

BAL HARBOUR VILLAGE COUNCIL MEETING MINUTES
REGULAR MEETING – JULY 18, 2006

The Regular Meeting of the Bal Harbour Village Council was held on Tuesday, July 18, 2006, at Bal Harbour Village Hall (655 – 96th Street, Bal Harbour, Florida).

1. CALL TO ORDER/ROLL CALL: The meeting was called to order at 9:00 a.m. by Mayor Roth. The following were present:

Mayor Seymour "Sy" Roth
 Assistant Mayor Howard J. Berlin¹
 Councilman Joel S. Jacobi²
 Councilman Jean Rosenfield
 Councilman Jaime M. Sanz

Alfred J. Treppeda, Village Manager
 Ellisa Horvath, CMC, Village Clerk
 Andrea Greenblatt, Admin. Assistant
 Richard J. Weiss, Village Attorney

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

2. PLEDGE OF ALLEGIANCE: The Pledge was led by former Police Lieutenant Jose Andrade.

3. APPROVAL OF MINUTES: *A motion was offered by Councilman Jacobi and seconded by Councilman Rosenfield to approve the minutes of the June 20, 2006, Regular Council Meeting, as submitted. The motion carried unanimously (5-0).*

4. PRESENTATIONS:

Officer of the Month for June 2006: Captain Jay Smith was presented with a plaque by Chief Hunker, as Officer of the Month for June 2006, in recognition of his work as Accreditation Manager.

Officer of the Year for 2005: Officer Madeleine Orr was presented with a plaque by Chief Hunker, as Officer of the Year for 2005, in recognition of her heroic efforts in rescuing two victims from a capsized boat. Hans Altenhoff, Sheraton Bal Harbour General Manager, presented Officer Orr with an item. Mayor Roth presented Officer Orr with items from the Sea View Hotel and the Bal Harbour Shops.

Employee of the Month for June 2006: Patricia Andrade, Finance Department, was presented with a plaque by Mrs. Horvath, as Employee of the Month for June 2006, in recognition of her assistance in the Building Department.

¹ Assistant Mayor Berlin left the meeting during discussion of the beach access (Other Business).

² Councilman Jacobi left the meeting during discussion of the beach access (Other Business).

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 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.

Mayor Roth opened the public hearing.

Mr. Weiss noted that a letter was received from Attorney Carter McDowell and recommended that the Ordinance be deferred until the regular Council Meeting on September 19, 2006 at 4:00 p.m., to allow for review of the letter.

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

A motion was offered by Councilman Sanz and seconded by Assistant Mayor Berlin to defer this Ordinance until the next Regular Council Meeting, on September 19, 2006, at 4:00 p.m. The motion carried unanimously, with the roll call vote as follows: Mayor Roth yes; Assistant Mayor Berlin yes; Councilman Jacobi yes; Councilman Rosenfield yes; Councilman Sanz yes.

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

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE VILLAGE CODE BY AMENDING CHAPTER 13 "PENSIONS AND RETIREMENT BENEFITS" AT ARTICLE II "EMPLOYEES PENSION PLAN" BY AMENDING SECTION 13-29 "DEATH BENEFITS" TO ALLOW FOR PAYMENT OF CERTAIN NON-SERVICE INCURRED DEATH BENEFITS OVER AN EXTENDED PERIOD OF TIME; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

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

A motion was offered by Councilman Jacobi and seconded by Councilman Rosenfield to approve. The motion carried with the roll call vote as follows: Mayor Roth yes; Assistant Mayor Berlin yes; Councilman Jacobi yes; Councilman Rosenfield yes; Councilman Sanz yes; thus becoming Ordinance 509.

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

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE VILLAGE CODE BY AMENDING CHAPTER 2 "ADMINISTRATION" BY CREATING ARTICLE VIII "EMERGENCY MANAGEMENT" CONSISTING OF SECTION 2-350 THROUGH AND INCLUDING SECTION 2-361 TO PROVIDE NECESSARY AND APPROPRIATE EMERGENCY MANAGEMENT AUTHORIZATIONS, RESPONSIBILITIES AND PROCEDURES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR

EFFECTIVE DATE.

Mr. Weiss explained that the Ordinance gives the Village Manager additional power, to help operations during the course of an emergency.

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

A motion was offered by Councilman Jacobi and seconded by Councilman Sanz to approve. The motion carried with the roll call vote as follows: Mayor Roth yes; Assistant Mayor Berlin yes; Councilman Jacobi yes; Councilman Rosenfield yes; Councilman Sanz yes; thus becoming Ordinance 510.

