

BAL HARBOUR VILLAGE COUNCIL MEETING MINUTES
REGULAR MEETING – APRIL 13, 2007

The Regular Meeting of the Bal Harbour Village Council was held on Friday, April 13, 2007, 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 9:00 a.m. by Mayor Roth. The following were present:

Mayor Seymour "Sy" Roth
 Councilman Joel S. Jacobi
 Councilman Jean Rosenfield
 Councilman Jaime M. Sanz

Alfred J. Treppeda, Village Manager
 Ellisa L. Horvath, CMC, Village Clerk
 Richard J. Weiss, Village Attorney

Absent: Assistant Mayor Howard J. Berlin

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

2. PLEDGE OF ALLEGIANCE: The Pledge was led by Mayor Roth.

3. APPROVAL OF MINUTES: *A motion was offered by Councilman Jacobi and seconded by Councilman Rosenfield to approve the minutes of the March 20, 2007, Regular Council Meeting, as submitted. The motion carried unanimously (4-0).*

4. PRESENTATIONS:

Chief Hunker distributed information on a boating event at Haulover Park. He explained that the Village will supply off-duty police, at the event's expense.

Employee of the Month for March 2007: Chief Hunker presented Monica Arneson with the March 2007 Employee of the Month plaque, in recognition of her work on EGO passes, the LEO Awards Event, and the Dade Chiefs Event.

Officers of the Month for March 2007: Chief Hunker presented Officer Braxton McClams and Officer Hector Gonzalez with March 2007 Officer of the Month plaques, in recognition of their proactive approach in issuing citations. He also recognized Sergeant Ray Haselman as their Shift Supervisor.

5. ORDINANCES SECOND READING/PUBLIC HEARINGS:

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

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE

VILLAGE CODE BY AMENDING THE POLICE OFFICERS' PENSION PLAN BY AMENDING CHAPTER 13 "PENSIONS," ARTICLE II "EMPLOYEE'S PENSION PLAN" BY AMENDING SECTION 13-40 "DEFINITIONS" TO REVISE THE DEFINITIONS OF "COMPENSATION," "CONTINUOUS EMPLOYMENT," AND "AVERAGE FINAL COMPENSATION;" BY AMENDING SECTION 13-42 "RETIREMENT DATES AND RETIREMENT BENEFITS" TO PROVIDE FOR NORMAL RETIREMENT UPON ATTAINMENT OF AGE 57 AND TO INCREASE THE PENSION BENEFIT MULTIPLIER TO 3.5%; BY AMENDING SECTION 13-46 "CONTRIBUTIONS" TO INCREASE THE EMPLOYEE CONTRIBUTION RATE TO 9% FOR FISCAL YEAR 2006 AND TO 10% FOR FISCAL YEAR 2007; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND 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 Rosenfield and seconded by Councilman Jacobi to approve. The motion carried unanimously (4-0), with the vote as follows: Mayor Roth aye; Assistant Mayor Berlin absent; Councilman Jacobi aye; Councilman Rosenfield aye; Councilman Sanz aye. Thus becoming Ordinance No. 515.

Sergeant Michael Daddario, Bal Harbour PBA Representative, thanked the Council.

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" TO CLARIFY AND EXPAND THE RULES THAT APPLY TO DUAL SERVICE EMPLOYEES IN BOTH THE GENERAL EMPLOYEES AND POLICE PENSION PLANS, TO ESTABLISH A PRIORITY FOR THE REDUCTION OF AGGREGATE PENSION BENEFITS TO COMPLY WITH THE INTERNAL REVENUE CODE AND TO CLARIFY PROVISIONS OF THE EXCESS BENEFIT ARRANGEMENT PROVIDED FOR AT ARTICLE V OF CHAPTER 13; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

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

Sharon Quinn-Dixon, Stearns Weaver, explained that some minor non-substantive changes were made between first and second reading. She reported that the purpose is to clarify administrative practices for the transfer of benefits for dual service employees.

