

BAL HARBOUR VILLAGE COUNCIL MEETING MINUTES
REGULAR MEETING – NOVEMBER 14, 2006

The Regular Meeting of the Bal Harbour Village Council was held on Tuesday, November 14, 2006, at the Bal Harbour Village Hall Council Chambers (655 – 96th Street, Bal Harbour, Florida).

1. CALL TO ORDER/ROLL CALL: The meeting was called to order at 9:47 a.m. by Mayor Roth. The following were present:

Mayor Seymour "Sy" Roth
 Assistant Mayor Howard J. Berlin
 Councilman Jean Rosenfield
 Councilman Jaime M. Sanz¹

Alfred J. Treppeda, Village Manager
 Ellisa Horvath, CMC, Village Clerk
 Andrea Greenblatt, Admin. Assistant
 Richard J. Weiss, Village Attorney²

Absent: Councilman Joel S. Jacobi

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

2. PLEDGE OF ALLEGIANCE: The Pledge was previously done.

3. APPROVAL OF MINUTES: *A motion was offered by Councilman Rosenfield and seconded by Councilman Sanz to approve the minutes of the October 17, 2006, Regular Council Meeting, as submitted. The motion carried unanimously (4-0).*

4. PRESENTATIONS:

Officer of the Month for September 2006: Chief Hunker presented Sergeant Raymond Haselman with the September Officer of the Month Plaque, in recognition of his actions leading to the capture of robbery subjects.

Officer of the Month for October 2006: Chief Hunker presented Officer Ramon Fernandez with the October Officer of the Month Plaque, in recognition of numerous arrests.

5. ORDINANCE SECOND READING/PUBLIC HEARING: The following ordinance was ready, by title, by Mrs. Horvath:

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE VILLAGE CODE CHAPTER 21 "ZONING," ARTICLE I "IN GENERAL," BY

¹ Councilman Sanz left the meeting during discussion of the Ordinance Second Reading/Public Hearing.

² Mr. Weiss left the meeting during Other Business.

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. Weiss noted that Mayor Roth requested this item be placed back on the agenda.

A motion was offered by Councilman Sanz and seconded by Councilman Rosenfield to approve the ordinance.

Mayor Roth opened the Public Hearing.

Alexandra Deas, Bilzin Sumberg Baena Price & Axelrod LLP – Attorney representing the St. Regis, noted that they do not object to the ordinance, because they don't believe that it applies to the St. Regis. She clarified that in the event that the Village decides that it does apply to the St. Regis, then they would object to it. Ms. Deas submitted a letter presented to the Village, dated July 17, 2006.

Babak Raheb, resident – 128 Balfour Drive, doesn't think that the Village can keep waiting for the St. Regis project to start. He noted that there is no current timetable or plan for the hotel to be demolished. Mr. Raheb is in favor of the Ordinance. He suggested that if the hotel is not demolished in May, then the current contract should be voided and a new contract should be negotiated.

Brian Mulheren, resident - 10245 Collins Avenue, noted that no contract is open-ended. He thinks that the St. Regis should be included in the Ordinance and he is in favor of it.

Mr. Weiss explained that the Ordinance does not apply to rezoning.

Assistant Mayor Berlin questioned Mr. Nieda when someone receives a building permit, if the project needs to be finished within a year or to just begin within a year to be in compliance. Mr. Nieda reported that they must start within a year. Mr. Weiss agreed and noted that the Ordinance language is in conjunction with the building code language. Assistant Mayor Berlin questioned how "progressively and continuously" is defined if a 26-story project pulls a permit and the building isn't completed in a year. Mr. Nieda explained that permits expire after 180 days and that work and inspections must be in process during that time. He reported that the St. Regis has submitted the foundation plans for review. Assistant Mayor Berlin noted that there might be a difference of opinion that the project is purely a rezoning, since there was a Development Agreement, etc. Mr. Weiss reported that he advised Mr. McDowell that the Village may have a difference of opinion on that item and that there may be an issue. Assistant Mayor Berlin doesn't think that they should rely purely on that zoning language.

Ms. Deas reported that they applied last week and the plans will take several months to review. Mr. Nieda reported that it will take 6 to 8 weeks before they will have a permit for the foundation. Ms. Deas reported that they are moving forward. Mayor Roth discussed time limits for projects, which is normally a year. He clarified that this isn't an open-ended permit for the project (St. Regis) to start. He further discussed delays of closing dates and the worth of money changing (the closing date has been extended a year and the building fees, etc. have gone up since then). Mayor Roth noted that fees were calculated at the cost

a year ago. He thinks that closing the hotel and moving furniture would be proceeding. He noted that the deal made was based on the facts at that time.

