

**BAL HARBOUR VILLAGE COUNCIL MEETING MINUTES**  
**REGULAR MEETING – SEPTEMBER 18, 2007**

The Regular Meeting of the Bal Harbour Village Council was held on Tuesday, September 18, 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 4:00 p.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 Aletha Player, FPL Representative.

**3. APPROVAL OF MINUTES:** *A motion was offered by Councilman Jacobi and seconded by Councilman Sanz to approve the minutes of the July 23, 2007 Regular Council Meeting and September 4, 2007 First Budget Hearing as submitted. The motion carried unanimously (5-0).*

**4. PRESENTATIONS:**

**Officer of the Month – July 2007:** This presentation was done later in the meeting.

**Officer of the Month – August 2007:** Chief Hunker presented Officer George Waisman with the August 2007 Officer of the Month plaque, in recognition of his assistance during a crash scene on his way to work.

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

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

**7. RESOLUTIONS/PUBLIC HEARINGS:**

The following resolution was read by title, by Mrs. Horvath:

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1 Councilman Jacobi left the meeting after the Presentation to the Officer of the Month for July 2007.  
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**A RESOLUTION OF BAL HARBOUR VILLAGE, FLORIDA, ADOPTING AN ASSESSMENT ROLL FOR THE SECURITY PROGRAM SPECIAL ASSESSMENT AREA; 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 Sanz and seconded by Assistant Mayor Rosenfield 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 Resolution No. 697.*

The following resolution was read by title, by Mrs. Horvath:

**A RESOLUTION OF BAL HARBOUR VILLAGE, FLORIDA, ESTABLISHING SANITARY SEWER AND WATER RATES FOR THE 2007/2008 FISCAL YEAR; ESTABLISHING AN 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 Resolution No. 698.*

**8. RESOLUTIONS:** The following resolution was read by title, by Mrs. 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 TO CREATE A CONSENT AGENDA PROCESS, LIST AGENDA COMPONENTS, AND CLARIFY EXISTING PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.**

*Dina Cellini, resident – 211 Bal Cross Drive*, questioned how members of the public are able to remove items from the Consent Agenda. Mr. Weiss explained that the public would be given an opportunity at the meeting to remove items. Ms. Cellini questioned the difference of resolutions that would be placed on the Consent Agenda versus those that are not. Mr. Weiss explained that if a resolution requires a public hearing, then it would not be placed on the Consent Agenda.

*A motion was offered by Assistant Mayor Rosenfield and seconded by Councilman Packer to approve. The motion carried unanimously (5-0), thus becoming Resolution No. 700.*

**9. REPORTS AND RECOMMENDATIONS:**

**A. MAYOR AND COUNCIL:**

**Councilman Packer - Discussion of Results of Workshop Meeting Held to Discuss Exception to the Village Code to Allow Bicycles on Sidewalks and to Discuss Bicycle Use of the Vehicle Access Road on the Beach:**

Councilman Packer reported on the Workshop Meeting. He proposed allowing bicycle riding on the sidewalks on one side of Collins Avenue during daylight hours, bicycle riding on the beach access road during daylight hours, and installing mirrors on the east side of Collins Avenue (at each driveway exit not protected by a traffic light).

Mayor Berlin is reluctant to adopt a proposal, because there is a safety concern in the community about bikes on sidewalks. He suggested receiving input from the community and discussing it next month.

Councilman Jacobi reported that at the workshop everyone agreed on the use of the beach path during certain hours, but not the sidewalks. Assistant Mayor Rosenfield thinks that bikes on the sidewalks would be a hindrance to people on crutches, walkers, etc. She reported that residents on the east side of Collins Avenue are very opposed to having bikes on the sidewalks, for health and safety reasons.

Chief Hunker is opposed to bikes on the sidewalks, due to safety and enforcement concerns. He noted that the beach path is enforceable and isn't as much of a safety issue. He discussed accidents on the sidewalks. Chief Hunker discussed his concern about riders crossing the streets. He thinks there would need to be a police presence or crossing guards. He thinks there is a large liability to the Village, if bikes are allowed on the sidewalks.

Councilman Sanz is concerned about the safety issue of allowing bikes on the sidewalks.

Councilman Packer explained that the issue was brought up, because a number of residents wanted their kids to be able to ride bikes to school. He is not against senior citizens walking and doesn't want to see any accidents involving cyclists. He advised that if the Council feels that bikes should be kept off the sidewalks, then he will go along with that.

Councilman Packer suggested requesting community opinion regarding bikes on the beach path. Councilman Jacobi reported that those in attendance at the workshop thought that would be the safest path. Mayor Berlin would like to give the community an opportunity to communicate their position on that.

