

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

The Regular Meeting of the Bal Harbour Village Council was held on Thursday, December 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 Berlin. The following were present:

Mayor Howard J. Berlin¹
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
Andrea Greenblatt, Administrative Assistant

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

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

3. AGENDA: REQUEST FOR DELETIONS/ADDITIONS: Mr. Treppeda requested the addition of \$3,000 for The Wounded Warrior Project to Tab D (Motion Approving Police Forfeiture Funds in Accordance with Chief Hunker's Request) and the addition of \$303.18 to Tab H (Motion Approving Funds for Employee Holiday Party) of the Consent Agenda.

Mr. Treppeda noted that the maps (exhibits) showing the location of the bicycle and vehicle path for Tab J are wrong and will be corrected.

A motion was offered by Assistant Mayor Rosenfield and seconded by Councilman Sanz to accept the Agenda as amended. The motion carried unanimously (5-0).

4. SPECIAL PRESENTATIONS:

Officers of the Month – November 2007: Chief Hunker presented Captain Jay Smith and Lieutenant Charles Merrill with Officer of the Month plaques for November 2007, in recognition of their management of the Department's preparation for the implosion event of the Sheraton Hotel.

Employee of the Month – November 2007: This presentation was postponed until the January meeting.

¹ Mayor Berlin left the meeting after the discussion with DERM on beach erosion.

5. CONSENT AGENDA:

Dina Cellini, 211 Bal Cross Drive, requested the removal of Tab D (Motion Approving Police Forfeiture Funds in Accordance with Chief Hunker's Request) and Tab F (Motion Approving Funds for Surveillance System for Police Holding Cell, Park, and Public Works Facility) from the Consent Agenda.

Babak Raheb, 128 Balfour Drive, requested the removal of Tab C (Motion Approving Resort Tax Funds in Accordance with the Director of Tourism's Recommendation) from the Consent Agenda.

Mr. Treppeda requested approval for the following items on the Consent Agenda:

Tab B: Minutes for the November 15, 2007 Regular Meeting

Tab E: \$3,500 In Police budgeted funds for Lifeline Inflatable Services, Inc. to repair the police boat

Tab G: Sell Village vehicles, which did not receive bids, to CarMax (#213 for \$1200, #254 for \$11,000, and #262 for \$4,000)

Tab H: \$3,998.18 for the Employee Holiday Party at the Bal Harbour Club

Tab I: \$5,000 for the annual contribution to the Surf-Bal-Bay Recreation Program at Ruth K. Broad Bay Harbor Elementary School

A motion was offered by Assistant Mayor Rosenfield and seconded by Councilman Sanz to approve the items on the Consent Agenda (other than Items C, D, and F). The motion carried unanimously (5-0).

Item C - Motion Approving Resort Tax Funds in Accordance with the Director of Tourism's Recommendation:

Babak Raheb, 128 Balfour Drive, requested a review of the items included under Tab C. Mr. Treppeda reviewed the following items and requested approval to expend resort tax funds:

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|-----|--|------------------------------|
| 1.) | Florida Huddle Trade Show (Tampa) | \$ 4,400 |
| 2.) | New York Times Travel Show | \$ 9,625 |
| 3.) | BHV Northeast Tourism Sales Rep Contract Renewal | \$42,000 (\$3,500 per month) |

A motion was offered by Councilman Jacobi and seconded by Assistant Mayor Rosenfield to approve \$56,025 in resort tax funds for Item C. The motion carried unanimously (5-0).

Item D - Motion Approving Police Forfeiture Funds in Accordance with Chief Hunker's Request: Mr. Treppeda requested approval to expend police forfeiture funds for the following items:

- 1.) Costs Associated with the International Association of Chiefs of Police Conference \$1,747.34
- 2.) Payoff of Lease Vehicles #235 and #236 \$4,300.00
- 3.) Donation for Creation of the Police K-9 Memorial \$5,000.00
- 4.) Costs Associated with The Wounded Warrior Project \$3,000.00

Dina Cellini, 211 Bal Cross Drive, suggested that the \$5,000 donation for the creation of the Police K-9 memorial be used for a code enforcement officer instead. Mr. Weiss explained that forfeiture funds cannot be used for regular budgeted positions, as regulated by the Federal and Florida Statutes. He will provide Ms. Cellini with a copy of the guidelines. Mr. Treppeda reported that every police officer is a code enforcement officer and that Ed Akelaitis also does code enforcement. Ms. Cellini doesn't feel that the police officers are well versed in code violations and requested that the Chief verse them in the more common violations. She also noted that Mr. Akelaitis doesn't work in the evenings, when she notices many violations taking place. Chief Hunker explained that the Village has never had a code enforcement officer working evenings. He ensured that all officers are well versed to handle code violations. Mr. Treppeda requested Ms. Cellini to contact him or Chief Hunker if there are any violations that aren't being addressed.

