

BAL HARBOUR VILLAGE COUNCIL MEETING MINUTES
REGULAR MEETING – APRIL 15, 2008

The Regular Meeting of the Bal Harbour Village Council was held on Tuesday, April 15, 2008, 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 9:30 a.m. by Assistant Mayor Rosenfield. The following were present:

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

Absent: Mayor Howard J. Berlin

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

2. PLEDGE OF ALLEGIANCE: The Pledge was led by Stanley Whitman, Bal Harbour Shops.

3. AGENDA: REQUEST FOR DELETIONS/ADDITIONS: Mr. Weiss requested the removal of the Approval of Settlement Agreement for Babak Raheb v. Bal Harbour Village from the agenda, since the documents were not finalized.

4. SPECIAL PRESENTATIONS: None.

5. CONSENT AGENDA:

Brian Mulheren, 10245 Collins Avenue, requested the removal of Tab B and Tab D from the Consent Agenda.

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

Tab A: Minutes for the March 18, 2008 Regular Meeting and April 4, 2008 Special Meeting

Tab C: \$51,750.00 and \$450.00 Monthly in Forfeiture Funds for the following:
 Lease of an Additional Police Motorcycle (\$450.00 Monthly), Donation to MacArthur Senior High School South Youth Men's Academy (\$5,000.00), Participation in the Police Officers Assistance Trust (POAT) Golf Tournament (\$3,000.00), Sponsorship of Police Accreditation Conference (\$5,000.00), Police Academy Sponsorship (\$35,000.00), and Attend the 15th Annual Dade County Police Benevolent Association

(PBA) Law Enforcement Awards Gala (\$3,750.00).

A motion was offered by Councilman Packer and seconded by Councilman Sanz to approve the items (Tab A and Tab C) on the Consent Agenda. The motion carried unanimously (4-0).

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

Brian Mulheren, 10245 Collins Avenue, disagreed with spending resort tax money on advertising and tourism, until the Resort Tax Committee meets. He discussed the travel show in New York, the lack of information provided there, and the appearance of the model, etc. He thinks there should be a better system of check and balance. Mr. Mulheren noted that the Village Code directs the Committee to follow the ethics of the State and County and that only that Committee should spend money from the resort tax fund. Assistant Mayor Rosenfield questioned if the Council has the authority to spend resort tax money, without the Committee's recommendation. Mr. Weiss advised that the Council has the authority to do so.

Cheryl Stephenson, Bal Harbour Shops, spoke on the importance of continuing to promote the destination of Bal Harbour. She suggested approving the items that have been recommended by Jose Lima, who is the professional representing the Village.

Mr. Treppeda reported that Jose Lima, Director of Tourism Marketing, is currently traveling, but advised that Mr. Lima has recommended the items that are before the Council. Mr. Treppeda reviewed the following budgeted items:

1.)	Summer Advertising Promotion	\$72,000.00
2.)	Destination Photo Shoot	\$16,000.00
TOTAL:		\$88,000.00

Councilman Jacobi suggested that Mr. Mulheren discuss the issues he has regarding the travel show with Mr. Lima. Mr. Mulheren doesn't think anyone checked on the money that was spent. He reported that he did not attend the show, but that two residents of his building did. Assistant Mayor Rosenfield suggested that those residents attend a meeting, to advise the Council on what was seen. Councilman Jacobi suggested that Mr. Mulheren speak to Mr. Lima regarding his concerns. Mr. Mulheren challenged the Council's authority to spend resort tax money and disagreed with the Village Attorney's interpretation of the Code allowing them to do so.

A motion was offered by Councilman Jacobi and seconded by Councilman Sanz to approve \$88,000.00 in resort tax funds for the items listed in Tab B. The motion carried unanimously (4-0).

Item D - Motion Approving Landscaping for Planter Area Located to the West of Haulover Bridge: **Brian Mulheren, 10245 Collins Avenue**, requested clarification on the item, since it was his understanding that WCI was paying for the landscaping of that area as part of the Development Agreement. Mr. Treppeda explained that the Village would like to add landscaping to enhance an area outside of the Parking Lot.

Dan Nieda, Building Official, clarified that the area is a Bal Harbour Village right-of-way, which is beyond the scope of the WCI Development Agreement.

Neil Alter, 9801 Collins Avenue, requested the amount of the expenditure. Assistant Mayor Rosenfield reported that it is \$25,000.

