

**COUNCIL MINUTES**  
**REGULAR MEETING – MARCH 15, 2005**

The Regular Meeting of the Bal Harbour Village Council was held on Tuesday, March 15, 2005, in the Council Chambers, at Bal Harbour Village Hall. Mayor Roth reported that the Village Attorney has advised that Mr. McDowell can make his presentation, even though there isn't a quorum. The presentation commenced at 9:05 a.m. Those present were:

Mayor Seymour "Sy" Roth  
 Councilman Howard J. Berlin  
 Councilman Joel S. Jacobi<sup>1</sup>

**INTRODUCTION OF PROPOSED STARWOOD DEVELOPMENT**  
**PROJECT – CARTER MCDOWELL, ESQ.:** Mayor Roth requested that this item be taken out of order.

*Carter McDowell, Attorney representing Starwood and the Related Company*, discussed plans for the redevelopment of the Sheraton Bal Harbour site. He advised that they have been meeting with Village staff regarding this project. Mr. McDowell gave a general overview of what they're intending to file with the Village, for a Planned Development application.

*Jorge Perez, Chairman – Related Group of Florida*, explained their joint venture with Starwood. He explained that they had an international design competition, with some of the best designers of the world presenting to try to obtain this commission. He advised that there will be 275 ultra-luxury hotel suites and over 300 condominiums, ranging from two – ten million dollars. Mr. Perez explained that the world-class spa will be 26,000 square feet and will be open to the public. He advised that there will be two signature restaurants. Mr. Perez explained that St. Regis is a six star hotel and this will be THE St. Regis and they want to make this their star hotel. Mr. McDowell distributed information on the St. Regis hotels and resorts. Mr. Perez explained that Related Group is the largest multi-family and mixed-use Developer in Florida and Starwood is one of the premier hotel companies in the Country. He advised that Lucien Lagrange was selected as the Architect for this job, who is a world-renowned architect.

*Lucien Lagrange, Architect*, advised that he will be working with Taft Bradshaw, Landscape Architect, and the architectural firm, Sieger Suarez. He advised that some of the setbacks will be increased on Collins Avenue. Mr. Lagrange reported that preliminary studies show that there would be a reduction in traffic, from the existing hotel. He displayed a rendering of the proposed project and reviewed the plans. Mr. Lagrange advised that the architecture will be contemporary.

Mayor Roth advised that the Council intends to have workshop meetings. Mr. McDowell advised that they wanted to present the preliminary plans and meet with the community. He advised that they are available for workshops. He advised that there will be a workshop meeting with staff on April 6<sup>th</sup>, to continue working on the technical details of the application. Mr. McDowell stated that they appreciate the courtesy of allowing them to present this today.

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<sup>1</sup> Councilman Jacobi arrived during the Starwood Development Project presentation.  
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The meeting was called to order at 9:15 a.m. by Mayor Roth. Those present were:

Mayor Seymour "Sy" Roth  
 Assistant Mayor Peg E. Gorson  
 Councilman Howard J. Berlin<sup>2</sup>  
 Councilman Joel S. Jacobi

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

Absent: Councilman James E. Boggess

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

**2. PLEDGE OF ALLEGIANCE:** The Pledge of Allegiance was led by Councilman-Elect Jean Rosenfield.

**3. APPROVAL OF MINUTES:** *A motion was offered by Councilman Jacobi and seconded by Assistant Mayor Gorson to approve the minutes of the February 15, 2005, Regular Meeting. The motion carried unanimously (4-0), with Councilman Boggess absent, and the minutes were approved as submitted.*

**4. PRESENTATIONS:** None.

**5. PUBLIC HEARINGS:** None.

**6. ORDINANCES SECOND READING/PUBLIC HEARINGS:** An ordinance was read, by title, by the Village Clerk, amending the Employee's Pension Plan.

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

*A motion was offered by Councilman Jacobi and seconded by Assistant Mayor Gorson to approve this Ordinance on second reading. The motion carried, with the vote as follows: Mayor Roth aye; Assistant Mayor Gorson aye; Councilman Berlin aye; Councilman Boggess absent; Councilman Jacobi aye. Thus becoming:*

**ORDINANCE NO. 497**

**AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE VILLAGE CODE AT ARTICLE II, "EMPLOYEE'S PENSION PLAN," CHAPTER 13 TITLED, "PENSIONS AND RETIREMENT BENEFITS," AT SECTION 13-39 TITLED "DEFERRED RETIREMENT OPTION PLAN (DROP)" TO PROVIDE DROP PARTICIPANTS WITH AN ELECTION REGARDING THEIR DROP ACCOUNT EARNINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

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<sup>2</sup> Councilman Berlin left before discussion under Other Business.

