

COUNCIL MINUTES
REGULAR MEETING – NOVEMBER 15, 2005

The Regular Meeting of the Bal Harbour Village Council was held on Tuesday, November 15, 2005, in the Council Chambers, at Bal Harbour Village Hall. The meeting was called to order at 9:08 a.m. by Mayor Roth. Those present were:

Mayor Seymour “Sy” Roth
Assistant Mayor Howard J. Berlin
Councilman Joel S. Jacobi
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

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

2. PLEDGE OF ALLEGIANCE: The Pledge was previously done at the General Employees Retirement Board meeting.

3. APPROVAL OF MINUTES: Mayor Roth noted that Councilman Rosenfield’s name needs to be corrected on the first page, item 3. *A motion was offered by Assistant Mayor Berlin and seconded by Councilman Jacobi to approve the minutes of the October 18, 2005 Regular Council Meeting, as amended. The motion carried unanimously (5-0).*

4. PRESENTATIONS:

Key to the Village – to Lewis Nadel: Mayor Roth presented a Key to the Village to Lewis Nadel, in recognition of his assistance with the International Association of the Chiefs of Police Convention and the Major Cities Chiefs Convention and thanking him for his donations of over \$10,000.00, in addition to his personal efforts. Mr. Nadel thanked Mayor Roth and commended the efforts of Chief Hunker and the Bal Harbour Police Department.

Officer of the Month for August 2005: Chief Hunker announced that Officer Madeleine Orr was selected as the Officer of the Month for August 2005, for saving the life of a drowning victim and for her continued efforts in the Department’s Marine Patrol Program. Officer Orr was presented with a plaque. Officer Orr thanked Chief Hunker and the Council.

Officer of the Month for October 2005: Since the Officer was not in attendance, this item was discussed later in the meeting.

The Council proceeded to Item 11 (Reports and Recommendations), so the discussions for

the zoning and other items are not interrupted, when the Council reconvenes the General Employees Retirement Board meeting.

REPORTS AND RECOMMENDATIONS:

A. MAYOR AND COUNCIL:

Mayor Roth discussed Hurricane Wilma and the assistance the Village and other municipalities received from Congresswoman Debbie Wasserman Schultz. He reported that the Village's biggest concern was fuel for the police/public works cars and for generators. Mayor Roth thanked the Village Manager, Police Chief and their staff, for their work after the hurricane.

B. VILLAGE ATTORNEY: No report.

C. VILLAGE MANAGER:

Discussion of Donation to Hurricane Relief Funds: Mr. Treppeda recommended donating to the local Red Cross, or another professional organization, if the Council desires to donate taxpayer dollars to hurricane relief efforts.

Babak Raheb, resident – 128 Balfour Drive, suggested looking into the viability of giving money from the police forfeiture fund to other police agencies that may have lost equipment, instead of giving money from the general fund. Mr. Weiss advised that under the Florida statutes, hurricane relief for charitable purposes is not an appropriate use of the forfeiture money. He thinks that there may be some things within the Village that have been destroyed that the forfeiture money can be used for and then the money that was scheduled for that could perhaps fund this effort. Mr. Raheb discussed police radios for cities in the Gulf, etc., which he doesn't consider to be hurricane relief. Mr. Treppeda pointed out that the governments and the Village can get money and there are funds that can be tapped for this type of thing. Mayor Roth suggested studying what Mr. Raheb has discussed.

Brian Mulheren – resident – 10245 Collins Avenue, thinks that FEMA supplies money to local governments for that. He suggested donating the money to the Red Cross, who can help people that are in desperate need.

Stanley Whitman – Bal Harbour Shops, thinks that he and the taxpayers have the capability of giving money to the charities that they choose on their own. He urged the Council to only consider making a motion to give to charities, or anything else that directly affects the community.

Councilman Jacobi thinks that giving to the Red Cross and having them decide where there is a need is the best thing for the Village to do.

A motion was offered by Councilman Jacobi and seconded by Councilman Sanz to donate \$10,000.00 to the American Red Cross. The motion carried unanimously (5-0).

A motion was offered by Councilman Rosenfield and seconded by Councilman Sanz to temporarily adjourn the Council meeting, in order to resume the General Employees Retirement Board meeting, since Mr. Rizzo arrived. The motion carried unanimously (5-0) and the meeting was temporarily adjourned at 9:28 a.m.

The Regular Meeting of the Bal Harbour Village Council was reconvened at 10:02 a.m. Those present were:

Mayor Seymour "Sy" Roth
Assistant Mayor Howard J. Berlin
Councilman Joel S. Jacobi
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

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

Officer of the Month for October 2005: Chief Hunker announced that Officer Rene Guillen was selected as Officer of the Month for October 2005, in recognition of his work on the Department's web site and his proactive pursuit of impaired drivers. Chief Hunker presented Officer Guillen with a plaque. Officer Guillen thanked Chief Hunker and the Council.

5. **PUBLIC HEARINGS:** Mr. Weiss read the following notice:

Please be advised that the following item on the agenda is quasi-judicial in nature. If you wish to comment upon this item, please inform the Mayor when he asks for public input on the item. An opportunity for persons to speak will be made available after the applicant and staff have made their presentations on each item. All testimony, including public testimony and evidence, will be made under oath or affirmation. Additionally, each person who gives testimony may be subject to cross-examination. If you refuse either to be cross-examined or to be sworn, your testimony will be given its due weight. The general public will not be permitted to cross-examine witnesses, but the public may request the 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 may be obtained from the Clerk. (Disclosure of Ex-Parte Communications)

Those planning to speak at the hearing were sworn in by the Village Clerk.

