

BAL HARBOUR VILLAGE COUNCIL MEETING MINUTES
REGULAR MEETING – SEPTEMBER 19, 2006

The Regular Meeting of the Bal Harbour Village Council was held on Tuesday, September 19, 2006, at the Sea View Hotel (9909 Collins Avenue, Bal Harbour, Florida).

1. CALL TO ORDER/ROLL CALL: The meeting was called to order at 4:00 p.m. by Mayor Roth. The following were present:

Mayor Seymour "Sy" Roth
 Assistant Mayor Howard J. Berlin
 Councilman Joel S. Jacobi¹
 Councilman Jean Rosenfield
 Councilman Jaime M. Sanz²

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

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

2. PLEDGE OF ALLEGIANCE: The Pledge was led by the Village Building Official, Daniel Nieda.

3. APPROVAL OF MINUTES: *A motion was offered by Councilman Rosenfield and seconded by Mayor Roth to approve the minutes of the July 18, 2006, Regular Council Meeting, September 6, 2006, Special Council Meeting, and September 12, 2006, First Budget Hearing, as submitted. The motion carried unanimously (3-0).*

4. PRESENTATIONS:

Officer of the Month for August 2006: This presentation was done later in the meeting.

Employee of the Month for July 2006: Ms. Bette Choate, Building Department, was presented with a plaque by Mrs. Horvath, as Employee of the Month for July 2006, in recognition of her assistance in the Building Department with numerous public records requests.

5. ORDINANCES SECOND READING/PUBLIC HEARING:

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

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE

¹ Councilman Jacobi arrived immediately prior to the Resolutions/Public Hearings.

² Councilman Sanz arrived immediately prior to the Resolution/Public Hearings.

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

Mr. Wolpin recommended that the Council defer the proposed ordinance, for further legal review, to no time certain.

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

6. ORDINANCES FIRST READING: None.

7. RESOLUTIONS/PUBLIC HEARINGS:

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

A RESOLUTION OF BAL HARBOUR VILLAGE, FLORIDA, ADOPTING AN ASSESSMENT ROLL FOR THE SECURITY PROGRAM SPECIAL ASSESSMENT AREA; PROVIDING FOR AN EFFECTIVE DATE.

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

A motion was offered by Councilman Rosenfield and seconded by Assistant Mayor Berlin to approve this Resolution. The motion carried unanimously (5-0), thus becoming Resolution No. 688.

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

A RESOLUTION OF BAL HARBOUR VILLAGE, FLORIDA, ESTABLISHING SANITARY SEWER AND WATER RATES FOR THE 2006/2007 FISCAL YEAR; ESTABLISHING AN EFFECTIVE DATE.

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

A motion was offered by Councilman Rosenfield and seconded by Councilman Jacobi to approve this Resolution. The motion carried unanimously (5-0), thus becoming Resolution No. 689.

8. RESOLUTIONS: None.

9. REPORTS AND RECOMMENDATIONS:

A. MAYOR AND COUNCIL:

B. VILLAGE ATTORNEY: No items.

C. VILLAGE CLERK:

Lobbyist Registration Report: As of September 15, 2006: Mrs. Horvath reviewed the list of Lobbyists currently registered with the Village.

D. VILLAGE MANAGER:

Resort Tax Committee Recommendations: Mr. Treppeda requested approval of the following items, recommended by the Resort Tax Committee at the September 14, 2006 meeting:

1.)	Restructuring the Village's Websites	\$16,000.00
2.)	La Cumbre Travel Trade Show (Latin America)	\$ 2,500.00
3.)	New Passport	\$ 8,000.00
4.)	Balharbour.com (Web Site Address)	\$30,000.00
5.)	Tourism Sales Missions for the New Travel Season	\$18,380.00
	<u>Additional Fee for the Sea View Participation</u>	<u>\$ 7,250.00</u>
TOTAL:		\$82,130.00

Mr. Treppeda explained that additional money is needed over the amount recommended by the Committee, in order for the Sea View to participate in the sales missions (\$7,250.00). Assistant Mayor Berlin explained that the total amount will be taken out of the 2005/2006 budget, which is overfunded.

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

Consideration of Appointment of Two Members to the Police

Retirement Board: Mr. Treppeda explained that resumes were received from the following Village residents: Dr. Abraham Gotman, Charles L. Ilvento, Anamarie F. Kelly, Cecil V. "Moon" Mullen, and Jose Tain-Alfonso.

Cecil Mullen, resident – Admiralty Apartments, expressed his interest in serving on the Board. He noted his experience with pension plans.

Dr. Abraham Gotman, resident - Majestic Towers, reviewed his experience and expressed being an asset to the Board.