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

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 PARAGRAPH (1) OF SECTION 10-31 "PROHIBITED ACTS", TO REPLACE A TEMPORARY PROVISION AND PROVIDE THAT THE PROHIBITION UPON BICYCLES UPON THE PUBLIC BEACH SHALL NOT APPLY FOR USE OF BICYCLES ON A DESIGNATED PORTION OF THE PUBLIC BEACH; PROVIDING FOR CLARIFICATION OF PROHIBITION; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR AN EFFECTIVE DATE.

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

A motion was offered by Councilman Packer and seconded by Councilman Sanz to approve the Ordinance on second reading. The motion carried unanimously (4-0), with the roll call vote as follows: Mayor Berlin absent; Assistant Mayor Rosenfield aye; Councilman Jacobi aye; Councilman Packer aye; Councilman Sanz aye. Thus becoming Ordinance No. 525.

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

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING CHAPTER 19 OF THE VILLAGE CODE "TRAFFIC AND MOTOR VEHICLES" BY CREATING ARTICLE IV "DANGEROUS INTERSECTION SAFETY", PROVIDING FOR RECORDED IMAGE MONITORING AND ENFORCEMENT OF RED LIGHT INFRACTIONS, AND FOR RELATED PROCEDURES AND PROVISIONS; AMENDING CHAPTER 2 "ADMINISTRATION", ARTICLE V "CODE ENFORCEMENT" SECTION 2-191 "SCHEDULE OF CIVIL PENALTIES" TO FACILITATE USE OF CODE ENFORCEMENT MECHANISM FOR DANGEROUS INTERSECTION SAFETY; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR EFFECTIVE DATE.

Assistant Mayor Rosenfield opened the public hearing.

Gabriela Webster, 30 Park Drive #15, spoke in favor of the ordinance and asked the status of any State legislation regarding the cameras. Mr. Weiss reported that the Village will follow the State legislation if it is passed and will follow the Village Code if it isn't. He explained that the Village will decide which program will be implemented, before the cameras are installed. Ms. Webster requested information on the percentage of revenue the Village will receive and also requested that the information be placed in the newsletter, once the program is implemented. Assistant Mayor Rosenfield reported that information will also be placed on the Village's cable channel. Chief Hunker explained that the revenue percentage will be based on the vendor selected and explained that Council approval will be needed to select a vendor.

Babak Raheb, 128 Balfour Drive, questioned the placement of the cameras, since they are not allowed on DOT property. He also questioned the enforcement rules for people refusing to pay. Chief Hunker explained that placement will be negotiated with the vendor selected. He noted that if the right-of-way is not approved by the State, then the cameras will either be placed on Village or private property. He clarified that the vendor proposal will come back to the Council for approval, which will address those concerns. Chief Hunker explained the process for Special Master Hearings. He discussed the benefits of the program including the ability to review recordings of accidents, reduction of driver speed, reduction of accidents, and additional revenue.

Brian Mulheren, 10245 Collins Avenue, spoke in favor of the Ordinance, for safety issues.

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

A motion was offered by Councilman Packer and seconded by Councilman Sanz to approve the Ordinance on second reading. The motion carried unanimously (4-0), with the roll call vote as follows: Mayor Berlin absent; Assistant Mayor Rosenfield aye; Councilman Jacobi aye; Councilman Packer aye; Councilman Sanz aye. Thus becoming Ordinance No. 526.

Resolutions/Public Hearings: None.

7. ORDINANCES FIRST READING/PUBLIC INPUT: None.

8. RESOLUTIONS: None.

9. REPORTS:

A. VILLAGE MANAGER:

Brief Presentation Regarding Available Services by the Miami-Dade County State Attorney's Office: **Leonardo Mendoza, Public Information Officer - Miami-Dade County State Attorney's Office**, provided information regarding the services of the Community Outreach Division, including the Justice in Motion vehicle. He distributed informational packets to the Council and requested assistance from the Village to inform residents.

Brief Presentation Regarding Water Shortage by the South

Florida Water Management District: Lewis Beilman, Sr. Intergovernmental Representative for the Miami-Dade Regional Service Center of the South Florida Water Management District, spoke on water shortage and conservation. He reported that the watering limitations will be lowered on April 18th, to allow the watering of landscaping twice a week for additional time periods, due to increases and anticipated increases in the water supply. He encouraged voluntary water conservation and distributed an informational flyer. Mr. Beilman discussed a water savings incentive and alternative water supply grant program for governments. Assistant Mayor Rosenfield reported that the Village's cable channel will provide residents with the new times/days for watering.

Babak Raheb, 128 Balfour Drive, disagreed with lowering the water restrictions, since the water supply may decrease in the future. He discussed the importance of water for people versus lawns and encouraged the District to look at the long term effects, not short term.

Councilman Packer reminded residents of the Village's showerhead exchange program.

