

**BAL HARBOUR VILLAGE COUNCIL MEETING MINUTES**  
**REGULAR MEETING – JULY 23, 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 – 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 Berlin. The following were present:

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

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

Absent: Councilman Jaime M. Sanz

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

**2. PLEDGE OF ALLEGIANCE:** The Pledge was led by Building Official Daniel B. Nieda.

**3. APPROVAL OF MINUTES:** *A motion was offered by Assistant Mayor Rosenfield and seconded by Councilman Packer to approve the minutes of the June 19, 2007 Regular Council Meeting as submitted. The motion carried unanimously (4-0).*

**4. PRESENTATIONS:**

**To Village Council from Ruth K. Broad Bay Harbor Elementary:** *Susie Shevlin, Village resident and Ruth K. Broad Bay Harbor Elementary PTA Member, presented the Council with a plaque, in recognition of the Village's continued support of the school.*

**Employee of the Month:** Park, Recreation & Transportation Director Lydia Kordalewski presented Michael O'Quinn, Park Attendant, with the June 2007 Employee of the Month Plaque, in recognition of his action in alerting the police about an overturned boat in the Indian Creek Canal.

**5. ORDINANCES SECOND READING/PUBLIC HEARINGS:** None.

**6. ORDINANCE FIRST READING:** None.

**7. RESOLUTIONS/PUBLIC HEARINGS:** None.

**8. RESOLUTIONS:** None.

**9. PUBLIC HEARING:**

**Consideration of Application for Dog Friendly Dining at Bal Harbour Bistro (in the Bal Harbour Shops):** Mr. Weiss explained the procedures for the quasi-judicial process. No disclosures were made by the Council. Those planning to speak at the hearing were sworn in by Mrs. Horvath.

*Daniel B. Nieda, Building Official*, reviewed his report and recommended approval of the permit application to allow dog friendly dining at the Bal Harbour Bistro.

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 Packer to approve. The motion carried unanimously (4-0), with the vote as follows: Mayor Berlin aye; Assistant Mayor Rosenfield aye; Councilman Jacobi aye; Councilman Packer aye; Councilman Sanz absent.*

**10. REPORTS AND RECOMMENDATIONS:**

**A. MAYOR AND COUNCIL:**

**Councilman Packer –Discussion of Exception to Village Code to Allow Students to Ride Bicycles on Sidewalks to and from School & on the Vehicle Access Road on the Beach:** Councilman Packer suggested that the Village Ordinance be amended to allow children to ride their bikes on the Collins Avenue sidewalks to/from school and for the vehicle access road on the beach to also be open for bicycle riding. Mr. Treppeda reviewed Village Code Sections 19-27 and 10-31, prohibiting bicycle riding on the sidewalks and beach. He noted that the item has come up before and explained that people are opposed to it, due to the danger it creates for pedestrians. Mayor Berlin questioned if the Village's Ordinance is consistent or inconsistent with other municipalities in the area. Mr. Treppeda hasn't seen "no bicycles" signs in other cities, so he doesn't believe they have anything like this. Chief Hunker reported that bicycles are allowed on the beach access path in Surfside. He thinks that it's a bad idea on Collins Avenue, because no bike path is provided. Chief Hunker discussed a recent accident involving a cyclist on the sidewalk. He suggested that bikes be allowed on the beach path, with the police monitoring it. He doesn't think bikes should be allowed on sidewalks, due to the danger.

Councilman Packer questioned if the Ordinance can be designed to allow kids up to a certain age to ride bikes on the sidewalks to and from school and on the beach path at all times. Mr. Weiss explained that using an age constraint is a problem, due to Constitutional issues. He advised that it can be based on hours. Councilman Packer thinks that would work. Councilman Jacobi agreed with Councilman Packer and offered to work with him on the issue. Councilman Rosenfield doesn't think a lot of kids will be riding their bicycles to Beach High.

Councilman Packer will conduct a public workshop, with Councilman Jacobi and residents of the community, and bring back recommendations for the Council's consideration.

**Discussion/Consideration of Participation in Miami-Dade**

**County Fire District:** Mayor Berlin reported that he has received several emails from the Surfside Mayor discussing their Town's consideration of withdrawing from the County Fire District, due to Miami Beach offering better service at a better price. He noted that Mayor Burkett is urging all Mayors within the County to discuss the issue, because the County Commission is voting this month to prohibit municipalities currently a member of the Fire District from withdrawing from the County Fire service in the future.

Mayor Berlin thinks that the County fire service has been exemplary for the Village and is located close to the Village. He reported that the Village hasn't conducted an analysis on the cost difference. He thinks that it may be more of a political issue, since people are looking for ways to save money in response to the property tax reform. Mayor Berlin noted that Bal Harbour is further away from Miami Beach than Surfside is, etc.

