

BAL HARBOUR VILLAGE COUNCIL MEETING MINUTES
REGULAR MEETING – JUNE 19, 2007

The Regular Meeting of the Bal Harbour Village Council was held on Tuesday, June 19, 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 Berlin. The following were present:

Mayor Howard J. Berlin
Assistant Mayor Jean Rosenfield
Councilman Joel S. Jacobi
Councilman Martin Packer
Councilman Jaime M. Sanz

Alfred J. Treppeda, Village Manager
Ellisa L. Horvath, CMC, Village Clerk
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 Village Resident Sam Rosenfield.

3. APPROVAL OF MINUTES: *A motion was offered by Assistant Mayor Rosenfield and seconded by Councilman Sanz to approve the minutes of the May 15, 2007 Regular Council Meeting and June 5, 2007 Special Council Meeting as submitted. The motion carried unanimously (5-0).*

4. PRESENTATIONS: None.

5. ORDINANCES SECOND READING/PUBLIC HEARINGS:

The following Ordinance was read by title by Village Clerk Horvath:

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE VILLAGE CODE BY AMENDING CHAPTER 2 "ADMINISTRATION" BY CREATING SECTION 2-110 "HEALTH INSURANCE STIPEND FOR RETIRED CERTIFIED LAW ENFORCEMENT OFFICERS"; PROVIDING VILLAGE CERTIFIED LAW ENFORCEMENT OFFICERS, WHO RETIRE AFTER OCTOBER 1, 2006 AND MEET CERTAIN CRITERIA, A MONTHLY INSURANCE STIPEND UNTIL SUCH TIME AS THE RETIRED OFFICER REACHES THE AGE OF SIXTY FIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR APPLICABILITY; PROVIDING FOR EFFECTIVE DATE.

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

A motion was offered by Assistant Mayor Rosenfield and seconded by Councilman Jacobi to approve. The motion carried unanimously (5-0), with the vote as follows: Mayor Berlin aye; Assistant Mayor Rosenfield aye; Councilman Jacobi aye; Councilman Packer aye; Councilman Sanz aye; thus becoming Ordinance No. 521.

The following Ordinance was read by title by Village Clerk Horvath:

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE VILLAGE CODE BY AMENDING CHAPTER 16 "SOLID WASTE", ARTICLE I "IN GENERAL" BY CREATING SECTION 16-5 "FEES IMPOSED FOR COLLECTION OF SOLID WASTE AND RECYCLING SERVICES" AND SECTION 16-6 "LATE PAYMENT CHARGE, SPECIAL ASSESSMENT LIEN FOR DELINQUENT SOLID WASTE AND RECYCLING SERVICE FEES"; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

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

A motion was offered by Councilman Packer and seconded by Councilman Sanz to approve. The motion carried unanimously (5-0), with the vote as follows: Mayor Berlin aye; Assistant Mayor Rosenfield aye; Councilman Jacobi aye; Councilman Packer aye; Councilman Sanz aye; thus becoming Ordinance No. 522.

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

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING CHAPTER 2 "ADMINISTRATION" OF THE VILLAGE CODE BY REVISING ARTICLE III "BOARDS, COMMITTEES AND COMMISSIONS"; BY CREATING DIVISION 3 "COMMUNITY COUNCIL", IN ORDER TO CREATE A NEW ADVISORY BOARD TO BE KNOWN AS THE BAL HARBOUR VILLAGE COMMUNITY COUNCIL, AND TO PROVIDE FOR THE QUALIFICATION AND APPOINTMENT OF BOARD MEMBERS, THE AUTHORITY OF THE BOARD, AND OTHER PERTINENT PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR AN EFFECTIVE DATE.

Mayor Berlin reported that Attorney John Shubin, Lobbyist for the Bal Harbour Shops, is discussing issues regarding the Resort Tax Committee with the Village Attorney. He explained that the intention of the proposed Ordinance was to create a vehicle for residents to meet with leadership on a monthly basis to discuss community interests, have exposure to members of the leadership to ask questions, and to provide a mechanism for resolving the issues regarding the Resort Tax Committee. He suggested tabling the Ordinance, to allow the Village Attorney to work through the legal issues regarding the Resort Tax Committee with Mr. Shubin.

