

BAL HARBOUR VILLAGE COUNCIL MEETING MINUTES
REGULAR MEETING – JANUARY 17, 2006

The Regular Meeting of the Bal Harbour Village Council was held on Tuesday, January 17, 2006, in the Council Chambers, at Bal Harbour Village Hall. The meeting was called to order at 9:01 a.m. by Mayor Roth. Those present were:

Mayor Seymour "Sy" Roth
 Assistant Mayor Howard J. Berlin
 Councilman Jean Rosenfield
 Councilman Jaime M. Sanz

Also present: Alfred J. Treppeda, Village Manager
 Ellisa Horvath, CMC, Village Clerk
 Andrea Greenblatt, Administrative Assistant
 Richard J. Weiss, Village Attorney

Absent: Councilman Joel S. Jacobi

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

2. PLEDGE OF ALLEGIANCE: The Pledge was led by James Rizzo.

A motion was offered by Councilman Rosenfield and seconded by Assistant Mayor Berlin to defer the Regular Council Meeting agenda, until after the General Employees' Retirement Board Meeting agenda. The motion carried unanimously (4-0), with Councilman Jacobi absent.

The meeting was reconvened at 9:21 a.m. Those present were:

Mayor Seymour "Sy" Roth
 Assistant Mayor Howard J. Berlin
 Councilman Jean Rosenfield
 Councilman Jaime M. Sanz

Also present: Alfred J. Treppeda, Village Manager
 Ellisa Horvath, CMC, Village Clerk
 Andrea Greenblatt, Administrative Assistant
 Richard J. Weiss, Village Attorney

Absent: Councilman Joel S. Jacobi

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

3. APPROVAL OF MINUTES: **A motion was offered by Assistant Mayor Berlin and seconded by Councilman Rosenfield to approve the minutes of the December 20, 2005 Regular Council Meeting. The motion carried unanimously (4-0), with Councilman Jacobi absent.**

4. PRESENTATIONS: None.

5. ORDINANCES SECOND READING/PUBLIC HEARING: None.

6. ORDINANCES FIRST READING: Mrs. Horvath read the following ordinance by title:

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE VILLAGE CODE BY AMENDING CHAPTER 13 "PENSIONS AND RETIREMENT BENEFITS," SECTION 13-28 "RETIREMENT DATES AND RETIREMENT BENEFITS" BY PROVIDING THE VILLAGE MANAGER AND CERTAIN DUAL SERVICE EMPLOYEES A 2.5% ANNUAL COST OF LIVING ADJUSTMENT ("COLA"); BY AMENDING SECTION 13-42 "RETIREMENT DATES AND RETIREMENT BENEFITS" TO PROVIDE TO CERTAIN RETIRED POLICE OFFICER PARTICIPANTS A 2.5% ANNUAL COLA; BY AMENDING SECTION 13-46 "CONTRIBUTIONS" TO INCREASE THE PARTICIPANTS' CONTRIBUTION RATE TO 8% OF COMPENSATION; AND BY AMENDING SECTION 13-53 "DEFERRED RETIREMENT OPTION PLAN (DROP)" TO INCREASE PARTICIPATION PERIOD IN THE DROP FROM THREE TO FIVE YEARS AND TO PROVIDE DROP PARTICIPANTS WITH AN ELECTION REGARDING THEIR DROP ACCOUNT EARNINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

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

A motion was offered by Assistant Mayor Berlin and seconded by Councilman Rosenfield to approve. The motion carried with the roll call vote as follows: Mayor Roth aye; Assistant Mayor Berlin aye; Councilman Jacobi absent; Councilman Rosenfield aye; Councilman Sanz aye.