Councilman Jacobi thinks that the Miami Beach charges are based per call and would cost just as much or more than the County charges. Councilman Packer suggested just reserving the Village's right to opt out. Mayor Berlin doesn't know if the Village can have a placeholder. Mr. Weiss noted that the current provision requires six months notice prior to the beginning of the fiscal year to opt out, and that time has passed. He explained that the County Commission has proposed an ordinance eliminating the possibility for municipalities to opt out in the future. Mr. Weiss noted that the issue is for the County Commission not to take the option away from the municipalities to be able to opt out in the future. Councilman Packer thinks that the Village should keep its option open. He suggested a cost analysis be done for Miami Beach and the County services. Mr. Weiss reported that nothing can be done to keep the option open, if the County passes the amendment to the ordinance. He noted that Bal Harbour can go on record that it wants to keep the provision in the current ordinance to allow opting out in the future. He suggested that the Council direct the Village Manager to take the appropriate action to notify the Miami-Dade Board of County Commissioners and work with the League of Cities to make it clear that the Village would like to keep the option in the current ordinance that's available to opt out. Councilman Packer agreed.

**A motion was offered by Councilman Packer and seconded by Assistant Mayor Rosenfield to keep the Village's options open pertaining to the Fire District and for that to be made known to the County Commission. The motion carried unanimously (4-0).**

Mayor Berlin requested that Mr. Treppeda direct that to the Commission in advance of their meeting.

**B. VILLAGE ATTORNEY:**

**Report on Comments Received Regarding Rules of Procedure for Village Council Meetings:** Mr. Weiss reviewed the following comments received: favorable comments regarding the Consent Agenda, conduct Council meetings at 5:00 pm for people who work, meetings should be more informal and the formality in the resolution went overboard, allow someone representing a group to have more than three minutes to speak, the rules are not necessary other then allowing people to place things on the

agenda, the sign-in form is not necessary (people should be able to just raise their hand), the Mayor's permission should not be unreasonably withheld, the three-minute rule extension should be looser, the Manager should automatically place an item on the agenda requested by a resident if it relates to Village business, agendas should be sent out by email by the Clerk, the Consent Agenda is okay if people are allowed to pull items off, and a notice should be placed on Channel 77 to notify the Clerk if agendas are wanted via email. He noted that most felt the meetings are run well. Mrs. Horvath noted that the agendas are already sent out via email.

Mayor Berlin suggested that the Attorney prepare a resolution allowing for a Consent Agenda, since it was not a controversial item. He noted that the other items can be taken up after the summer, when people are back in town. Mr. Weiss explained that the Consent Agenda could be started for the next meeting agenda and formalized in resolution form at that meeting.

*It was the consensus of the Council to amend the current resolution to allow for a Consent Agenda.*

**C. VILLAGE CLERK:**

**Lobbyist Registration Report: As of July 23, 2007:** Mrs. Horvath provided a list of Lobbyists currently registered with the Village in the agenda.

**Selection of September Budget Public Hearing Dates and September Regular Council Meeting Time:** Mrs. Horvath requested that the Council select dates for the First and Second Budget Public Hearings, and to change the regular Council Meeting time on September 18, 2007 to 4:00 p.m. (to coincide with the Second Budget Public Hearing).

*A motion was offered by Assistant Mayor Rosenfield and seconded by Councilman Packer to schedule the First Budget Public Hearing for Tuesday, September 4, 2007 at 5:01 p.m., the Second Budget Public Hearing for Tuesday, September 18, 2007 at 5:01 p.m., and to change the Regular Council Meeting time on September 18, 2007 from 9:00 a.m. to 4:00 p.m. The motion carried unanimously (4-0).*

**D. VILLAGE MANAGER:**

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

|               |   |                    |
|---------------|---|--------------------|
| 1.)           | Mexico Sales Mission (Sept. 17-20)                          | \$ 9,700.00        |
| 2.)           | Brazil Sales Mission (Oct. 1-4)                             | \$10,700.00        |
| 3.)           | Argentina Sales Mission (Oct. 8-10)                         | \$ 9,400.00        |
| 4.)           | Drive Markets Sales Blitz (Aug. 6-10)                       | \$ 3,000.00        |
| 5.)           | Florida Concierge Association Annual Conference (Sept. 4-7) | \$ 4,100.00        |
| <b>TOTAL:</b> |   | <b>\$36,900.00</b> |