A motion was offered by Mayor Berlin and seconded by Councilman Packer to table the Ordinance. The motion carried unanimously (5-0), with the vote as follows: Mayor Berlin aye; Assistant Mayor Rosenfield aye; Councilman Jacobi aye; Councilman Packer aye; Councilman Sanz aye.

7. RESOLUTIONS/PUBLIC HEARINGS: None.

8. RESOLUTIONS: The following Resolution was read by title by Village Clerk Horvath:

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING RULES OF PROCEDURE FOR VILLAGE COUNCIL MEETINGS; AMENDING RESOLUTION NO. 667 CONCERNING RULES OF PROCEDURE AND DECORUM FOR VILLAGE COUNCIL MEETINGS; AND PROVIDING FOR AN EFFECTIVE DATE.

Dina Cellini, resident - 211 Bal Cross Drive, provided a petition signed by approximately 50 residents, opposing the resolution, for the following reasons: it has unnecessary formalities, impedes the public's ability to speak, is unfair to require people to sign up to speak, gives the Village Manager discretion to decide what agenda items to put on, gives the Mayor discretion to call on people. They also think that the three-minute rule is unfair.

Neil Alter, resident - 9801 Collins Avenue, thinks it's redundant for people to sign up and is a limitation on free speech.

Babak Raheb, resident - 128 Balfour Drive, doesn't think the resolution is necessary. He noted that the majority of the people don't like the resolution and it interrupts free thinking. He thinks that requiring speakers to fill out cards in advance restricts public participation. He is not in support of the resolution.

Ana Marie Kelly, 77 Camden Drive, doesn't agree with having to complete a form before speaking and thinks that it's unconstitutional to have to go through a procedure for someone to have the right to speak at a public forum.

Brian Mulheren, resident - 10245 Collins Avenue, believes in workshops and open government, in order for people to speak and express their opinions. He doesn't think that restricting people (filling out cards, etc.) is good. He is against changing the procedures.

Marjorie Schell, resident - 9801 Collins Avenue, thinks the current procedures should remain, for residents to participate.

Lynne Bloch-Mullen, resident - 10150 Collins Avenue, reminded that the Council is by and for the people, who have a right to be heard.

Dan Holder, resident - 24 Bal Bay Drive, thinks that if the Council meetings are formalized to the point that people have difficulty interacting and being heard by their government, then another advisory Committee (such as the Community Council) would be needed. He noted that there is a lack of participation and that the proposed changes would further restrict that. He suggested keeping the procedures as informal as possible. He is against the requirement to sign up ahead of time. Mr. Holder urged the Council not to pass the resolution as it is shown.

Mayor Berlin agreed that the intention of the Community Council was to provide a mechanism for the free flow of discussion without a time constraint, to balance the formality

of the Council Meeting. He clarified that the resolution was not intended to stop participation and noted that the Village Attorney will review it for any language that prevents participation. He noted that almost every municipality uses a similar structure for city business. He explained that the Community Council would allow another vehicle for the public to speak on a more relaxed basis. Mayor Berlin clarified that the intention was not to prevent the public's contribution. He suggested that the Village Attorney review the comments received to clarify the resolution. He agreed to remove the "signing up" procedure, but noted that someone could still speak if they didn't sign up. He noted that no concerns were raised regarding the Consent Agenda, which he views as an efficiency component. Mayor Berlin suggested that the resolution be placed on the next agenda for refinement. Mr. Weiss suggested that residents call or email him with their specific comments regarding the resolution. He noted that the Council needs to decide on how formal/informal they want the meetings to be.

9. REPORTS AND RECOMMENDATIONS:

A. MAYOR AND COUNCIL:

Mayor Berlin noted that legislation was passed on the property tax reform issue and the Village will probably have to remove at least a half a million dollars from its upcoming budget. He reported that an election to consider a constitutional amendment will be held in January, which will have a larger impact on the budget.

Councilman Packer – Request for Approval of Funds for Testimonial Dinner for Former Mayor Seymour Roth: Councilman Packer suggested having a testimonial dinner for former Mayor Roth, based on precedence.

