

BAL HARBOUR VILLAGE COUNCIL MEETING MINUTES
REGULAR MEETING – JUNE 20, 2006

The Regular Meeting of the Bal Harbour Village Council was held on Tuesday, June 20, 2006, at Bal Harbour Village Hall (655 – 96th Street, Bal Harbour, Florida).

1. CALL TO ORDER/ROLL CALL: The meeting was called to order at 9:46 a.m. by Mayor Roth. The following were present:

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

Alfred J. Treppeda, Village Manager
 Ellisa Horvath, CMC, Village Clerk
 Andrea Greenblatt, Admin. Assistant
 David M. Wolpin, Village Attorney

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

2. PLEDGE OF ALLEGIANCE: The Pledge was previously done.

3. APPROVAL OF MINUTES: Assistant Mayor Berlin requested that page 6 (paragraphs 3 and 5) of the minutes be more specific, pertaining to the Sheraton Agreement and the split of the money that the Sheraton is giving. He requested clarification that the 50% discussed refers to the money that the Sheraton is giving, in lieu of the Resort Tax revenue. *A motion was offered by Councilman Rosenfield and seconded by Assistant Mayor Berlin to approve the minutes of the May 16, 2006, Regular Council Meeting, as amended. The motion carried unanimously (5-0).*

4. PRESENTATION OF 2004/2005 AUDITED FINANCIAL STATEMENTS – JERRY CHIOCCA (RACHLIN COHEN & HOLTZ) AND FINANCE DIRECTOR CHRIS WALLACE: Mr. Chiocca reviewed the Financial Statements, for the fiscal year ending September 30, 2005. He reviewed page 13 - Statement of Net Assets, page 15 - Governmental Funds Balance Sheet, and page 16 - Statement of Revenues, Expenditures, and Changes in Fund Balances. He noted that the Village was in excellent financial shape and had a very good financial year. Mr. Chiocca reviewed page 45 - Budgetary Comparison Schedule. He noted that the prior years' fund balance was not used, as anticipated. Mr. Chiocca reviewed page 54 and reported that there were no matters involving internal control that would be material weaknesses and there were no instances of non-compliance. Mr. Chiocca reviewed page 56-57. Mr. Chiocca reviewed page 58 and explained that the problems with the payroll software system have been corrected. Assistant Mayor Berlin requested that the Village Officials page be corrected. He also requested that page 10 be corrected to show that the Village contributed to the Pension Plan, in accordance with the information shown on page 22. Mr. Chiocca will make the requested changes and provide a new Statement.

Babak Raheb, resident – 128 Balfour Drive, discussed receiving the audit quicker. Mr. Wallace explained the problems with the current accounting computer system, which will be replaced in the near future. He noted that future reports will be done quicker and there will be a team to focus on future audits. Assistant Mayor Berlin requested a commitment date, for future audits to be completed during the first quarter of the year (January/February/March). Mr. Wallace agreed.

Mr. Wallace noted that the general fund did well and the tourism fund did better than anticipated. He explained that the water/sewer fund lost money, because a lot of the customers were offline for redevelopment projects. He noted that overall the Village's finances are strong.

A motion was offered by Councilman Jacobi and seconded by Councilman Rosenfield to accept the audit report, as amended. The motion carried unanimously (5-0).

5. PRESENTATIONS:

Officers of the Month for May 2006 and Employee of the Month for May 2006: Sergeant Charles Merrill, Officer Jack Young, and Officer Ramon Fernandez were presented with plaques by Chief Hunker, as Officers of the Month for May 2006. Code Enforcement Officer Stephen Astorga was presented with a plaque by Chief Hunker as Employee of the Month for May 2006. All were recognized for their professional service, in response to the construction accident, at the One Bal Harbour project.

Chief Hunker invited the public to attend the promotion celebration for four Sergeants and One Lieutenant on June 23rd.

6. ORDINANCE SECOND READING/PUBLIC HEARING: The following ordinance was read, by title, by Mrs. Horvath:

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE VILLAGE CODE BY AMENDING CHAPTER 13 "PENSIONS AND RETIREMENT BENEFITS" BY CREATING ARTICLE V "EXCESS BENEFIT ARRANGEMENT", FOR THE PURPOSE OF PROVIDING BENEFITS FOR CERTAIN VILLAGE EMPLOYEES WHO PARTICIPATE IN THE PENSION PLAN ESTABLISHED PURSUANT TO ARTICLE II OF CHAPTER 13 OF THE VILLAGE CODE, IN EXCESS OF THE LIMITATIONS ON BENEFITS IMPOSED BY SECTION 415 OF THE INTERNAL REVENUE CODE; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Mr. Treppeda explained that this establishes an excess benefit plan, which the IRS allows. He noted that it allows the Village to pay an accrued benefit to an employee who is limited by age, under IRS Code 415. He noted that there is no actuarial impact, because the liability to the pension plan is reduced, by what is assumed by the excess benefit plan.