*A motion was offered by Assistant Mayor Rosenfield and seconded by Councilman Packer to approve \$36,900.00. The motion carried unanimously (4-0).*

**Quarterly Financial Update for Third Quarter 2006/2007**

**Provided by Finance Director Christopher Wallace:** Mr. Wallace summarized that the Village revenues are as expected, with some ahead, and some expenditures exceeded the expected. He reported that the Village has started receiving money from the St. Regis project and that the Village is doing well overall. Mayor Berlin requested Mr. Wallace to explain the additional revenue from property taxes and the exceeded expenditures from health insurance. Mr. Wallace explained that residents paying delinquent taxes will incur a penalty, which results in additional revenue to the Village. He explained that the exceeded expenditure for health insurance costs was due to the original vendor not executing the proposed contract, which resulted in higher insurance costs from another vendor.

Mayor Berlin questioned if the computer problems that resulted in the audit delay have been corrected. Mr. Wallace reported that they haven't, but he doesn't expect that to affect the audit next year. He explained that they will be conducting interim work, which will identify any problems ahead of time. Mayor Berlin requested that the audit be received by January 15<sup>th</sup> next year. Mr. Wallace doesn't see a problem with that.

**Request for Renewal of Contract with New Community**

**Strategies for the Provision of Finance Director Services:** Mr. Treppeda requested approval of the contract with New Community Strategies, Inc. for providing Finance Director services, for three years.

Mayor Berlin requested that Mr. Wallace's penalty provision for the audit be changed to January 15<sup>th</sup>, or within two weeks of receipt from the Auditors. The Village Attorney was directed to change the language to reflect that.

***Babak Raheb, resident – 128 Balfour Drive***, questioned what the penalty is. Mr. Treppeda reported that it's 15% per month.

***A motion was offered by Assistant Mayor Rosenfield and seconded by Councilman Packer to approve the contract, with the noted revision. The motion carried unanimously (4-0).***

**Request for Approval of Agreement with Rachlin Cohen &**

**Holtz for Auditing Services:** Mr. Treppeda requested approval of the Rachlin Cohen & Holtz proposal to perform audits for fiscal years ending 9/30/07 (\$51,200.00), 9/30/08 (\$56,000.00), and 9/30/09 (\$60,200.00).

Mayor Berlin requested delivery of the audit by January 15th. Jerry Chiocca reported that he will deliver the audit to Mr. Wallace by January 15th. Mayor Berlin requested that a penalty be provided in the contract, if it isn't received by that date. Mr. Chiocca is concerned about providing a penalty, due to independent and integrity standards. Mayor Berlin noted that the Village has the ability to cancel the contract at any time. He clarified that if the audit is not delivered in a timely manner this year, then it will be the last year.

***Babak Raheb, resident – 128 Balfour Drive***, agreed that a penalty needs to be provided. He requested that the Council direct the Village Manager to have an auditor prepared to take over, if needed.

**Dan Holder, resident – 24 Bal Bay Drive**, doesn't understand how the auditors won't ethically provide a penalty, but are okay with termination if the report isn't completed on time.

Mr. Chiocca pointed out that the contract can be terminated at any point. He explained that the audit was also delayed due to a new Finance Director coming on board, computer problems, etc. He thinks that if interim work is performed, then it won't be difficult to meet the deadline.

Mayor Berlin suggested that by December 1<sup>st</sup> (45 days before January 15th) the Auditor inform the Council on whether or not the audit will be delivered in time and, if not, the reasons why it won't be and when it will be done. Mr. Chiocca agreed. Mayor Berlin clarified that if no penalty is provided and the Council is not happy, then the relationship will be over. Councilman Packer added that the Council would then look for a replacement at that point. Mr. Chiocca suggested that the Village retain 15% of the contract, to ensure a timely audit by January 15th. The Council agreed.

Mr. Raheb suggested that Mr. Chiocca provide the Village Manager with a progress report in November of what is missing.

Mayor Berlin requested that the following items be added to the contract: an interim progress report is to be provided on November 1<sup>st</sup> listing any items that are missing to complete the audit, a report is to be provided on December 1<sup>st</sup> advising if the audit will be completed by January 15<sup>th</sup> (if not, the reasons why and when it can be expected), and providing a penalty of 15% of the contract if the audit is not received by January 15th.