Discussion of Bal Harbour Village Beach Erosion – Brian

Flynn, Miami-Dade County DERM: Mr. Flynn reported that the permit application package for the trucking project has been submitted to all of the agencies and that the funds and contracts are ready, once the permit is approved (work should hopefully be initiated in a couple of months). He explained that the Army Corps of Engineers is reviving the maintenance dredging process at the Haulover Inlet, which should result in a larger project for the Village in approximately a year. Mr. Flynn clarified that the current trucking project would act as a band aid, until the larger project is done. Mr. Treppeda distributed a proposal from Coastal Systems International to conduct a study (for the feasibility of a sand transfer system) for \$17,800 (not including attendance at a meeting to explain the study).

Brian Mulheren, 10245 Collins Avenue, discussed the deterioration of the beach and suggested that the Village request involvement by its Lobbyist and Congress representatives to expedite the permit. He spoke in favor of planting additional sea oats behind the Starwood property. Mr. Treppeda will contact Village Lobbyist Ron Book. Mr. Flynn suggested that Village residents also contact their representatives individually and send pictures of the erosion. Councilman Jacobi spoke in favor of requesting Ron Book to focus on the issue immediately.

Neil Alter, 9801 Collins Avenue, reported that the Bal Harbour Citizens Coalition has initiated a letter writing campaign for residents to sign and send a form letter to Congress representatives. He suggested that the Councilmembers prepare and send individual letters to the Congressional representatives and Legislators in Tallahassee. Assistant Mayor Rosenfield reported that she has spoken to representatives in Tallahassee. She spoke in favor of writing letters and thinks that individual letters would have more of an impact than a signed form letter. She encouraged the other Council members and Village residents to write letters. Mr. Alter suggested that the Village provide the contact information in the newsletter and cable channel of the Congress members and Legislators. Assistant Mayor Rosenfield agreed.

Councilman Packer suggested the Council pass a formal resolution. Assistant Mayor Rosenfield suggested that be considered at the next meeting. Mr. Treppeda will work on a resolution for the next meeting.

Marjorie Schell, 9801 Collins Avenue, questioned why the concession stand is still on the beach behind the Starwood property. She also voiced concern regarding the large opening (70-80 feet) behind the Starwood property, when other buildings have sea oats planted. Mr. Treppeda doesn't think the concession stand will be removed and reported that Starwood wants to reserve their rights with the State and County, to have the structure on the beach. Mr. Weiss is researching this issue.

Request for Approval of Study by Coastal Systems International Regarding Sand Transfer Station: *A motion was offered by Councilman Packer and seconded by Councilman Sanz to approve \$17,800 for Coastal Systems International, Inc. to conduct a study on the feasibility of a sand transfer station. The motion carried unanimously (4-0).*

Request for Ratification of Re-Appointment of Special Master Joni Blachar: Mr. Treppeda requested ratification of his re-appointment of Joni Blachar, as the Village's Special Master. Her current term will expire on April 20, 2009.

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

Quarterly Financial Update Provided by Finance Director Christopher Wallace: Mr. Wallace reviewed the financial report and explained that the Village is in good financial shape. He reported that the total expected effects of the State revenue cuts are \$21,000 and, due to rate cuts with the Federal Reserve System, he expects \$121,000 less in investment income for the general fund and \$20,000 less in the tourism fund. He explained that an additional \$120,000 contribution is required by the Village for the Police Pension Fund. Mr. Wallace reviewed that the Village received an additional \$250,000 unexpected revenue from the St. Regis project. He expects the Village to finish in the black. He reported that water and sewer rates may need to be increased in the future, once a rate study is conducted. He advised that the State Board of Administration Fund A has improved.

Brian Mulheren, 10245 Collins Avenue, suggested hiring a code enforcement officer, since the Village is doing well financially. He noted that position is needed and also creates revenue.

Neil Alter, 9801 Collins Avenue, questioned the elimination of the code enforcement officer position. Mr. Treppeda clarified that one of the two positions was cut, due to budget limitations. He explained that position will be evaluated again during the budget process.

Babak Raheb, 128 Balfour Drive, clarified that although the Village is currently in the black, the results of the November 8th tax proposal are not known yet. He pointed out that all of the police officers are also code enforcement officers. He discussed fiscal responsibility and the economy. Mr. Raheb questioned the forecasted future revenue.

Mr. Wallace reported that the goal is to maintain in the black. He explained that cuts were done last year, in response to the tax reform, which may happen again next year. He discussed future revenue. He reported that the actual resort tax revenue was greater than

what was expected this year. Mr. Wallace thinks that the sales tax is always a concern.