Councilman Packer proposed installing mirrors on the east side driveway exits. He noted that four of the east side buildings already have mirrors. Councilman Jacobi thinks that would be a good piggyback issue. Assistant Mayor Rosenfield suggested discussing the idea with the condos before proceeding. Mr. Weiss noted that there needs to be a rational basis for implementation on one side of the street, versus the other. Councilman Packer advised that he originally suggested installation on both sides, but at the workshop there was objection to placing them on the west side.

**It was the consensus of the Council for the Village Manager to send notices to residents regarding input about allowing bikes on the beach path, for discussion at the October meeting.** The mirror installation will be discussed further.

**Doug Rudolph, resident - 212 Bal Bay Drive**, requested clarification on which beach path

would be considered for bikes. Councilman Packer clarified that it would be the hard path, not the walking path.

**B. VILLAGE ATTORNEY:**

**Request for Executive Session:** Mr. Weiss requested an Executive Session for the Lynne Bloch-Mullen versus Bal Harbour Village lawsuit. It was the consensus of the Council for the Session to be scheduled and noticed by the Clerk.

***Michael Krop, 9601 Collins Avenue and President of the Bal Harbour Citizens Coalition,*** questioned what the lawsuit is regarding. Mr. Weiss explained that the plaintiff has challenged whether or not Councilman Jacobi met the residency requirement. Dr. Krop questioned if there is a monetary fine involved. Mr. Weiss advised that there is no fine and explained that Councilman Jacobi could lose his seat. Dr. Krop questioned what the Village is defending. Mr. Weiss explained that they have an obligation to defend the Village, because it is being sued. He explained that the purpose of the Session is to receive the position that the Council would like the Attorneys to take. Dr. Krop questioned if Councilman Jacobi will be recused from the Executive Session. Mr. Weiss reported that Councilman Jacobi will not be attending, although he has a right to. Dr. Krop questioned if it's the Village's responsibility to investigate the charges. Mr. Weiss reported that it is not and explained that election challenges are handled through the courts. He clarified that the Village Attorney and Clerk do not investigate those issues.

***Ana Marie Kelly, 77 Camden Drive,*** questioned if it is ruled that Councilman Jacobi doesn't have a right to sit and his votes are retroactive, if those items he has voted on would have to be resubmitted. Mr. Weiss explained that the law presumes that the person elected is properly seated, until they are removed. He doesn't think that has been looked into. Ms. Kelly thinks that issue should be looked into. She suggested that Councilman Jacobi recuse himself at meetings that have a quorum without him, so that the legality of his votes won't be an issue.

**C. VILLAGE CLERK:**

**Lobbyist Registration Report: As of September 18, 2007:** Mrs. Horvath provided a list of Lobbyists currently registered with the Village in the agenda.

**D. VILLAGE MANAGER:**

**FPL Report on Recent Power Outages in the Security District:** Mr. Treppeda explained that he and Mayor Berlin met with FPL regarding the recent power outages in the Security District. Letters were distributed by FPL regarding a facility upgrade. Mr. Treppeda explained that the recent outages were caused by large new houses overloading the system. He reported that three switch cabinets will be replaced (two in 2007 and one in 2008). He reported that two transformers have been replaced and a third will be replaced in the near future. Mr. Treppeda reported that easements will be required by the Civic Association for equipment placement in the District. He discussed the process to be implemented with the Village Building Department, requiring FPL approval to permit future new homes. He noted that two sections of cable are being replaced and a third will be done in the next three weeks. He thinks that the problem is being worked on and that FPL is responding to the Village's needs. Mayor Berlin reported that representatives from

FPL are in attendance to answer any questions. He explained that he and Mr. Treppeda have both expressed the seriousness of the concern that FPL deal with the issues.

**Request for Approval of Retail Alcoholic Beverage License (4COPS) for The Regent Bal Harbour:** Mr. Treppeda requested authorization to sign the 4COPS license application for The Regent Bal Harbour, indicating compliance with the Village Zoning Code. He explained that the license allows the sale of beer, wine, and liquor for consumption on The Regent premises.

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

**Request for Approval of Sign Application for the One Bal Harbour and Harbour House Entry Ramp:** Mr. Treppeda requested approval of the sign application from One Bal Harbour and Harbour House, which was recommended favorably by the Architectural Review Board and the Building Official. He explained that the signs are for directional purposes.

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

**Officer of the Month – July 2007:** Chief Hunker presented Officer John Fruchey with the July 2007 Officer of the Month plaque, in recognition of his heroism in assisting with the prevention of a suicide.

Councilman Jacobi left the meeting.

**Presentation by The Energy Store of the Americas Regarding Energy Saving Lighting:** This item was deferred by the Village Manager.