- 6. ORDINANCES FIRST READING:** None.
- 7. RESOLUTIONS/PUBLIC HEARINGS:** None.
- 8. RESOLUTION:** The following resolution was read by title, by Mrs. Horvath:

RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, PROVIDING FOR THE SUBMISSION TO THE VILLAGE ELECTORS A PROPOSED AMENDMENT TO THE VILLAGE CHARTER, AS PROVIDED BY PETITION OF ELECTORS, IN ACCORDANCE WITH SECTION 5.03 OF THE MIAMI-DADE COUNTY CHARTER; SUBMITTING PROPOSED CHARTER AMENDMENT CONCERNING BUILDING HEIGHT; PROVIDING REQUISITE BALLOT LANGUAGE FOR SUBMISSION TO THE ELECTORATE; CALLING AN ELECTION ON THE PROPOSED AMENDMENT TO THE VILLAGE CHARTER TO BE HELD ON TUESDAY, THE 7TH DAY OF NOVEMBER, 2006; PROVIDING NOTICE OF ELECTION; PROVIDING FOR BALLOTING; PROVIDING FOR INCLUSION IN THE CHARTER; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Weiss explained that the County Supervisor of Elections has reviewed the petition received and that it has been determined that the number of signatures received is sufficient. He noted that the Village Attorneys have reviewed the language and feel that it's legally sufficient, although there are some issues open to interpretation. Mr. Weiss explained that the Council has an ad ministerial act and doesn't have any discretion regarding this. He noted that the item needs to be placed on the ballot and suggested that the election be held in November, to reduce the cost of a special stand-alone election. Mr. Weiss clarified that the resolution sets a special election, approves the ballot language, and is the Council's obligation to approve.

Mayor Roth opened a public hearing.

Cliff Schulman, Attorney representing the Bal Harbour Shops, suggested that the purpose of the amendment is to stop future expansions and/or remodeling/modernization of the Bal Harbour Shops. He noted that the height limitations will not affect anyone else (the single family and multi-family neighborhood are protected by deed restrictions). He thinks that there are some legal challenges to the petition. Mr. Schulman noted that the 189 signatures certified by the Clerk (10% of the electorate) are able to take the Council's

power away, to determine whether or not the first or second largest taxpayer of the Village will be able to meet the future needs of the retail community. He preserved the legal challenges they have to the Charter amendment. Mr. Schulman discussed the history of the Bal Harbour Shops. He explained that the amendment caps the height of the Shops forever at 33 feet and that a retail floor is normally 17-18 feet. He thinks that it stops the Shops from being able to keep up with the competition. He noted that every expansion that the Shops has done has been through public hearings, before the Council. Mr. Schulman explained that the amendment takes the power away from the Council, to make future decisions, on any changes to the Shops. He pointed out that if the amendment passes, then there won't be any future increases of the Shops. He clarified that nothing can be done with the Council at a public hearing, if the amendment passes. Mr. Schulman understands that the Council doesn't have an option today other than sending it to the electorate to vote, but suggested an option to protect an asset of the Village and preserve the value of the Shops.

Stanley Whitman, Owner – Bal Harbour Shops, discussed the history of the Village. He discussed the deed restrictions for the West side, limiting the building height to three stories, not including the Shops. Mr. Whitman clarified that Council approval is currently needed, for the Shops to build anything. He discussed the numerous variances that he has had to receive to build. He noted that the Shops has tried to be a good neighbor.

Mr. Schulman distributed a suggested draft zoning ordinance, preventing the Charter amendment from prohibiting the Shops to come before the Council for consideration of future expansions. He clarified that the suggested ordinance would allow the Council to maintain the flexibility to hear and determine what the future of the Shops should be. He explained that it indicates the heights for retail, what they need to be in the future, and what flexibility is necessary for that. He advised that if the suggested ordinance is passed by the Council, then the Shops would still have to come before the Council for approval of future expansions. Mr. Schulman thinks that if the suggested ordinance is passed prior to November 7th, then it would allow the Council to retain control over the future of the Shops site. He explained that every successful mall in South Florida has had to change with the times. He noted that unless the Council passes an ordinance such as this, that freedom and discretion will be taken away from them. Mr. Schulman advised that under Code section 21-51 they are filing a request for public hearing. He requested that if the Council passes the resolution that it also consider directing the Village Attorney to review the suggested ordinance, place it on the agenda for first reading in September, and on the agenda for second reading in October, prior to the proposed November 7th referendum. He noted that the suggested ordinance would allow the Council to maintain the flexibility to hear and determine the future of the Shops.