7. RESOLUTIONS/PUBLIC HEARINGS: None.

8. RESOLUTIONS: Mrs. Horvath read the following resolution, by title:

RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, PROVIDING FOR THE SUBMISSION TO THE ELECTORS A PROPOSED AMENDMENT TO THE VILLAGE CHARTER, AS PROVIDED BY PETITION OF ELECTORS, IN ACCORDANCE WITH SECTION 5.03 OF THE MIAMI-DADE COUNTY CHARTER; SUBMITTING PROPOSED CHARTER AMENDMENT CONCERNING DEVELOPMENT OF PROPERTIES; PROVIDING REQUISITE BALLOT LANGUAGE FOR SUBMISSION TO THE ELECTORATE; CALLING A SPECIAL ELECTION ON THE PROPOSED AMENDMENT TO THE VILLAGE CHARTER TO BE HELD ON TUESDAY, THE 11TH DAY OF APRIL, 2006; PROVIDING NOTICE OF ELECTION; PROVIDING FOR MAIL BALLOT ELECTION; PROVIDING FOR INCLUSION IN THE CHARTER; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilman Rosenfield would like the voting to be done at the polls. She discussed the possibility of fraud with mail-in ballots.

Dina Cellini, resident – 211 Bal Cross Drive, advised that either way is amenable to the Political Action Committee that initiated the referendum. Ms. Cellini questioned if the

election would remain on April 11th. Mr. Weiss recommended deferring action, if the Council wants to hold this in a more traditional format. He will review the dates, etc. with the Supervisor of Elections and bring it back to the Council. He noted that the only requirement is for the Council to adopt the resolution by February 3rd.

Doug Rudolph, resident – 212 Bal Bay Drive, questioned if this would require a majority vote of the entire electorate or of those voting. Mr. Weiss advised that a majority of those voting in an election would be required. Mr. Weiss will clarify that issue with Tucker Gibbs and draft a paragraph for the resolution. Mr. Rudolph thinks that it would be a mistake to set the threshold any higher than it is for the election of the Council, President, etc. He beseeched the Council not to let that happen, because doing so would be setting a bar so high that it would shut the city down.

A motion was offered by Councilman Rosenfield and seconded by Councilman Sanz to defer this matter, to take this to a public actual vote, with instructions to staff to meet with the Supervisor of Elections to set a regular election date and to clarify this issue with Mr. Gibbs. The motion carried unanimously (4-0), with Councilman Jacobi absent.

9. LOBBYIST REGISTRATION REPORT – AS OF JANUARY 13,

2006: Mrs. Horvath reported that the following lobbyists are currently registered with Bal Harbour Village:

Stanley F. Whitman	Bal Harbour Shops, Ltd.
Cliff Schulman Greenberg Traurig, P.A.	Bal Harbour Shops
Mario Garcia-Serra Greenberg Traurig, P.A.	Bal Harbour Shops
Gary A. Poliakoff Becker & Poliakoff, P.A.	Balmoral Condominium Association, Inc.
Keith M. Poliakoff Becker & Poliakoff, P.A.	Balmoral Condominium Association, Inc.
Ronald L. Book Ronald L. Book, P.A.	Majestic Tower at Bal Harbour Condominium Association, Inc. Note: Under Council direction, Mr. Book has been advised not to address the Council to lobby against the Village.
Carter N. McDowell Bilzin Sumberg Baena Price & Axelrod LLP	Sheraton Bal Harbour Joint Venture
Robert L. Krawcheck Bilzin Sumberg Baena Price & Axelrod LLP	Sheraton Bal Harbour Joint Venture
Michael Patrizio	WCI Communities
David Hart	WCI Communities
Steve Sorensen	WCI Communities

10. REPORTS AND RECOMMENDATIONS:

A. MAYOR AND COUNCIL:

Mayor Roth discussed the new Recreation Center for kids, adults, and seniors and future programs.

Mayor Roth advised that the Village has received close to \$1.8 million in permitting fees from the One Bal Harbour project.

Councilman Rosenfield encouraged resident participation for programs at the Recreation Center.