A motion was offered by Councilman Rosenfield and seconded by Councilman Jacobi to approve. The motion carried unanimously (4-0), with the vote as follows: Mayor Roth aye; Assistant Mayor Berlin absent; Councilman Jacobi aye; Councilman Rosenfield aye; Councilman Sanz aye. Thus becoming Ordinance No. 516.

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

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE

VILLAGE CODE BY AMENDING CHAPTER 9 "LICENSES AND BUSINESS REGULATIONS", AT ARTICLE II "OCCUPATIONAL LICENSE" TO CONFORM WITH RECENT REVISIONS TO FLORIDA STATUTE CHAPTER 205, BY CHANGING THE TERM OCCUPATIONAL LICENSE TO LOCAL BUSINESS TAX RECEIPT; MAKING COLLATERAL CONFORMING AMENDMENTS TO OTHER AFFECTED PROVISIONS OF THE VILLAGE CODE INCLUDING SECTIONS 2-191, 3-26, AND 7-7; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND 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 Rosenfield and seconded by Councilman Sanz to approve. The motion carried unanimously (4-0), with the vote as follows: Mayor Roth aye; Assistant Mayor Berlin absent; Councilman Jacobi aye; Councilman Rosenfield aye; Councilman Sanz aye. Thus becoming Ordinance No. 517.

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

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF BAL HARBOUR, FLORIDA, APPROVING THE CABLE TELEVISION LICENSE AGREEMENT BETWEEN ATLANTIC BROADBAND (MIAMI) L.L.C. AND THE VILLAGE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR A SAVINGS CLAUSE, PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Roth opened the public hearing.

Babak Raheb, resident – 128 Balfour Drive, pointed out a typographical error.

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

A motion was offered by Councilman Rosenfield and seconded by Councilman Sanz to approve. The motion carried unanimously (4-0), with the vote as follows: Mayor Roth aye; Assistant Mayor Berlin absent; Councilman Jacobi aye; Councilman Rosenfield aye; Councilman Sanz aye. Thus becoming Ordinance No. 518.

Scott Robin, Village Attorney, reported that some organizations have opposed FCC's authority to regulate cable and that the Village can provide comments on the issue by next Friday. Mr. Weiss estimated that the cost would be approximately \$800 for the Village. Mr. Treppeda recommended approval for the Attorney to proceed. The Council directed Mr. Weiss to proceed.

6. ORDINANCE FIRST READING: The following Ordinance was read by title by Mrs. Horvath:

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE VILLAGE CODE BY AMENDING CHAPTER 21 "ZONING" BY CREATING ARTICLE VIII "DOG FRIENDLY DINING" INCLUDING SECTION 21-460 "PURPOSE AND INTENT; PROGRAM CREATED; DEFINITIONS", SECTION 21-

461 "PERMIT REQUIRED; SUBMITTALS", AND SECTION 21-462 "GENERAL REGULATIONS; COOPERATION; ENFORCEMENT"; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR SUNSET PROVISION.

Stanley Whitman, Bal Harbour Shops, doesn't oppose the ordinance.

Babak Raheb, resident – 128 Balfour Drive, requested clarification on whether the outdoor dining is limited to the Shops, or if it would include restaurants at the condo/apartment buildings, etc. Mr. Weiss explained that it would be available for any food service establishment, if they apply for Council approval and abide by the requirements. He noted that it is a pilot program and that the details are required per State law (signs, hand sanitizer, etc. Councilman Rosenfield questioned if there are penalties. Mr. Weiss reported that code enforcement procedures would be used. Mr. Raheb requested that it only be allowed at the Shops, since the condos have their own boards and make their own decisions. Mr. Weiss explained that the Village can restrict the permits to certain districts.