Proposal for The Church-By-The-Sea Pre-School Program:

Bill Roy, President of the Board of The Church By The Sea and Owners of the Property at 501-96th Street, reviewed the history of the Church, which was founded in 1945. He explained that there is a congregation of approximately 600 people and 1/3 are residents of Bal Harbour. Dr. Roy explained that the Church has tried to be a good

neighborhood partner and have provided polling locations, public area rooms for groups, ongoing educational programs, etc. He advised that they believe the expansion and extension of their educational program, to include the Pre-K program, is an opportunity for Bal Harbour to become a leader in this very important area that has been recognized by the Governor and State of Florida. Dr. Roy discussed the Church's mission statement. He advised that the Church feels that there is a need for this type of facility. Dr. Roy pointed out that Section 8 of the Village Code includes the ability to provide childcare or juvenile entertainment, which they think should be broadened to refer to the Pre-K program. He advised that they have engaged a recognized authority on this program, Dr. Linda Eads, as a consultant. He reviewed Dr. Eads' resumes. Dr. Roy clarified that the program is being offered by The Church by the Sea.

Dr. Linda Eads introduced Ms. Maria Patavan – owner of the International Christian School in Key Biscayne. She discussed the importance of pre-school education and pointed out that the voters have agreed, but the State has not been able to provide quality programs. She advised that the Church is recommending hosting 2-5 year olds, in a program of high academics, personal development, and physical fitness. Dr. Eads advised that the program is compliant with the new HRS guidelines that in urban communities, outdoor play is not required, as long as there is a meaningful movement and playtime that is structured. She discussed the trend for businesses to house pre-school programs, daycare centers, and elementary schools.

Dr. Eads addressed the following issues from Mr. Miller's report:

- 1.) It is a Church owned school.
- 2.) A pre-school has a true-learning program, with measurable goals and is not a babysitting service.
- 3.) Employee parking will be at the Bay Harbor Inn and meters at the Surfside location.
- 4.) It would take two to three minutes to drop off a child, with a staff member supervising. If they are not able to use the circle, then children could be dropped off at Bay Harbor Inn and walked one block, with a parent and staff. They can also explore other options.
- 5.) There will be a minimum of 80 children in time and they are recommending operating on a shift, for different age levels. They would also report and dismiss at separate times.
- 6.) This program would be accessible to employees of the Village, Church participants, and employees at the Bal Harbour Shops. Research and evidence indicate that employees are much happier when they know their children are close to them and accessible during the day.
- 7.) As enrollment increases and there is a concern or impact, the Church would hire an off-duty police officer to supervise the flow of traffic.
- 8.) The outdoor play area was previously addressed.

Dr. Roy discussed Mr. Miller's concern about the traffic and advised that within a 15-minute period today, 250-300 congregation members arrived for a Church service. He noted that has never created a traffic congestion problem. He advised that during high traffic times, they use off-duty patrolmen, to make sure it doesn't create a problem.

Mike VonderMeulen, Mike Miller Planning Associates, reviewed Mr. Miller's report. He reviewed Village Code Section 21-316(37) and Mr. Miller's concerns. He advised that there are 31,000 vehicle trips per day, on 96th Street, and if parents are dropping off children, most vehicles will be in line on 96th Street blocking traffic. He reported that they also think that walking children across traffic lanes, during peak traffic operations, is not a good situation. He advised that Mr. Miller has serious reservations about the use occurring at the Church property, due to concerns about the traffic impact on 96th Street and child safety. He explained that they are advising the Village not to permit this use at this time. Mr. VonderMeulen explained that the report notes that if a better planned drop-off arrangement could be developed, not including any drop-off at the half circle driveway, and insurances can be made for committed parking spaces for teachers, administrative staff, etc. and restrictions that no stacking occur on 96th Street, then the Village could reconsider the use. He explained that they question the use as being compatible to the commercial business district that the Village currently enjoys.

Mayor Roth opened the public hearing.

Chief Hunker is concerned with child safety and recommended that he be allowed to meet with the program directors, so the police have some input regarding that issue.

Babak Raheb, resident – 128 Balfour Drive, doesn't know how the report comes up with 80 cars being stacked up, since it wasn't studied. He thinks the drop-off will be at different times, for different ages, and doesn't think there will be a problem. Mr. Raheb hopes the traffic problems with Surfside will be worked out to improve traffic flow. He feels the community needs a pre-school. He is sure the technicality of traffic, etc. can be worked out. Mr. Raheb thinks the Council should consider the importance of this. He recommended that the Council take its reservations concerning certain parts, but should overall approve the program.

Dr. Roy supports the Chief's concern about child safety. He noted that they will meet with the Chief to review the program and will use off-duty officers, to provide for the necessary safety.

Dina Cellini, resident – 211 Bal Cross Drive, thinks the Church is a wonderful asset to the community and thinks the Council should do everything in its power to perpetuate the viability of the Church in the community. She doesn't understand why the Church has to be here, because she thinks that this falls under the Code Section 8 - child care or juvenile entertainment facilities. Ms. Cellini thinks that the Church is more than willing to work with the Council and Police, to address any concerns. She thinks the Council should do everything in its power to see that this pre-school program can reach its feasibility. Ms. Cellini questioned why they're not permitted to drop-off inside the Bal Harbour Shops, which she thinks would avoid a lot of problems.

Brian Mulheren, resident – 10245 Collins Avenue, commended the Church for doing a great service to the community, which is greatly needed. He advised that this is the first time he has ever heard Mr. Miller complain about a traffic problem. He suggested driving into the Shops to drop-off, in the back of the Church. He doesn't think this will distract from the shopping center. He thinks this will improve the community and thinks the Village should do this.

Mr. Weiss discussed the Village Code. He explained that there is a list of permitted uses and if this is determined by the Council to be among the permitted uses, then Ms. Cellini is correct. Mr. Weiss noted that the reason it's before the Council is because Mr. Miller's office has made the determination that a school is not the same thing as a child care facility, in terms of the use of the property. He advised that the Code says that if it's not a listed use, then it can still be permitted after a public hearing, providing that it's similar to the uses on the list and that the Council finds that it's compatible with the other uses of the community. He clarified the reason that it's before the Council is because there has been a staff determination that it does not fit within one of the categories on the list and needs a public hearing. Mr. Weiss noted that if the Council determines that it's basically the same as a child care facility, then they would direct staff that is the Council's interpretation of the Code and that they have the right to operate there.