B. VILLAGE ATTORNEY: No items.

C. VILLAGE MANAGER:

Request for Approval of Resort Tax Committee

Recommendations: Mr. Treppeda reviewed the following list of recommendations that were unanimously approved by the Resort Tax Committee at the January 12, 2005 meeting:

Resubmission of December Items Tabled by the Village Council (the remaining initiatives were cancelled, due to time constraints):

1.) Individual Media Familiarization/Editorial Visits	\$12,800.00
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January Items:

1.) Scholarship Grant	\$ 4,000.00
2.) Sea View Travel Agent Educational Familiarization Tour	\$ 7,700.00
3.) Visit Florida's Florida LIVE! Travel Agent Seminars	\$ 1,450.00
4.) Creative Arts Scholarship Fund Gift Certificate	\$ 1,000.00
5.) Warner Brothers, Channel 11 Television New York Valentine's Day Promotion	\$ 2,190.00
6.) Editorial Visit: Judy Antell, Editor, Big Apple Parent Magazine	\$ 1,690.00

TOTAL FOR DECEMBER AND JANUARY ITEMS:	\$30,830.00
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Councilman Rosenfield requested that "Design School" not be capitalized, since the scholarship is open to all design students in the County.

Councilman Rosenfield thinks that the \$1,000 for students in New York City should be given to students in Miami-Dade County instead. Assistant Mayor Berlin explained that the money is not to sponsor the kids, but is to create an event for the media to cover and bring attention to Bal Harbour. Assistant Mayor Berlin discussed Bal Harbour Code Section 18-41 and reviewed that the fund shall be used for the promotion of the tourist industry. He noted that the Council spends close to \$1 million on just city-related items (maintenance, beach, landscaping, etc.) and thinks there needs to be some balance (it is currently almost 50%-50%). Assistant Mayor Berlin requested that the Resort Tax budget be included in future agendas, to show how the items are broken down.

Babak Raheb, resident – 128 Balfour Drive, doesn't see the point in spending money, with 400,000 less visitors annually. Mayor Roth thinks that the Village should still promote the Sheraton, until May 31st, but questioned what happens after that.

Doug Rudolph, resident – 212 Bal Bay Drive, thinks that the Sea View, Shops, restaurants and the image of Bal Harbour still need to be promoted. Mr. Rudolph looks to the Committee for those decisions and thinks it's a bigger picture than just the Sheraton.

Brian Mulheren, resident – 10245 Collins Avenue, doesn't think that the money has to be spent solely on advertising or 50%-50%. He discussed beach erosion and thinks that the resort tax money should be spent on beach renourishment.

Assistant Mayor Berlin advised that the primary focus of the Committee is branding Bal Harbour, which can't be turned off and on. He explained that it's a consistent process of reinforcing value and quality. Assistant Mayor Berlin discussed Bal Harbour's competition. He advised that the Regent (at the One Bal Harbour) will start taking reservations in March and are hoping to open in December 2006. Assistant Mayor Berlin noted that the Village has a beach renourishment fund of \$1.2 million. Mr. Treppeda advised that since the inception of renourishment in the 1970s, the Village has never paid for renourishment (the County, Federal, and State government fully fund that). Assistant Mayor Berlin invited the Council to attend the Committee meetings.

Councilman Rosenfield agreed that Bal Harbour's name has to be out there and thinks that it's very easy to forget something after three years of not advertising. Mayor Roth is sure that the Committee will still have a cash flow and will budget accordingly. He agreed that Bal Harbour has to have a name recognition.

A motion was offered by Assistant Mayor Berlin and seconded by Councilman Sanz to approve. The motion carried unanimously (4-0), with Councilman Jacobi absent.

First Quarter Budget Report for Fiscal Year 2005/2006 –

Christopher Wallace, Village Finance Director: Mr. Wallace reviewed his report, which is summarized as follows: there is a large cash flow in the General Fund from property tax revenue received in December, utility tax and building permit revenues were higher than anticipated, the revenue and expenditures from the Dade County bond issue are a wash, the variance in the solid waste disposal shouldn't be an issue (due to the hurricane) once the Village is reimbursed by the Federal Government, the retroactive pay increases for the police and general employees will be shown in January, the Tourism Fund revenue is close to budget, the Security District Fund expenditures are below what was budgeted, and they are meeting with the Engineer about some Water and Sewer Fund expenditures.

