

**BAL HARBOUR VILLAGE**  
**LOCAL PLANNING AGENCY MEETING MINUTES**  
**JUNE 20, 2006**

A Local Planning Agency Meeting was held on Tuesday, June 20, 2006, at the Bal Harbour Village Hall Council Chambers (655 – 96<sup>th</sup> 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. Berlin  
 Councilman Joel Jacobi  
 Councilman Jean Rosenfield  
 Councilman Jamie M. Sanz

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

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

**2. PLEDGE OF ALLEGIANCE:** The Pledge of Allegiance was led by Jerry Chiocca.

**3. APPROVAL OF MINUTES:** *A motion was offered by Assistant Mayor Berlin and seconded by Councilman Rosenfield to approve the minutes of the February 21, 2006, Local Planning Agency meeting. The motion carried unanimously (4-0).*

**4. REVIEW OF ORDINANCE AMENDING SECTION 21-1 AND CREATING SECTION 21-5 "EXPIRATION OF DEVELOPMENT ORDERS":**  
 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.

Mr. Wolpin explained that the proposed ordinance places a time limit on the implementation of development approvals. He further explained that if future development approval actions do not set a specific time frame to implement and build what has been approved, then this ordinance would place a one-year limitation on that. He noted that if an actual project has not been built or implemented for previous Development Orders, then this would create a one-year period limitation from the adoption date of the ordinance, for implementation of

the development approval that was given. Mr. Wolpin explained that the ordinance also provides protective measures, through vested rights. He noted that an applicant approaching the one-year limit may ask for an extension, which the Council may grant, upon demonstration of good cause. He clarified that any comments at this meeting will be incorporated into the minutes of the first reading of this Ordinance at the Council meeting.

Mayor Roth opened a public hearing.

**Carter McDowell, Law Firm of Bilzin Sumberg Baena Price & Axelrod LLP, 200 S. Biscayne Blvd. representing the Sheraton Bal Harbour property**, thinks that the Sheraton project is governed by the Development Agreement, which has a process for modification. He doesn't think that the proposed ordinance applies to the Sheraton property. He objected to the ordinance, if its intention is to affect that property. Mr. McDowell thinks that applying the ordinance retroactively to prior approvals is subject to significant challenge, even though there's a vested rights provision.

Mr. McDowell discussed the zoning process and time frame to create construction plans and to obtain permits. He suggested that if the Council moves forward with an ordinance that would affect future projects, that a time frame of 18-24 months be used, with an automatic extension provided, if good cause is shown that the project is moving forward (similar to Miami Beach Ordinance). He discussed the difficulty in finding contractors, due to hurricanes.

Mr. Wolpin explained that the proposed ordinance would apply to the Sheraton project and has a vested rights provision and safeguards (similar to the Aventura ordinance). Mr. McDowell objected to the ordinance being applied to the Sheraton.

Mayor Roth thinks that one year is the standard time limit for the majority of municipalities, in Miami-Dade County. Assistant Mayor Berlin suggested that Mr. McDowell contact the Village Attorney regarding the study of Miami-Dade County municipalities, showing that a number of municipalities have a 12-18 month time limit. Mr. McDowell thinks there's a significant difference between a 12 month and 18 month time limit.

**Babak Raheb, resident – 128 Balfour Drive**, suggested that language be added requiring that the contractor and sub-contractors not have any cases found guilty by OSHA, in order to prevent accidents from happening. Mr. Wolpin noted that's beyond the scope of this ordinance. He suggested bringing that up with the Miami-Dade County Construction Industry Licensing Board.

**Brian Mulheren, resident – 10245 Collins Avenue**, spoke in favor of the ordinance.

**Marjorie Schell, resident – 9801 Collins Avenue**, discussed an article in the New York Times regarding beachfronts. She submitted the article, for distribution to the Council. Ms. Schell discussed the lack of dunes behind the Sheraton.

Mayor Roth closed the public hearing.

Assistant Mayor Berlin noted that a number of other municipalities have similar ordinances and that the Sunny Isles Beach Ordinance was used as a format for this ordinance. He requested that any other properties having an outstanding Development Order, other than

the Sheraton, be provided with a copy of this ordinance, prior to second reading. Assistant Mayor Berlin requested that the Council be provided with a list of any outstanding Development Orders.

Assistant Mayor Berlin reviewed page 2 (Definitions) and suggested calling it something other than a zoning ordinance. Mr. Wolpin explained that it was put into Chapter 21, because it deals with land development. Assistant Mayor Berlin discussed the time limitation and noted that he doesn't want the language to be declared unreasonable, unconstitutional, etc. He also questioned how the Village will police the ordinance. He questioned what would happen if someone gets a permit and then doesn't do anything or starts then stops. Mr. Wolpin explained that the building permit laws would kick in and the Village Manager would take any necessary steps to enforce the ordinance. Assistant Mayor Berlin thinks there should be a remedy to ensure that the ordinance is complied with, if after the first year there is a slowdown or stoppage. Mr. Wolpin explained that if the time limit expires, then they would not be eligible to proceed with work.

Assistant Mayor Berlin requested that the Attorneys change the word "issued" in paragraph "a", to capture all the circumstances discussed by Mr. McDowell. He suggested softening it to capture all the circumstances. Mr. Wolpin explained that this ordinance requires efforts and working diligently to move ahead to implement the approval. Assistant Mayor Berlin reviewed page 3 (21-5) and suggested changing the word "and" to "or," to capture all the possible circumstances. Mr. Wolpin will review that.

Assistant Mayor Berlin discussed paragraph "d" (additional time) and questioned if a year passes, and then work is started then stopped, if an extension can be asked for. Mr. Wolpin noted that they could still ask for an extension, because their time would not have expired. Mr. Wolpin will clarify the expiration language. Assistant Mayor Berlin doesn't think that an extension can be granted after 1 year, because he thinks that they have to ask for an extension before the 12 months period passes. Mr. Wolpin advised that they could, if the work was started before the year terminated. He noted that they can clarify that to explain that they may apply for an extension after a year, so long as the time had not yet expired. Assistant Mayor Berlin is okay with leaving the language as it is.

**Daniel Nieda, Building Official**, will provide the Village Attorneys with some feedback regarding the Ordinance.

Councilman Jacobi questioned if the Ordinance would apply retroactively. Mr. Wolpin replied that it would, but that there is also a vested rights provision.

**A motion was offered by Councilman Jacobi and seconded by Councilman Sanz to recommend the approval of this Ordinance, with the amendment to change the word "and" to "or" as discussed. The motion carried unanimously (5-0).**

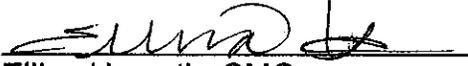
**5.            OTHER BUSINESS:** None.

**6.            ADJOURN:** There being no further business to come before the Local Planning Agency, **the meeting adjourned at 9:40 a.m.**



Assistant Mayor Howard J. Berlin

Attest:



Ellisa Horvath, CMC  
Village Clerk