Babak Raheb, resident – 128 Balfour Drive, resents the implication that the Village has to be thankful to Mr. Whitman and owes him something. He thinks that Mr. Whitman has invested in the Shops and profited from it. He thinks they are saying that the Village electorate are idiots and cannot make decisions. Mr. Raheb is against the Council being given a proposed ordinance during the meeting. He noted that the Council has no choice, but to pass the resolution.

Hans Altenhoff, General Manager – Sheraton Bal Harbour, discussed the importance of the Bal Harbour Shops, to the success of the hotel. He thinks that the Shops need to stay competitive in the marketplace.

Dina Cellini, resident – 211 Bal Cross Drive and Vice President of the Bal Harbour Citizens Coalition, explained that the Coalition circulated the petition and reported that the purpose was not to earmark the Shops for a restriction in its expansion, but to look at the Village as a whole. She noted that the electorate and people who live in the Village year round who are not registered voters have become disillusioned over the years with how liberally the Council has allowed development to occur. She explained that they felt the increase in the amount of stories and height permitted have gotten out of hand. Ms. Cellini advised that without any cooperation from the Council, they felt compelled to circulate the petition, because they want to keep the height reasonable in the Village.

Ms. Cellini reported that Mr. Whitman provided a copy of the deed restrictions (for the West side of Collins Avenue). She noted that she spoke with Mr. Whitman's real estate lawyer, Steve Katz, who assured her that the deed restrictions would not prevent anyone (in the single family homes or on the west side of Collins Avenue), from building beyond what the deed restriction permitted. Ms. Cellini doesn't think the onerous should be on anyone to file a lawsuit, to fight that.

Ms. Cellini explained that the registered voters of Bal Harbour followed the provisions to amend the Municipal Charter. She pointed out that they received about 20% of the registered voters to easily sign the petition in May/June, when the majority of the residents are away. She clarified that the petition has widespread support and is what the electorate wants. Ms. Cellini repeated that the Village Attorney has told the Council that it's an administrative act and that they don't have any discretion. She thinks that the Council needs to pass the resolution.

Ms. Cellini clarified that the effect of the petition would not prevent the Shops from expanding, because they can expand horizontally. She noted that Mr. Whitman has previously said that retail doesn't work beyond the second floor, so she thinks the only reason for them to go higher is for the 18-story building that Mr. Whitman submitted to Tallahassee. She reported that the registered voters don't want an 18-story building on the site of the Bal Harbour Shops. She pointed out that, as Mr. Whitman has suggested, the Council has given Mr. Whitman whatever he has wanted over the years. Ms. Cellini agreed that rightfully or wrongfully, he has done a wonderful job with the Shops as they exist, but doesn't think that his plans for the future coincide with what the residents want. She noted that the residents are telling the Council what they want.

Ms. Cellini resents Mr. Schulman pretending to know what the registered voters want. She noted that the residents live in the Village and want to enjoy the quality of life in the Village, not Mr. Schulman.

Ms. Cellini noted that the Bal Harbour Shops have a right to challenge the petition and they will be prepared to respond in court, which she thinks is where this should be taken.

Ms. Cellini thinks that for the Council to put an ordinance of this importance on the agenda for first reading that Mr. Schulman has drafted is ludicrous and irresponsible, since the majority of residents will not be back in September. She thinks it's another example of the Village giving the Bal Harbour Shops whatever they want, which they are tired of. She suggested that if the Council passed an ordinance such as that, then the registered voters could also submit a petition to repeal that ordinance. She noted that it's easy for them to muster up the support that they need, to keep development at bay.

Ms. Cellini respectfully requested the Council to pass the resolution and let it take its course. She noted that if Mr. Whitman wants to challenge it in court, then there are channels and procedures to do that. She suggested letting the courts decide if the petition is legally sufficient and letting the voters decide if they want the Charter amendment.

Suzie Sayfie, Executive Director of the Miami Project to Cure Paralysis and Buonocotti Fund Board Member, spoke in favor of the Bal Harbour Shops expansion and the Whitman family. She discussed the Whitman family contributions to the community. She also discussed the need for ballrooms, etc. at the Shops, for charitable events, and more quality boutiques.

Shotzie Cassal, spoke in favor of the Shops. She discussed the Whitmans and their relationship to Project Newborn. Ms. Cassal thinks that the Shops need more facilities to help charities.

Gabriela Webster, resident – 30 Park Drive, thinks the amendment is ridiculous to put before the voters and hopes that it will be voted against. She thinks that the community has every right to restrict heights and to negotiate and continue forward. She hopes that the Village doesn't forego its responsibility to ensure that things are reasonable and positive. She discussed the commitment that Mr. Whitman has had to the community. Ms. Webster thinks that things need to be changed sometimes, which is done through resident involvement. She thinks that the Shops make the Village even more special.