A motion was offered by Councilman Sanz and seconded by Councilman Jacobi to amend the Ordinance to limit it for permits only to be issued within the B Business District. The motion carried unanimously (4-0), with the vote as follows: Mayor Roth aye; Assistant Mayor Berlin absent; Councilman Jacobi aye; Councilman Rosenfield aye; Councilman Sanz aye.

A motion was offered by Councilman Sanz and seconded by Councilman Jacobi to approve the amended Ordinance. The motion carried unanimously (4-0), with the vote as follows: Mayor Roth aye; Assistant Mayor Berlin absent; Councilman Jacobi aye; Councilman Rosenfield aye; Councilman Sanz aye.

7. RESOLUTIONS/PUBLIC HEARINGS: None.

8. RESOLUTIONS: None.

9. REPORTS AND RECOMMENDATIONS:

A. MAYOR AND COUNCIL:

Discussion of Forum for Council Candidates:

Mayor Roth reported that he is retiring from the Council after eight years. He reviewed the items that he and the Council have worked on (beach improvements, beach path, beautification of 96th Street, opening of Abbot Avenue in Surfside, new library system, maintaining the beauty of the Village, park and recreation program, bus, etc.). He thanked the staff.

Mayor Roth discussed the possibility of a candidate forum on Monday night at 7 p.m., with Peter Cohen, Chamber of Commerce President, serving as the moderator. He noted that if both candidates agree to that, then it could be held at Village Hall. Councilman Jacobi noted that he would love to have a debate with Ms. Mullen, but is concerned about the timing. He recused himself from voting on the issue and left the room.

Lynne Bloch-Mullen, 10150 Collins Avenue, clarified that Peter Cohen is available from 5:30 p.m. until 7 p.m. Mayor Roth suggested limiting it to an hour (6-7). Ms. Bloch-Mullen noted that the forums are usually 1 ½ hours.

Babak Raheb - 128 Balfour Drive, questioned if the motion would be for the use of Village Hall. Mayor Roth advised that it would be. Councilman Rosenfield is concerned about that, because she thinks that in doing so, the Village would be sponsoring the debate. Mr. Weiss agreed that it would be better at an outside location. He explained that the Village is trying to facilitate it, not sponsor it. Councilman Sanz is concerned about proper notification to residents, due to the timing.

Doug Rudolph, resident - 212 Bal Bay Drive, thinks that a debate is a great idea, but that it should have been done sooner. He doesn't think it's professional or courteous at this point, because the voters need to be notified. He suggested considering it for the future. Mr. Rudolph doesn't think that notification via email or the Information Channel is appropriate, in order for people to be included. He thinks that it's a good idea, but that the timing is bad.

Mr. Treppeda reported that the issue was called to his attention earlier in the week, but that he wanted Council direction on it. Councilman Rosenfield doesn't think that it's politically correct to have it at Village Hall and suggested the Sea View Hotel, Church by the Sea, or Bay Harbor Elementary. She is in favor of debates, but is concerned with holding it at Village Hall. She also thinks it should be sponsored between the two candidates.

Mr. Raheb doesn't think that the Village should sponsor the debate, but thinks that timing/cost may be an issue in finding another place. He doesn't think any more notification is needed other than what is presently done. Mr. Raheb thinks that anything the Council can do to promote free speech/democracy should be done. He understands Councilman Rosenfield's comments regarding holding it at Village Hall, because one candidate may have an advantage that currently sits on the Council.