Marjorie Schell, resident – 9801 Collins Avenue, questioned the amount in the beach restoration fund. Mr. Wallace advised that there is \$1.2 million.

Request for Approval of Lease Agreement for Copy Machine:

Mr. Treppeda requested approval to lease a new copy machine (with print/scan enabler and fax board) for \$412.43 per month from Toshiba (government bid price).

A motion was offered by Councilman Rosenfield and seconded by Assistant Mayor Berlin to approve. The motion carried unanimously (4-0), with Councilman Jacobi absent.

Request for Approval to Replace Plants on the Beach: Mr. Treppeda requested \$13,810.00 to replace dead plants on the beach and to remove stumps from dead coconut trees (plants are being replaced with ones that will last longer).

Marjorie Schell, resident – 9801 Collins Avenue, suggested planting Pine trees, Plum trees, and bushes. She pointed out that there's no planting for 60-70 feet in front of the Sheraton and suggested following Surfside's example.

A motion was offered by Councilman Sanz and seconded by Assistant Mayor Berlin to approve. The motion carried unanimously (4-0), with Councilman Jacobi absent.

Request for Approval for Removal of Tree Stumps: Mr. Treppeda requested that this item be deferred. **It was the consensus of the Council to defer this item.**

Request for Approval to Replace Fences Damaged by Hurricane Wilma: Mr. Treppeda requested approval of up to \$7,680.00 for fencing and gates destroyed by the Hurricane (for the area between the Recreation Center and the Apartment Building next door, along the seawall at the Recreation Center, and the Trash Transfer Station at the Yacht Basin). Mr. Treppeda will apply to FEMA, for the possible reimbursement of items damaged by the Hurricane.

A motion was offered by Assistant Mayor Berlin and seconded by Councilman Rosenfield to approve. The motion carried unanimously (4-0), with Councilman Jacobi absent.

Authorization for Agreement with Miami-Dade College for the 2006 Sergeant Skills Assessment and Approval of Payment for Services: Chief Hunker is requesting authorization to expend up to \$30,811, for Miami-Dade Community College to prepare and administer the Sergeant's test.

A motion was offered by Assistant Mayor Berlin and seconded by Councilman Sanz to approve. The motion carried unanimously (4-0), with Councilman Jacobi absent.

11. OTHER BUSINESS:

Kevin Asher, Miami-Dade County Parks Division of Planning and Development, offered to answer questions relating to rules and regulations that the County has and/or the development review that the County performs.

Mr. Weiss advised that the Village is in the middle of a quasi-judicial process involving the Starwood Development and any conversation, etc. needs to be done in the quasi-judicial forum. He advised that Mr. Asher can speak as a member of the public, but noted that the appropriate time for the Council to deal with this is at the quasi-judicial hearing in February.

Babak Raheb, resident – 128 Balfour Drive, advised that he invited Mr. Asher, because he wanted clarification regarding what Mr. Miller has said. Mr. Weiss advised the Council that Mr. Asher can speak, but noted that the Council is not to discuss or consider it and that it's not evidence. He explained that if Mr. Asher wants to come back as part of the quasi-judicial process, then the Council can consider it at that time.

Mr. Asher advised that the County would only explain its role in the development review process. He explained that the County does not have an active role in the Village's specific proceedings on a specific project. He offered to answer general questions, relating to County ordinances, such as the concurrency management rules and regulations that the Village has adopted.

Mr. Raheb advised that according to Mr. Asher, the oceanfront cannot be counted 50% under the County rules, which means the Village will have a concurrency problem (Mr. Miller included the marina basin and the oceanfront property of the Bal Harbour Club in his calculations of the park area). Mayor Roth advised that the appropriate place is at the February Council meeting. Mr. Weiss advised that any discussion of a quasi-judicial project needs to be done then.