**7. ORDINANCE FIRST READING:** None.

**8. RESOLUTIONS:** None.

**9. INTRODUCTION OF PROPOSED STARWOOD DEVELOPMENT PROJECT – CARTER MCDOWELL, ESQ.:** This presentation was done earlier in the meeting.

**10. UPDATE OF TRAFFIC STUDY – STANLEY WHITMAN:** Mr. Whitman reviewed the history of 96<sup>th</sup> Street. He advised that Surfside Mayor Tim Wills requested that he (Mr. Whitman) have a meeting with the Mayors of Bal Harbour, Bay Harbor, and Surfside, to discuss the traffic problem. Mr. Whitman advised that they met and the outcome of that meeting was the way to solve the traffic problem is to take out the bank on the corner of 96<sup>th</sup> Street and Harding Avenue and put turning lanes in there. He reported that he hired a traffic engineer for a traffic study. Mr. Whitman advised that on March 22, 2005, he will meet with the Mayors of Bal Harbour, Bay Harbor, Surfside, and Sunny Isles Beach, to review the study and decide how to proceed.

Mr. Whitman advised that The Miami Herald reported that Bal Harbour's Mayor, Mr. Whitman, and Cliff Schulman, Mr. Whitman's Attorney, agreed to Surfside becoming a gated community, which isn't true. He wanted to make it clear that they did not endorse that.

Councilman Jacobi questioned if the study includes the traffic on Collins Avenue. Mr. Whitman presumes that the traffic engineer took everything into account that was pertinent.

***Dina Cellini, resident – 211 Bal Cross Drive***, doesn't think that all the problems on 96<sup>th</sup> Street are due entirely to DOT (Department of Transportation) creating a bus bay on 96<sup>th</sup> Street. She thinks that a lot of the development in Sunny Isles and Bal Harbour is a great contributor, to the traffic problem on Collins Avenue and 96<sup>th</sup> Street.

Mr. Whitman advised that Surfside has made an issue of the height of the buildings in Bal Harbour and Sunny Isles. He stated that height is only one element of density and height does not create traffic. He advised that it comes down to the number of people living there, because only people and their cars can create traffic. Mr. Whitman reported that the density in Surfside is 105 dwelling units per acre, Bal Harbour is 55 dwelling units per acre, and Sunny Isles Beach is 50 dwelling units per acre.

***Brian Mulheren, resident – Carlton Terrace***, discussed safety issues and the fact that emergency services can't get through. He reported that at a Surfside workshop meeting, all they did was attack Mr. Whitman and the Bal Harbour Shops. They felt that the Bal Harbour Shops was creating all the traffic problems in Surfside and the employees park in their lots. Mr. Mulheren thinks that Surfside is negative, not progressive, and doesn't want to work with anyone. He advised that the Mayor of Surfside wants to condemn the building at the corner, because the Synagogue is there. Mr. Mulheren doesn't think that making a turning lane is going to solve anything. He thinks that the police need to get traffic flowing. He also thinks that the Village needs to go to federal court to force DOT to get the problem solved, because it will get worse, not better. Mr. Mulheren discussed Surfside's intention to close their streets.

Mayor Roth rebutted the article in The Miami Herald and advised that he did not agree to

Surfside being gated.

Councilman Berlin questioned the status of the deliverables from Surfside, on the 96<sup>th</sup> Street Landscaping Project. Mr. Treppeda reported that Surfside has not answered yet. Councilman Berlin advised that Surfside is talking about working with Bal Harbour for an additional turning lane on 96<sup>th</sup> Street and yet they held up Bal Harbour's permits for years and now they are holding up the landscaping project. Mr. Treppeda reported that he has been asking them for an answer for 2-3 years of whether they are going to contribute to the project (for the south sidewalk). Councilman Berlin thinks that's an indication of Surfside as a neighbor. He agrees that the traffic is a serious health and safety issue. He thinks the Village should get as much as it can get, but doesn't think that will remotely solve the entire problem. Councilman Berlin thinks that as long as they are discussing closing their streets, that the Village has a serious problem.

Chief Hunker reported that three officers are working every morning on relieving the traffic congestion. He agreed that it is a safety issue, for emergency vehicles. He advised that he called the Surfside Manager, Surfside Chief, and Deputy Chief and has received no cooperation.

Councilman Berlin advised that he appreciates Mr. Whitman's effort in paying for the traffic study and trying to get something done. He commended Mr. Whitman for the help, but thinks that it's a bigger issue and that's only one issue.

