

COUNCIL MINUTES
SPECIAL MEETING MAY 10, 2005

The Special Meeting of the Bal Harbour Village Council was held on Tuesday, May 10, 2005, in the Council Chambers, at Bal Harbour Village Hall. The meeting was called to order at 9:00 a.m. by Mayor Roth. Those present were:

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

Also present: Alfred J. Treppeda, Village Manager
 Ellisa L. Horvath, Village Clerk
 Richard J. Weiss, Village Attorney

Absent: Councilman Joel S. Jacobi

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

2. PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was led by Village resident Brian Mulheren.

3. RESOLUTIONS:

A resolution was read, by title, by the Village Clerk, as follows:

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, ADOPTING CERTAIN RULES OF PROCEDURE AND DECORUM FOR VILLAGE COUNCIL MEETINGS; REPEALING AND SUPERCEDING RESOLUTION NO. 667 ON THE SAME SUBJECT MATTER; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Roth opened the meeting to public discussion.

Brian Mulheren, resident – 10245 Collins Avenue, thinks that this should be done at a regular meeting, so everyone knows about it. He thinks that it's wrong to restrict people's rights. He questioned who called this special meeting and the purpose, because he doesn't know what it's about. Mr. Mulheren thinks that the meetings have been going well and doesn't understand why this is needed. He is against whatever is being done, because it should be done at a public scheduled Council meeting, not a special meeting.

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

Mr. Wolpin advised that the meeting was noticed properly (it was posted as provided by law). He reported that anyone can ask for a copy of the resolution and review the materials. Mr. Wolpin stated that the calling of the special meeting was properly done and properly posted. He explained that one of the items of this procedural resolution sets up procedures

for calling special meetings. Mr. Wolpin reviewed that special meetings could be called by the Village Manager, Mayor, or three Council members, which is consistent with what other cities have as their procedure. He reported that under the State Sunshine Law, it's only necessary that the notice be posted two to three days in advance, at Village Hall. He advised that additional information was also provided, which is supplemental. Mr. Wolpin stated that the fact that a quorum has assembled shows that the meeting has been properly called. He explained that this resolution sets up a procedure to be used in the future, if the Council wants to call a special meeting. It is Mr. Wolpin's understanding that the reason that the special meeting was called was for the Council to have an opportunity to make these amendments to its procedures, particularly the time-keeping provision, in advance of the next meeting, so that it wouldn't suddenly impose rules without preparing them in advance.

Mayor Roth questioned the authority of a Councilperson to call a special meeting. Mr. Wolpin advised that the Charter is silent on the procedure for calling special meetings. Mayor Roth doesn't understand the urgency of this special meeting to inconvenience people, when it can be taken up at a regular meeting. He doesn't think the average citizen knows that there's a meeting today. Mayor Roth discussed the provision in the resolution regarding special meetings and questioned how three Councilmembers can call a special meeting without violating the Sunshine (Law). He thinks that the Attorney, Clerk, or Mayor together with the Village Manager should have that authority, not three Council people. Mr. Wolpin advised that it's a common provision in many cities that either the Mayor can call a special meeting or three or more Councilmembers. He explained that they don't do it by calling each other and they don't discuss the items on the agenda. He reported that the manager would merely check with three Council members to see if they needed to have a special meeting on a particular matter. He stated that most of that wouldn't even happen, because the proposed provision allows the Manager to call a special meeting, which is similar to what Aventura has. Mr. Wolpin stated the only requirement that there be an emergency to call a special meeting, is if the Council creates that requirement. He explained that the Council is free to create these rules as they desire. Mayor Roth thinks that these resolutions could have waited a week. Mr. Wolpin advised that's up to the Council. Mayor Roth doesn't think that the meetings are overly lengthy and doesn't think that the Village has to be so restrictive. He doesn't think the Council has to fix something that isn't broken and he is against this resolution.

Councilman Sanz advised that he is very skeptical about this. He feels that it's being done secretly and agrees that if it's not broken, then it shouldn't be fixed. Councilman Sanz understands that it was posted in the lobby, but doesn't think many residents come in to see that. He doesn't think that it's such an emergency that it couldn't be discussed at another time.

Councilman Rosenfield doesn't know about a special meeting, but thinks that there's a necessity for rules to be followed. She doesn't have an argument that it's being presented today and doesn't know why it can't be discussed today. She stated that a vote can always be delayed on it, until a future meeting. Councilman Rosenfield reviewed the resolution and questioned what signing up "prior to the meeting" is defined as. Mr. Wolpin advised that would be anytime before the meeting. Councilman Rosenfield doesn't think that's clear and requested that it be clarified that someone can sign up even five minutes prior to the meeting.