Update on White Fly Issue: Mr. Treppeda questioned the legality of the Village treating the white fly problem on private property. He reported that Mr. Weiss explained that the Village has the authority to initiate a voluntary program, but that budgeted funds would have to be identified. He noted that funds are not currently budgeted. Mr. Treppeda reported that the total cost to treat the entire Village is \$87,200. He noted that the trend in other municipalities is to treat municipal property, but not private property.

Anamarie Kelly, 77 Camden Drive, reported that the Village cuts grass on private property (residential section park areas and her vacant lot). She doesn't see any reason why the program shouldn't be approved for the entire Village, since the standard has been set. Ms. Kelly submitted the County tax records. She requested the Council to address the issue of the Village cutting grass on private property and charging some, but not all, owners. She thinks that the only concern is the liability of spraying, etc. Assistant Mayor Rosenfield suggested the issue be further investigated.

Babak Raheb, 128 Balfour Drive, noted that the County has set precedence for mosquito spraying on private property. He questioned if resort tax funds can be used, since it's a beautification issue that can affect the entire Village. Mr. Weiss will research the resort tax ordinance, to see if funds can be used.

Neil Alter, 9801 Collins Avenue, suggested the use of police forfeiture funds for spraying. Assistant Mayor Rosenfield and Mr. Weiss clarified that those funds are reserved for police items.

Susan Packer, President of the Kenilworth (10225 Collins Avenue) Board of Directors, spoke in favor of the Village approving the program for private property and offered the name of the company that her building is using. She requested reimbursement for the Kenilworth, if the item is approved, since treatment has already started. Assistant Mayor Rosenfield clarified that money is not budgeted for this item, but that it will be discussed further, during the new budget process.

Councilman Packer responded that mosquitoes affect the health of people, which is why the County provides the service at no cost. He thinks that the White Fly issue is more of a beautification issue. He suggested that the Village spend the money for its own property and that private property be maintained by the owners, which he thinks the residents will cooperate with. Councilman Jacobi discussed the Ficus hedges along Alton Road, which have been destroyed by the White Fly.

Babak Raheb, 128 Balfour Drive, pointed out that unless the entire area is treated, it won't be effective. He spoke in favor of researching it further and using resort tax money for funding.

Mr. Treppeda clarified that the proposal includes treatment for the entire Village. Councilman Packer questioned if the properties will be reimbursed, if they have already paid for treatment.

Anamarie Kelly, 77 Camden Drive, noted that if reimbursement is done, then she would

demand repayment for her grass cutter and to bill the Civic Association and Club for the Village cutting their grass.

Assistant Mayor Rosenfield noted that the issue will be investigated further. She suggested educating the condo managers and homeowners on the proper treatment of their properties. Mr. Treppeda will provide information for residents to protect their own property.

B. VILLAGE CLERK:

Lobbyist Registration Report: As of April 15, 2008: A list of Lobbyists currently registered with the Village was provided in the agenda.

C. VILLAGE ATTORNEY:

Approval of Settlement Agreement for Babak Raheb v. Bal Harbour Village: This item was removed from the agenda.

Mr. Weiss reported that an issue is being examined regarding the property located at 77 Camden Drive.

Anamarie Kelly, 77 Camden Drive, requested the Council to file a brief on behalf of the persons involved, because the Village has also been defrauded. She suggested that the Village file a brief to establish what has transpired. Mr. Weiss will advise the Council on the matter.

D. MAYOR AND COUNCIL:

Assistant Mayor Rosenfield reported that she presented a proclamation declaring April 13th as Reverend Dr. David Rees Day, at a service at the Church by the Sea. She noted that Dr. Rees retired from the Church and will be greatly missed.

Discussion of Results of Sustainable Initiatives Workshop Meeting – Assistant Mayor Rosenfield: Assistant Mayor Rosenfield discussed the lack of public participation at the workshop meeting, with only seven to eight people in attendance. She discussed the Village's showerhead exchange program.

Assistant Mayor Rosenfield reviewed that the results of the workshop included: working with the condo managers to distribute showerheads to the buildings, working with the County program to provide one energy efficient light bulb per residence, lowering water needs for grass and landscaping through drought resistant plants and flowers, and providing information to residents.

Babak Raheb, 128 Balfour Drive, suggested that the Village offer tax credits to encourage resident involvement in greening initiatives. He requested continued efforts.

Brian Mulheren, 10245 Collins Avenue, suggested evening workshops to increase attendance.

Gabriela Webster, 30 Park Drive, suggested that the Village implement some of the recommendations outlined by the South Florida Water Management District and attaching

their flyer to the Village's newsletter for resident education. She encouraged future workshops.

