

COUNCIL MINUTES
REGULAR MEETING – JUNE 21, 2005

The Regular Meeting of the Bal Harbour Village Council was held on Tuesday, June 21, 2005, in the Council Chambers, at Bal Harbour Village Hall. The meeting was called to order at 9:05 a.m. by Mayor Roth. Those present were:

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

Also present: Alfred J. Treppeda, Village Manager
Andrea Greenblatt, Administrative Assistant
David Wolpin, Village Attorney

Absent: Councilman Jaime M. Sanz

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

2. PLEDGE OF ALLEGIANCE: The Pledge was already done at the Local Planning Agency Meeting.

3. PRESENTATION OF AUDIT REPORT – JERRY CHIOCCA, CPA, RACHLIN COHEN & HOLTZ LLP: Mr. Chiocca reviewed the Village annual audit report, for the fiscal year ending September 30, 2004. Assistant Mayor Berlin questioned what the Village can do in following years to get the report in a timelier manner, since the fiscal year ends on September 30th. Mr. Chiocca explained that this year the Village hired a new Finance Director and there were some other changes, such as changes in the utility billing system, etc. Assistant Mayor Berlin questioned what the primary reason was that the Village under spent this year. Mr. Wallace thinks that there may have been a higher estimation on what was being done on some expenditures, some projects were pushed, and the revenues came in a lot stronger. He advised that there weren't any substantial programs that were undertaken and there were conservative estimates on the expenditure side. Assistant Mayor Berlin thinks that it's good to have a fund balance, but thinks that the estimates need to be crisper on what the anticipated expenses are. Mr. Chiocca reviewed the Budgetary Comparison Schedule (page 43). Assistant Mayor Berlin requested that the estimates be looked at closer for the next budget year. Mr. Wallace thinks that the biggest issue going into 2006 and 2007 is the development factor and its affect on cash flow to the tourism fund. Mr. Chiocca reported that the major item was General Government, which was over budget. Mr. Wallace thinks that the Village had a very good fiscal year for 2004 and 2005 looks to be good also. He reported that the Village is well-run financially and has a very solid tax base. Mr. Wallace encouraged the Council to read the Management Discussion and Analysis (page 3-13) of the report.

4. APPROVAL OF MINUTES: *A motion was offered by Councilman Rosenfield and seconded by Assistant Mayor Berlin to approve the minutes of May 10, 2005 Special Meeting, and the May 17, 2005 Regular Council Meeting. The motion carried unanimously (4-0), with Councilman Sanz absent, and the minutes were approved as submitted.*

5. PRESENTATIONS:

Chief Tom Hunker reported that there was a \$600,000.00 seizure, in which Bal Harbour received over \$200,000.00 and two vehicles.

Officer of the Year 2004 – Officer John Fruchey: Chief Hunker announced that Officer John Fruchey was selected as Officer of the Year for 2004. He explained that Officer Fruchey brought 26 years of police experience with him, along with his K-9 partner Benno, which allowed the Bal Harbour Police Department to establish their first Canine Enforcement Team. Chief Hunker presented Officer Fruchey with a plaque. Mayor Roth presented Officer Fruchey with a savings bond, on behalf of the Village. Captain Jay Smith presented Benno with a dog bone as a retirement gift from the Bal Harbour Police Department.

6. PUBLIC HEARINGS: None

7. ORDINANCES SECOND READING/PUBLIC HEARING: An ordinance was read, by title, by Ms. Greenblatt, amending the Village Code addressing Water and Sewer Standards. Mayor Roth opened the meeting for public discussion.

Babak Raheb, resident - 128 Balfour Drive, requested that the ordinance be explained. Mr. Wolpin explained the ordinance and advised that the adoption of this ordinance was requested by the Village Planner (Michael Miller). He reported that these water and sewer standards will apply to all new construction and make it easier to enforce compliance.

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

ORDINANCE NO. 499

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING ARTICLE 1 “IN GENERAL” OF CHAPTER 20 “UTILITIES” OF THE VILLAGE CODE BY CREATING SECTION 20-2 “CROSS CONNECTION CONTROL PROGRAM”, TO ADOPT THE APPLICABLE ARTICLE OF THE MIAMI-DADE COUNTY CODE; BY CREATING SECTION 20-3 “DESIGN AND CONSTRUCTION STANDARD SPECIFICATIONS” TO ADOPT THE APPLICABLE MIAMI-DADE COUNTY WATER AND SEWER STANDARDS; BY CREATING SECTION 20-4, “INSPECTION OF UNDERGROUND UTILITIES” TO PROVIDE FOR CONTINUOUS INSPECTION DURING CONSTRUCTION OF UNDERGROUND UTILITIES; AND BY CREATING SECTION 20-5 “WATER AND SEWER LINE ADJUSTMENT” TO PROVIDE FOR REIMBURSEMENT TO VILLAGE FOR CERTAIN WATER AND SEWER MAIN ADJUSTMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE VILLAGE CODE; PROVIDING FOR EFFECTIVE DATE.

8. ORDINANCES FIRST READING:

An ordinance was read by title, by Ms. Greenblatt, amending the Village Code addressing
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Section 21-78 of the Zoning Code, as follows:

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, AND AN EFFECTIVE DATE.