A motion was offered by Councilman Jacobi and seconded by Assistant Mayor Berlin to appoint Dr. Abraham Gotman and Cecil Mullen to the Police Retirement Board. The motion carried unanimously (5-0).

Discussion of District 4 Council Seat Vacancy: Mr. Treppeda explained that Joel Jacobi recently resigned from the Council, in order to run for County Court Judge. He explained that the irrevocable resignation letter would be effective January 2007, when the new Judge takes office. He explained the Council's options.

Mr. Wolpin explained that Florida law required Councilman Jacobi to submit an irrevocable letter of resignation, when he decided to run for the office of County Court Judge. He reported that the vacancy created by that would be effective January 2007, when the new Judge takes office, or earlier, if the Council takes action to fill the vacancy sooner. Mr. Wolpin explained that the Council can reappoint Councilman Jacobi or consider appointing another individual.

Mayor Roth is in favor of Councilman Jacobi continuing until January, since he has the experience, and then possibly leaving the seat vacant until April, when the seat is up for election. He thinks that appointing someone new would give them the edge in the next election. Councilman Rosenfield questioned if the seat legally belongs to Councilman Jacobi until January. Mr. Wolpin explained that it legally belongs to Councilman Jacobi, but that the Council has the right to determine to fill the vacancy sooner.

Dr. Michael Krop, resident - 9601 Collins Avenue, reviewed the Mayor's discussion at the July meeting regarding being opposed to a high-rise hotel on the West side of the street. He quoted Councilman Jacobi's comments at the July meeting regarding the petition and his reference to letting the inmates run the asylum. He suggested that Jacobi apologize for his comments referring to the residents as inmates. Councilman Jacobi advised that he was giving an analysis comparing people to the situation and apologized if Dr. Krop took that personally.

Gabriella Webster, resident - 30 Park Drive #15, suggested reappointing Councilman Jacobi for a sense of continuity. She thinks that he should finish his term, since the election is in April.

Assistant Mayor Berlin agreed with Ms. Webster that Councilman Jacobi should be allowed to serve until April.

A motion was offered by Councilman Sanz and seconded by Councilman Rosenfield to reappoint Councilman Jacobi, to complete his term of office. The motion carried unanimously (4-0), with Councilman Jacobi abstaining from voting.

Councilman Jacobi apologized for anyone taking offense to his comments at the July meeting.

Councilman Rosenfield commented on serving in public office.

Request for Approval of Funds to Replace Two Dead Date Palm Trees on Collins Avenue: Mr. Treppeda requested approval of up to \$15,610.00 for Vila & Son, the lowest bidder, to replace two dead date palms.

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

Request for Approval to Purchase New Software for the Building Department: Mr. Treppeda requested \$12,991.00 to purchase a new software package, from enerGov Solutions, for the Building Department. This is recommended by the Building Official, Daniel Nieda.

A motion was offered by Assistant Mayor Berlin and seconded by Councilman Jacobi to approve \$12,991. The motion carried unanimously (5-0).

Request for Approval to Purchase Vehicle Lift for the Public Works Department: Mr. Treppeda requested \$3,678.75 to purchase a new lift for the Public Works Department.

A motion was offered by Assistant Mayor Berlin and seconded by Councilman Jacobi to approve \$3,678.75. The motion carried unanimously (5-0).

Request for Approval of Police Athletic League Agreement: Mr. Treppeda requested authorization to enter into an agreement to help fund the Sunny Surf Bal Bay Police Athletic/Activities League, at a cost of \$10,000 per year. He noted that the cost is for the salary of the Executive Director, who is a retired Bal Harbour Police Lieutenant (Jose Andrade).

A motion was offered by Assistant Mayor Berlin and seconded by Councilman Jacobi to approve \$10,000.00 and entering into the PAL Agreement. The motion carried unanimously (5-0).

Request to Expend Police Forfeiture Funds: Mr. Treppeda explained that Chief Hunker is requesting authorization to expend forfeiture funds for the following items:

1.)	Expenses from the Major Cities/International Association of Chiefs of Police Conference	\$ 8,962.66
2.)	Crime Prevention Promotional Items	\$10,000.00
TOTAL:		\$18,962.66

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

Officer of the Month for August 2006: Officer Alex Alvarez was presented with a plaque by Chief Hunker, as Officer of the Month for August 2006, in recognition of his numerous arrests.

10. OTHER BUSINESS:

Dr. Michael Krop, resident – 9601 Collins Avenue, questioned when a special meeting will be scheduled. Mr. Treppeda explained that the Council will probably need to have a special meeting to review a proposed ordinance, to alleviate the 11-foot problem (created by the petition).