Assistant Mayor Berlin suggested tabling this, given the concern about the notice issue, and taking it up at the next Council meeting.

Mrs. Horvath reported that all regular and special Council meetings are posted in the lobby, posted on the web site, and on Information Channel 20. Mayor Roth doesn't think that many residents know about Channel 20.

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

A resolution was read, by title, by the Village Clerk, as follows:

**A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR
VILLAGE, FLORIDA ESTABLISHING SPECIFIC CRITERIA,
DOCUMENTATION REQUIREMENTS AND PROCEDURES IN ORDER
FOR CHARITABLE CONTRIBUTIONS TO BE MADE BY THE VILLAGE.**

Mr. Wolpin explained the resolution. He reported that the regulations are also being considered by the City of Weston. Mr. Wolpin advised that this sets forth guidelines that the Council could apply, in considering making donations of Village funds for charitable purposes in the future. Mr. Wolpin advised that the Charter doesn't provide any provisions that address making charitable contributions. He explained that the main criteria is that any charitable contribution of funds made by the Village must be for a Village purpose. Mr. Wolpin advised that this resolution calls for the Village to set up a budget line item of \$25,000 and the various entities seeking contributions would be competing for money from that budget line item (amount is up to the Council's discretion). He reviewed the specific criteria and documentation requirements. He reviewed the funding, application, and allocation process. Mr. Wolpin advised that applications would be due in December and the Council would decide in January.

Assistant Mayor Berlin questioned if the money given each year to Ruth K. Broad Bay Harbor Elementary would have to go through this process. Mr. Wolpin advised that could be looked at under a separate item. He explained that the Village can add another provision that donations made concerning support to the School system would not be under this. Assistant Mayor Berlin questioned the contribution to the Surf-Bal-Bay Library. Mr. Wolpin advised that would also be different, because it's part of an Interlocal Agreement and is not a charitable contribution.

Assistant Mayor Berlin questioned how charitable organizations will know that this is the system, unless information is sent to all the organizations. He suggested doing this, but not having it limited to once a year. He suggested eliminating the once a year provision, agreeing upon a budget, and maybe imposing a maximum grant to any individual entity, to ensure there is money throughout the year. Mayor Roth agreed that once a year is too cumbersome and thinks that it should be reviewed quarterly or bi-monthly. He suggested \$6,000-\$7,000 per quarter. Councilman Rosenfield discussed the scenario if an emergency comes up in October and the majority of the money is already given away. She thinks there is a reason for looking at them all together, so that they can be prioritized. She would like to see them all together to be able to prioritize them. Councilman Rosenfield suggested sending out a notice several

months ahead and posting it in the Village newsletter, etc. She suggested that a Committee of two to three people constantly look at the requests. Councilman Rosenfield thinks that all the requests have to be looked at, before giving any money away. Mayor Roth discussed emergency contributions. She discussed that this resolution refers to only giving to something that affects the residents of Bal Harbour.

Mayor Roth discussed the value of the image of Bal Harbour. He questioned what would really benefit Bal Harbour. Mayor Roth doesn't think that the Village needs to advertise for every charity to submit. Councilman Rosenfield advised that's not the intention and clarified that it's written that it must benefit the Village residents. She thinks that it needs to be changed if that's not what the Council wants. Mayor Roth thinks that maybe it's too restrictive. Assistant Mayor Berlin advised that he has historically been opposed to charitable giving, but if it's the mood of the Council to have something for charitable giving, then he might be able to live with this. Mayor Roth stated that since he has been on the Council, nothing has been given to a charity, other than education. He doesn't know where this came from. Councilman Rosenfield advised that it came about because one of the Village's residents asked for money (Sunami Relief) and the Village had nothing on line. Mr. Treppeda advised that the Council directed the Village Attorney to prepare something. Mayor Roth thinks that the image of the Village would be greatly enhanced, if it gave a certain amount of money. Mr. Treppeda stated that it could be done on a case by case basis, but there would have to be a different point system. Mayor Roth is against using a point system and thinks that common sense should be used and suggested taking it as it comes. Assistant Mayor Berlin thinks that the idea of having criteria that the Council agrees on makes the process easier, which he has no objection to. Mayor Roth suggested just using discretion, budgeting a certain amount of money, and not being so rigid. He suggested taking it up on a bi-monthly or quarterly basis, but not once a year.

Councilman Rosenfield doesn't think that it's the business of the Council to give to charities. She thinks that if the Village is setting an amount aside, then there has to be criteria. Councilman Rosenfield stated that it can't be done on an emotional basis. She thinks that it's nice to have Bal Harbour's name out there, but doesn't think that's the purpose of giving money. Councilman Rosenfield thinks that if the Council decides to give money, then there has to be some kind of criteria. She clarified that she doesn't think that it's her right to spend taxpayer money on a charity that they may not wish to support.