A motion was offered by Councilman Jacobi and seconded by Councilman Packer to approve \$14,047.34 in police forfeitures funds for Item D. The motion carried unanimously (5-0).

Item F - Motion Approving Funds for Surveillance System for Police

Holding Cell, Park, and Public Works Facility: Mr. Treppeda requested approval of \$19,544.00 to purchase and install a surveillance system for the new Police holding cell area, the Bal Harbour Park, and the Public Works facility through ZTECH Plus, the low bidder. The Village anticipates recouping the funds from the General Obligations Bond.

Dina Cellini, 211 Bal Cross Drive, questioned the locations the cameras will be installed. Chief Hunker reviewed that the cameras will be placed at the police holding cells, outside Village Hall, Village Hall parking lot, outside the entrance to the park, gas tanks, building department, and park building. Ms. Cellini questioned if any cameras will be installed at Founders' Circle. Chief Hunker responded that is not planned.

Babak Raheb, 128 Balfour Drive, questioned if the cameras will include audio or just video. He spoke against including audio. Chief Hunker reported that audio will only be included on the jail cell cameras. Mr. Raheb agreed with that location.

Brian Mulheren, 10245 Collins Avenue, suggested that the cameras be expanded to public places within the Village (beaches, Founders' Circle, Security District, bridge, etc.).

A motion was offered by Councilman Jacobi and seconded by Councilman Packer to approve \$19,544.00 for Item F. The motion carried unanimously (5-0).

6. PUBLIC HEARINGS:

Zoning Hearings/Quasi-Judicial Public Hearings: None.

Ordinances Second Reading/Public Hearings: The following ordinance was read by title by Mrs. Horvath:

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING CHAPTER 10 "MARINE STRUCTURES, ACTIVITIES, AND WAYS" OF THE VILLAGE CODE, AT ARTICLE II "USE OF PUBLIC BEACHES", BY AMENDING SECTION 10-31 "PROHIBITED ACTS", TO AMEND PARAGRAPH (1) OF SECTION 10-31 TO PROVIDE THAT THE PROHIBITION UPON BICYCLES UPON THE PUBLIC BEACH SHALL NOT APPLY DURING A TRIAL PROGRAM FOR USE OF BICYCLES ON A DESIGNATED PORTION OF THE PUBLIC BEACH AS IMPLEMENTED BY THE VILLAGE MANAGER; AND TO PROVIDE THAT THE PROHIBITION UPON VEHICLES SHALL NOT APPLY TO TEMPORARY USE BY AUTHORIZED CONSTRUCTION VEHICLES ON A DESIGNATED PORTION OF THE PUBLIC BEACH PURSUANT TO A SPECIAL PERMIT FOR CONSTRUCTION VEHICLES WHICH MAY BE ISSUED BY THE VILLAGE MANAGER; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR AN EFFECTIVE DATE.

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

Mayor Berlin explained that the exhibits are not showing the correct path for bicycle use.

A motion was offered by Assistant Mayor Rosenfield and seconded by Councilman Packer to amend the Ordinance to substitute Exhibits A and B to show the service road behind the oceanfront buildings as the path for bicycle use. The motion carried unanimously (5-0), with the roll call vote as follows: Mayor Berlin aye; Assistant Mayor Rosenfield aye; Councilman Jacobi aye; Councilman Packer aye; Councilman Sanz aye.

A motion was offered by Councilman Packer and seconded by Assistant Mayor Rosenfield to approve the Ordinance as amended. The motion carried unanimously (5-0), with the roll call vote as follows: Mayor Berlin aye; Assistant Mayor Rosenfield aye; Councilman Jacobi aye; Councilman Packer aye; Councilman Sanz aye; thus becoming Ordinance No. 524.

Resolutions/Public Hearings: None.

7. ORDINANCES FIRST READING/PUBLIC INPUT: None.

8. RESOLUTIONS: None.

9. REPORTS:

A. VILLAGE MANAGER:

Request for Approval of 2007 Performance Bonuses for General Employees: Mr. Treppeda requested approval of \$83,361.35 for the General Employee bonuses. The average bonus was 3.58% (employees can earn 0%-4%).