Dr. Michael Krop, resident – 9601 Collins Avenue, thinks that Bal Harbour can provide its venue, since Bay Harbor does. He explained that they would like to ask the candidates questions, especially regarding zoning issues. He noted that it would be run by an impartial person and that Village Hall is convenient. Councilman Rosenfield questioned why the candidates didn't get together to work that out. She doesn't think that the Village should do it, just because Bay Harbor does. She isn't sure why it had to come before the Council and doesn't think that the Council is in a position to force a debate. Dr. Krop reported that Bay Harbor had it at their Town Hall. Mayor Roth noted that if the Village Attorneys don't think it's appropriate to have it at Village Hall, then the candidates should decide where to have the debate, etc. Councilman Rosenfield thinks that it's more appropriate in a different venue. Dr. Krop noted that the issue is if the Council wants to provide Village Hall as a forum. Mr. Weiss doesn't think that it's illegal for the Council to have a debate at Village Hall, but that it is more appropriate to have a political debate at a neutral location. He noted that some people don't feel that it's appropriate to have it at Village Hall, because it seems like the Council is sponsoring it, etc. He would prefer to see it outside of Village Hall.

Mr. Raheb noted that the Civic Association uses Village Hall to meet and it doesn't mean

that the Village Council approves, supports, or sponsors it.

Ms. Bloch-Mullen noted that she tried to contact Councilman Jacobi to discuss the debate 10-14 days ago. She feels that it's a public service for the voters to know both of the candidates. She agreed that the timing is lousy and clarified that it wasn't her wish to wait. Ms. Bloch-Mullen explained that The Chamber of Commerce recommended Village Hall. She thinks that it's a public service for the Council to see that a debate is done for the residents. Councilman Rosenfield and Mayor Roth noted that the Council cannot force a debate.

Dina Cellini, resident - 211 Bal Cross Drive, noted that Bal Harbour doesn't have an ordinance prohibiting the use of Village Hall for public debates. Mr. Weiss agreed. Ms. Cellini advised that Councilman Jacobi and Mrs. Mullen have both agreed to doing a debate and that the question is if the Village will provide the public service by advertising it. Mr. Raheb noted that Councilman Jacobi's problem was with the time, not the debate. Mayor Roth thinks that if both parties agree, then the candidates should decide the arrangements. Councilman Rosenfield agreed that it's not up to the Council to decide anything for it. Ms. Cellini noted that the Clerk can place information on the Village's Information Channel and send emails. She continued that the Village can also post notices at Village Hall. She agreed that the timing is wrong, but noted that they tried earlier and the Manager didn't feel comfortable making a decision. Ms. Cellini suggested that the Council consider putting something in place for future elections, for the Village to provide a venue and notice to the residents for a debate. She urged the Council to provide notice to residents that a forum will be established for the candidates.

Brian Mulheren, resident - 10245 Collins Avenue, thinks that it should be held at Village Hall, since there's no law against it, the Civic Association meets there, and Mr. Cohen has recommended it. Councilman Rosenfield thinks that one side asked for this and when there wasn't agreement from the other side then they came to the Council.

Mr. Rudolph doesn't think that anybody has a problem with having a debate at Village Hall. He clarified that it's not a matter of venue, but what should be before the Council. He agreed that the room should be available, but that the Council shouldn't be mandating a debate. He thinks that it's highly inappropriate for the Council to decide. Mr. Rudolph noted that if both candidates want to have a debate and want the Village to advertise and back it, then the Council should consider it.

Mayor Roth thinks that if both candidates agree, then the Council isn't sponsoring or authorizing it, but are just allowing the use of Village Hall.

Ms. Cellini reported that the Sea View Hotel is available. She suggested that Councilman Jacobi have input as a candidate as to whether or not he wants to debate. She noted that Peter Cohen is available 5:30 p.m. to 7:00 p.m. on Monday and that Village Hall or the Sea View are available.

Mr. Weiss clarified that the question is if the Council wants to make the chambers available for a debate, if it's agreed to by the candidates, and for the Village to use the Information Channel and whatever means it has available to publicize it. Councilman Rosenfield questioned if that would be specific for this debate. Mr. Weiss noted that it's up to the

Council if that would be the rule for every debate or only this one. Councilman Sanz is concerned about notification to the residents. Mayor Roth doesn't think that is the Village's problem and that it's up to the candidates to decide how they will provide notification. Councilman Rosenfield agreed that the candidates would still have to provide notification.