**11. LOBBYIST REGISTRATION REPORT:** There were no new registrations.

**12. REPORTS AND RECOMMENDATIONS:**

**A. MAYOR AND COUNCIL:**

Mayor Roth reported that he discussed the landscaping of 96<sup>th</sup> Street with Surfside's Mayor, who said that he is in favor of it. He also discussed the traffic issue at 96<sup>th</sup> Street and Harding Avenue with the Surfside Mayor, who said he wasn't aware of it. Mayor Roth suggested a solution of closing off parking between 7-9 a.m. on Harding Avenue, or having patrolmen of each department trying to move the traffic, which Mayor Wills agreed to. He thinks that someone with the Surfside Police Department contacted Chief Hunker and they have started the project. Chief Hunker advised that Surfside Police Department didn't show up to a meeting that was scheduled, to discuss the traffic problems.

Mayor Roth advised that he discussed Surfside gating their community, with Mayor Wills. He reported that Mayor Wills is very adamant on that. Mayor Roth advised that he is against them doing that. He suggested giving Surfside until the end of March, to decide if they will contribute to the 96<sup>th</sup> Street Landscaping Project.

Mayor Roth advised that he is mailing a rebuttal to The Miami Herald, regarding the misquote in the paper.

Mr. Whitman stated that Surfside's Mayor called him to work the traffic problem out. He stated that when FDOT closed off Abbot Avenue, it was said that if it didn't work, then they would come in and take the bank building, which would solve the traffic problem. Mayor Roth stated that would take some time. Mr. Whitman stated that in the meantime, the

Village should try to negotiate with them.

Councilman Berlin advised that he appreciates Councilman Boggess' contribution to the Council for the last several months. He recognized Assistant Mayor Gorson and advised that she has done a wonderful job and she will be missed. Councilman Berlin welcomed Councilman-Elect Jaime Sanz and Councilman-Elect Jean Rosenfield to the Council.

Councilman Jacobi advised that he attended the LEO awards, where Captain Klingman and Officer Balikes were given awards. Chief Hunker reported that they received valor awards for Miami-Dade County.

Mayor Roth reported that there will be a Surfside Workshop Meeting at 6:00 p.m. regarding gating their community.

B. VILLAGE ATTORNEY: No items.

C. VILLAGE MANAGER:

**Utility Easement Agreement with TRG Harbour House, Ltd. and WCI Communities, Inc.:** Mr. Treppeda advised that this is something that the Village requested. He explained that within that easement, they are replacing a 60 year old 8" water main, with a new 12" water main. Mr. Treppeda stated that the easement also provides an area, in the event of the widening of Haulover Bridge.

**A motion was offered by Councilman Jacobi and seconded by Mayor Roth to approve this 18-foot easement. The motion carried unanimously (4-0), with Councilman Boggess absent.**

**Multi-Agency Mutual Aid Agreement for Police Street Narcotics Task Force:** Mr. Treppeda explained that Chief Hunker is requesting authorization to enter into a multi-agency voluntary cooperation mutual aid agreement. He advised it will allow the Department's participation in the narcotics task force centered in North Miami Beach, which is comprised of several Northeast Miami-Dade police agencies, as well as the Miami-Dade Police Department, and the Florida Department of Law Enforcement.

**A motion was offered by Mayor Roth and seconded by Councilman Berlin to approve entering into a Multi-Agency Voluntary Cooperation Mutual Aid Agreement. The motion carried unanimously (4-0), with Councilman Boggess absent.**

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

<b>Contribution to Bay Harbor Elementary After School Program</b>	<b>\$ 7,500.00</b>
<b>Police Department Uniform Patrol Secretary</b>	<b>\$15,000.00</b>
<b>Police Department Shredder</b>	<b>\$1,739.03</b>
<b><u>Purchase Two (2) Notebook Computers</u></b>	<b><u>\$ 4,000.00</u></b>
<b>TOTAL:</b>	<b>\$28,239.03</b>

Mr. Treppeda advised that Chief Hunker has signed the Memorandum, indicating that

these are expenses that can be purchased from forfeiture funds.

**A motion was offered by Councilman Berlin and seconded by Councilman Jacobi to approve \$28,239.03 in forfeiture funds, for the above listed items. The motion carried unanimously (4-0), with Councilman Boggess absent.**

**Request for Approval of Sealing of Benches, Bus Shelters, and**

**Pavers:** Mr. Treppeda advised that Adsil is a product that is only available through one source. He reported that this was used to seal the pavers at Village Hall and the Park, which he has been very happy with. Mr. Treppeda explained that it makes the pavers easier to clean and gets the stains off. He would like to use it on the bus shelters, benches along Collins Avenue and the beach, garbage receptacles, and pavers at the bus stops and Founders Circle. Mr. Treppeda stated that the total price is \$13,356.25. He reported that \$10,312.50 can be used from the transportation tax funds that the Village gets every year. He advised that \$3,044.75 would come from the general fund budget.