Michael Patrizio, WCI, spoke on behalf of the 300+ future residents at the One Bal Harbour/Regent and discussed the importance of the Shops. He spoke against the amendment and thinks that it handcuffs the mall's ability to react to the marketplace. Mr. Patrizio thinks that the control should be kept with the Council, to also allow input from the residents.

Marjorie Schell, resident – 9801 Collins Avenue, likes the Village the way it is and is not interested in the Shops. She likes the ocean and quiet Village life. Ms. Schell noted that the people who signed the petition, including her, don't want the Shops to expand like the One Bal Harbour. She clarified that doesn't mean that they can't keep up with the times. She requested that the Council keep things the way that they have been.

Lisa Molina, Vice President at Neiman Marcus Bal Harbour, thinks that the Shops are responsible for the retail and business land real estate increase. She thinks that Mr. Whitman has made Bal Harbour what it is today. Ms. Molina discussed surveys taken at the Shops and hotels showing that the number one reason that people come to Bal Harbour is not for the ocean or hotel, but for the shopping. She noted that everyone has profited from the Shops and that the community has also profited from the charities. Ms. Molina thinks that the Shops need to be given the opportunity to grow and give customers what they're asking for.

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

Councilman Sanz questioned the implication of the proposed ordinance if it was placed on the September agenda for first reading. Mr. Weiss noted that he hasn't reviewed the ordinance, in order to reply. Councilman Sanz clarified that the Council doesn't have a choice in passing the resolution. Mr. Weiss agreed. Councilman Sanz clarified that the

Council could review the suggested ordinance in September as another choice. Mr. Weiss advised that the Council can. Assistant Mayor Berlin clarified that the resolution is an administrative act and the Council doesn't have a choice and must do what the law directs them to do. Mr. Weiss agreed.

Councilman Jacobi thinks that the Shops should file a separate amendment to the Charter, regarding what they want (height, etc.) or start a public relations campaign to educate the voters. He is not happy with the 11-foot height restriction. Councilman Jacobi thinks that the Village is behind in terms of what the other malls are doing. He questioned giving control to the voters to decide and is concerned that only seven residents signed the petition from the West side. He is concerned with the small amount of voters who signed the petition. Councilman Jacobi thinks that the Shops need to grow and keep up with the times. He noted that the Council is bound by the law and must pass this resolution, but there are steps that the Shops can take.

Mayor Roth clarified that the Council doesn't have any option. Councilman Rosenfield pointed out that the electors have an option and can oppose it and can start a campaign. She noted that if the community feels that this is wrong, then there should be communication to the residents that this is the wrong thing to pass, which hasn't been done yet. Councilman Rosenfield explained that every initiative doesn't have to be passed. She clarified that just because some people want it, doesn't mean that all the people do. She noted that is why there is an election procedure and it goes to ballot. She doesn't think the Council has any other choice at this point, other than to pass this.

Councilman Sanz pointed out that only seven people signed the petition that will be affected by it (the West side). Mayor Roth noted that the residents complied with the law and filed the petition, which the Attorney has advised the Council needs to accept. He advised that in November the voters will decide what they think is right. Mayor Roth thinks that handcuffing someone is difficult, because times change and things have to be modernized. He thinks that the hot button issue was the hotel. He noted that he wouldn't want anything built on the West side of the street, because it would block him, but discussed parking and questioned restricting that going up another floor, because he thinks that would benefit the Village. He noted that there are some parts that he isn't in favor of, but there are many parts of the referendum that he is very much in favor of. Mayor Roth noted that his hands are tied and there's a motion on the floor.

A motion was offered by Councilman Rosenfield and seconded by Councilman Sanz to approve this resolution. The motion carried unanimously (5-0), thus becoming Resolution 686.

Assistant Mayor Berlin questioned the process to place the suggested ordinance on the September agenda for consideration. Mr. Weiss discussed the process and explained that the Council would need to direct the Village Attorney to review the proposed ordinance and then it would be placed on the September agenda. He thinks that it would need to go to the Local Planning Agency first. Assistant Mayor Berlin thinks that it's unanimous amongst the Council that there is dissatisfaction with the focus and intent of the referendum. He has no objection to considering a proposed ordinance in September.

A motion was offered by Assistant Mayor Berlin and seconded by Councilman Sanz to direct the Village Attorney to review the suggested Ordinance prepared by Cliff Schulman for legal sufficiency, have the Village Planner provide a report on the implications of the Ordinance, and

for the Village Attorney to prepare an opinion of the effect of the Ordinance if the Petition is passed. The motion carried unanimously (5-0).