A motion was offered by Mayor Roth and seconded by Councilman Rosenfield that in the event of a request by both candidates to hold a debate in Village Hall, then the Council will permit the debate in Village Hall and direct the Village Clerk to use the Public Access Channel and email to publicize the debate. The motion carried unanimously (3-0), with Councilman Jacobi recused.

Mayor Roth noted that it's now up to the candidates to get together.

Councilman Jacobi returned to the meeting.

B. VILLAGE ATTORNEY: No report.

C. VILLAGE CLERK:

2007 Village Council Election Update: Mrs. Horvath reported that the election is on April 17th.

Lobbyist Registration Report: As of April 13, 2007: Mrs. Horvath reviewed the list of Lobbyists currently registered with the Village.

D. VILLAGE MANAGER:

Request for Approval of Contribution to Surf-Bal-Bay Recreation Program: Arlene Ortenzo, Bay Harbor Elementary Principal, requested a \$5,000 contribution, to support the program at the school. Councilman Rosenfield thanked Ms. Ortenzo for running an A++ school.

A motion was offered by Councilman Rosenfield and seconded by Mayor Roth to approve \$5,000. The motion carried unanimously (4-0).

Request for Approval of Contribution to the Ruth K. Broad Bay Harbor Elementary PTA for Teacher Appreciation Week: Loretta Mufson, PTA Member and Teacher Appreciation Committee, explained that Teacher Appreciation Week is May 7-11, 2007 at the Elementary School. She requested a contribution of \$250-\$300, for the Village to sponsor an event for the teachers.

A motion was offered by Mayor Roth and seconded by Councilman Rosenfield to approve up to \$500. The motion carried unanimously (4-0).

Request for Ratification of Re-Appointment of Special Master Joni Blachar: Mr. Treppeda requested ratification of his reappointment of Joni Blachar as Special Master for the Village, for a one year term.

A motion was offered by Councilman Rosenfield and seconded by Councilman Jacobi to approve. The motion carried unanimously (4-0).

Quarterly Financial Update Provided by Finance Director

Christopher Wallace: Mr. Wallace reviewed the Fiscal Year 2007 Second Quarter Budget Report and summarized that the Village's funds continue to be at or ahead of expected at this point.

Mr. Wallace discussed the Senate proposal on property taxes. He thinks that the outcome will probably be a rolled-back rate in taxes, which will result in lost revenue to the Village in the next year. He reported that new construction would not be included in that rolled back rate, which would help the Village as new properties come on line. Mr. Wallace noted that the State is taking away local control, which he thinks the Village should be concerned about. He explained that relief is given to new cities, because they don't have any taxes to roll back to. Councilman Jacobi requested a proposed fictional summary of the rolled back rates to 2004. Mr. Wallace will try to provide that, but noted that he needs additional details in order to calculate it.

Mr. Wallace reported that the audit will be presented by May. Mayor Roth requested that Rachlin Cohen be advised that the Council is not happy with the time that the audit is taking. Mr. Weiss suggested that the Village may want to put in some provisions in the audit contract for deadlines, penalties, etc.

Request for Approval to Expend Police Budgeted Funds: Mr.

Treppeda reported that Chief Hunker is requesting authorization of \$4,872.65 in budgeted funds, to purchase 4 Taser Units.

Babak Raheb, resident – 128 Balfour Drive, questioned using forfeiture funds for the expenditure. Mr. Treppeda noted that the items were budgeted. Chief Hunker explained that forfeiture funds cannot be used for routine items.

A motion was offered by Councilman Sanz and seconded by Councilman Rosenfield to approve \$5,000. The motion carried unanimously (4-0).

Request for Approval to Expend Police Forfeiture Funds: Mr.

Treppeda reported that Chief Hunker is requesting authorization of \$1,000.00 in forfeiture funds, to participate in the Police Officer Assistance Trust (POAT) Golf Event.