Assistant Mayor Rosenfield discussed her concern about spending taxpayer dollars for a party for the Council. She conveyed her respect for Sy and Ethel Roth. Councilman Jacobi suggested having something at the recreation center. Assistant Mayor Rosenfield suggested a small gathering in the Council Chambers, after a meeting, for retiring Councilmembers. Councilman Sanz agreed with Assistant Mayor Rosenfield. Councilman Packer disagreed with Assistant Mayor Rosenfield. He noted that it would be something small to honor the former Mayor, which he doesn't view as a party for the Council. He clarified that parties honoring retiring Councilmembers have been held before. Mayor Berlin agreed with Assistant Mayor Rosenfield, but thinks that there are some exceptions and feels that this is one of them. Assistant Mayor Rosenfield clarified her respect for former Mayor Roth and noted that her comments were not directed to any specific person, but to the concept of a party for Councilmembers.

A motion was offered by Councilman Packer and seconded by Mayor Berlin to provide a testimonial dinner for former Mayor Roth on July 3, 2007, with a \$4,000 budget. The motion carried 4-1, with the vote as follows: Mayor Berlin aye; Assistant Mayor Rosenfield nay; Councilman Jacobi aye; Councilman Packer aye; Councilman Sanz aye.

B. VILLAGE ATTORNEY: No Items.

C. VILLAGE CLERK:

Lobbyist Registration Report: As of June 19, 2007: Mrs. Horvath distributed and reviewed an updated list of Lobbyists currently registered with the Village.

D. VILLAGE MANAGER:

Request for Approval of Sign Permit for St. Regis Project: Mr. Treppeda explained that the St. Regis is requesting approval for a sign permit for three signs, one flag, and lighting, prior to the demolition of the Sheraton Hotel building. Mayor Berlin questioned if the permit falls within the parameters of the Village Ordinance. Mr. Treppeda reported that it does. Mr. Weiss noted that signs must be approved by the Village Council.

Dina Cellini, resident - 211 Bal Cross Drive, doesn't think that the signs fall within the parameters of the Village's Ordinance, but noted that the Development Agreement with the St. Regis permits them. She requested that the Council consider not giving that same permission, in future Development Agreements.

Marjorie Schell, resident - 9801 Collins Avenue, discussed her concern about the center St. Regis building being too close to the ocean and the motorized vehicles at the beach concession.

Ree Kelly, 77 Camden Drive, thinks that signage covering the construction site is advantageous. She questioned the signage that will be used on the beach side, to hide the construction. ***Dan Nieda, Building Official***, clarified that it will be an 8-foot high plywood wall (painted green).

Brian Mulheren, resident - 10245 Collins Avenue, is concerned about the lights on the front signage, because he thinks it takes away from the trees, etc. He thinks there should be proper fencing for security and aesthetic reasons. He suggested a workshop with a presentation, to review the sign designs.

Gabriela Webster, resident - 30 Park Drive #15, thinks the wall in the back should have some kind of design/logo, instead of being green.

George Giebel, Sheraton Bal Harbour Joint Venture, agreed to change the fence facing the ocean to artwork, etc. Mayor Berlin clarified that it be artwork, not a logo, which is consistent with the community. Mr. Giebel thinks that the lighting will be attractive at night and is good for security, since the building will be dark. Councilman Sanz questioned who will maintain the signs (against graffiti, etc.). Mr. Giebel committed that they will.

A motion was offered by Assistant Mayor Rosenfield and seconded by Councilman Sanz to approve the signs, with the condition that the signs will be maintained and replaced if necessary at the direction of the Village and the back fencing will be dressed up. The motion carried unanimously (5-0).

Request for Approval of Resort Tax Expenditures: Mr. Treppeda requested approval of the following items, recommended by Tourism Marketing Director Jose Lima:

1.) Northeast Sales Mission (Sept. 10-12)

\$ 2,645.00

2.)	Visit Florida Annual Membership Renewal	\$ 500.00
3.)	La Cumbre Latin American Travel Trade Congress (Sept. 5-7)	\$ 5,500.00
4.)	New Sales Kit Covers	\$ 7,200.00
TOTAL:		\$15,845.00

A motion was offered by Councilman Sanz and seconded by Assistant Mayor Rosenfield to approve \$15,845.00. The motion carried unanimously (5-0).

Request for Approval to Sell Village Vehicles to CarMax: Mr.

Treppeda requested approval to sell two retired Village Vehicles (1999 Ford Explorer for \$2,500 and 1997 Crown Victoria for \$2,000) to CarMax for \$4,500.00, after no bids were received from a publicly advertised sale for them.