Assistant Mayor Berlin questioned Dr. Roy if he met with Mr. Miller. Dr. Roy advised that they weren't aware that this was referred to Mr. Miller or that he had ruled against them until last night. He is not certain about Mr. Miller's total objectivity, with regard to the Church. Mr. Treppeda noted that the Church was provided with Mr. Miller's report as soon as it was received. Mayor Roth thinks that the Church has addressed some of the criticisms. Mr. Weiss thinks that because the issue was raised and it was covered in the initial presentation from Mr. Miller's office that they made the determination that a child care facility, under their interpretation of the Code, is not the same as a school that Mr. VonderMeulen should be asked why they came up with that.

Mr. Raheb advised that Mr. Miller is not here and thinks that the person who prepared the report should be here to be cross-examined.

Mr. VonderMeulen advised that daycare facilities and entertainment or amusement arcade facilities are not the same as a school or a pre-school. He noted that a pre-school is more structured, has a different intent, and is not there as a babysitting service, but is there to educate. He advised that is why they found it to be different and determined it to be a school and that use needed to come before this Council to be reviewed.

Councilman Rosenfield advised that as a public school teacher for 47 years she noted that they take care of the children. She thinks that to make that finite difference is beyond her conception. Mayor Roth questioned if there should be a further study. Mr. Weiss advised that if it's the Council's determination to direct staff that a school fits within the definition of a child care facility, then the Code will be interpreted that way and it would never come back before the Council and would be worked out between the staff and the Church dealing with access, etc. He advised that it would become an issue for the Building Official and staff. Mr. Weiss clarified that if the Council makes that determination, then basically it would be the Council's decision that this should have never even come before the Council. He noted that if the Council makes the determination that this should have come under the category of child care facilities, which he thinks Councilman Rosenfield is saying, then staff will interpret the Code that way and it will go from there as something that conforms with the Code and they would work out the details of it at a staff level.

Councilman Rosenfield thanked the Church for being here and making the presentation, because she didn't understand what their priorities were, until Dr. Eads explained it.

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

A motion was offered by Councilman Rosenfield and seconded by Councilman Jacobi to direct staff to proceed, in accordance with the Council's interpretation of the Code, which is that a pre-school come under the definition of child care. The motion carried unanimously (5-0).

Dr. Roy thanked the Council and the members of the audience for their support.

It was the consensus of the Council to temporarily adjourn for a break at 10:46 a.m.

The meeting was reconvened at 10:51 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

6. **ORDINANCES SECOND READING/PUBLIC HEARING:** The following ordinance was read, by title, by the Village Clerk:

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING ARTICLE III "DISTRICT REGULATIONS" OF CHAPTER 21 "ZONING" OF THE VILLAGE CODE BY AMENDING SECTION 21-78 "DISTRICT MAP," TO DELETE THE EXHIBIT ENTITLED "TOWN OF BAL HARBOUR VILLAGE, FLORIDA ZONING DISTRICT MAP" FROM THE VILLAGE CODE AND TO ADOPT A REVISED ZONING DISTRICT MAP PURSUANT TO SECTION 21-78(b); PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE VILLAGE CODE; PROVIDING FOR EFFECTIVE DATE.

Mr. Treppeda explained that this is a housekeeping measure to take the official zoning map out of the Code and make it available in the Clerk's office, which is in line with what other municipalities do and makes it easier to update the map.

Mayor Roth opened the public hearing.

Dina Cellini, resident – 211 Bal Cross Drive, thinks that the map marked as Exhibit "A" is flawed and is misleading. She explained that it's her understanding that the PD application does not run with the land and if the One Bal Harbour was destroyed and an owner had to re-develop, then the owner would have to seek another development plan, under the PD zoning category. She clarified that if a new owner bought the property and demolished the project, then it is her understanding that if that owner wanted to rebuild, then they would

have to reapply under the PD zoning application. She doesn't think that the map should identify that property as PD, because that zoning only applies to that project. She requested a continuance on this item, so that this issue can be looked into. Ms. Cellini thinks that the implication is that property is PD in perpetuity, which she doesn't believe it is. Mr. Weiss advised that the map is correct, but wondered if it should be notated that it's zoned PD, pursuant to the Ordinance. Mr. Weiss will look at the PD Ordinance and speak to the Village Planner Michael Miller. He thinks Ms. Cellini makes an interesting point as to whether it's in perpetuity. He advised that it has been rezoned PD, pursuant to that development plan. Mr. Weiss has to look at what happens in a catastrophic event if that entire development is leveled and whether or not the underlying zoning would remain PD or revert back to something else. He advised that there is no problem with the Ordinance and clarified that the issue is with the map. Mr. Weiss suggested that the Council continue the public hearing on this, until the next meeting. He thinks it's correct, but would like to look into the issue.

Raj Singh, resident – 53 Camden Drive, questioned if that would revert back to Oceanfront zoning, if someone doesn't want to develop it as a PD District. Mr. Weiss will look into that.

A motion was offered by Councilman Rosenfield and seconded by Councilman Sanz to continue the public hearing, until the December meeting. The motion carried unanimously (4-0), with Councilman Jacobi absent.

7. **ORDINANCES FIRST READING:** An ordinance was read, by title, by the Village Clerk as follows:

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE VILLAGE CODE BY AMENDING CHAPTER 5 "APPEARANCE BOARD," BY AMENDING ARTICLE III "ARCHITECTURAL REVIEW BOARD," BY AMENDING SECTION 5.5-14 "CERTIFICATE OF APPROPRIATENESS, PRELIMINARY CONSIDERATION" BY ELIMINATING THE PROVISION FOR ISSUANCE OF A PRELIMINARY CERTIFICATE OF APPROPRIATENESS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE VILLAGE CODE; PROVIDING FOR EFFECTIVE DATE.

Mr. Weiss explained that there has been some confusion regarding some of the language in the Architectural Review Board (ARB) Ordinance. He advised that there was a procedure where someone could go to the ARB, get an approval, and it was deemed to be binding. He explained that some language in it was confusing, in terms of the power/authority that the Council had, to review that determination. He explained that this Ordinance provides for a preliminary meeting and discussion, eliminates the preliminary approval, which is more typical of what other architecture boards are doing, and clarifies it so people know exactly what the situation is. Mr. Weiss advised that there is a meeting process, it goes to the ARB, and then it goes to the Council.