A motion was offered by Councilman Rosenfield and seconded by Councilman Sanz to approve. The motion carried unanimously (4-0).

Request for Approval of Revised Interlocal Agreement for Distribution, Use, and Reporting of Charter County Transit System Surtax Proceeds Levied by Miami-Dade County: Mr.

Treppeda requested approval of the Interlocal Agreement proposed by Miami-Dade County, allowing the Village to receive and expend over \$100,000.00 in funds annually, provided by the Charter County Transit System Surtax, for a five-year period. He explained that the funds are currently used for the Bal Harbour Express bus and the lease of a street sweeper.

A motion was offered by Councilman Sanz and seconded by Councilman Jacobi to approve. The motion carried unanimously (4-0).

Request for Award of Bid for the Removal and Replacement of Benches and Trash Receptacles on Beach: Mr. Treppeda requested approval of \$7,200.00 in additional expenses for Construction Depot (the low bidder) to remove existing benches/trash receptacles, pour new footings, and install new benches/trash receptacles on the beach.

A motion was offered by Councilman Jacobi and seconded by Councilman Sanz to approve. The motion carried unanimously (4-0).

Request for Approval of Additional Concrete Slab at Sewer Station: Mr. Treppeda requested approval of \$4,973.00 for Vila & Son to complete an additional 915 square feet of concrete slab at the sewer station.

A motion was offered by Councilman Rosenfield and seconded by Councilman Jacobi to approve. The motion carried unanimously (4-0).

10. OTHER BUSINESS:

Mr. Treppeda announced that the Phase II Water Restrictions are in effect, which are listed on Channel 77, and reported that the Village follows the standards set by the County.

Babak Raheb, resident – 128 Balfour Drive, requested that the Village do something about the snakes in the landscaping on the beach. Mr. Treppeda will look into it.

Mr. Raheb suggested that the Village address the size of political signs that are allowed. He thanked Mayor Roth for his service on the Council.

Lynne Bloch-Mullen, resident – 10150 Collins Avenue, thanked Mayor Roth for his service. She requested that Councilman Jacobi meet with her at 6:00 p.m. at Village Hall on Monday. Councilman Jacobi will check his schedule.

Marjorie Schell, resident - 9801 Collins Avenue PH# 17, thanked Mayor Roth for his service.

Dina Cellini, resident – 211 Bal Cross Drive, questioned if Councilman Jacobi is available for a debate Monday night. Councilman Jacobi is concerned about proper notice, etc. and that it not be a one-sided event. Ms. Cellini explained that the moderator is independent, etc. She thinks that the residents want to hear what Councilman Jacobi has to say. Mayor Roth noted that Councilman Jacobi works and needs to check his schedule. Councilman Jacobi explained that he needs to check his schedule, but noted that 5:30 p.m. is a difficult time for him. Ms. Cellini questioned what time Councilman Jacobi will contact the Clerk.

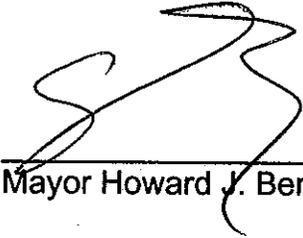
Ree Stoppa thinks that Councilman Jacobi should make himself available and discussed

the importance of the election.

Ms. Schell thinks that if 1500 voters can make their time available, then a candidate can make himself available.

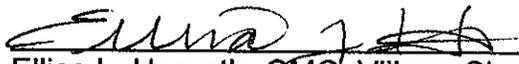
Brian Mulheren, resident – 10245 Collins Avenue, requested that the Council provide a proper testimonial for Mayor Roth. Mr. Treppeda advised the Council that he can only spend up to \$2500, without Council approval.

11. ADJOURN: There being no further business, *the meeting adjourned at 10:41 a.m.*



Mayor Howard J. Berlin

Attest:



Ellisa L. Horvath, CMC, Village Clerk