A motion was offered by Councilman Sanz and seconded by Councilman Jacobi to sell two retired Village vehicles to CarMax for \$4,500.00. The motion carried unanimously (5-0).

Request for Approval to Purchase All Terrain Vehicle for

Police Department: Mr. Treppeda requested approval of \$6,792.00 for the Police Department to purchase an All Terrain Vehicle (ATV) from Honda World. He noted that the Public Works Department will be taking the ATV that is being replaced with the new one.

Emme Pedinielli, resident - 10245 Collins Avenue, discussed her concern about the police riding on the beach on an ATV, with a child. Chief Hunker noted that is not allowed and will look into it. Mr. Treppeda requested that Ms. Pedinielli call the Department if she sees it again.

Mayor Berlin questioned paying for the ATV with forfeiture funds. Chief Hunker will find out if it's an allowable expense. Mr. Weiss advised that there are strict rules for the use of those funds. Mayor Berlin suggested using the forfeiture funds as broadly as possible, given the future budget constraints. He recommended approval, subject to looking at funding it from the forfeiture account.

Neil Alter, resident - 9801 Collins Avenue, questioned the amount of money in the forfeiture fund and the source of it. Mayor Berlin explained that there is a lot in that account and that the funds are recoveries from joint force operations with other agencies.

Dina Cellini, resident - 211 Bal Cross Drive, questioned if the additional ATV is needed, if it can't be purchased with forfeiture funds. Chief Hunker explained that it's common practice to have two ATVs, for backup purposes, etc.

A motion was offered by Councilman Packer and seconded by Councilman Jacobi to approve, subject to looking at the ability to use forfeiture funds. The motion carried unanimously (5-0).

Request for Approval to Expend Police Forfeiture Funds: Mr.

Treppeda requested approval, per Chief Hunker, to expend forfeiture funds in the amount of \$8,787.62 for the Drug Enforcement Administration (DEA) Welcome Reception at the Sheraton (\$3,787.62) and Crime Prevention Program Novelty Items (\$5,000.00).

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

Request for Approval to Purchase Ballasts and Bulbs for Date

Palm Lights: Mr. Treppeda requested approval of \$27,816.00 to purchase 100 150-watt ballasts and 100 150-watt bulbs from Imperial Electric & Lighting, for the date palm trees. Mayor Berlin suggested that maintenance items, such as this, continue to be included in the budget.

Marjorie Schell, resident – 9801 Collins Avenue, suggested using energy-saving bulbs. Mr. Treppeda doesn't think those can be used for landscaping uplights. Mayor Berlin requested that Mr. Treppeda look into that before spending the money.

Brian Mulheren, 10245 Collins Avenue, suggested using Resort Tax money for this item, since it's for beautification. Mr. Treppeda noted that these types of items will probably be budgeted in that fund in the future.

Stanley Whitman – Bal Harbour Shops Developer, explained that the proper light bulb is needed for appropriate color, quantity of illumination, etc. He suggested removing the lighting, if the appropriate bulbs are not going to be used. Mayor Berlin requested that the quality of the illumination not be affected, if high-efficiency bulbs are used.

Dan Holder, 24 Bal Bay Drive, noted that the exterior lights at Saks Fifth Avenue (along 96th Street) aren't shielded, so pedestrians on that sidewalk are blinded.

A motion was offered by Councilman Sanz and seconded by Assistant Mayor Rosenfield to approve, subject to looking into efficiency bulbs. The motion carried unanimously (5-0).

Request for Approval of Additional Funds for Sewer and

Asphalt Repair: Mr. Treppeda requested approval of \$8,650.00 for the completion of a sewer repair and two asphalt repairs (Intersection of Bal Bay Drive & Balfour Drive and the Village Hall parking lot near the new Building Department) by Felix Fera Plumbing.

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

Request for Approval of Funds for Park Improvements: Mr.

Treppeda requested approval of up to \$76,200.00 for a new rubber surface in the playground area (Rhino Sports \$28,500.00), new swings (\$7,500.00), and to reform and resurface the basketball court (Rhino Sports RHINO Surface \$40,200.00).

Mayor Berlin questioned why the rubber surface and court are worn out after only five years. ***Lydia Kordalewski, Park & Recreation Director,*** advised that high heels, strollers, etc. create wear and tear.