Mayor Roth opened the public hearing.

Dina Cellini, resident – 211 Bal Cross Drive, discussed the November Architectural Review Board meeting and advised that she urged the Board to consider the guidelines in

Chapter 5.5, in consideration of the application. She reported that Village Attorney Nancy Stroud told the Architectural Review Board that Chapter 5.5 did not apply, but Chapter 21 applied, which was the PD Ordinance. Ms. Cellini wants to make it clear that Chapter 5.5 does apply to the guidelines that the Board is to consider when reviewing an application, either under PD or any other part of the Code. Mr. Weiss explained that he has advised Ms. Cellini that they disagree with her. He explained that under the PD Ordinance the Architectural Review Board is to consider and comment on the staff's report. He advised that the report from staff, on the particular project that is being discussed, is so broad that virtually any factor that the ARB would want to consider could be related to the report. Mr. Weiss explained that their view is that there is nothing that precludes the ARB from dealing with the criteria that are set forth in the ARB Ordinance, but they don't think that on its face it applies, because there's a specific provision in the PD Ordinance that deals with the ARB and outlines the scope of its review. Mr. Weiss explained that is the way they are going to advise the ARB and that this is beyond the scope of this Ordinance. Ms. Cellini advised that Ms. Stroud has told her that she agrees that Chapter 5 was a consideration by the ARB and that Chapter 21, the PD Ordinance, encompassed the criteria of Chapter 5. She doesn't think that it is beyond the scope of this Ordinance, because this is amending an ordinance that applies to the ARB and the procedures that they use. She thinks that it's relevant to bring up what the criteria the ARB is to use, when reviewing a PD application. Mr. Weiss disagreed and thinks it's beyond the scope of the Ordinance. He advised that Ms. Cellini has been told that the criteria is something that the Board can consider, as part of its specified role under the PD Ordinance, to review the staff report. Ms. Cellini thinks that they are both saying the same thing that under the PD district they can consider the criteria in Chapter 5. Mr. Weiss advised that as part of their review of the staff report. Ms. Cellini agreed.

Dr. Michael Krop, resident – 9601 Collins Avenue, advised that he feels responsible for this, because he previously pointed out that there was a review that was an irrevocable decision that was made by the Board of people who did not live in Bal Harbour. He didn't think it was right for an advisory board to have a cumbersome thing occur where the Council would have to overrule it. He thinks this addresses that, but is concerned that this eliminates the need for a Preliminary Certificate of Appropriateness, which may or may not be logical. He questioned what the Architectural Review Board's opinion is on this. He thinks that if they're for this, then he thinks it's a great idea, but if they're not, then he would like to know why. Dr. Krop suggested delaying this until the next meeting, if the Council doesn't know. Mr. Weiss advised that if the Council is interested in that, then between first and second reading, the Board could be contacted regarding their opinion. Dr. Krop suggested that be done.

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

It was the consensus of the Council that this Ordinance be reviewed by the Architectural Review Board members.

8. **RESOLUTIONS/PUBLIC HEARINGS:** None.

Resort Tax Committee Recommendations: Mr. Treppeda reviewed the following items that were recommended for approval by the Resort Tax Committee at their meeting on November 15, 2005:

1.)	Road Shows to Key Travel Call Centers	\$4,000.00
2.)	Sales Mission – U.S. Eastern Travel Association (Pennsylvania)	\$ 950.00
3.)	E-Newsletter	\$ 250.00
4.)	Sales Mission – Visit Florida (Minneapolis AAA Road Show and Travel Expo)	\$2,500.00
5.)	Media Familiarization Tour (Airfare, Ground Transportation, Lodging, and Meals)	\$9,000.00
6.)	New York Social Event Auction (Star Light, Star Bright Children’s Foundation)	\$1,500.00
TOTAL:		\$18,200.00

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

Brian Mulheren, resident – 10245 Collins Avenue, reported that a member of the Resort Tax Committee, Hans Altenhoff – Sheraton General Manager, verbally abused him. He requested that the Council take action to remove him from the Committee.

Stanley Whitman, Bal Harbour Shops, discussed his years of service on the Resort Tax Committee. He discussed the improvements done by the Committee including the beach, Collins Avenue landscaping, etc. He explained that over the years this has been a responsible Committee and pointed out that the Sheraton contributes 75% of the resort tax fund. Mr. Whitman doesn’t know about the incident, but in light of the fact that the Sheraton is the largest contributor to this tax fund and has served on this Committee every year since it was founded, he doesn’t think there is any basis to remove Mr. Altenhoff from the Committee, because one member got into a dispute with a member of the public.

Request for Approval to Purchase Wireless Network: Mr. Treppeda requested approval of \$3,009.94 to purchase and install a wireless network for the new Recreation Center and Public Works Department.

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.

Discussion of Selection of Individual to Assist with Proposed Starwood/St. Regis Bal Harbour Development Agreement Negotiations: Mr. Treppeda reported that the following resumes were received for the Council’s consideration:

- a.) Ron Book, P.A. (Name provided by Village Manager Alfred J. Treppeda)
- b.) Guillermo Olmedillo (Name provided by Village Attorney Richard J. Weiss)
- c.) Richard Bergman (Name provided by Mayor Sy Roth)
- d.) Merrett Stierheim (Name provided by Dr. Michael Krop)

to carry out the task.

Babak Raheb, resident – 128 Balfour Drive, thinks that the negotiator should come back before the Council and make the recommendation, or talk with certain people. He would like them to be open to the public, to be able to discuss their negotiations, so it would be more of an open forum.

Ana Marie Kelly, 77 Camden Drive, is concerned about not including a residential group on either side, or both sides of the fence. She thinks this involves this community not outsiders coming in to tell the residents how to live in the community. Ms. Kelly thinks there should be appointments, recommendations, or volunteers. She volunteered to be on any committee. Ms. Kelly also believes that all meetings should be open to the public.

Gabriela Webster, resident - 30 Park Drive #15, discussed the Marriott Corporation purchasing Starwood property and questioned if the Bal Harbour property is one of them. Mayor Roth advised that this has nothing to do with that. He advised that the Bal Harbour property is not one of those.