Dina Cellini, resident – 211 Bal Cross Drive, advised that she met with Dade County and the information contained in Mr. Miller's reports is erroneous. She noted that Mr. Miller is using incorrect data, including park space that should not be included in the inventory of open space. Ms. Cellini requested that the Council postpone the second reading of the Planned Development district, to hear from someone who is independent, such as Dade County. Ms. Cellini explained that, according to Mr. Asher, the Beach Club and the Yacht Basin are not properly included in the Village's inventory, because there is no residential component. She thinks that Mr. Miller has been misinterpreting the rules and guidelines of the Miami-Dade County Concurrency Management Guidelines. Ms. Cellini requested that the Council vote on including her request on the agenda, as a regular item. She also requested that the Council postpone the second reading and find out where the errors are.

Doug Rudolph, resident – 212 Bal Bay Drive, noted that there's a quasi-judicial process and nobody was noticed for today, which is why nothing should be discussed. He thinks that it should be done properly and people shouldn't be allowed to twist the system. Mr. Rudolph thinks it's clear how the process is supposed to go forward and that this is not the forum.

Mr. Weiss advised that this is a public comment section and everyone has the ability to speak for three minutes. He clarified that he has instructed the Council that they can listen, but should not discuss this or make any motions on it, and noted that what is being said is not evidence, because it needs to be done in the quasi-judicial format.

Brian Mulheren, resident – 10245 Collins Avenue, thinks that an independent body should look at this. He disagrees that the Council can't listen to it or take action. He discussed the Fire and EMS response not being sufficient, etc. Mr. Mulheren discussed traffic problems. He thinks that the Village needs park land.

Jordan Cohen, resident – Balmoral, questioned if voting is done as a regular election, if there is a provision for absentee ballots. Mr. Weiss advised that there is.

Mr. Treppeda discussed the second reading, which is scheduled for the regular Council Meeting on February 21st. He suggested having a separate meeting, since it will take some time to discuss the Starwood issue, and moving the location to provide additional seating for the public. Mayor Roth agreed with moving it to another location and suggested the Sea View Hotel. Mrs. Horvath advised that the meeting could be scheduled starting February

6th, to allow for advertising requirements. Mr. Treppeda suggested February 6th or 7th. Mr. Raheb advised that at the last meeting, the Council voted that the second reading would not take place before the regular February Council meeting.

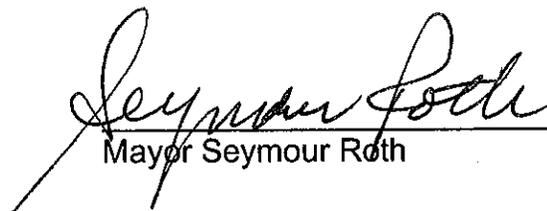
Mr. Rudolph thinks that if the meeting is done earlier, then it would provide Mr. Asher and anyone else, to put things into the quasi-judicial hearing. He thinks that having the meeting at a separate and larger venue makes sense. He doesn't know why it should be delayed, if people have issues that they want to discuss.

Mr. Mulheren thinks that the Council is taking action again on an item that the public was told that they couldn't discuss (a quasi-judicial hearing). He doesn't think the meeting date should be changed. Mr. Mulheren is fine with it being at the Sea View and suggested changing the time to 7:00 p.m., for people to attend that have to work. Mayor Roth thinks a special meeting would be good, to focus on the issue. He also thinks it's okay to have both meetings on the same day, but noted that it will be long.

Mr. Raheb suggested having the regular Council meeting at 9:00 a.m. and the other one in the afternoon or evening, so there are two separate meetings. He doesn't think the date should be before February 21st.

Councilman Sanz cannot come in the evening. Mayor Roth doesn't want to come in the evening. He suggested having it at the regular meeting on February 21st, at a larger place. Councilman Rosenfield requested that the Council strenuously adhere to the three-minute rule.

12. ADJOURN: There being no further business to come before the Council, a motion was offered by Assistant Mayor Berlin and seconded by Councilman Rosenfield to adjourn. The motion carried unanimously (4-0), with Councilman Jacobi absent, and the meeting was adjourned at 10:33 a.m.


Mayor Seymour Roth

Attest:


Ellisa Horvath, CMC
Village Clerk