**Confirmation of Authorization of Prior Approval of Police Forfeiture Funds (July):** Mr. Treppeda requested confirmation of Council approval given at the July 23, 2007 Council Meeting, for the \$1,000.00 forfeiture fund contribution to the North Miami Pioneer Athletic Hall of Fame Organizing and Selection Board.

***Dina Cellini, resident - 211 Bal Cross Drive,*** advised that Councilman Jacobi made the motion to accept this item (at the July meeting), but reported that he is co-chairman of the reunion committee that requested approval. She suggested that due to that conflict that Chief Hunker be directed to find another organization to contribute the money to.

Assistant Mayor Rosenfield agreed and questioned if Chief Hunker has had any requests from Miami Beach Senior High School, because that school serves the Village.

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

**Request for Approval of Police Forfeiture Funds in Accordance with Chief Hunker's Request (September):** Mr. Treppeda requested

approval for a \$1,000 forfeiture fund donation to the Dade County PBA Love Fund.

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

**Request for Approval of Police Budgeted Expenditures in Accordance with Chief Hunker's Request:** Mr. Treppeda requested \$6,987.50 to upgrade the software for the Police Records Management System.

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

**Request for Approval of the South Florida Strike Force Money Laundering Agreement to Disband and Detach the Local Task Force Investigators to Work on Strike Force Investigations:** Mr. Treppeda requested approval for the Village to become a participating agency in the South Florida Money Laundering Strike Force.

Chief Hunker recommended approval of the agreement and reported that it will save the Village money and is time well spent for the two officers that will be detached.

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

**Request for Approval of Funds for Police Holding Cell Project:**  
This item was deferred by the Village Manager.

**Request for Approval to Add Screening Plants on East Side of Village Basketball Court:** Mr. Treppeda requested approval of \$3,694.00 for Lukes' Landscaping to add plants, along the east side of the basketball court, for screening.

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

Mayor Berlin noted that there is no room to add plants on the north side of the court, which Village resident Dan Holder had previously requested.

**Request for Approval to Purchase Caterpillar Skid Steer Loader for Public Works Department:** Mr. Treppeda requested approval to lease, instead of purchase, a Caterpillar 272C Skid Steer Loader for \$2,045.00 per month.

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

**Request for Approval to Purchase Garbage Truck for Public Works Department:** Mr. Treppeda requested approval of up to \$55,000.00 to purchase a used 31 cubic yard garbage truck. He also requested approval to sell or trade in the existing 25 cubic yard truck.

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

**Request for Approval of Emergency Sewer Line Repair:** Mr. Treppeda requested approval of \$35,500.00 for Kailas Contractors to do an emergency repair on the sewer line at 95<sup>th</sup> Street & Byron Avenue (in Surfside). He explained that due to an agreement entered into decades ago, the Village is responsible for the sewer line that runs through Surfside. Mayor Berlin requested that the Village Attorney look into ways the Village can get out of that agreement.

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

**Request for Approval of Base Map and Water Utility Mapping Proposal from Craig A. Smith & Associates:** Mr. Treppeda requested approval for the Village Engineers (Craig A. Smith & Associates) to establish a base map and map the existing water utility system, on an hourly rate not to exceed \$40,000.00. He explained that the Miami-Dade County Water & Sewer Division has advised that the Village is required to establish a Global Positioning Sewer base map.

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

**Request for Approval for Off-Site Computer Backup Service:** Mr. Treppeda requested approval for off-site computer backup services, to be provided by Professional Network Solutions, Inc. through Consonus Technologies, at \$350.00 per month. He explained that the auditors have recommended this to insure the continuity of operations following a disaster or failure of the computer servers.

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

**Request for Approval to Seal the Surface of the Temporary Beach Access Path Located at the Bal Harbour Club (10201 Collins Avenue):** Mr. Treppeda requested approval of \$8,000.00 for Construction Depot to reseal the wooden surface of the temporary beach access path, located at the Bal Harbour Club. Assistant Mayor Rosenfield questioned if that temporary path will become a permanent path. Mr. Treppeda reported that he has heard interest in keeping the additional path.

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

**Discussion of Holding Workshop to Discuss Waverunner and Boat Rentals on the Beach:** Mr. Treppeda recommended holding a workshop meeting to discuss the Village's policy on the provision of beach amenities by service providers on Bal Harbour's beach. He suggested that Assistant Mayor Rosenfield chair the workshop meeting. Mayor Berlin requested that the community be noticed.

It was the consensus of the Council to schedule a workshop meeting to discuss the waverunner issue, to be chaired by Assistant Mayor Rosenfield.

**Request for Approval of Upgrade to 24-Hour Gate Maintenance in the Security District:** Mr. Treppeda requested approval to upgrade to a 24 hour per day/7 day per week maintenance agreement with TEM Systems for the maintenance of the Security District at \$6,480.00 per year.