Ms. Deas noted that they have applied for permits and the project is moving forward. Mayor Roth doesn't agree that it's proceeding, since the hotel is operating and receiving income. He thinks that the condo market has affected the closing date. Mayor Roth thinks the money should be re-negotiated at the date they're (St. Regis) ready to build. He thinks the one-year ordinance is very important.

Councilman Sanz left the meeting.

Dina Cellini, resident - 211 Bal Cross Drive, thinks that Mr. McDowell left a flexibility for his client. She urged the Village to ensure that a time frame be placed in all future Development Agreements. Mayor Roth agreed. Ms. Cellini is in favor of the Ordinance.

Mayor Roth closed the Public Hearing.

The earlier motion was reconfirmed and the motion carried unanimously (3-0), with the following roll call vote: Mayor Roth aye; Assistant Mayor Berlin aye; Councilman Jacobi absent; Councilman Rosenfield aye; Councilman Sanz absent; thus becoming Ordinance No. 513.

6. ORDINANCES FIRST READING: None.

7. RESOLUTIONS/PUBLIC HEARINGS: None.

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

A RESOLUTION OF BAL HARBOUR VILLAGE, FLORIDA, CERTIFYING SPECIAL ELECTION RESULTS; PROVIDING FOR AN EFFECTIVE DATE.

Mrs. Horvath reported that the Charter Amendment was approved with the following votes cast (unofficial results): Yes 586 - No 135.

Note: the Official Results indicated 595 Yes votes and 137 No votes.

Mayor Roth opened the meeting for public comment. There being none, the meeting continued.

A motion was offered by Councilman Rosenfield and seconded by Assistant Mayor Berlin to approve the resolution. The motion carried unanimously (3-0); thus becoming Resolution No. 692.

9. REPORTS AND RECOMMENDATIONS:

A. MAYOR AND COUNCIL: Mayor Roth reported that the 60th Anniversary celebration is December 10th at the Bal Harbour Beach Club.

B. VILLAGE ATTORNEY: Mr. Weiss suggested that the Council consider changing the structure of the Resort Tax Committee to include the Council, plus two other
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members, for a total of seven members.

Babak Raheb, resident – 128 Balfour Drive, recommended that the two additional people be Village residents. Mayor Roth discussed industry people being included.

Brian Mulheren, resident - 10245 Collins Avenue, thinks residents and taxpayers should be on the Committee, not the industry. He suggested that people from the industry can attend and make recommendations. He thinks that money is being spent that doesn't have to be and that the money should be spent on the Village. Mayor Roth noted that the Councilmembers are taxpayers. Mr. Mulheren reported that the people want to be involved and want to be on the Committee. He discussed money spent on a website and tourism. He thinks money should be spent on the Village's Anniversary, etc. not on a web site.

Councilman Rosenfield noted that every major resort City in the Country has a web site. She agreed that residents should be on the Committee, but suggested that a business person also be on it, since the money is generated from the hotels and restaurants. She thinks that input is needed from every segment of the Village. Mayor Roth suggested five Councilmembers and two others. He thinks that the Committee Chairman should decide. Assistant Mayor Berlin suggested having the Village Attorney prepare an ordinance.

Mr. Weiss will draft an ordinance with seven members, with the Council appointing the other two members.

Dr. Michael Krop, resident - 9601 Collins Avenue, doesn't think the Council should be part of the Committee, because the other members will be intimidated by them. He thinks the Committee should bring recommendations to the Council, with the ultimate decision to be made by the Council.

Mr. Weiss reported that his recommendation was based on the makeup of the General Employees Retirement Board, but that other than following the procedures to revise, the Council can do whatever it likes.

Randy Whitman, Bal Harbour Shops, suggested a survey be done to find out what other cities with similar resort tax structures do: how the Committees are made up, how they spend the money, etc. He noted that all of the Committee meetings are open to the public.

Mr. Weiss will draft an ordinance for the Committee to be composed of seven members chosen by the Council.

C. VILLAGE CLERK:

Lobbyist Registration Report: As of November 9, 2006: Mrs. Horvath reviewed the list of Lobbyists currently registered with the Village. There were no new Lobbyists from the previous month.