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

Discussion of Bal Harbour Village Beach Erosion – Brian

Flynn, Miami-Dade County DERM: Mr. Treppeda explained the current erosion of Bal Harbour's beach. He noted that the Village's beach is normally renourished every five years. He explained that DERM, along with Dade County, is the agency responsible for handling all beach renourishment matters in Miami-Dade County.

Brian Flynn, Dade County DERM, discussed erosion at the north end of Bal Harbour's beach, primarily caused by Tropical Storm Noel. He noted that surveys of the area have been provided to the Army Corps of Engineers, which is the agency responsible for conducting the large beach renourishment projects throughout the County. He explained that the County will monitor the beach for natural recovery, but that if that doesn't occur, then sand will be brought in to stabilize the area for short-term problems, pending a larger Corps project. Mr. Flynn reported that the Corps has already identified Bal Harbour as a problematic erosion area and has recommended redoing the groin fields, to control the erosion more effectively. He noted that those should be installed with the next renourishment project. He reported that no date has been scheduled yet.

Mr. Flynn explained that domestic sand sources are cost or environmentally prohibitive, etc. or have been depleted. He noted that Washington has recently concluded that there are no available domestic sources and approval has been given to start using non-domestic sources (Bahamas, Dominican Republic, Turks & Caicos, etc.).

Mayor Berlin questioned the time frame for renourishment. Mr. Flynn reported that there is no schedule, but in the next couple of years the Corps project should be done. He explained that if there is not substantial recovery to the beach in the next several months, then the County would modify a current permit to truck sand in. He explained that permit would only be for the worst areas of the beach, not the entire beach. Mr. Flynn noted that once the permit is received, the trucks would take a couple of weeks to place the sand.

Joan Cohen, 10245 Collins - President and on behalf of the Association, voiced concern about the five-foot cliff behind the Carlton Terrace. She questioned if there's a stop gap measure to bring sand in immediately to that area, to alleviate the danger. Mr. Flynn explained that permits are needed for everything, which is not an immediate process. He will speak to the park/recreation department (beach operations crew) about knocking down the cliff, so people can access the beach. He discussed possibly re-grading some of the sand up, to provide a smoother transition instead of a vertical cliff, for a short-term solution. Mayor Berlin questioned if the Village can do that on its own. Mr. Flynn advised that the Village cannot and that it has to be State permitted, which takes a couple of months. Ms. Cohen invited the Village Manager and Council to view the area. Mayor Berlin and Mr. Treppeda reported that they both have. Ms. Cohen noted that since the water is coming up to the dune, there is a lot of debris in the grass/path. She doesn't think that the beach is in pristine condition and would appreciate those areas be cleaned and the grading being done. Mr. Treppeda reported that the beach is cleaned daily by the County from the waterline to the dunes and that the Village cleans the areas from the sea oats to the west. He will have the Public Works Department check the area for debris. Councilman Packer questioned if there's a way for an emergency situation to be invoked. Mr. Flynn noted that would only be done by the State, if there's an immediate danger to the buildings, he will try.

Dr. Lickenstein, 10245 Collins Avenue, reported that the dune is being eroded and thinks that immediate action should be taken. Mr. Flynn explained that the State would view that

there's 100 feet of beach before the dune. He will request an emergency permit, but thinks that the permitting process will still take time, which the County doesn't control.

Guenter Richter, Regent Bal Harbour, would like to know when/where the sand will be scheduled, so they can advise their guests. Mayor Berlin directed Mr. Treppeda to notify residents once a schedule is determined.

Babak Raheb, 128 Balfour Drive, wants to make sure the sand matches and that it doesn't endanger the turtles. He wants to make sure there are no long-term problems and that the sand will hold up. Mr. Flynn explained that they have taken that into account and have developed a specification for Dade County beaches for sand that can be used.

Mayor Berlin questioned who pays for the renourishment. Mr. Flynn reported that the Army Corps projects are paid Federal 50%, State 25%, and County 25%. He explained that if the County trucks in the sand, then the cost is split between the County and the State. Mayor Berlin questioned what would happen if the Village paid for the renourishment. Mr. Flynn explained that Bal Harbour could do the renourishment, but would have to get a permit, which would probably take more time. Mayor Berlin questioned the cost for the Village to do the renourishment. Mr. Flynn estimated it to be 20,000 cubic yards of sand for the northern section at \$40 per cubic yard, in addition to \$50,000 for a consultant for the permitting process, for a total cost of approximately \$1 million for a small project. He noted that the Village could probably get State money for 50% of that. Mr. Flynn explained that dredging of the Intracoastal Waterway is done at 100% Federal cost, which is used as a sand supply for Bal Harbour (the cost for that sand is \$10 per cubic yard).