Assistant Mayor Berlin noted that the Village Manager's contract expires in September. *It was the consensus of the Council for Mayor Roth to start the negotiating process with Mr. Treppeda, for the Council to consider a Village Manager contract, in early Fall.*

Assistant Mayor Berlin discussed the Village's funding obligation and questioned the differential analysis to have an excess benefit plan. Mr. Treppeda reported that it will be the same amount and that there will not be an actuarial impact. Assistant Mayor Berlin requested a letter from the Actuary explaining the credit to the Village, for the money that is left in the pension plan.

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

A motion was offered by Councilman Jacobi and seconded by Councilman Rosenfield to approve. The motion carried with the roll call vote as follows: Mayor Roth yes; Assistant Mayor Berlin yes; Councilman Jacobi yes; Councilman Rosenfield yes; Councilman Sanz yes; thus becoming Ordinance 508.

7. ORDINANCES FIRST READING:

The following Ordinance was read by title, by Mrs. Horvath:

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE VILLAGE CODE CHAPTER 21 "ZONING," ARTICLE I "IN GENERAL," BY AMENDING SECTION 21-1 "DEFINITIONS AND RULES OF CONSTRUCTION" AND BY CREATING SECTION 21-5 "EXPIRATION OF DEVELOPMENT ORDERS"; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Wolpin explained that all of the comments made at the June 20th Local Planning Agency Meeting regarding this Ordinance will be incorporated into the record of this meeting.

Mayor Roth opened the public hearing.

Gabriela Webster, resident – 30 Park Drive, discussed the issue of open permits and fees required to reissue a permit, once it is expired. Building Official Dan Nieda advised that the Department follows a process to pursue closing permits. Ms. Webster thinks that there should be a larger penalty for expired permits.

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

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

The following Ordinance was read by title, by Mrs. Horvath:

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE VILLAGE CODE BY AMENDING CHAPTER 13 "PENSIONS AND RETIREMENT BENEFITS" AT ARTICLE II "EMPLOYEES PENSION PLAN" BY AMENDING SECTION 13-29 "DEATH BENEFITS" TO ALLOW FOR PAYMENT OF CERTAIN NON-SERVICE INCURRED DEATH BENEFITS OVER AN EXTENDED PERIOD OF TIME; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; 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 Councilman Rosenfield and seconded by Councilman Jacobi to approve. The motion carried with the roll call vote as follows: Mayor Roth yes; Assistant Mayor Berlin yes; Councilman Jacobi yes; Councilman Rosenfield yes; Councilman Sanz yes.

The following Ordinance was read by title, by Mrs. Horvath:

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE VILLAGE CODE BY AMENDING CHAPTER 2 "ADMINISTRATION" BY CREATING ARTICLE VIII "EMERGENCY MANAGEMENT" CONSISTING OF SECTION 2-350 THROUGH AND INCLUDING SECTION 2-361 TO PROVIDE NECESSARY AND APPROPRIATE EMERGENCY MANAGEMENT AUTHORIZATIONS, RESPONSIBILITIES AND PROCEDURES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR EFFECTIVE DATE.

Mr. Wolpin explained that the Ordinance helps to facilitate responses, for emergency situations.

Mayor Roth opened the public hearing.

Babak Raheb, resident – 128 Balfour Drive, questioned who would determine if something is an emergency. Mr. Wolpin explained that the Village Manager would.

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

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

8. RESOLUTIONS/PUBLIC HEARINGS: None.

9. RESOLUTION: The following resolution was read by title, by Mrs. Horvath:

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, APPROVING FLORIDA DEPARTMENT OF TRANSPORTATION LANDSCAPE MAINTENANCE MEMORANDUM OF AGREEMENT WITH THE VILLAGE; AUTHORIZING EXECUTION OF AGREEMENT; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR EFFECTIVE DATE.

Mr. Treppeda explained that the Village maintains the medians on 96th Street and A1A and receives funds from the FDOT, for doing so. He noted that the agreement allows the Village to continue receiving those funds. Assistant Mayor Berlin discussed the small amount of funds that the Village receives for that maintenance. Mr. Treppeda reported that the FDOT denied his request, to increase the amount the Village receives.

A motion was offered by Councilman Sanz and seconded by Councilman Rosenfield to approve

this resolution. The motion carried unanimously (5-0), thus becoming Resolution 685.