Councilman Rosenfield introduced herself, provided her phone number, and invited anyone to call her. She noted her residency for 28 years in Bal Harbour and explained that she wants to keep Bal Harbour in the same mode and sense as it is. She expressed her belief of citizens getting together and discussing things. She discussed the lack of dialogue on various issues. Councilman Rosenfield reported that she has never been invited to a Coalition meeting. She explained that she was told by the Coalition that all registered voters are invited, but noted that she has been a registered voter for 45 years and has not been

invited.

Councilman Rosenfield discussed the last Coalition meeting. She noted that the impression was given that the Council was for great height on the West side of Collins Avenue, which is not the truth. She clarified that she has never intimated or said that was the direction in which the Village is going. Councilman Rosenfield explained that Mr. Whitman had asked to be placed on the Council agenda regarding a proposed ordinance, but was denied when he filed a lawsuit about the referendum. She explained that she never intended to look at an ordinance that would do something in opposition to the referendum that the citizens presented. She expressed her belief in initiative and referendum. She noted that the referendum was written and approved by the Coalition and their Attorney. She explained that once the Village received it, then the Council put it on the ballot. Councilman Rosenfield explained a flaw in the referendum, pertaining to the 11-foot height for floors. She noted that the Council can't stop the referendum from being on the ballot and that it will go to the voters to decide.

Councilman Rosenfield discussed elections. She noted that she ran unopposed and noted that the Federal and State Constitution do not require opponents. She discussed everyone's right to run and invited people to do so. She noted that Dr. Krop ran unopposed on the School Board and she doesn't think any Councilmembers should be defamed for running unopposed.

Councilman Rosenfield encouraged all residents to see Representative Danny Gelber speak in Surfside. She noted that he was a former student of hers and thinks that everyone should look at him as a potential Governor in the future.

Councilman Rosenfield discussed the implication that was made at the Coalition meeting regarding the Council wanting to sell Village Hall. She noted that issue has never come up for discussion with the Council and that Mr. Whitman did an appraisal of Village Hall, not the Council. She clarified that the Council has no plans to sell Village Hall and that the current building works well. Councilman Rosenfield wants to maintain the Village's beauty and reputation. She intends to keep the Village's prestige.

Mayor Roth reported that he has never been invited to the Coalition meetings and is a registered voter. He discussed the One Bal Harbour project and noted that it replaced the ugliest building in the Village, which produced no revenue, took away the bus service for their residents, most of the Village's crime was there, etc. He discussed the advantages of the One Bal Harbour and the Regent project (beautiful project, revenue-producer, etc.). Mayor Roth clarified that 200,000 additional square feet was given to the Development, not 400,000.

Mayor Roth discussed the Development Agreement with the St. Regis and doesn't think a lot of people know the facts. He thinks that everyone needs to be informed and that the Council and everyone should be told about the Coalition meetings.

Councilman Rosenfield reported that she teaches at Dr. Michael M. Krop Senior High School.

Dr. Gotman's comments were inaudible.

Assistant Mayor Berlin discussed misinformation being spread regarding the Council's position on certain issues. He clarified that he does not support a high-rise hotel on the West side of Collins Avenue or any material change in height, anywhere in the Village. He reminded everyone that he is also a resident in the Village, which people tend to forget. Assistant Mayor Berlin doesn't know of anyone who is interested in any height on the West side of Collins Avenue, other than the Shops' Owner, so he thinks that the Council's position is consistent with the community. He clarified that no permission or permit has been given and there is no support from the Council, for the Shops to build a hotel.

Assistant Mayor Berlin explained that a referendum was circulated by the Coalition and the required amount of signatures were obtained, so the Council did not have any discretion on whether or not to place it on the ballot. He clarified that the Council was required to do so, by law. He discussed a problem with language in the referendum regarding the definition of a story as 11 feet. He explained that if the referendum is passed, then the maximum height of any story would be 11 feet, everywhere in the Village (residential section). Assistant Mayor Berlin pointed out that a lot of homes in the Village currently have ceilings higher than 11 feet and that someone couldn't re-build to the current conditions, if their home is damaged. He also noted that the Business District, which currently has 18 foot stories, couldn't rebuild to its current configuration if it was damaged, which he doesn't think is good for the Village. Assistant Mayor Berlin explained that if the Shops wanted to expand horizontally, then this might also prevent them from doing that.