D. VILLAGE MANAGER:

Request for Approval of Sign Permit for One Bal Harbour Project: Mr. Treppeda explained that WCI is requesting approval for a temporary sign on

their building during construction.

Assistant Mayor Berlin questioned if there's a provision in the Sign Ordinance for an exception. Mr. Treppeda noted that the sign is similar to the St. Regis sign, which was approved in the St. Regis Development Agreement. Mr. Weiss explained that there is a variance procedure in the Sign Ordinance.

Michael Patrizio, Senior Project Manager – Tower Division - WCI Communities, displayed the proposed sign (17 feet wide by 120 feet tall) announcing the opening of the Regent hotel, in Spring 2007.

Babak Raheb, resident – 128 Balfour Drive, thinks that a fee of \$50,000-\$100,000 should be charged, if the Council wants to consider it, since it wasn't included in the Development Agreement.

Doug Rudolph, resident - 212 Bal Bay Drive, thinks the Village needs to be careful of how the Village appears as a community. He thinks it sets a bad precedence to hang banners, signs, etc. He questioned if the Village wants temporary signs hanging off of buildings and, if so, what sizes, what look, and what time period will they be allowed, etc. Mr. Rudolph is concerned that this is the first thing people will see as an entrance to the Village. He requested that the Council question if this is something that the Village wants, because other buildings may want to do the same.

Councilman Rosenfield thinks the banner is in good taste; however, she doesn't want to see the number of signs that are in Sunny Isles to happen in the Village. Councilman Rosenfield thinks there's another way to inform the public that the property has a hotel, which is probably the major issue, instead of hanging the signage there.

Mr. Patrizio agreed that was the purpose. He didn't know that this would be asking for special approval. Assistant Mayor Berlin thinks this is a major departure from the Code. He reported that if they want to pursue it the correct way, then the Council will look at it. Mayor Roth and Councilman Rosenfield agreed.

Dina Cellini, resident - 211 Bal Cross Drive, agreed with Mr. Rudolph and Assistant Mayor Berlin. She questioned if there is a right in the Development Agreement to supersede a Village Ordinance, regarding the Sheraton signage approval. Ms. Cellini doesn't think the Village had the right to include that in the Development Agreement and requested that be looked into. She suggested that the Sheraton sign be taken down and that it go through the same process of a sign variance.

It was the consensus of the Council for the Village Attorney to look into the issue of the Sheraton sign.

Brian Mulheren, resident – 10245 Collins Avenue, thinks the signs at the Sheraton should be removed, since they don't comply with the Code.

Marjorie Schell, resident - 9801 Collins Avenue, thinks that advertising should be done on the Internet.

Request for Approval of Beer and Wine License for Harbour

House Pool Bar: Mr. Treppeda explained that Council approval is needed for an establishment to serve alcoholic beverages.

Paul LaRosa, Owner – Harbour House Pool Bar, explained that Village approval is needed for them to receive their State license. He reported that an opening date is not required by the State. Mr. LaRosa reported that it's a snack bar. Councilman Rosenfield questioned if they had a license to serve alcoholic beverages at the Harbour House before. Mr. Raheb responded that they didn't.

Babak Raheb, resident – 128 Balfour Drive, suggested that the Council wait until the building is finished.

Brian Mulheren, resident – 10245 Collins Avenue, is concerned that no other condominium building has a bar, only the hotels do. He questioned if they will have a sound system, night club atmosphere, etc. Mr. Mulheren wants to know what's going on before approval is given, since he lives next door.

Mr. LaRosa explained that the amenity is for the building residents and that it's not open to the public. He reported that it's not operating as a bar and that this type of amenity is provided in many buildings around the State. Mr. LaRosa explained that the residents bought the units thinking this was part of it. Mayor Roth questioned when the building will be completed. Mr. LaRosa isn't sure, but noted that he has a five-year contract with the building, once it is opened. He clarified that he won't get the final license, until the building is completed. He requested Village approval, to proceed with the process. Mayor Roth suggested coming back at a later date. Mr. LaRosa clarified that it will be a snack bar offering beer/wine and is not a bar.

A motion was offered by Councilman Rosenfield and seconded by Mayor Roth to deny approval at this time. The motion carried unanimously (3-0).

Discussion of Proposed Amendment to the General Employees'

Pension Plan for Village Manager's Benefit: Mr. Treppeda explained that Sharon Quinn Dixon, Tax Attorney, explained the changes that should be done to the Code, at the General Employees Retirement Board Meeting. He requested approval to expend the funds necessary for Ms. Dixon to do the work.