Mr. Weiss clarified that it's his understanding that the Council has also directed him to place the Ordinance on the September agenda. The Council agreed.

9. REPORTS AND RECOMMENDATIONS:

A. MAYOR AND COUNCIL:

Mayor Roth thanked Lydia Kordalewski for the outstanding Park & Recreation programs.

Report by Committee to Study Police Holding Cell Issue – Councilman Jacobi, Chairman: Councilman Jacobi thanked the members of the Committee and residents who participated in the process.

Chief Hunker reviewed a Powerpoint presentation. He explained that the communication issues were part of the holding cell discussions. He reported that the Committee's objective was to discuss the problems with the current police holding cell, identify possible remedies, and present the findings to the Council. Chief Hunker discussed the problems with the current holding cell. He noted that there were liability issues with using another police department's holding cell facilities. He discussed possible remedies and explained that the Committee is recommending moving the Building Department to a modular trailer in front of the Recreation Center, moving the Communications to the current Building Department space, and remodeling the current Communications area for a new police holding cell area. Chief Hunker explained that the Committee is noting that the remedy is temporary and suggested that the Council appoint another Committee, in the Fall, to review the Police and Village Hall facilities, to come up with a master plan to build a facility for the police and Village Hall.

Mr. Treppeda distributed the "Cost Estimate for Moving Building Department to Modular Office Space at Recreation Center" and proposed site plan. Chief Hunker reiterated that this is not a long-term solution.

Babak Raheb, resident – 128 Balfour Drive, clarified that when the new cells are added, separate bathrooms will also be provided. He reported that the Building Department also needed space and thinks that this solution solves the immediate problem.

Councilman Jacobi thinks that this is the most cost effective solution for a temporary fix. He explained that some of the Building Department funds can be used for their portion. Mr. Treppeda reviewed the plans. Building Official Daniel Nieda thinks that it's a step in the right direction. Mr. Raheb thinks that this is the best solution.

A motion was offered by Councilman Jacobi and seconded by Councilman Rosenfield to approve up to \$218,350.00 to implement the recommendation of the Holding Cell Committee to move the Building Department into modular office space at the Recreation Center, to free up space for the Police Department to correct their holding cell/communications safety issue, and to authorize the Village Manager to enter into a 2-year lease for modular office space for \$1,100 per month. The motion carried unanimously (5-0).

B. **VILLAGE ATTORNEY:** No items.

C. **VILLAGE CLERK:**

Lobbyist Registration Report: As of July 14, 2006: Mrs. Horvath reviewed the list of Lobbyists currently registered with the Village.

Re-Appointment of Resort Tax Committee Members: Assistant Mayor Berlin thanked Mayor Roth, Councilman Rosenfield, and Councilman Sanz for attending the July Resort Tax Committee meeting. He explained that the Council needs to consider re-appointing the current members of the Committee, to serve for another year.

Babak Raheb, resident – 128 Balfour Drive, is against people from the Shops being on the Committee, since they approve money to be spent on the Shops, which he thinks creates an ethics problem. Mr. Raheb would like more residents on the Committee. Mr. Weiss explained the Resort Tax Committee Ordinance. Mayor Roth thinks that there should be some people representing the shopping district and the hotels. He doesn't see anything wrong with some impartial residents being on the Committee, who are not affiliated with the Shops. Mayor Roth thinks that issue should be studied and suggested that Assistant Mayor Berlin think about it.

Councilman Sanz thinks that the Committee has done an excellent job and is in favor of re-appointing the current members. He noted that residents are allowed to attend and participate in the meetings.

Assistant Mayor Berlin noted that the Committee has operated in this fashion since its inception. He reported that residents attend the meetings and participate. Mr. Raheb would like citizens to be on the Committee, not just in attendance.

A motion was offered by Councilman Sanz and seconded by Councilman Jacobi to approve re-appointing Assistant Mayor Howard J. Berlin, Hans Altenhoff, A. Anthony Noboa, Lisa Perri-Molina, and Randy Whitman as members of the Resort Tax Committee (the term is for one year). The motion carried unanimously (5-0).

Selection of September Budget Public Hearing Dates and September Regular Council Meeting Time: Mrs. Horvath proposed scheduling the First Budget Hearing for either September 11 or 12, at 5:01 p.m. She also proposed scheduling the Second Budget Hearing for September 19, 2006, at 5:01 p.m. and changing the time of the Regular Council Meeting on September 19, 2006 to 4:00 p.m.