Assistant Mayor Berlin reported that the Shops' Owner submitted an ordinance for Council consideration at the July meeting, after reviewing the affect the referendum would have on his property. He explained that the Council didn't have the discretion to pull the referendum from the ballot to correct the language, so he thinks that an ordinance needs to be passed before the referendum goes to vote, in order to fix the issue regarding story. He reported that the ordinance proposed by the Shops to fix the 11-foot story problem, also gave them the ability to build at 297-foot hotel. Assistant Mayor Berlin explained that he would not let that language go through and that the ordinance would have been changed to only address the 11-foot story issue. He reported that Mr. Whitman has now filed a lawsuit.

Mr. Wolpin requested that nothing be discussed from the Executive Session regarding the lawsuit.

Assistant Mayor Berlin explained that a letter was sent to all Village residents reporting that the Village will defend the lawsuit. In his opinion, the Village is defending the lawsuit to defend the residents' right to circulate referendums. He explained that the "story" issue still needs to be fixed, so the Village is drafting an ordinance and a meeting will be set for that. Assistant Mayor Berlin suggested that a special meeting be scheduled, to start the process.

Assistant Mayor Berlin discussed the suggestion by residents that Councilmembers are on the take, or in the Developers' pocket, etc. He thinks that such comments are dispeccable. He discussed serving in public office and running unopposed. He noted that his seat comes up for election in April 2009 and invited anyone to run against him. Assistant Mayor Berlin provided his number and invited anyone to call him with questions. Mayor Roth provided his number.

Mr. Wolpin explained that any proposed ordinance would need to be adopted before November 7th election. Assistant Mayor Berlin recommended that time be given for

discussion between first and second reading and suggested that a special meeting be held in early October for first reading. The Village Attorney will coordinate a meeting date with the Village Manager.

Allegra Ortiz, Village resident, thinks her building will be damaged if something big happens to the stores. She discussed the language of the referendum and noted that there are experts in legal language. Mayor Roth explained that the Village Attorneys are reviewing it.

Neil Alter, resident - 9801 Collins Avenue, questioned if Mayor Roth plans to run for office again. Mayor Roth will make his decision in January 2007. Mr. Alter thinks that Mayor Roth will have a lot of support.

Steve Sorensen, VP Tower Division - WCI Communities, is disturbed by comments about how the Council has operated as it relates to Developers. He discussed the reason for the Council properly granting additional square footage for a hotel at the One Bal Harbour project. He noted that WCI Communities did not benefit from that and only the seller of the property did. He advised that the only benefit that came from the additional hotel square footage was to be able to provide the economic incentive for that building to be demolished. Mr. Sorensen explained that if the hotel component of that project was not approved, then there wouldn't have been enough value in that property to tear the building down. He advised that they are building the finest hotel in Dade County on the tip of Bal Harbour, which is due to the Village having the vision to do something special at the gateway. He reported that the previous building had a \$35 million tax base, while the new building will have a half billion tax base, not taking the hotel resort tax, or prestige of a 5-star hotel, into consideration. He thinks that people making inappropriate comments about the Council should apologize. Mr. Sorensen commented on the Council's professionalism and cooperation.

Dina Cellini, resident - 211 Bal Cross Drive, clarified that the Coalition mailing list is comprised of the registered voters in Bal Harbour, not all the residents, which was received from the Miami-Dade County Elections Department. She noted that if Village Hall would like to provide the Coalition with a mailing list, then they would send all future correspondence to all the residents. Mayor Roth noted that he has been a registered voter for many years. Councilman Rosenfield advised that she has also.

Mr. Wolpin announced that as soon as the meeting adjourns, the Second Budget Hearing will commence, which is scheduled for 5:01 p.m.

Ms. Cellini clarified that the Officers of the Coalition attempted to meet with Council members individually. She noted that they met with Mayor Roth, Councilman Jacobi, and Councilman Sanz. She explained that Councilman Rosenfield refused to meet with them. Councilman Rosenfield noted that was untrue and reported that she has never refused to meet with anyone. Ms. Cellini also noted that they did not meet with Assistant Mayor Berlin, since he canceled three meetings.

Councilman Rosenfield noted that she returned a call from Ms. Cellini to schedule a meeting, but never heard back from her. Ms. Cellini agreed, but advised that she is speaking about a meeting before the Charter amendment was drafted.

Ms. Cellini requested additional time to speak. Mayor Roth noted that the Budget Meeting is scheduled. Mr. Wolpin recommended that the meeting be adjourned for the advertised Second Budget Hearing. He noted that Ms. Cellini has been given three minutes to speak. Councilman Rosenfield suggested that at the end of the Second Budget Hearing that Ms. Cellini be given additional time to speak.

Mr. Treppeda announced that the Second Budget Hearing is being held at the Sea View Hotel, since the elevator and air conditioning at Village Hall are broken.