**A motion was offered by Councilman Jacobi and seconded by Assistant Mayor Gorson to approve \$13,356.25 for this item. The motion carried unanimously (4-0), with Councilman Boggess absent.**

Mayor Roth reported that since there was no election, the Village saved \$25,000 that was budgeted for election. He stated that in addition, having no early voting saved \$18,000.

**Request for Approval of Upgrades to Council Chamber Sound**

**System:** Mr. Treppeda requested approval of \$6,548.45 to upgrade the sound system. He explained that there is a lot of feedback problems and static. Mr. Treppeda stated that the problem is the system is 15 years old and parts have to be borrowed from other places, which aren't available. He received a proposal from Sound Performance. Mr. Treppeda advised that this wasn't specifically budgeted, but there are funds available for maintenance of equipment.

**A motion was offered by Assistant Mayor Gorson and seconded by Councilman Berlin to approve \$6,548.45 to upgrade the sound system in the Council Chamber. The motion carried unanimously (4-0), with Councilman Boggess absent.**

**Request for Award of Bid to Boys Engineering II, Inc. for**

**Water, Sewer, and Drainage Work:** Mr. Treppeda reported that the Village Engineers, Craig A. Smith & Associates, had some work that needed to be done for water, sewer, and drainage maintenance work. The following bids were received:

Boys Engineering II, Inc.	\$ 66,100.00
Southeastern Engineering Contractors, Inc.	\$ 73,665.00
MAJ Contracting, Inc.	\$151,050.00

Mr. Treppeda stated that Boys Engineering is the low bidder. He advised that this will be split between the water, sewer, and general fund.

**A motion was offered by Councilman Berlin and seconded by Councilman Jacobi to approve \$66,100.00 for Boys Engineering II, Inc. to complete water, sewer, and drainage repairs. The motion carried unanimously (4-0), with Councilman Boggess absent.**

**Request for Award of Bid to Boys Engineering II, Inc. to Replace 250 Feet of 10" Gravity Sewer Pipe:** Mr. Treppeda explained that this is located near the Yacht Basin area. The following bids were received:

Boys Engineering II, Inc.	\$ 55,250.00
Southeastern Engineering Contractors, Inc.	\$ 79,250.00
MAJ Contracting, Inc.	\$122,775.00

**A motion was offered by Councilman Berlin and seconded by Assistant Mayor Gorson to approve \$55,250.00 for Boys Engineering II, Inc. to replace 250 feet of deteriorated 10" sewer pipe. The motion carried unanimously (4-0), with Councilman Boggess absent.**

**Request for Award of Bid to Metro Equipment Service, Inc. for an Emergency Alternate Water Main Connection:** The following bids were received:

Metro Equipment Service, Inc.	\$144,300.00
Boys Engineering II, Inc.	\$144,950.00
MAJ Contracting, Inc.	\$204,875.00
Southeastern Engineering Contractors, Inc.	\$154,100.00

**A motion was offered by Councilman Berlin and seconded by Assistant Mayor Gorson to approve \$144,300.00 for Metro Equipment Service, Inc. to install an emergency alternate water main connection. The motion carried unanimously (4-0), with Councilman Boggess 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 March 10, 2005:

New Tourism Website – Enhancements and Upgrades	\$ 2,100.00
Latin American Marketing Campaign	\$19,630.00
Targeting Top Travel Trade Publications in Argentina, Chile and Pan-Regionally throughout South America	
Pow Wow Bal Harbour Event Planning Trip to New York	\$ ,000.00
Airfare, Lodging, Etc.	
<b>TOTAL:</b>	<b>\$22,730.00</b>

**A motion was offered by Councilman Berlin and seconded by Councilman Jacobi to approve \$22,730.00 of Resort Tax Funds for the above listed items. The motion carried unanimously (4-0), with Councilman Boggess absent.**

## **12. OTHER BUSINESS:**

Mr. Treppeda reported that the nine emergency call boxes have been installed, along the jogging path on the beach. He reported that some are operational and they are working on correcting some problems. Mr. Treppeda explained that they were installed to make it easier for someone to call the police, but advised that they were not installed due to any problems out there.