A motion was offered by Councilman Jacobi and seconded by Councilman Rosenfield to approve the First Budget Hearing for September 12th at 5:01 p.m., the Second Budget Hearing for September 19th at 5:01 p.m., and the Regular Council Meeting for September 19th at 4:00 p.m. The motion carried unanimously (5-0).

Request for Approval of New Digital Recording System and Software: Mrs. Horvath requested approval of \$6,976.99 for a new digital recording system and software, provided by BIS Digital. She explained the advantages of having a digital recorder, in lieu of a tape recorder, which is currently used (ease of duplication,

backup for archival purposes, etc.).

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

D. VILLAGE MANAGER:

Resort Tax Committee Recommendations: Assistant Mayor Berlin requested approval of the following item, recommended by the Resort Tax Committee at the July 17, 2006 meeting:

- 1. GMCVB Northeast Sales Mission (Sept. 18-21, 2006) \$2,610.00

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

Third Quarter Budget Review – Fiscal Year 2005/2006

Christopher Wallace, Village Finance Director: Mr. Wallace reviewed the Third Quarter Budget Report, which is summarized as follows:

General Fund – Revenues are ahead of projections, except for the building permits (Sheraton remodeling was anticipated). The budget isn't affected because expenditures were set aside for that. The investment incomes exceeded expectations. The Village should finish well into the black.

Tourism Fund - Ahead of expectations, with receipt of 93% of the budgeted revenue in ¾% of the year. The fund will be much stronger than anticipated for the year.

Security Assessment - Revenue has largely been received. There hasn't been a lot of new construction, but the expenditures haven't been as high as anticipated. There shouldn't be a large change by the end of the year.

Water and Sewer Fund – Slight improvements since the last report, which should continue through the remainder of the fiscal year.

Mr. Wallace summarized that the Village's budget progress has been very good, with almost entirely positive variances, with very few exceptions. He thinks that the Village's financial position will be improved again at the end of the year.

Discussion of 2006/2007 Proposed Budget and Millage Rate:

Mr. Treppeda explained that the new millage rate needs to be certified to the County by August 4th. He reviewed the highlights of the proposed increases. Mr. Treppeda proposed a millage rate of 2.902, with a fund balance contribution of \$396,715.00. He noted that the property assessment increase would be capped at 3%, creating a tax increase of \$69.65.

Mr. Weiss explained that State law requires municipal budgets to be approved in September and for the millage rate to be approved before the budget. Assistant Mayor Berlin suggested that the budget review be done in May/June next year.

A motion was offered by Councilman Sanz and seconded by Councilman Jacobi to approve the millage rate at 2.902. The motion carried unanimously (5-0).

Request for Approval to Paint Two Garbage Trucks: Mr. Treppeda requested approval of up to \$7,000, to paint two garbage trucks (#208 and #211). The lowest bid will be used.

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

10. OTHER BUSINESS:

Mr. Treppeda requested direction on whether or not the Council would like to meet in August. *A motion was offered by Assistant Mayor Berlin and seconded by Councilman Rosenfield to forego having a Council meeting in August. The motion carried unanimously (5-0).*

Mr. Treppeda reported that prior Council approval was given to replace Royal Palm trees in the Security District. He explained that two additional trees need to be replaced, for a total of five trees. *A motion was offered by Councilman Jacobi and seconded by Councilman Sanz to approve replacing two additional trees. The motion carried unanimously (5-0).*

Babak Raheb, resident – 128 Balfour Drive, thinks that the division of districts is disproportionate and suggested looking at re-districting. He commended the Park & Recreation program and suggested that it be expanded in the future.

Dina Cellini, resident – 211 Bal Cross Drive, requested the Council to direct the Village Attorney to study the language of the petition, not for legal sufficiency, but to give a report as to how that petition would affect future development in Bal Harbour, at the Shops and elsewhere.

Ms. Cellini clarified that the petition calls for development to be restricted beyond what's currently in the Code. She noted that the Bal Harbour Shops are currently permitted to be 45 feet, with the parking garage higher. She thinks that since the Council has directed the Village Attorney to look at the ordinance proposed by Mr. Schulman and to see how that ordinance would be affected by the petition, then it would be fair to direct the Village Attorney to look at the petition and to report back on how it would affect future development at the Shops and elsewhere. *It was the consensus of the Council that would be fair.*

Mr. Weiss will review that, but doesn't think that Ms. Cellini will agree with whatever he writes. He explained that there will be an election and a public debate about what the ordinance does. Mr. Weiss has told Ms. Cellini and her lawyer that he thinks that the ordinance is subject to some interpretation.