Lynne Bloch-Mullen, 10150 Collins Avenue, spoke in favor of evening workshops.

Neil Alter, 9801 Collins Avenue, suggested communication with condo building Presidents and Councilmember participation at the building meetings.

Assistant Mayor Rosenfield agreed and discussed her attempts to attend meetings at the Balmoral.

Discussion of Temporary Beach Access Path at Bal Harbour

Club – Councilman Packer: Councilman Packer suggested that the temporary path remain exclusively for Village residents, with a secured gate operated by a key or keypad, since the main path has been reopened to the public. Councilman Jacobi thanked Joe Imbesi for the use of the Club property. He spoke in favor of keeping the path open, as a convenience to Village residents.

Anamarie Kelly, 77 Camden Drive, agreed that the path should remain open. She discussed the original 20-year grant of usage for residential use of that property and questioned if the grant has been maintained by the Graham Trust. Mr. Weiss advised that is not known. Ms. Kelly suggested that if the grant has not been maintained, then the property should refer back to the owners (the grantors). She suggested that the present Owner bought the Club, but not the property, so there should be total access to that property. She pointed out that the Village uses 50 percent of that property in its calculations for green space. Ms. Kelly suggested investigating the issue on whether or not the land is owned by the Club.

Joe Imbesi, 175 Camden Drive, disagreed with Ms. Kelly's statements and clarified that the Bal Harbour Club has owned both properties since its inception. He noted that he offered the land to help the Village, due to the closure of the beach access. He clarified that if the Village isn't happy with the land that the Club has provided for the path, then he will take it back. He agrees with whatever the Council would like to do with the path.

Ms. Kelly thinks there will be pending litigation regarding the grant of usage of that property.

David Kwiat, 10185 Collins Avenue, thanked Mr. Imbesi for the use of the path. He reported that due to problems experienced by the Plaza Condo with the users of the path, use and theft of their beach chairs, etc. the Plaza would prefer to have the path closed. He suggested an alternative of a key card system, exclusively for Village residents.

Lynne Bloch-Mullen, 10150 Collins Avenue, agreed with Councilman Packer's suggestion for the path to become exclusive for Bal Harbour residents. She suggested that hours of usage be posted (not after 10 p.m. etc.). She thanked Mr. Imbesi for the use of the path.

Mr. Imbesi discussed issues with cars using the Club property, etc. and thinks that the key access for residents is a good solution. He noted that as long as Bal Harbour wants the path and he is able to provide it, then he will.

Assistant Mayor Rosenfield directed Mr. Treppeda to research the cost of a key or card reader system for the path and to provide information at the next meeting. Mr. Weiss will research any legal issues regarding restricting the use of the path. Councilman Packer clarified that the Village maintains the path.

10. OTHER BUSINESS:

Babak Raheb, 128 Balfour Drive, suggested that a sign be posted instructing people to shut cell phones off, prior to the meeting. Mr. Raheb discussed his unhappiness about the new police car design/colors and requested that no additional cars be painted. Mr. Raheb discussed his concern regarding the shooting in Bal Harbour and his opposition to sting operations in the Village, unless it cannot be prevented. He is concerned about the safety of residents.

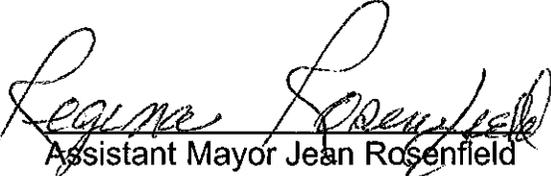
Chief Hunker reported that the shooting is under investigation. He explained that, as the Chief, he determines the investigations that will and will not be done in the Village and offered his resignation if he is not able to do so. Chief Hunker reported that the car colors are a State and County uniform effort, which he thinks should be continued.

Anamarie Kelly, 77 Camden Drive, suggested that police use tasers first, in busy areas, instead of guns.

Brian Mulheren, 10245 Collins Avenue, thinks the police and Chief are doing a great job and that sometimes things happen. He discussed the need for regulated hours and meters with three-hour limits, for the parking lot under the Haulover bridge. Mr. Treppeda explained that the Village is negotiating with DOT (Department of Transportation) for the Village to continue operating the lot. He reported that DOT has suggested that decals be issued to fishermen without restricted hours, which the Village is opposed to. He clarified that DOT owns the lot.

Councilman Packer noted that the Council has full confidence in the Chief regarding police operations.

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


Assistant Mayor Jean Rosenfield

Attest:


Ellisa L. Horvath, CMC, Village Clerk