Mr. Treppeda explained that the ads requesting bids for the 96<sup>th</sup> Street Landscaping

Project will start tomorrow. Mayor Roth suggested starting on or before May 1<sup>st</sup> and giving Surfside until the end of the month to come back with their offer. Mr. Treppeda stated that if an answer is not received from Surfside, then the Village will have to decide what they want to do at that point.

**Babak Raheb, resident - 128 Balfour Drive**, questioned about the Village contributing money to the Sunami Relief Fund. Mr. Treppeda reported that forfeiture funds cannot be used for that. Mr. Weiss advised that the Village is allowed to make a contribution, but that would be up to the Council. Mr. Treppeda reported that the Council previously felt that it was up to the residents to give to charities of their choice. Mr. Raheb advised that the Village has approved donation to other charities. Councilman Jacobi thinks that the Village usually has groups requesting contributions for their programs. He thinks that a contribution would be fine, but that there should be cap. Mr. Raheb requested \$5,000.00, because Bal Harbour is a beach community. Mayor Roth agreed that something should be given to this charity. He suggested that the Manager be given the authority to decide that, up to \$2,500. Mr. Treppeda advised that he doesn't feel comfortable making that decision for charities, without Council approval. Mr. Weiss advised that some communities have a provision in their Charter that no charitable contributions can be made and some say they need a unanimous vote of the Council. He also reported that some communities have a program with a certain amount of money, where people would apply for grants once a year. Mr. Weiss advised that contributing to a school is different, because it's considered donating to another government. He stated that other communities have been overwhelmed by requests for charitable contributions and the comments from the citizens are that tax money shouldn't be given out and taxpayers want to make the contributions on their own. Mr. Weiss thinks that the Village should have a policy, because it's not fair to put this on the Manager. Mr. Treppeda will prepare a survey on what other municipalities do.

Mr. Raheb discussed the Surfside traffic issue and advised that the major cause for the backup is that they don't enforce deliveries, parking, etc. on Harding Avenue. He advised that he is in favor of a lawsuit and he is against them closing the streets.

**Brian Mulheren, resident – Carlton Terrace**, thinks that the Attorneys should look into this and prepare something, because the Village has already waited 30 days since it was discussed. He thinks that this is a safety issue and suggested taking it to federal court, not state court. Mr. Mulheren doesn't think that Surfside wants to work with the Village. He thinks this is a health, life, and safety issue that needs to be addressed. Mayor Roth agreed.

Chief Hunker discussed Surfside not showing up twice, to assist with the traffic situation.

**Dina Cellini, resident – 211 Bal Cross Drive**, advised that she has attended some of the Bay Harbor Council meetings and reported that their Council agendas are online and questioned if the Village can also provide agendas online. Mayor Roth and Mrs. Horvath advised that the Council agendas are now available online. Ms. Cellini suggested that there be a footnote underneath the synopsis for ordinances explaining what it means and what it will do.

Mr. Weiss explained that his firm does labor negotiations for the police in Surfside and also works with DOT. He advised that if the Village wants to pursue a lawsuit against Surfside or DOT, then they will need to get someone else to do it, because he cannot do it. Mr. Weiss stated that if the Village wants to look into this seriously, then they need to retain someone

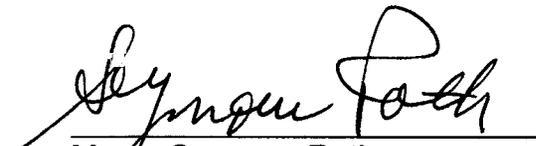
outside to do it, because they have a conflict. Mayor Roth advised that they will take that under advisement.

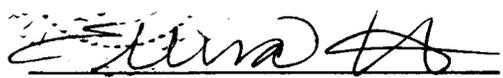
Mayor Roth offered complimentary tickets to a concert at Florida International University.

Mrs. Horvath advised that three candidates qualified for the open Council seats and the qualifying deadline was March 5<sup>th</sup>. She reported that the three candidates were unopposed, so there will not be an election on April 5<sup>th</sup>. Mrs. Horvath explained that the following candidates were elected by operation of law: District 1 – Jean Rosenfield, District 3 – Jaime Sanz, and Councilman Howard Berlin (District 5). She advised that they will be given their Oaths of Office at an Induction Meeting on April 18<sup>th</sup> at 10:00 a.m. Mrs. Horvath invited everyone to attend the meeting.

**13. ADJOURN:** There being no further business to come before the Council, the meeting adjourned at 10:25 a.m., with Councilman Berlin and Councilman Boggess absent.



  
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Mayor Seymour Roth

  
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Ellisa Horvath, CMC  
Village Clerk