Blachar didn't think that there was a necessity to do that.

Assistant Mayor Blachar reported that Mr. Smith had provided an estimate of \$18,000.00, for the Village staff time that was used for the Gated Area. She noted that the RAC had budgeted \$30,000.00 again for the Village's administrative fee (for staff time). She reviewed the RAC Ordinance that required the Village to provide Village personnel to the RAC. She thought that the Gated Area was paying its fair share. She discussed the situation in the Gated Area.

Mr. Weiss explained that whether or not Assistant Mayor Blachar should recuse herself from the vote (since she lived in the Gated Area) had been reviewed with the Ethics Commission and, since the vote affected more than 100 people, it didn't personally affect Assistant Mayor Blachar.

Assistant Mayor Blachar reported that she also owned an apartment on the west side of Collins Avenue, which she disclosed annually.

Mr. Weiss clarified that there was money in the Gated Area's Contingency fund for the Gated Area to consider other options for staffing.

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

Mayor Rosenfield spoke in favor of approval.

Councilwoman Cohen noted that it wasn't about the money. She spoke in favor of revising the resolution, to decrease the time that Village staff was used for the Gated Area. She didn't feel comfortable voting on issues on a specific private area.

Mr. Weiss clarified that the resolution imposed the assessment for the Gated Area, but didn't approve the budget, specify how the money would be spent, or preclude contracting an outside company to manage the Area, etc. He noted that the deadline was July 31st, for the assessment to be provided on the tax rolls.

The Council discussed the short notice, to vote on the issue.

Assistant Mayor Blachar discussed the urgency for the RAC to have a budget, to pay for the Gated Area services, etc.

Mr. Weiss explained that there was nothing that precluded the Village from hiring a company, to run the Gated Area.

The following members of the public provided comments:

Beth Berkowitz - 10160 Collins Avenue

Mr. Weiss explained that the Gated Area did not have an association or any mechanism to collect the money. He noted that the Village agreed to assess the residents in the Gated Area and collect the money. He explained that the RAC was created, after the Civic Association contract was terminated, to provide the Council with advice on the Area.

Councilman Packer noted that the Ordinance that established the RAC may need to be amended, in the future. He spoke in favor of the RAC hiring a manager. He noted that some residents were not in favor of the formula used for the special assessment and suggested that other formulas be considered (square footage, etc.).

Assistant Mayor Blachar noted that the Gated Area could not function, if the resolution was not approved. She noted that the assessment formula had already been discussed at the RAC meeting. She noted that the other items could be looked at, in the future.

Mr. Wallace clarified that the resolution set the notice of a proposed assessment, not the assessment itself. He added that the final assessment was scheduled for September.

Mr. Weiss noted that the other option was for the Village to send the notices out again and collect the assessments, in lieu of the property tax collector.

A motion was offered by Councilwoman Cohen and seconded by Councilman Packer to amend the motion, subject to adding paragraph (C) to Section 4, for the Council to study the methodology whereby the services were provided to the Residential Area, as soon as possible.

A motion was offered by Councilman Packer and seconded by Councilwoman Cohen to amend the amendment, subject to the discussion and review of the assessment method for the special assessment being sent back to the RAC. The motion to amend the amendment carried (5-0).

The motion to approve the amendment, as amended, carried (5-0).

The motion to approve the Resolution, as amended, carried (5-0), with the roll call vote as follows: Assistant Mayor Blachar yes; Councilwoman Cohen yes; Councilman Packer yes; Councilman Sanz yes; Mayor Rosenfield yes; thus becoming Resolution No. 2013-775.

Assistant Mayor Blachar clarified that she hadn't requested the RAC to review the item again, which would require additional staff time.

The following members of the public provided comments:

Dina Cellini – 211 Bal Cross Drive

Mayor Rosenfield agreed with comments made that an update from Dan Gelber should be scheduled, once the 30 days had passed.

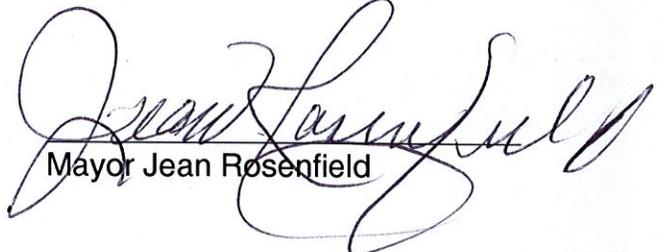
5. ADJOURN: There being no further business, **a motion was offered by Councilman Packer and seconded by Assistant Mayor Blachar to adjourn. The motion carried**

(5-0) and the meeting was adjourned at 8:34 p.m.

Attest:




Ellisa L. Horvath, MMC, Village Clerk


Mayor Jean Rosenfield