Raj Singh, resident – 53 Camden Drive, suggested that the resumes be circulated, because a lot of people from the Sea View are traveling now. Mayor Roth advised the resumes can be sent. He discussed having the four people attend the next Council meeting, to discuss their qualifications. Councilman Rosenfield suggested reading the qualifications. Mr. Singh discussed the owners at the Sea View wanting to review the resumes. Mayor Roth thinks that's a good point. Councilman Rosenfield advised that she understands, but thinks there are people who are here 12 months a year that need to get things going. She doesn't think that it's always prudent to delay, because someone can't be at the meeting. She discussed the previous delays for this and questioned how much time this should be delayed. Councilman Rosenfield thinks that people have the right to some degree of expediency in getting things done. She noted that Mr. Singh represents the owners at the Sea View and had stated that he knows three of the names that were submitted. Mr. Singh thinks that a reasonable period of time should be given. Councilman Rosenfield feels that the Council was elected by the people, on the basis that they have sound judgment. She doesn't believe that the Council is going to put somebody in a position that would be harmful to the residents of the Village. She noted that the Council was elected to represent the people. Councilman Rosenfield advised that she would never appoint anyone who would be harmful to the people at the Sea View, who can only be here one month a year. Mr. Singh would like time to look at the candidates and noted that they are just asking for the resumes.

Brian Mulheren, resident - 10245 Collins Avenue, thinks that this is a major decision and should be studied. He suggested that the people who submitted resumes give presentations at a meeting, so everyone can see and know them. Mr. Mulheren doesn't think this decision can be based on resumes. He doesn't see Ron Book being allowed to make negotiations. He thinks there should be a workshop for the presentations. Mr. Mulheren doesn't think a distinction should be made regarding people who aren't in town during the entire year. He doesn't think there is a reason to rush this.

Carter McDowell, representing Starwood and the Related Companies with regard to the property, advised that there is an urgency to get some level of response from the

Council, before the end of the year. He requested that the Council move forward to try to have a first reading of this project at the December meeting. He noted that the agenda was available last week and the names were available at that time. Mr. McDowell reported that Dr. Krop provided Merrett Stierheim's name as a possible negotiator. He advised that they would be happy and comfortable with Mr. Stierheim and doesn't think anyone could attack his resume or his reputation, as being a straight shooter and a solid person. Mr. McDowell advised that they are concerned with timing, because they have been in this process for awhile. He noted that this person is being hired as a consultant to the Village Manager and Village Attorney to negotiate the agreement, and are not the negotiators of the agreement, but are there to provide support to the Village Attorney and Manager. He clarified that the Council is not delegating authority to this person to negotiate, but they are there as a resource for the Village's own people to negotiate. He advised that they are ready, willing, and able to meet at any time on this and are committed to providing the necessary effort to get to that point. Mr. McDowell explained that a draft of the Development Agreement is required for the first reading. He requested that the Council move forward.

Marjorie Schell, resident – Balmoral Condominium, advised that she believes in the Council, but she doesn't see any reason to rush this.

Stanley Whitman, Bal Harbour Shops, agreed with Councilman Rosenfield that the Council is elected to represent the people and they have confidence in the Council. He doesn't think delaying the project is in the Village's interest. He thinks this has been dragged on and requested that the Council represent the people, make the selection, and move ahead.

Ana Marie Kelly, thinks that it's the Council's decision who to select. She advised that it will be open to public hearings, because it's an advisory commission. She thinks that the decision should be made now, either way.

Dina Cellini thinks that it's inappropriate for the Council to move forward selecting a representative for negotiations, because it compromises the integrity and the independence of the ARB. She noted that the process requires the Architectural Review Board to give a Certificate of Appropriateness. She thinks for the Council to start selecting a negotiator and suggest that they begin negotiations, presumes that the Board is going to approve this project. Ms. Cellini thinks that is inappropriate and sends the wrong message to the ARB that they're not able to review the project independent of what they think the Council feels about it. Ms. Cellini thinks that the Council should wait until the Board renders their decision on the Certificate of Appropriateness and that the Council should allow the four individuals to be reviewed by the public, which is who they are representing. She discussed the problems with the negotiations for the One Bal Harbour project and advised that the public is very concerned that might happen again. She urged the Council not to appoint someone now and if the Council deems it necessary, she urged the Council to at least let the four names be considered by the public, prior to making the selection.

Mayor Roth closed the public discussion.

Assistant Mayor Berlin questioned Dr. Krop if he recommended Merrett Stierheim. Dr. Krop advised that he did. Assistant Mayor Berlin clarified that Dr. Krop wouldn't have submitted Mr. Stierheim's name, if he didn't have confidence in him. Dr. Krop agreed. Assistant

Mayor Berlin noted that Dr. Krop knows Mr. Stierheim and has worked with him. Dr. Krop agreed. Assistant Mayor Berlin would disqualify Ron Book's name, since he is a Lobbyist for the Village. He advised that Mr. Olmedillo is well known for planning and zoning. Assistant Mayor Berlin doesn't know Mr. Bergman. He advised that he knows who Mr. Stierheim is and thinks everyone in the room knows who he is. Assistant Mayor Berlin has no objection to Mr. Stierheim and would join Dr. Krop in saying that would be a reasonable person to choose. Assistant Mayor Berlin doesn't think the community needs to be solicited to find out who Merrett Stierheim is or what he has done, because he thinks that everyone knows that he is a non-controversial selection of someone to assist. He clarified that the Council is not delegating any Council authority to this person and this person is being engaged to assist the Manager and/or the Village Attorney. He thinks that if there's a representative of a citizens group who is saying that Mr. Stierheim is someone that they would recommend, then he has no problem with that. Assistant Mayor Berlin thinks that Mr. Stierheim is a very reasonable choice and doesn't think that Mr. Stierheim needs an interview or needs to be cross-examined on his qualifications. Assistant Mayor Berlin can accept Mr. Stierheim. Mayor Roth thinks that the problem with the One Bal Harbour negotiations was that the person wasn't an attorney. Assistant Mayor Berlin advised that the Village has Attorneys. Mayor Roth thinks that the Village needs a hard-nosed attorney for this. Councilman Sanz pointed out that the Village has Mr. Weiss for that. Mayor Roth questioned why someone is being hired, if the Village has attorneys for that. Assistant Mayor Berlin explained that the thought was to bring someone in outside of the Village Manager or Attorneys' office that has had exposure to these issues (planning, zoning, development issues), which he thinks Mr. Stierheim has. He thinks that Mr. Stierheim would bring a wealth of experience and knows Dade County and Bal Harbour. Dr. Krop advised that Mr. Stierheim is impeccably honest. Mayor Roth discussed the qualifications of Richard Bergman, who is the attorney for SunTrust, is well-respected, and handles major cases regarding real estate, development, etc. He advised that he knows who Mr. Stierheim is and he served the public well and has a good reputation, but thinks it should be a hard-nosed strong person. Mr. Raheb questioned if two people can be selected. Mayor Roth thinks that two should be selected; a non-lawyer and an attorney.