A motion was offered by Councilman Rosenfield and seconded by Assistant Mayor Berlin to approve the expenditure of funds. The motion carried unanimously (3-0).

Request for Renewal of Village Manager Employment

Contract: Mr. Treppeda reported that the Council appointed Mayor Roth to negotiate the contract.

Mr. Treppeda left the room at this time

Mayor Roth reviewed the proposed contract with the Village Manager. He noted that the terms are the same, except for the salary (increase to \$135,000.00). The agreement is from October 1, 2006 through October 1, 2009.

Mr. Treppeda returned to the meeting.

A motion was offered by Councilman Rosenfield and seconded by Assistant Mayor Berlin to approve. The motion carried unanimously (3-0).

Update of Designs for New Village Seal: Mr. Treppeda explained that the artist has submitted some additional designs for the Council's consideration.

Babak Raheb, resident – 128 Balfour Drive, thinks the seals are generic, without anything that imprints Bal Harbour. He suggested using the layout of the Village.

Assistant Mayor Berlin suggested that the Council wait for Councilman Sanz to participate in the discussion. Councilman Rosenfield doesn't think any of the seals are unique.

Chief Hunker will have Officer Quinn work on some additional ideas.

Request for Approval to Renew Mutual Aid Agreement with the City of Miami Police Department: Mr. Treppeda requested approval to renew the Mutual Aid Agreement with the City of Miami Police Department.

A motion was offered by Assistant Mayor Berlin and seconded by Councilman Rosenfield to approve. The motion carried unanimously (3-0).

Change Order- Bal Harbour Club Beach Access Path: Mr. Treppeda requested approval of \$11,998 for additional work to meet ADA requirements and to provide a slip-free surface on the path.

A motion was offered by Assistant Mayor Berlin and seconded by Councilman Rosenfield to approve. The motion carried unanimously (3-0).

10. OTHER BUSINESS:

Babak Raheb, resident – 128 Balfour Drive, requested a discussion of the Surfside street closings. Mr. Weiss advised that his firm also represents Surfside, so he does not want to participate, if the Village is discussing strategy. This item will be discussed at the end of the meeting.

Brian Mulheren, resident – 10245 Collins Avenue, discussed the mess at the One Bal Harbour construction site. Mr. Treppeda reported that WCI and Related are hiring off-duty officers for Collins Avenue and the beach. Dan Nieda, Building Official, noted that 60 laborers have also been brought in by them to clean up the streets. Mr. Mulheren complained about work starting at 7:00 a.m. Mr. Treppeda requested that Mr. Mulheren contact the Police whenever that happens.

Mr. Mulheren suggested moving forward with new Police/Village Hall facilities, because the trailers are temporary. He suggested that Mayor Roth be part of a Committee to study that. There was no direction from the Council on a Committee.

Dina Cellini, resident - 211 Bal Cross Drive, complimented the Village Manager and Police Chief for sending the antique police car to the Veteran's rally parade.

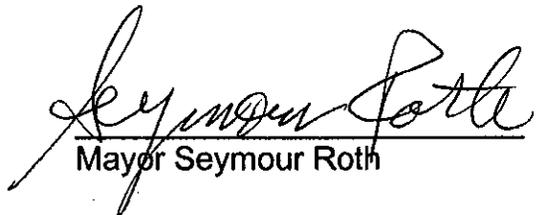
Mr. Weiss left the meeting at this time

Babak Raheb, resident - 128 Balfour Drive, noted that Surfside is continuing to block the streets. He reported that the County sent a letter advising Surfside that what they are doing is illegal and that if it continues, then the County will sue.

Mr. Raheb suggested that the Council approve for Mr. Treppeda to look at some fountains/sculptures/benches for the Village, at Founder's Circle. He commended Lydia Kordalewski for the Village Halloween party.

Mr. Mulheren noted that the Village doesn't have an Attorney for the Surfside traffic issue and that the Village Council previously approved money to have an outside attorney. Mr. Raheb doesn't think that any legal representation is needed at this time. Mayor Roth explained that the Village is not litigating. Mr. Raheb thinks that the County has more power and representation than the Village and will have more weight in court than the Village.

11. ADJOURN: There being no further business, a motion was offered by Councilman Rosenfield and seconded by Assistant Mayor Berlin to adjourn. The motion carried unanimously (3-0), and the meeting adjourned at 11:05 a.m.


Mayor Seymour Roth

Attest:


Ellisa Horvath, CMC
Village Clerk