Ms. Cellini noted that the Council injected an 11-foot ceiling height in the oceanfront zoning, which is the same number that the Coalition used. Mayor Roth advised that is for residential, not commercial. Councilman Rosenfield agreed.

Ms. Cellini reported that the petition doesn't only apply to the Bal Harbour Shops and was not aimed at them. She explained that the petition is aimed at future height development in Bal Harbour, across the board, including the West side of Collins Avenue.

Councilman Rosenfield pointed out that the Council currently has the discretion to change the zoning height, but that once the proposed ordinance is passed, then it would be 11 feet forever.

Ms. Cellini explained that it would be 11 feet, unless a developer submitted a project to the registered voters. She thinks that Mr. Whitman will be doing a public relations campaign and suggested that if the petition passes and he wants to do something at the Bal Harbour Shops, then he can do another public relations campaign to convince the voters that what he wants to do at the Shops is good for the voters and the Village. She clarified that this isn't preventing Mr. Whitman from doing that and is not preventing a developer who wants to demolish the buildings on the West side of Collins Avenue, to build high-rises. She noted that if the Village electorate can be convinced that it would be good for them and the Village, then so be it.

Ms. Cellini explained that they are doing what is permitted, under the Village Charter. She thinks that it may be difficult for the Council to accept this, because it's somewhat a vote of no confidence, at what the Council has permitted to happen in the Village in the last few years. She is not surprised that the Council is speaking against the petition, but thinks that they need to realize that the residents live and vote in the Village and have a right to say what they want. Ms. Cellini doesn't think that it should just be left to the five Councilmembers, who can sit down and be wined and dined by developers.

Councilman Rosenfield thinks that's an unfair statement. She questioned Ms. Cellini if she could state that any of the Council has been wined and dined. Assistant Mayor Berlin would like that answer on the record. Ms. Cellini replied that she wouldn't say all of the Council, but that she has seen many of the Council members having lunch with Mr. Whitman. Councilman Jacobi noted for the record that he turned down Mr. Whitman's invitation for lunch.

Ms. Cellini noted that the Council has a right to have lunch with whomever they want. She explained that her only point is that for the future of the Village to be left in the hands of five, when the residents, the electorate would like to be heard, is what the Dade County Home Rule Charter provides for. She appreciates that the Council passed the resolution, because they were required to do so. She noted that the people will vote, there will be a legal challenge, and the courts will rule on it.

Councilman Sanz resents Ms. Cellini's accusation of the Council being wined and dined. He noted that he has never been wined and dined by anyone and Ms. Cellini knows better than that. He explained that he has never sat down, since he has been on the Council, to have dinner or lunch with Mr. Whitman, any of the developers, etc. He thinks that when Ms. Cellini makes that statement, then she is pointing a finger that all of the Council are being wined and dined, which he doesn't think is right.

Ms. Cellini doesn't think that she pointed any fingers, but apologized if Councilman Sanz was offended. She explained that she was making a statement that it's a lot easier to sit down and convince five people on a Council rather than an electorate of 1600. She noted that now, if Mr. Whitman or any other developer wants to make a project in Bal Harbour, then it would require the registered voters to approve it. She pointed out that Mr. Whitman has the money to do the public relations campaign and whatever he needs to do.

Ms. Cellini thinks that the Council has extended themselves by accepting the ordinance from Mr. Schulman, directing the Village Attorney to review it, and putting it on the agenda for first reading in September, even though many of the residents will not be back. She noted that the Council has also directed the Village Attorney to review that ordinance, in light of the petition, and she is only asking for fair treatment.

Mr. Weiss clarified that the Village Attorneys' opinion will address the impact of the ordinance, without getting into specific situations. He explained that there are issues within the petition that are subject to interpretation. He noted that if the Council wants to be in the middle of the debate regarding the petition, then that's fine, but he doesn't want his opinion to be the center of the debate, as to what the petition says or not, because he doesn't think that is for him to say. Mr. Weiss explained that the people who wrote the petition are going to say what they think it says. He doesn't think that what he writes is going to be acceptable to them.

Babak Raheb questioned if Mr. Weiss' opinion can either agree or disagree with Mr. Schulman's statement that this only affects the Bal Harbour Shops. Mr. Weiss explained that he will not go through everything that Mr. Schulman said, but will do an overall opinion as to the affects on the Village.

Mayor Roth questioned the Deed Restrictions for the West side. Mr. Weiss noted that was reported on at the last meeting. Mayor Roth questioned if that will stand up. Mr. Weiss doesn't know, but reported that there is a deed restriction recorded on the plat.