A motion was offered by Assistant Mayor Berlin and seconded by Councilman Rosenfield to authorize the engagement of Mr. Stierheim, to assist the Village Manager and work on behalf of that effort and enter into an agreement satisfactory to the Manager and to move forward. The motion carried (3-1) as follows: Mayor Roth nay; Assistant Mayor Berlin aye; Councilman Jacobi absent; Councilman Rosenfield aye; Councilman Sanz aye.

Mr. Weiss advised that if Mr. Stierheim is being appointed to assist the Manager and staff and is basically an advisor and provides guidance, etc. then the discussions between Mr. Treppeda and Mr. Stierheim regarding the amount of money to ask for, impacts on the community, etc. are not subject to the Sunshine Law, because he would just be an advisor to Mr. Treppeda and is not part of a negotiating committee. Mr. Weiss requested direction on the role of Mr. Stierheim. Councilman Rosenfield thought the previous discussion was that he was to be an advisor to Mr. Treppeda, which was the original intent.

Councilman Rosenfield guaranteed Ms. Cellini and the members of the public that nobody on the Council is opposed to them being a very integral part of what is going on. She clarified that they want them to be a part of it and to hear what they have to say. She advised that they are not going to do anything behind closed doors or anything that will be

harmful. Councilman Rosenfield pointed out that they represent the entire Village, which is every member of the public. Ms. Cellini appreciated Councilman Rosenfield's comments and advised that she can only go on past experience. She thinks that in the past the Council has made sweeping changes to the zoning, in meetings done outside of the sunshine. Councilman Rosenfield noted that she was not part of that Council and there is a new Council now.

9. **RESOLUTIONS:** Mr. Treppeda removed the resolution approving the Police Department Agreement from the agenda and reported that the language is still being worked on.

10. **LOBBYIST REGISTRATION REPORT – AS OF NOVEMBER 10, 2005:** The Agenda showed that the following lobbyists are currently registered with Bal Harbour Village:

<u>Name of Lobbyist</u>	<u>Principal Represented</u>
Stanley F. Whitman	Bal Harbour Shops, Ltd.
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.
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 A. Patrizio	WCI Communities
Steve Sorensen	WCI Communities

11. **REPORTS AND RECOMMENDATIONS:**

A. **MAYOR AND COUNCIL:** This item was previously discussed.

B. **VILLAGE ATTORNEY:** This item was previously discussed.

C. **VILLAGE MANAGER:**

Discussion of Donation to Hurricane Relief Funds: This item was previously discussed.

Discussion of Selection of Individual to Assist with Proposed Starwood/St. Regis Bal Harbour Development Agreement Negotiations: This item was previously discussed.

Resort Tax Committee Recommendations: This item was previously discussed.

Request for Approval to Purchase Wireless Network: This item was previously discussed.

12. OTHER BUSINESS:

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

Bob Shinn, Senior Vice President with Starwood who manages development projects, discussed Starwood's relationship with the community for the past 25 years. He advised that the property is over 60 years old and needs considerable work. Mr. Shinn explained that they have elected to bring their top brand to Bal Harbour (St. Regis – luxury 5-star brand). He discussed other St. Regis properties. Mr. Shinn discussed the benefits to the Village, including the tax base. He assured that their stewardship in Bal Harbour will not end with the change of the Sheraton, but will be re-invigorated and strengthened. Mr. Shinn advised that as a public company they have made some business decisions for 2006 and based on their view of the landscape, they elected to stop taking bookings at the Sheraton at the end of the season, as of June 1st. He explained that they have started that process and advised that it's difficult to turn back in a timely, seasonally way. Mr. Shinn discussed timing and knows a lot of conditions have to be met, but requested first reading of an ordinance for the property to be placed on the calendar for the December 20th meeting, to give them directional clarity from a business planning standpoint of how this will play out. He thinks that it's in everyone's interest to have a plan going forward for 2006, since they will have no business after June 1st and they need to make plans. He requested that the Council allow them to be on the agenda for December 20th. He will give the assurance that the Council will have the full resources of Starwood to work with the Village staff and consultants. He advised that they know there are issues of financial, etc. with the Village and they are prepared to address the loss of the resort tax during the period that the hotel will not be in operation and to deal with all those issues in a very straight and positive way for the relationship on a long term basis.

George Perez, Chairman of the Related Group, discussed their partnership with Starwood. He thinks that this project will be known world-wide as a real icon. Mr. Perez advised that they invested \$2 million dollars into a plan and one year of work and then re-did the plans, in order to listen to the neighborhood (allowing for greater views, etc.). He reported that Starwood wanted to begin sales in November and they were going to pull the plug when that didn't happen, because they needed to make decisions on the hotel. Mr. Perez advised them that they were making progress. He reported that Starwood made it clear that they cannot loose the season and have to start in December/early January to get the process going, otherwise it is delayed a full year until the next season. Mr. Perez urged the Council to give them a chance to make this project a reality. He advised that they are willing to negotiate and want to be good neighbors and have listened (moved setbacks, heights, etc.) and are willing to pay their fair share. Mr. Perez thinks that this is a magnificent endeavor for Bal Harbour and South Florida. He urged the Council to help them get this going.