Michael Krop, 9601 Collins Avenue, discussed a recent swimming warning for Sunny Isles and questioned how the Village can proceed as a community to prevent dumping waste in the ocean. Mr. Flynn noted that is not his area of expertise and that the State is responsible for monitoring and detecting sewage contamination. He explained that the State of Florida DEP (Department of Environmental Protection) is pushing for Dade, Broward and Palm Beach to cease pumping sewage off-shore and to treat it and reuse it in other areas. He explained that it's extremely expensive, because it would involve re-plumbing most of the counties. Dr. Krop requested that issue be placed on the next agenda for discussion. He discussed the beach not being in pristine condition. Dr. Krop thinks that action needs to be taken to save the beach (lack of sand, too much bacteria in the water, etc.).

Stan Whitman, Bal Harbour Shops, discussed the condition of the beach over the years. He clarified that Bal Harbour still has a beach and that there is no dune. He suggested that Bal Harbour join Surfside and Miami Beach in a petition to the Federal government, to extend structures into the ocean to trap the sand, etc.

Mayor Berlin explained that there has been discussion for the Federal government to build structures offshore, to prevent the sand from being washed away. Mr. Flynn reported that they have been coordinating with the municipalities on those issues. He explained that they are already doing something to a certain extent, by periodically dredging the Intracoastal Waterway.

Gabriela Webster, 30 Park Drive, agreed with Mr. Whitman in the push for a permanent solution. She suggested that the Village be part of a larger voice with Surfside, Haulover, and Miami Beach to correct the problem permanently and correctly. She discussed the

sewage pumps being one mile offshore and questioned if that area was used as a source of sand. She would like the Council to be proactive.

Marjorie Schell, 9801 Collins Avenue, discussed the offshore sandbar. She provided Mr. Treppeda with an article from the Wall Street Journal on beach erosion. She requested that the massive opening between the sea oats behind the Sheraton be closed, to protect the land from the ocean.

Brian Mulheren, 10245 Collins Avenue, thinks that something should be done immediately, because the dunes are being washed away. He suggested talking to the Federal government, Congressmen, Senators, etc. to address this. He thinks that the Council should get together with the other coastal communities. Mr. Mulheren doesn't think the Congressmen/Senators from the area are doing anything. He suggested using resort tax money to help.

~~Assistant Mayor Rosenfield suggested that Mr. Mulheren provide his issues and she will have State Representative Dan Gelber speak to the residents.~~

Ms. Cohen voiced concern again that there is no beach and that the water is coming up to the grass.

Babak Raheb, 128 Balfour Drive, suggested that residents contact their Senators, Congressmen, etc.

Mayor Berlin explained that the Village has an emergency beach fund set aside from Resort Tax funds (over \$1 million). He noted that the thought was to use that money if there was a catastrophic event. He discussed the current cost of renourishment. Mayor Berlin suggested having Mr. Flynn push the issue on an emergency basis, to get the permit and do the renourishment. Mr. Flynn will contact the State DEP regarding an emergency situation and will monitor the erosion, which he will communicate to the Manager.

Mayor Berlin requested that Mr. Flynn attend the meeting in January to advise the Village if there is something more it can do long-term. Mr. Flynn discussed looking at breakwaters, etc. in problematic areas in the County.

B. VILLAGE CLERK:

Lobbyist Registration Report: As of December 13, 2007: Mrs. Horvath provided a list of Lobbyists currently registered with the Village in the agenda.

C. VILLAGE ATTORNEY: No items.

D. MAYOR AND COUNCIL:

Chris Wallace, Finance Director, updated the Council on the State Board of Administration Local Government Investment Pool, which has experienced some liquidity problems. He explained that the Village has \$10.2 million invested in the fund, but he doesn't think there is a reason for overwhelming concern. He reported that the Village has \$10 million in Fund A and \$.2 million in Fund B (the State feels the assets will perform but aren't guaranteeing them).