Joe Doyle, Rhino Sports, suggested using their tile, which has a 10 year warranty (asphalt/concrete needs to be replaced every couple of years). He explained that the tiles are interlocking, which allow for drainage instead of puddling, and have a safety feature since it's easier on muscles. He noted that the surface creates traction for fewer injuries, has low maintenance, is UV tinted so the color won't fade, is cooler than concrete in the summer, and is placed on top of the concrete, for easy removal. Mr. Treppeda added that

the proposal includes new basketball hoops and poles.

Babak Raheb, 128 Balfour Drive, suggested placing signs to prevent residents from wearing heels, etc. on the rubber surface. He also suggested using Resort Tax funds for this item.

Gabriela Webster – 30 Park Drive, questioned any restrictions, prep work, etc. regarding the warranty. Mr. Doyle reported that the surface will be leveled and that the warranty is straight forward.

Assistant Mayor Rosenfield discussed extreme flooding and hurricane conditions. Mr. Doyle explained that the court allows for drainage and is anchored down, but can be removed for a hurricane, if requested.

A motion was offered by Councilman Sanz and seconded by Councilman Packer to approve the Village Manager's recommendation. The motion carried unanimously (5-0).

Mayor Berlin discussed the probability of a hurricane this year and encouraged residents to be prepared.

Request for Renewal of Contract with Limousines of South Florida for Provision of Bus Services: Mr. Treppeda requested authorization to renew the contract with Limousines of South Florida for the provision of bus services for another three years, and for the Village Attorney to change the term of the contract as well as the hourly rate for years 2 and 3.

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

Request for Approval to Refurbish Holiday Decorations: Mr. Treppeda requested approval of \$16,822.00 for Clark Sales Display, Inc. (the low bidder) to refurbish the street light holiday decorations.

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

Request for Approval of Consulting Proposal from Energy Alternatives, Inc.: Mr. Treppeda requested approval of \$4,600 for Energy Alternatives, Inc. to provide consulting services to assist in the negotiation of the 30-year franchise agreement with FPL that expires in two years.

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

10. OTHER BUSINESS:

Ree Kelly, requested an original copy of the Plat Book of the Village. She noted that the Village uses the Bal Harbour Club, for the required green space. She explained that on the original plat of the Village there was a dedication by Mr. Graham, the Developer of Miami Bal Harbour Village Regular Council Meeting Minutes 06/19/2007

Beach Heights, for the usage by the residents of Bal Harbour for 20 years, which was renewable. She suggested looking into whether or not that grant still exists, to enable the residents to use the Beach Club.

Neil Alter, 9801 Collins Avenue, questioned the definition of green space in the Village. He discussed the Beach Club, Yacht Club and other green space in the Security District.

Babak Raheb, 128 Balfour Drive, thinks that the maximum the Village will be affected with the property tax reform is nine percent. He discussed the police budget being over 50% of the entire Village budget and suggested a hiring freeze of officers.

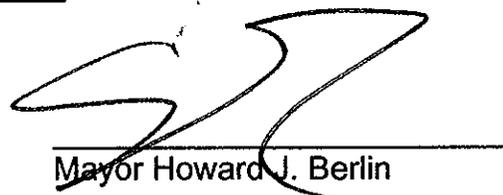
Mayor Berlin hopes that more residents will participate in the budget process. He discussed the police budget.

Gabriela Webster, 30 Park Drive, agreed with fiscal conservancy. She thinks that the taxpayers are paying more for less. She discussed Luke's Landscaping versus Village employees, free WiFi (Wireless Internet) service to residents, etc. Ms. Webster encouraged a more conservative approach to the budget, with additional services. Mayor Berlin thinks that at least one public budget workshop may be needed.

Brian Mulheren, 10245 Collins Avenue, thinks that the budget should be discussed prior to August/September and that workshops should be done when people are here. He thinks that the Police are doing a great job. He complained about the response time for the Fire Department.

Assistant Mayor Rosenfield is proud that Bal Harbour has been so generous with contributions to Ruth K. Broad Bay Harbor Elementary.

11. ADJOURN: There being no further business, a motion was offered by Councilman Jacobi and seconded by Councilman Packer to adjourn. The motion carried unanimously (5-0) and the meeting adjourned at 10:24 a.m.



Mayor Howard J. Berlin

Attest:



Ellisa L. Horvath, CMC, Village Clerk