10. REPORTS AND RECOMMENDATIONS:

A. MAYOR AND COUNCIL:

Mayor Roth discussed the complaints he has received regarding the garbage on the beach, from the dredging project. Mr. Treppeda reported that will be cleaned up.

Mayor Roth noted that the Village still has not been reimbursed for \$96,000 in expenses that the Village incurred, for the St. Regis process.

Mayor Roth commended Lydia Kordalewski for the Park & Recreation programs.

Councilman Jacobi discussed problems with the current police facility. He discussed the liability for the holding cell, which he thinks is below Code. He discussed the grant money that is available for a project and noted that Mr. Whitman has offered space on the third floor at the Shops. Councilman Jacobi would like to Chair a Committee to negotiate something, to move the police station to a safer location.

Chief Hunker discussed the Accreditation Process and the problems with the current holding cell being next to communications, which was brought up during that process. He requested that the Council look into this and noted the grant money that is available to improve the facilities. He thinks that the current situation is serious and that the police need a better facility. Chief Hunker requested approval to come up with a plan, to rectify the situation.

Mr. Treppeda discussed the lack of space for the Building and Accounting Departments. Mayor Roth discussed the need for space for elderly programs, etc. Chief Hunker discussed the problems with the current facility (prisoners using the same bathrooms as the public, etc.). He doesn't think it's secure and noted that every other city has better facilities. Mayor Roth suggested that Councilman Jacobi study the police facility and the park/recreation facilities.

Babak Raheb, resident – 128 Balfour Drive, thinks that this is a scare tactic. He is against a Councilmember discussing something that could benefit Mr. Whitman. He thinks this is being done, because Mr. Whitman wants the Village property. He is against Councilman Jacobi serving on a Committee, because he has bias towards this. Councilman Jacobi noted that he is not bias towards this and noted that in a previous meeting he was against Mr. Whitman expanding the Shops. Councilman Jacobi explained that this would only be to conduct a study. Assistant Mayor Berlin explained that nobody is voting on anything at this meeting. He explained that if a Committee is formed, then it needs to be decided what would be studied. He noted that the Committee would be governed by the Sunshine Law and public notice would be given to the public, etc. He has no objection to something being studied. Councilman Rosenfield agreed that something should be done, if the Village is below Code on that one item. Chief Hunker noted that there are other items, but that one is pressing. Councilman Rosenfield is not ready to build a new Village Hall.

Brian Mulheren, resident – 10245 Collins Avenue, thinks that the Council should look at

something for police, village hall, fire, senior citizens, residents, etc. He thinks that the Village needs new facilities and discussed the public works facility on the water. Mr. Mulheren thinks it's a good idea to get people involved, to look at the big picture. He discussed the need to bring up the Village's standards and facilities.

Mayor Roth suggested a Committee comprised of Councilman Jacobi, Brian Mulheren, Dr. Michael Krop, and any other citizens who are interested.

Assistant Mayor Berlin thinks the study should only address the issue of the holding cell. He noted that the study of a new Village Hall should not be done now, because many citizens are out of town. He thinks that the Council needs to figure out what the Committee is, provide public notice of meetings, have the Village Manager and Attorney participate on the Committee, etc.

Councilman Sanz suggested starting with Councilman Jacobi studying the police issue and addressing the other items later. Chief Hunker suggested a temporary facility for the police issues, which would provide additional space for Village Hall. It was the consensus of the Council to only study the police issue now. Chief Hunker requested a Councilmember look at the health and safety items and suggest a temporary relief to another location, while looking at any needs to be addressed in the future.

A motion was offered by Assistant Mayor Berlin and seconded by Councilman Rosenfield for Councilman Jacobi to Chair a Committee consisting of Representatives of the Police Department, Village Manager, and Village Attorney, to study the police holding cell issue and to provide public notice of the meetings. The motion carried unanimously (5-0).

Mayor Roth requested that Mr. Treppeda send another notice to the Town of Surfside, regarding the Village's termination from the Surf-Bal-Bay Library, before June 30th.

B. VILLAGE ATTORNEY: No items.

C. VILLAGE CLERK:

Lobbyist Registration Report: As of June 16, 2006: Mrs. Horvath reviewed the list of Lobbyists currently registered with the Village.

D. VILLAGE MANAGER:

Request for Ratification of Architectural Review Board

Recommendation for Sculpture at One Bal Harbour: Mr. Treppeda recommended approval to authorize the Building Department to issue a sign permit, for the installation of a sculpture in the north terrace of the One Bal Harbour project, per the renderings submitted. The Sculpture was unanimously approved by the Architectural Review Board on June 7th.