Mayor Roth opened the meeting for public discussion. There being no discussion, Mayor Roth closed the public hearing.

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

An ordinance was read by title, by Ms. Greenblatt amending the Village Code, establishing Section 12-9 as follows:

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING CHAPTER 12 OF THE CODE OF ORDINANCES OF BAL HARBOUR VILLAGE, ENTITLED “OFFENSES”, TO ESTABLISH SECTION 12-9, ENTITLED “SEXUAL VIOLATOR RESIDENCY PROHIBITION”, PROHIBITING CONVICTED SEXUAL VIOLATORS FROM RESIDING WITHIN 1200 FEET OF SPECIFIED LOCATIONS WITHIN BAL HARBOUR VILLAGE; PROVIDING FOR SEVERABILITY, AND AN EFFECTIVE DATE.

Mayor Roth opened the meeting for public discussion.

Babak Raheb, resident – 128 Balfour Drive, questioned the Village Attorney if the ruling differentiates between minors and adults. Mr. Wolpin advised that it does not.

Chief Hunker thinks that if a person of teenage years has been adjudicated as an adult, then he or she should be looked at as an adult, when it comes to this ordinance. Chief Hunker also reported that there are no sexual offenders living in Bal Harbour.

Brian Mulheren, resident – 10245 Collins Avenue, commended the Council and the Village Attorney for this ordinance, but feels that the penalty should be more stringent.

Councilman Rosenfield questioned if the Bal Harbour Police will do the background checks on future tenants. Mr. Wolpin advised that it would be incumbent on the landlords to come to the police station to do a background check. If the ordinance is passed, Chief Hunker reported that he would work with the landlords to be sure of their compliance. Mr. Wolpin advised that Miami-Dade County is looking into passing an ordinance on sexual predators and, depending on the wording, Bal Harbour would be covered by their ordinance, then the Bal Harbour ordinance would not be necessary. Mr. Wolpin explained that the Village Planner, Michael Miller, would like the ordinance to read 1300 feet, instead of 1200 feet. Mr. Wolpin reported that based on the calculations done by Mr. Miller, there would be no place for a sexual predator to live in Bal Harbour.

There being no further discussion, Mayor Roth closed the public discussion.

A motion was offered by Assistant Mayor Berlin and seconded by Councilman Rosenfield to amend the ordinance to read 1300 feet, instead of 1200 feet. The motion carried with the vote as follows: Mayor Roth aye; Assistant Mayor Berlin aye; Councilman Jacobi aye; Councilman Rosenfield aye; Councilman Sanz absent.

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

9. RESOLUTIONS: None

10. LOBBYIST REGISTRATION REPORT: In compliance with Village Code Section 2-301, Ms. Greenblatt reported that the following lobbyists are currently registered with Bal Harbour Village:

Ronald L. Book – Majestic Tower at Bal Harbour Condominium Association, Inc.
Carter McDowell – Sheraton Bal Harbour Joint Venture
Michael Patrizio – WCI Communities
Steve Sorenson – WCI Communities
Stanley F. Whitman – Bal Harbour Shops, Ltd.

11. REPORTS AND RECOMMENDATIONS:

- A. MAYOR AND COUNCIL: None
- B. VILLAGE ATTORNEY: None
- C. VILLAGE MANAGER:

Request for Approval of Change Order #1 for Metro Equipment Service, Inc. for Valve and Fire Hydrant Replacements: Mr. Treppeda requested approval for the following two additional items that he would like Metro Equipment Service to handle:

- 1) Install two 8" water valves to replace broken ones located in the Sea View parking lot
Change Order Cost: \$19,607.00
- 2) Install one fire hydrant to replace a broken one located in front of the Bal Harbour Club
Change Order Cost: \$5,931.98

TOTAL CHANGE ORDER COST: \$25,538.98

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

Request for Approval to Renew the Turf and Landscape

Agreement with the Florida Department of Transportation: Mr. Treppeda requested approval to renew the Maintenance Agreement with the Florida Department of Transportation. Since this agreement comes up every year, he also requested consideration to authorize the Village Manager to approve the agreement in subsequent years. He explained that the agreement provides for Bal Harbour Village to receive \$6,201.00 per year, for maintaining landscaping and performing lawn care services on State owned lands.

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

Request for Approval to Renew NPDES Interlocal Agreement:

Mr. Treppeda explained that through this Interlocal Agreement, Miami-Dade County handles the sampling, monitoring, and analysis of a variety of storm sewer systems throughout Miami-Dade County. He reported that the Village Attorney's office has reviewed and approved this Interlocal Agreement. The new agreement will be in effect until November 16, 2012.

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

Request for Approval of Contribution to the Coastal Communities Transportation Master Plan Study:

Mr. Treppeda explained that the City of Miami Beach obtained a grant, to conduct a study to develop a Coastal Communities Transportation Master Plan, and has asked participating cities to pay the difference between the grant funds and the cost of the study. Village Planner Michael Miller will be representing Bal Harbour and Bay Harbor, which would reduce the contribution amount. Mr. Treppeda requested Council approval of up to \$4,000.00, as a contribution to the Coastal Communities Transportation Master Plan.