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

**Request for Approval of Medical, Vision, and Dental Insurance Contracts:** Mr. Treppeda requested approval of United Healthcare as the provider for medical insurance and Safeguard as the provider for vision and dental insurance. He explained that the savings is \$511,536.80 over the current provider.

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

**Request for Acceptance of Insurance Package from Florida League of Cities:** Mr. Treppeda requested approval of Florida League of Cities as the provider for property, liability and workers' compensation insurance for fiscal year 2007/2008. He explained that the savings is \$252,028.00 over the current provider. Mr. Treppeda noted that he would like to increase the coverage for the liability from \$1 million to \$5 million, which would cost \$15,000.00.

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

**Request for Approval of Proposal from ADP for Outsourcing of Payroll Services:** Mr. Treppeda requested approval to outsource the payroll services to ADP, for \$12,372.70 per year.

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

## **10. OTHER BUSINESS:**

**Dan Holder - 24 Bal Bay Drive**, suggested installing padding on the park fence behind the basketball hoops. Mr. Treppeda reported that will be done. Mr. Holder requested covers on the sidewalk lights at Saks, because they currently shine in the eyes of pedestrians. Mr. Treppeda reported that Mr. Whitman is working with his lighting expert on that. Mayor Berlin suggested padding on the entire north side of the basketball court.

**Neil Alter – Balmoral (9801 Collins Avenue)**, discussed recent news stories on Councilman Jacobi. He questioned what action the Council has taken to investigate Councilman Jacobi's residency. He is baffled that the Village has chosen to spend money defending someone, instead of verifying the facts of the case.

**David Kwiat - 10185 Collins Avenue**, suggested that the Village Council investigate the residency qualifications of its Councilmembers. He discussed Councilman Jacobi's residency. Mr. Kwiat thinks that Councilman Jacobi should recuse himself from all Council activities and the Village should stop spending money in defense of the case.

**Paul Pruess - 10101 Collins Avenue (Palace)**, expressed outrage at the Village spending over \$30,000 defending the lawsuit against Councilman Jacobi. He thinks that the Village should have waited for the court's resolution, instead of spending money. He discussed the news story being damaging to Councilman Jacobi and the Village. Mr. Pruess is bothered that the Village has taken an aggressive stance in defending Councilman Jacobi. He thinks that the Village should use its resources to validate the facts. He hopes that the Village hasn't been a part of the allegations. Mr. Pruess doesn't think that Councilman Jacobi should be on the Council.

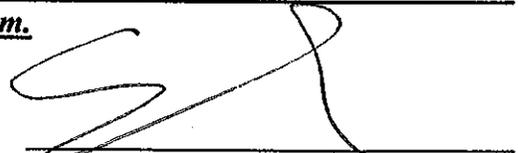
**Ana Marie Kelly - 77 Camden Drive**, discussed outstanding liens, etc. regarding her house and not receiving cooperation from the Village. She thinks there has to be some type of responsible adherence to regulations and rules, and instead of filing lawsuits, getting the facts.

**Sylvia Holder - 24 Bal Bay Drive**, questioned where the sign is on the beach stating that it's unlawful to pick the sea oats. Mr. Treppeda will check.

**Doug Rudolph - 212 Bal Bay Drive**, pointed out that a small group of residents claim that the Council doesn't take what the residents want into account, but pointed out that 70% voted for Councilman Jacobi. He reported that prior to the election that group told people that Councilman Jacobi didn't live in the Village, but didn't stop the election and then filed a lawsuit against the Village when they didn't get what they wanted. Mr. Rudolph thinks that the Village has a right to defend its representatives. He noted that if Councilman Jacobi is found to have done something wrong, then the court will ask him to leave. He pointed out that the group is complaining about the Village defending a lawsuit that they filed.

**Dina Cellini - 211 Bal Cross Drive**, noted that Mr. Rudolph is not an attorney and is not in a position to give an opinion as to why the Village is a party to the lawsuit. She noted that the Village asked to be a party to the lawsuit at the hearing in August and is involved as the Supervisor of the April Election. She reported that Mrs. Mullen did not know that Councilman Jacobi wasn't a resident, until after the election, which is when she filed the lawsuit. Ms. Cellini discussed the residency requirements. She suggested that the 70% who voted in favor of Councilman Jacobi didn't know the true facts.

**11. ADJOURN:** There being no further business, a motion was offered by Councilman Sanz and seconded by Councilman Packer to adjourn. The motion carried unanimously (4-0) and the meeting adjourned at 5:05 p.m.



Mayor Howard J. Berlin

Attest:



Ellisa L. Horvath, CMC, Village Clerk