Michael Patrizio, WCI Communities, Inc., explained that it will be a 30-foot tall sculpture, in bronze.

Babak Raheb, resident – 128 Balfour Drive, recommended approval, as long as it can withstand hurricanes. Mr. Treppeda noted that the Building Department will review that, as part of the permitting process.

A motion was offered by Councilman Rosenfield and seconded by Councilman Sanz to approve. The motion carried unanimously (5-0).

Approval of Amendment to Agreement for Professional Services with Daniel Nieda and Associates Architects, Inc.: Mr. Treppeda recommended amending the Agreement for Professional Services with the Building Official, Daniel Nieda, to provide for an annual compensation of \$58,640 (Mr. Nieda also receives \$10,000 annually through his employment agreement and 75% of the threshold inspection fees for high-rise buildings). Mr. Nieda left the meeting during this discussion.

Michael Patrizio, WCI Communities, Inc., commended Mr. Nieda's professionalism.

Stanley Whitman, Bal Harbour Shops, thinks that Mr. Nieda is the best Building Official that the Village has ever had and recommended giving him the highest pay possible.

A motion was offered by Councilman Sanz and seconded by Councilman Jacobi to approve. The motion carried unanimously (5-0).

Mr. Nieda returned to the meeting. Mr. Nieda thanked the Council for their confidence and the opportunity.

Request for Approval of Building Department Vehicle Lease:

Mr. Treppeda recommended leasing a 2007 Jeep Grand Cherokee Laredo, for use by the Building Official (\$363.38 per month, for 48 months).

A motion was offered by Councilman Rosenfield and seconded by Councilman Jacobi to approve. The motion carried unanimously (5-0).

Request to Expend Police Forfeiture Funds: Mr. Treppeda explained that Chief Hunker is requesting authorization to expend forfeiture funds to lease two 2007 Ford Supercrew Cab F150 Pickup Trucks (\$1,010.12 per month for 48 months), to replace two investigative vehicles.

A motion was offered by Councilman Rosenfield and seconded by Councilman Jacobi to approve. The motion carried unanimously (5-0).

Request for Approval to Purchase Trailer for Police Boat: Mr. Treppeda explained that Chief Hunker is requesting approval of \$3,250.00, to purchase a trailer for the Police boat.

A motion was offered by Councilman Rosenfield and seconded by Councilman Sanz to approve. The motion carried unanimously (5-0).

Request for Approval of Funds for Sewer Line Repair: Mr. Treppeda requested approval of up to \$30,000 to repair a sewer pipe on Park Drive and to repair the driveway asphalt at the Fairfield Manor Apartments. He explained that the company with the lowest price will be selected, once all bids are received.

A motion was offered by Councilman Rosenfield and seconded by Councilman Jacobi to approve.

The motion carried unanimously (5-0).

11. OTHER BUSINESS:

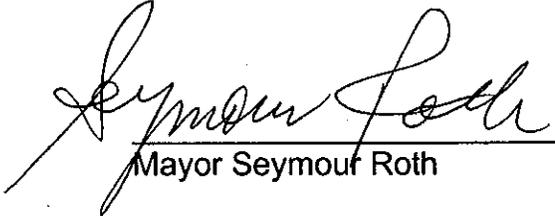
Babak Raheb, resident – 128 Balfour Drive, questioned the status of new crossing lights for the Village and a crane ordinance. Mr. Treppeda reported that the County is looking at regulating cranes. He recommended allowing the County to proceed and if regulations aren't placed in a reasonable amount of time, then the Council can review the issue again. Mr. Treppeda noted that he will work with the Florida Department of Transportation on the possibility of new crossing lights.

Annalisa Duncan, resident – 10245 Collins Avenue, discussed the disgrace of the garbage that has accumulated on the beach, due to the dredging project. She thinks that it's dangerous to walk on the beach and is concerned about the garbage going back into the ocean. Mr. Treppeda advised that the Army Corps of Engineers is hiring workers to remove the garbage.

Mr. Treppeda announced two openings on the Police Retirement Board. The Council authorized publicizing the openings, by any means approved by the Village Manager.

Mr. Treppeda congratulated Randy Mathews on becoming the official Public Works Director for the Village.

12. ADJOURN: There being no further business, a motion was offered by Assistant Mayor Berlin and seconded by Councilman Jacobi to adjourn. The motion carried unanimously (5-0) and the meeting was adjourned at 11:00 a.m.


 Mayor Seymour Roth

Attest:


 Ellisa Horvath, CMC
 Village Clerk