Mr. Raheb thinks that the deed restriction could be challenged, if someone wanted to build.

Magda Saltzman, resident – 291 Bal Bay Drive, noted that there's one building on the West side that's higher than three stories and questioned if that's grandfathered in. Mr. Weiss will provide an opinion regarding what he thinks the petition does, but will not address each building and will be generic.

Ms. Cellini explained that she has previously requested Mr. Weiss to report more comprehensively about the deed restriction, which he has declined to do. She reported that Mr. Weiss has noted that isn't his role. She pointed out that the deed restriction also says that if someone is Jewish, then they can't own property in Bal Harbour.

Paul Young, resident – 291 Bal Bay Drive, discussed his concern about the closure of the north beach access path. He questioned the Bal Harbour Club's offer to provide temporary access. Mr. Treppeda explained that there were some liability and ADA issues and that the Club hasn't taken any action on providing that access yet. He reported that the north access is closed for beautification/construction and will re-open in early 2007. Mr. Young questioned parking in the north lot, which construction workers are using. Mr. Treppeda explained that the only parking available is at the Shops. Mr. Young complained about construction workers parking on Bal Bay Drive and in the apartment building spaces. Mr. Treppeda directed Mr. Young to Chief Hunker, regarding the parking problems.

Coleen Cleepak, resident – 291 Bal Bay Drive, complained about the children being prohibited to ride bikes on the sidewalks, beach path, etc. She feels that children are being discriminated against in Bal Harbour. Ms. Cleepak also complained about the construction workers parking on Bal Bay Drive. Mayor Roth suggested that Ms. Cleepak meet with Chief

Hunker and Mr. Treppeda, to work on a solution. He discussed residents parking at the Shops or the Village providing insurance for the Bal Harbour Club to provide access, with WCI paying for it. Mr. Weiss suggested that the Council direct Mr. Treppeda and Chief Hunker to resolve the problem and to spend money that is adequate to do so. Chief Hunker discussed the construction process. Councilman Sanz suggested that something be worked out with the Bal Harbour Shops for parking, for residents that want to use the 96th Street beach access. Mr. Treppeda will call a Special Meeting for this issue, if necessary.

Magda Salzman, resident – 291 Bal Bay Drive, discussed having to drive under the bridge to access her building. She thinks that the Developers are taking over that area. She complained about the appearance of the area and suggested that screening be placed to improve the appearance. Ms. Salzman thinks that WCI should cover the cost to provide an access through the Club. She would like the workers to be provided with an area on the site to have their lunch, instead of the streets. She noted that the streets need to be cleaned from the Kenilworth building to underneath the bridge. Councilman Rosenfield agreed that WCI needs to be responsible for providing an area for their workers to eat. She requested that the Village meet with WCI to review the items that the Village will not permit (eating, throwing garbage, congregating, etc. on the streets)

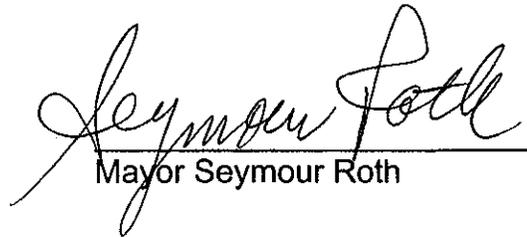
Ana Marie Kelly, resident – 284 Bal Bay Drive and owner – 77 Camden Drive, voiced her opinion that allowing roach wagons in the residential section or Collins Avenue violates the Village Code. She resents the Village giving construction workers priority over the residents and discussed the lack of parking spaces underneath the bridge. She agreed that workers shouldn't be allowed to eat on the streets. Ms. Kelly discussed birds with hooks and dead fish on the jetty. Ms. Kelly questioned the need for fishing permits.

Mayor Roth advised that the Village will try to solve the beach access problem.

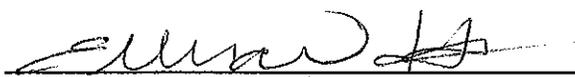
Lybia Toro, resident – 291 Bal Bay Drive, would like another access to the beach to be provided, instead of only having the 96th Street access.

Marjorie Schell, resident – 9801 Collins Avenue, commended Mr. Treppeda for having the beach cleared of debris in one day. She suggested the Village getting a truck to clean the beach on an ongoing basis.

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 (3-0), with Assistant Mayor Berlin and Councilman Jacobi absent, and the meeting adjourned at 11:46 a.m.


Mayor Seymour Roth

Attest:


Ellisa Horvath, CMC
Village Clerk