**A motion was offered by Councilman Packer and seconded by Assistant Mayor Rosenfield to approve, subject to the requested changes to the contract: a status report is to be provided by November 1<sup>st</sup>, another report is to be provided by December 1<sup>st</sup> providing guidance for delivery by January 15<sup>th</sup>, and 15% of the contract will be held back based on a successful audit including timeliness. The motion carried unanimously (4-0).**

### **Request for Approval of Additional Funds for Basketball**

**Court Project and Sewer Station Drainage:** Mr. Treppeda requested approval of \$19,469.07 for the following items:

|               |   |                    |
|---------------|---|--------------------|
| 1.            | Extension of Basketball Court to Fence  | \$ 6,800.00        |
| 2.            | Removal of Ficus Hedges and Reroute Irrigation  | \$ 6,364.07        |
| 3.            | Padding of Fence behind each Hoop   | \$ 1,200.00        |
| 4.            | Logo on Court (by Rhino Sports)   | \$No Charge        |
| 5.            | Multi-Court Package (Pickle Ball, Volleyball, Badminton)<br>(Poles, Net, and Court Lines) | \$ 1,000.00        |
| 6.            | Installation of Drain at Sewer Station  | \$ 4,105.00        |
| <b>TOTAL:</b> |   | <b>\$19,469.07</b> |

Mayor Berlin suggested providing a privacy screen on the basketball court fence, since the Ficus hedge was removed. Mr. Treppeda explained that the hedges were removed from inside the court due to safety reasons (players running into them) and basketballs, etc. being lost in them. Assistant Mayor Rosenfield suggested doing the work after hurricane season. Mr. Treppeda explained that this is the best time for the Park, since it is slow. He advised the surface could be removed in preparation of a storm, if the Council is

concerned.

**Babak Raheb, resident – 128 Balfour Drive**, questioned using Resort Tax funds. Mayor Berlin explained that the funds were already budgeted in the General Fund.

**Dan Holder, resident – 24 Bal Bay Drive**, requested that a sound buffer be provided at the courts. Mayor Berlin suggested installing hedges on the exterior of the fence. Mr. Treppeda will look into that.

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

### **Discussion of Health Insurance Coverage for Fiscal Year**

**2007/2008:** Mr. Treppeda requested authorization to select a health insurance plan that best meets the needs of the Village employees, while providing a cost savings to the Village.

*It was the consensus of the Council for Mr. Treppeda to bring the issue back at the budget hearing, when he has a final proposal.*

**Request for Approval of Replacement of Dead Date Palm on 96<sup>th</sup> Street and Routine Plant Replacement on Beach:** Mr. Treppeda requested approval of \$13,860.00 in Resort Tax funds for Lukes' Landscaping to replace a dead Date Palm (\$6,340.00) on 96<sup>th</sup> Street and to add/replace plants (\$7,520.00) on the beach.

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

### **Request for Approval of Funds for Bodywork to Public Works**

**Vehicle #242:** Mr. Treppeda requested approval of \$3,115.00 for Oscar Body Shop, Inc. to repair rust on Public Works Truck #242.

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

**Request for Approval to Expend Police Forfeiture Funds:** Mr. Treppeda requested approval, per Chief Hunker, to expend forfeiture funds in the amount of \$1,000.00 for a contribution to the North Miami Pioneer Athletic Hall of Fame Organizing and Selection Board.

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

## **10. OTHER BUSINESS:**

Chief Thomas Hunker reported that off-duty officers are working at the Sheraton site 24 hours, 7 days a week. He noted that the implosion is scheduled for October 2007.

**Babak Raheb, resident – 128 Balfour Drive**, requested that the Council authorize Mr. Treppeda to look into the possibility of adding fountains, etc. to beautify the Village. Mr. Treppeda reported that the Whitman Trust is looking into enhancing Founder's Circle. Mr. Raheb suggested providing an area with seating, etc. in front of the Harbour House. Mr. Treppeda reported that the Village has used Taft Bradshaw in the past for those types of projects.

**Dan Holder, resident – 24 Bal Bay Drive**, discussed gas, tractors, noise, and danger associated with jet skis operating on the beach. He thinks that since the Sheraton is being demolished that jet skis shouldn't be allowed back on the beach. Mr. Treppeda reported that the St. Regis is discussing the possibility of continuing some sort of concession there.

**Marjorie Schell, resident – 9801 Collins Avenue**, doesn't understand how jet skis are allowed, because the Environmental Protection Agency doesn't allow anything motorized. Mr. Treppeda will request a full legal review on that.

Councilman Rosenfield questioned the status of the crosswalk signals. Mr. Raheb reported that ten new crosswalk timer signals have been approved and will be installed by the County, at no cost to taxpayers.

Councilman Packer discussed the County's mosquito spraying programs.

**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 (4-0) and the meeting adjourned at 10:05 a.m.

  
\_\_\_\_\_  
Mayor Howard J. Berlin

Attest:

  
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Ellisa L. Horvath, CMC, Village Clerk