The meeting was temporarily adjourned at 5:07 p.m.

The meeting was reconvened at 5:22 p.m., after the Second Budget Hearing. The following were in attendance:

Mayor Seymour "Sy" Roth
 Assistant Mayor Howard J. Berlin
 Councilman Joel S. Jacobi
 Councilman Jean Rosenfield
 Councilman Jaime M. Sanz
 Alfred J. Treppeda, Village Manager
 Ellisa Horvath, CMC, Village Clerk
 Andrea Greenblatt, Admin. Assistant
 David M. Wolpin, Village Attorney

Councilman Rosenfield clarified for the record that she met with Dr. Krop and several residents of the community at Village Hall, which Dr. Krop has confirmed. She noted that she has never refused to meet with anyone. Ms. Cellini reported that Dr. Krop has just advised her of that and explained that she wasn't aware of the meeting, since she wasn't there. She apologized for any error. Ms. Cellini clarified that when she approached Councilman Rosenfield last week she was very willing to meet with the Coalition.

Ms. Cellini advised that the Coalition met with the Councilmembers individually to discuss the issue of the impending high-rise at the Shops and to ask the Council to initiate a Charter amendment, to cap the height. She reported that none of the Councilmembers she met with were willing to do that. She explained that she then asked Mr. Treppeda if the Village would initiate a Charter amendment. Ms. Cellini discussed other cities that have done so. She explained that the Coalition had no choice but to draft a Charter amendment, because the Village wouldn't, even though the Coalition expressed that many residents had a desire to see a height restriction placed in the Village. She reported that no homeowners were targeted and that the only area they were concerned about at that time was the West side of Collins Avenue. She discussed a report prepared by Michael Miller, Village Planner, in 2000 that reviewed the buildings on the West side. She explained that the report suggested that area be rezoned, due to crumbling buildings, etc. and that new development would be beneficial to the Village. Ms. Cellini noted that the Coalition's intention was to cap the height, specifically for the West side of Collins Avenue, so the views from the ocean would be preserved and the residential area on Park Drive wouldn't be shadowed. She explained that the zoning on the West side of Collins Avenue is identified strictly by stories (three stories). She discussed "stacked" development, which looks like three stores, but is really 60-65 feet high (6 stories). Ms. Cellini reported that they didn't want to see that happen in the Village, which is what they had in mind, when they defined a story as 11 feet.

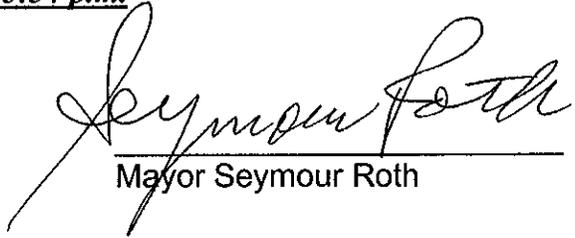
She explained that they now realize that has affected other properties that may have to be redeveloped, due to damage, or for the Shops to expand horizontally. She clarified that wasn't their intention and that they will support anything that would cure that problem. Ms. Cellini noted that they don't want to see the Charter amendment fail, because of that one problem that can be cured by the Council.

Gabriela Webster, resident – 30 Park Drive, thinks the issue is the development on the West side and the concern is the residential buildings. She suggested a review of the historical value of buildings and discussed the MIMO architecture in the Village. Ms. Webster doesn't want to tie any property owner's hands regarding their present, past, or future. She thinks the Council can be proactive with the issues concerning height, construction, and retaining some of the beautiful properties.

Babak Raheb, resident - 128 Balfour Drive, applauded the Council for not considering the ordinance proposed by the Shops. He thinks an ordinance can be passed for pre-existing conditions, etc. to protect the height for current buildings.

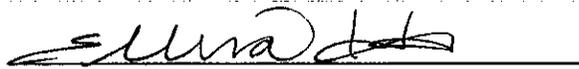
Mr. Raheb reported that the County will remove the signs in Surfside within 10 days, since Surfside has not. He noted that he has also spoken with the DOT Attorney, who has advised that the sign on 96th Street will be removed. Mr. Raheb explained that Surfside can't give tickets or block the street. He reported that if they do block the street, then the County will take legal action. The Council applauded Mr. Raheb for his assistance.

11. ADJOURN: There being no further business, a motion was offered by Councilman Rosenfield and seconded by Councilman Sanz to adjourn. The motion carried unanimously (5-0), and the meeting adjourned at 5:34 p.m.



Mayor Seymour Roth

Attest:



Ellisa Horvath, CMC
Village Clerk