Babak Raheb, resident – 128 Balfour Drive, disagreed with Councilman Rosenfield. He discussed the Sunami Relief Fund and thinks that it benefits the image of Bal Harbour to assist and show a good gesture for such a catastrophic event. Mr. Raheb thinks that American people are very generous when it comes to catastrophes. He is against the other resolution.

Dina Cellini, resident – 211 Bal Cross Drive, questioned if there's anything in the current budget for charitable contributions. Mr. Treppeda advised that there is not specifically, but there are Contingency funds. Ms. Cellini thinks that the Village should be flexible, but there should be some basic criteria. She thinks that so many limitations is too restrictive (matching funds, etc.). Ms. Cellini suggested allocating a minimal amount for the first year or playing it by ear. She doesn't think it has been a big issue in the Village, so she is opposed to this resolution.

Brian Mulheren, resident – 10245 Collins Avenue, thinks that it's a great idea, but it

shouldn't be restrictive. He doesn't think there's anyone in the Village who is against giving to charities. Mr. Mulheren thinks it should be an easy simple process.

Mr. Wolpin advised that based on the input, he can revise this to make it less restrictive, more flexible, and bring it back at a later meeting.

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

Assistant Mayor Berlin discussed the beach renourishment in Broward County, which will cost approximately \$4-5 million per mile. He advised that the Village has \$1.2 million in resort tax reserves for beach renourishment. He explained that if there's a catastrophic event, then the Village won't have adequate funds to rebuild the beach, which means the Village would have to be at the whim of the County or the State. Assistant Mayor Berlin thinks that the Village has inadequate reserves for that type of event and needs to start planning for it. Mayor Roth advised that the Village hasn't spent any money to renourish the beach (federal and state government has paid). Assistant Mayor Berlin thinks that if the Village is going to rely on the State or the County government, then the Village needs to understand how the procedure is going to work. He discussed that if there is an event that affects the South Florida coast, then he doesn't think the Village can expect that they will come the next month and re-do the beach. Assistant Mayor Berlin thinks that the Village needs to start planning for an event, in order to be self-sufficient. He is encouraging the Manager to start thinking of ways to increase the reserve. Mr. Treppeda reported that there's a current ordinance that the Village can reserve up to \$1 million and the Council has the right to increase that number.

Mayor Roth reported that in a year the resort tax will drop 60% (Sheraton is closing). He suggested getting Congresswoman Ileana Ros-Lehtinen and Senator Margolis involved. Assistant Mayor Berlin requested that the Council direct the Village Manager to start doing an analysis of what would happen if there's a catastrophic event (what the process would be, if the money is allocated in the State or the County, how long it would take to get it done, etc). He stated that if they have it covered and will give the Village a commitment that's good, but if they don't then the Village has to start thinking about it.

Mr. Raheb, thinks that if the hotels are damaged, then the beach won't matter. He thinks that it would be spending taxpayer money for something that Bal Harbour doesn't own. He is okay with paying for it and then being reimbursed by the State, etc. Mr. Raheb has no problem with reserving the money, as long as it's not taxpayers money that can be used someplace else. Mayor Roth suggested that if there is any excess money in the resort tax fund, then that should be put in the reserves. Assistant Mayor Berlin agreed. Mayor Roth stated that it's something to think about, because the beach is one of the Village's greatest assets.

Mr. Mulheren discussed beach erosion and thinks the Council needs to address it and get some urgency into getting the beach back to what it was. He thinks that the Village needs to promote the Sea View and the Shops, with resort tax money, and tell people where to go when the Sheraton is gone. He advised that the Sheraton isn't telling people.

Gabriella Webster, resident – 30 Park Drive #15, discussed the Haulover Inlet and beach erosion. She thinks that an analysis would be good as well as being aggressive. Ms. Webster advised that there doesn't have to be a catastrophic event for beach erosion to happen.

Mr. Raheb discussed re-districting. He reviewed the Charter and discussed that each district must be proportional in size and area. Mr. Raheb thinks that right now the districts are mis-proportioned. He thinks that they should be re-districted, so there will more of an equal contribution from each district. Mr. Wolpin will look at that. He advised that the Village has a geographic residency requirement; it doesn't have single member districts. He explained that all of the voters in the Village get to vote for each of the Council positions. Mr. Wolpin advised that they can look at that.

4. 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 and the meeting adjourned at 10:00 a.m.


Mayor Seymour Roth

Attest:


Ellisa Horvath, CMC
Village Clerk