Babak Raheb, resident – 128 Balfour Drive, thinks that Starwood made a financial

decision presuming to build their project to fit their time schedule. He advised that it has been delayed because they made a decision to not take reservations, which isn't his responsibility. Mr. Raheb advised that Mr. McDowell has reported that the Village will lose 400,000 visitors. He thinks that the Village should ask for \$20 million. He explained that the ARB still hasn't approved this. He discussed the need for a wind study. Mr. Raheb requested that the Council strengthen the Village's policy regarding wind for the windows in high-rises, for new buildings. He would like the Building Department to come up with a report by the next meeting, to have a higher standard of wind coverage.

Dina Cellini, resident – 211 Bal Cross Drive, thinks that the Village is being held hostage. She advised that what Mr. Perez and Mr. Shinn are asking are comparable to directing the ARB to issue a Certificate of Appropriateness next month, because they're asking the Council to have a public hearing on their development plan at the next meeting. She advised that in order to do that, the ARB has to issue them a Certificate of Appropriateness on December 7th. She doesn't think that the Council can anticipate that's going to be done, unless they are discussing this with the ARB and cutting a deal. She advised that she is not suggesting that, but what they're asking the Council to do is probably illegal. She noted that they are asking the Council to have a hearing, before the ARB has issued a recommendation. She discussed the PD ordinance requirements. She noted that they are asking the Council to bypass the ARB and give them their first reading next month, which she thinks is outrageous.

Carter McDowell explained that they are not asking to have a hearing before the ARB takes action and they don't have to issue a Certificate of Appropriateness. He advised that they are asking to schedule something and if the ARB doesn't have a recommendation or there is no draft development agreement available for the meeting, then it won't happen and it would be continued. Mayor Roth clarified that if the ARB disapproves it, then there's no sense putting it on. He questioned if they do approve it on December 7th, if it can be put on the agenda for the 20th. Mr. Weiss explained that the way the Ordinance is written is that the ARB makes a recommendation. He advised that the Board can make a recommendation to approve the development, disapprove the development, or continue the meeting and ask for further information. He reported that the Building Official will also make a recommendation to approve, or disapprove, etc. Mr. Weiss explained that in either case, it's not uncommon for applications to have split recommendations from the ARB and the Building Official. He advised that an approval of the ARB is not a pre-requisite, just a recommendation is, which could be negative. Mr. Weiss agreed with the way it has been laid out in that if the ARB decides on December 7th that they don't have enough information, then he agrees that the Village cannot have the hearing that has been requested. He advised that if they vote and make a recommendation either up or down, or with conditions, etc. then the Village can have the hearing. Mr. Weiss clarified that irrespective of whether the ARB makes a recommendation to approve or disapprove, this will move forward to a hearing before the Council. He advised that the ARB does not have the ability to kill this project and only the Council can vote up or down on this project ultimately. He explained that if the ARB votes not to recommend it, then it will still come to the Council, but would come with a negative recommendation from the ARB. He clarified that the Council is free to do whatever it wants, depending on the evidence that is presented at the hearing. Mayor Roth doesn't think the Council is going to entertain this if the ARB has a negative recommendation. Mr. Weiss advised that the Council cannot legally make that decision. Assistant Mayor Berlin questioned the legal timing

requirements.

Carter McDowell advised that the Code requires 15 days advertised notice, so the Village has to advertise 15 days in advance. Mr. Weiss advised that there is no requirement that there be a gap of a certain amount of time between the ARB and the Council meeting. Assistant Mayor Berlin questioned if the applicant pays for this. Mr. Weiss advised that they do.

Marjorie Schell discussed an article in the New York Times. She discussed how close the center structure in their plan is going to go forward. She discussed the oceanfront coming in and the plantings holding that back. Ms. Schell advised that the Sheraton doesn't have anything in back of their hotel. She advised that hasn't been addressed and she is concerned with the building that is proposed for the middle.

Ana Marie Kelly is confused about the ARB's job. She questioned what happens if the ARB delays their decision again and questioned when the Council will take their authority position on saying whether or not it will have a reading, if the ARB is only an advisory commission. She questioned how long they can be an advisor, without having a time frame on them. Mr. Weiss advised that at the point that his office felt that the delay by the ARB was denying the applicant due process, then they would advise them that they need to make a recommendation one way or another, because the Ordinance does require recommendation, before the Council can hear it.

Gabriella Webster advised that at the last ARB meeting, the Board continued the meeting, based on the Chief Building Inspector's reservations of the plans. She advised that the Board listened to everyone's remarks and liked the second plan better than the first. Ms. Webster advised that even Dr. Krop said that the buildings were really not offensive to the eye. She reported that there are reservations that the Board mentioned that echoed the citizens, as well as the Building Department, which is why they continued the meeting based on the Building Official's recommendation to continue. She doesn't think there is anything wrong with the process and thinks that the professionals that the Village has on the Board are excellent and took some of the recommendations that the citizens had and passed it along to the Starwood property representative. Ms. Webster thinks they are doing a fine job and advised they were willing to meet the week after Thanksgiving, but people got in an uproar over them giving their time voluntarily and meeting with the Developer a week earlier, which she finds offensive. She advised that because people got upset about it, the Board declined giving the group that one week. She thinks there needs to be a little more consideration to the people who volunteer, like the ARB. She thinks there needs to be a little more openness and allow for these people to go ahead and move on with their process.

Councilman Rosenfield questioned if this goes on the December 20th agenda, if the Council has the option to say that they don't care to discuss it. Mr. Weiss explained that it would be an advertised hearing, the Council would open a public hearing, hear a presentation from the staff and applicant and if the Council felt there was more information needed and wanted more time to consider it, then it has the ability to continue that hearing or table it. Assistant Mayor Berlin questioned why the Council would have the applicant make a presentation, if it wanted to table it and not hear it at all. Mr. Weiss thinks they have the right to table it for some reasonable period of time, subject to what was said

about the ARB. He thinks that if the Council says they're not going to hear this for a year that there is an issue of due process, but if the Council wanted to postpone or table it for a limited period of time, then he thinks that can be done.