Councilman Jacobi would like to discuss this issue when Mayor Berlin is present. *It was the consensus of the Council to discuss this at the January meeting.* Mr. Weiss reported that his firm is looking at the issue on whether the fund was mismanaged, any potential State liability etc. for other municipalities. He will report the findings to the Council in January. Mr. Wallace distributed the investments in Fund B, which are more of a liquidity concern.

Consideration of Annual Performance Bonuses for Village Manager and Village Clerk: Mr. Treppeda and Mrs. Horvath left the meeting.

Assistant Mayor Rosenfield reported that for the past six years the Council has awarded the Village Manager and Village Clerk a 5% bonus. She noted that items accomplished over the past year are included in the agenda.

Gabriela Webster, 30 Park Drive, doesn't have an objection to bonuses, but thinks that the Council lacks guidance. She thinks residents are paying more taxes and are receiving less services, quality of life, maintenance, etc. She thinks that the staff needs better guidance from the Council and that the Council needs to be more proactive in speaking to the residents/voters regarding issues. She discussed FPL, Atlantic Broadband, and BellSouth working on archaic infrastructure, because the Village won't fix the problem correctly and modernize it. Assistant Mayor Rosenfield isn't sure what the Council's responsibility is concerning the utilities. Ms. Webster suggested upgrades. She would like to see a betterment of things. She discussed the pooper scoopers falling apart, etc.

Councilman Packer thinks that the Council is proactive, but noted that if residents have specific ideas, etc. that they should inform the Council for it to be addressed immediately.

Dina Cellini, 211 Bal Cross Drive, doesn't have an objection to bonuses, but noted residents have to bring problems to the Village staff and the staff isn't proactive in seeing the problems first. She discussed a rotting mailbox, corroding street signs, and power outages in the Security District. She suggested that the Village Manager be requested to visit the Security District once a week to look for issues. Ms. Cellini requested that the Village staff be directed to be more proactive. She thinks that other than that everyone deserves a bonus.

A motion was offered by Councilman Packer and seconded by Councilman Jacobi to approve 5% bonuses for both the Village Manager and Village Clerk. The motion carried unanimously (4-0).

Assistant Mayor Rosenfield doesn't think that any municipality can exist without its residents being active about items that can be addressed.

Mr. Treppeda and Mrs. Horvath returned to the meeting.

Councilman Sanz would like to have a monthly report from the Village Manager of items that he has addressed in response to resident complaints, etc. He would like to address improving the bus stops at the January meeting.

10. OTHER BUSINESS:

Chief Hunker discussed the Wounded Warriors Project and encouraged residents to get

involved. He advised that they will be cycling through the Village to Veterans Hospital, in January. Assistant Mayor Rosenfield discussed fundraising for Veterans Hospital and increasing public awareness of the needs of veterans.

Gabriela Webster, 30 Park Drive, thinks that Village residents may be more involved/informed, if the Village meetings were broadcast. She thinks that the Council needs to be more proactive. Ms. Webster voiced that the Village should be leading the way in many respects, which it isn't.

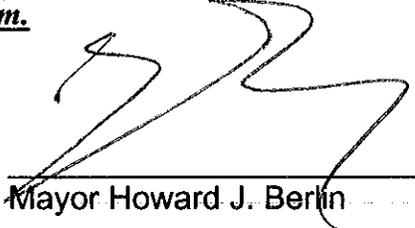
Dina Cellini, 211 Bal Cross Drive, suggested that the Chief notify the residents when the cyclists will be going through Bal Harbour, so they can go out to Collins Avenue and cheer them on. Chief Hunker will get the word out.

Ms. Cellini discussed the recent theft of the baby Jesus figure from her Nativity Scene at Founders' Circle. Ms. Cellini read an email from Jeff Harris, from Ohio, to publicly acknowledge and thank him for replacing the figure.

Brian Mulheren, 10245 Collins Avenue, suggested that the Council acknowledge Mr. Harris with a proclamation or letter. Assistant Mayor Rosenfield suggested that a thank you letter be written.

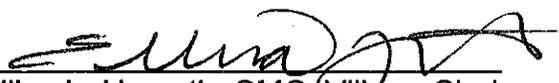
Councilman Jacobi reported that, as the Village's representative on the Miami-Dade County League of Cities, he gave away twelve turkeys for Thanksgiving.

11. ADJOURN: There being no further business, a motion was offered by Councilman Packer and seconded by Councilman Sanz to adjourn. The motion carried unanimously (4-0) and the meeting adjourned at 10:33 a.m.



Mayor Howard J. Berlin

Attest:



Ellisa L. Horvath, CMC, Village Clerk