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

Request for Police Forfeiture Expenditures: Mr. Treppeda explained that Chief Hunker is requesting authorization to expend forfeiture funds as follows:

1)	South Florida High Intensity Drug Trafficking Area (HIDTA) Crime & Drug Demand Reduction Program Summer Camp	\$3,000.00
2)	International Association of Chief of Police (I.A.C.P.)/ Major Cities Chiefs Conference	\$5,000.00
TOTAL:		\$8,000.00

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

Request for Approval to Enter Into Lease Agreement for Code Enforcement Vehicle: Mr. Treppeda explained that the current vehicle has become

unserviceable and needs a replacement. The lease agreement is for 48 months at a rate of \$262.34 per month. There are General funds available to cover the cost of this lease.

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

Authorization to Enter Into a Mutual Aid Agreement with Aventura Police Department: Mr. Treppeda explained that the current mutual aid agreement expires in January 2006. He reported that since the Village and Aventura have matters of mutual concern, he believes that it is in the best interest of the Village to renew the agreement.

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

Resort Tax Committee Recommendations: Mr. Treppeda reviewed the following items that were recommended for approval by the Resort Tax Committee at their meeting on June 9, 2005:

1)	Printing of Passport Brochures (50,000 copies)	\$12,070.35
2)	2005/2006 Proposed Resort Tax Budget	
	The Committee recommended to the Council that the 2005/2006 budget stay at the same spending level as this year's budget. The projected shortfall of \$250,000.00 will be covered by the Tourism Fund Budget.	
TOTAL:		\$12,070.35

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

12. OTHER BUSINESS:

Babak Raheb, resident – 128 Balfour Drive, expressed concern over the pedestrian gate at the Bal Bay Drive entrance. He explained that it is often open and at times he has seen that the latch was jammed with something, to prevent it from closing. Mayor Roth requested the Village Manager to look into putting a spring closure on that gate that would ensure it closing each time it was used. Mr. Raheb also advised that he spoke with Miami Dade DOT (Department of Transportation) and was told that the street closures that were done in Surfside, which caused major traffic issues for Bal Harbour, were not legal, because Surfside did not meet with Bal Harbour for approval to do these street closings. Mr. Wolpin requested Mr. Raheb to give Mr. Treppeda the name of the person that he spoke with. Mr. Treppeda advised that according to the correspondence that he received from the County, Surfside did comply with their regulations. Assistant Mayor Berlin complimented Mr. Raheb's efforts with regard to the street closings and traffic issues and suggested that the Village Attorney look into the issue. Mr. Wolpin advised that, due to a conflict of interest, his firm would not be able to handle it. Assistant Mayor Berlin requested Mr. Wolpin to give the Village Manager names of other firms that could investigate whether or not Surfside is guilty of these violations and has failed to comply.

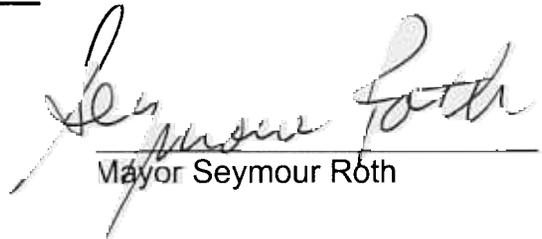
A motion was offered by Assistant Mayor Berlin and seconded by Councilman Rosenfield to

spend up to \$10,000.00 in legal fees to investigate the Surfside street closure/traffic issues. The motion carried unanimously (4-0), with Councilman Sanz absent.

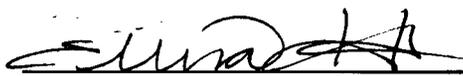
Brian Mulheren, resident – 10245 Collins Avenue, advised that he was very pleased with the outcome of the Architectural Review Board Workshop Meeting. He feels the decision by the Board regarding the design of the new hotel was a good one. He also wanted to commend the Bal Harbour Police Department for the wonderful job they did over the Memorial Day Weekend. Chief Hunker thinks the credit should go to Captain Klingman, who was in charge that weekend.

Councilman Rosenfield expressed concern regarding beach erosion. Assistant Mayor Berlin explained that the Resort Tax Committee set up a restoration fund years ago of \$1 million, which has been raised to \$1.2 million, but that may not be enough to restore Bal Harbour's beach. Mr. Raheb discussed an article in the Miami Herald regarding a Federal Program that uses very finely ground glass that doesn't wash away as fast as sand. He advised that other cities are applying for it and feels that Bal Harbour should be on that list. Councilman Rosenfield agreed. Assistant Mayor Berlin questioned Councilman Rosenfield if she would agree to head a committee regarding this issue, since the beach is her district. Councilman Rosenfield agreed.

13. ADJOURN: There being no further business to come before the Council, motion was offered by Councilman Rosenfield and seconded by Assistant Mayor Berlin to adjourn, and the meeting was adjourned at 10:27 a.m.


Mayor Seymour Roth

Attest:


Ellisa Horvath, CMC
Village Clerk

/ag