Michael Krop, 9601 Collins Avenue, advised that in his view when the ARB met the last time they gave direction to the Developer, which he thinks was clear. Dr. Krop thinks those things can all be done (setbacks, corner, even number of floors, etc.). He thinks that when the Architects approve it, then it seems that under the circumstances they have exhausted everything short of the Agreement, and they could assume it's a go. He thinks that if they assume it's a go, then they don't have to hurry on this. Dr. Krop thinks that December 20th is an inappropriate time to have an important discussion, because a lot of people aren't here. He thinks that the moment they know it's a go, then they can do all the things that they have to do in the next 6 months (close the hotel, etc.). Dr. Krop discussed the Sunshine Act and pointed out that the Council cannot discuss important items under Other Business and vote on them, because the public wasn't notified that they were going to be speaking on this. He advised that there is an Attorney General's opinion that states that zoning is a critical item. Dr. Krop doesn't think this whole thing should be within the Council's purview today to make this decision. He suggested that they go before the Board, which they are doing, and the Board will find that they have agreed with all of the changes and they will have the approval at that particular time, and he can't see anything short of the Agreement being an obstacle for them. Dr. Krop advised that this can be done when all of the public is notified properly and are here and then everyone will get what they want.

Brian Mulheren, resident – 10245 Collins Avenue, doesn't think this item should have been discussed and thinks it should be put on the agenda in a proper way. He thinks they are violating the Sunshine law by doing that. He thinks this should have been put on the agenda, so everyone could be here to discuss it. Mr. Mulheren doesn't think this should be rushed. He thinks his incident with Hans Altenhoff should be addressed. Mr. Mulheren advised that this is an important item for the Village and there needs to be public discussion. He noted that the ARB members gave their time, but also realized that Thanksgiving was an important holiday, which is why they postponed. He noted that Christmas is also an important holiday, so he thinks they need to have these discussions when people are around and everyone can talk.

Mayor Roth closed the public discussions.

Assistant Mayor Berlin wants to see fairness done. He advised that this applicant wrote a letter to the Village Manager a couple of weeks ago outlining this issue extensively and asked to be heard at this meeting on this issue. Assistant Mayor Berlin doesn't understand why it wasn't on the agenda. Mr. Treppeda suggested maybe changing the procedures, because he has always been advised that things are supposed to come up under Other Business, unless it's the Council's or Staff's business. Assistant Mayor Berlin thinks that it would be grossly unfair for it to be the case that it had to be an agenda item and the applicant made a timely request and the Village Manager didn't agenda it. He noted that every resident and property owner in the Village is entitled to the same fairness. Mr. Treppeda requested direction from the Council to give him guidance to allow him to put things on the agenda. Assistant Mayor Berlin discussed the OF ordinance hearings and advised that the Plaza came in and wanted their request for the porte-cochere to be heard because they had a concern and the Council took it up, independent of the rest of the

ordinance. He noted that there is already precedence where a Village property owner came in with a specific timely issue and as long as it's not patently unfair, the Council has done that in the past. He clarified that they are not asking the Council to pre-judge anything, but are asking the Council to make a note on the calendar for December that if they get their ducks in a row (an ARB recommendation up or down, Development Agreement), then they would like to be on the calendar for December. Assistant Mayor Berlin would like to know whether or not Dr. Krop's comment about this issue is right or not. Mr. Weiss is familiar with the law Dr. Krop is talking about and advised that in most circumstances the Council would have nothing to do with calendaring this item and it would just be done, in the normal course of business. Mr. Weiss advised that the Council has gotten involved in the scheduling process (request to hold off on the ARB, etc.). He agrees with Dr. Krop if this was a substantive issue, dealing with the zoning or rezoning of this property, or any other important matter. Mr. Weiss views this as purely procedural and doesn't believe that the law Dr. Krop is citing would apply. He advised that this is an administrative function that this applicant is entitled to. He explained that appearing on that day or not, it would normally just be calendared by the Clerk. He advised that in this particular case there has been a request for a specific day and he views it as a simple procedural item and thinks it's clearly something that's within the purview of the Council to give direction to the Manager to agenda a particular item for the December 20th meeting. Mr. Weiss understands what Dr. Krop is saying and is familiar with the law and if it was substantive, he might agree with Dr. Krop, but this is purely direction to staff for a procedural item. He explained that these items come up very regularly in any sort of Council meeting to hear an item in a week, a month, etc. which is what this is. He advised that he is not minimizing the importance of the hearing itself, but is dealing with the scheduling of the hearing, as opposed to the substance of it. Assistant Mayor Berlin noted that they won't even begin to take up consideration of it, regardless of when it is on the agenda, unless they have done everything they need to do to go forward.

Assistant Mayor Berlin advised that fairness is a two way street. He noted that when the residents came before the Council and asked to delay the process, that was a specific calendar request and the Council considered it. He thinks there has to be a balance. Assistant Mayor Berlin advised that to put it on the calendar doesn't make it a requirement to do, because there were several items on the calendar today that were taken off because they weren't ready (PBA Agreement). He doesn't see that as a major issue. Mayor Roth is against it. Councilman Rosenfield noted that the letter was sent on November 10th and thinks that the Council has to comply with the request. Mayor Roth doesn't think that the Council has to set the date and thinks the Village Manager, when everything is in line and he thinks it is appropriate, can put it on. Mayor Roth questioned what would happen if the ARB doesn't approve. Mr. Weiss clarified that if the ARB doesn't make a decision, then this item is not right for a decision by the Council. He advised that there are other things that need to be done and, at that time, if those things are not done then the Council will be advised that it was not placed on the agenda, because it was not procedurally right. He advised that assuming that the procedural items are in place, whether they're negative or positive, they will place it on the agenda.

A motion was offered by Councilman Sanz and seconded by Councilman Rosenfield to calendar this item on the December agenda. The motion carried unanimously (4-0), with Councilman Jacobi absent.

13. 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 12:35 p.m.

Mayor Seymour Roth

Attest:

Ellisa Horvath, CMC
Village Clerk

