

**BAL HARBOUR VILLAGE COUNCIL MEETING MINUTES**  
**REGULAR MEETING – JUNE 17, 2008**

The Regular Meeting of the Bal Harbour Village Council was held on Tuesday, June 17, 2008, 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  
 Andrea Greenblatt, Administrative Assistant

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 Dan Nieda.

**3. AGENDA: REQUEST FOR DELETIONS/ADDITIONS:** Mayor Berlin requested the deletion of the Presentation by Terry Nelson, since he was not in attendance.

**4. SPECIAL PRESENTATIONS:**

**Presentation Thanking Village Council for Contribution to MacArthur South High School – Terry Nelson:** This item was removed from the agenda.

**Officer of the Month for May 2008:** Chief Hunker presented Detective Edwin Vargas with the Officer of the Month plaque for May 2008, in recognition of his efforts in capturing two felons at the Bal Harbour Shops.

**Officer of the Year for 2007:** Chief Hunker presented Detective Paul Eppler with the Officer of the Year plaque for 2007, in recognition of his investigations on various criminal activities leading to numerous arrests.

**5. CONSENT AGENDA:**

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

- Tab B: Minutes for the May 20, 2008 Regular Meeting
- Tab C: \$48,315 in Resort Tax Funds (\$33,600 for Summer Radio Promotion to Local Markets and \$14,715 for the La Cumbre Travel Trade Show)
- Tab D: \$3,895.00 and \$1,124.75 monthly in Police Forfeiture Funds (\$3,895.00 for power inverters for the Lap Top Computer Project and \$1,124.75 monthly for air cards for lap top computers)
- Tab E: \$18,150.00 for approval of the proposal by Zambelli Fireworks Manufacturing Corporation for the 4<sup>th</sup> of July Fireworks Display
- Tab F: \$4,500.00 for approval of the proposal by S&J Roofing to repair leaks in the Public Works building
- Tab G: \$6,500.00 for approval of the proposal by Construction Depot to seal all joints in the southwest brick wall to stop heavy ongoing leaks in the Police Department squad room
- Tab H: \$6,486.00 for Change Order #4 for additional costs by Construction Depot for the holding cell project (for the folding door to separate the holding cells from the conference room)
- Tab I: \$22,680.00 in Resort Tax Funds for Lukes' Landscaping to replace the median plants

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

## **6. PUBLIC HEARINGS:**

Zoning Hearings/Quasi-Judicial Public Hearings: None.

Ordinances Second Reading/Public Hearings: None.

Resolutions/Public Hearings: None.

## **7. ORDINANCES FIRST READING/PUBLIC INPUT:** None.

## **8. RESOLUTIONS:** None.

## **9. REPORTS:**

### **A. VILLAGE MANAGER:**

Discussion of Bal Harbour Village Beach Erosion – Brian Flynn, Miami-Dade County DERM: Mr. Flynn reported that the State agencies are in the permitting process. He explained that funding and the construction contracts are in place so, once the permits are issued, work will start within one week and will take

approximately one month. Mr. Flynn will attend the next Council meeting to provide an update.

### **Discussion of Construction Cranes – Dan Nieda, Building**

**Official:** Mr. Nieda discussed an overview of the crane procedures for the St. Regis project. He explained that the crane ordinances drafted by the County were deemed unenforceable by a court order injunction, but noted that Coastal Construction and the Related Group have worked with him to develop crane safety procedures. Mr. Nieda reviewed the procedures addressing structure, windloads, load testing, metal fatigue, crane operators, hurricane procedures, etc. He advised that monthly inspection reports will be submitted to his office. He reported that Coastal Construction, Related Group, and General Crane have offered to host a meeting, if the Council desires additional information.

**Babak Raheb, 128 Balfour Drive,** questioned the affects of wind gusts and the procedures regarding shift hours, in response to the issue of sleep deprivation of crane operators. Mr. Raheb will meet with Mr. Nieda regarding any specific concerns.

### **Request for Reimbursement of Legal Expenses Regarding Neil**

**Alter v. Resort Tax Committee of Bal Harbour Miami-Dade Commission on Ethics and Public Trust Complaint C08-08:** Mayor Berlin explained that Village resident Neil Alter filed an Ethics Complaint against the members of the Resort Tax Committee, which was investigated and dismissed by the Ethics Commission. He reported that a request has been submitted for reimbursement of the legal fees incurred by a Committee member.

**Neil Alter, 9801 Collins Avenue,** noted that Mr. Weiss suspended the Committee meetings, due to noncompliance with the Sunshine law. He questioned why the meetings were suspended and why the Council attempted to create a new committee that would be exempt from the ethics laws, if there weren't any ethics violations. He explained that the purpose of his filing was to shed light on the process. He apologized to Mayor Berlin and explained that the focus was on the Committee members whose businesses benefitted from the expenditures of the Committee.

**Brian Mulheren, 10245 Collins Avenue,** doesn't think it's proper for the Committee to be comprised of members that are benefitting from its actions. He noted that the Committee meetings were suspended, since they were not operating in accordance with the Sunshine law. Mr. Mulheren is against going after a resident who was trying to do the right thing. He doesn't think the Village should have drafted an ordinance to opt out of the ethics laws. He has reservations about the investigation conducted by the Ethics Commission. He thinks that Mr. Weiss stopped the Committee from meeting, to follow the law.

**Dina Cellini, 211 Bal Cross Drive,** questioned the amount of the reimbursement and if the Council has the authority to reimburse a non-official for legal fees. Mayor Berlin reported it to be \$630 and noted that Mr. Weiss will be addressing that issue.

Mayor Berlin closed public discussion.

Mayor Berlin clarified that the Resort Tax Committee meetings were suspended, under the recommendation by Mr. Weiss, because a resident expressed a concern about the manner in which the Committee was functioning in that there could be a problem in certain

circumstances if a member was voting on an item that directly benefited them and the resident requested the issue be looked into. He explained that in order to avoid a potential problem, Mr. Weiss recommended the suspension of the meetings to look into the issue. He noted that Mr. Weiss then examined the Ordinance to determine ways for the Committee to continue under the same configurations, without being subject to the same problems. Mr. Weiss then recommended an ordinance, allowing members to opt out which was legally allowed by the County. He noted that during the process the County then passed an ordinance disabling the ability for committees to opt out and the proposed Village ordinance was tabled. Mayor Berlin clarified that the Sunshine Law had nothing to do with the suspension of the meetings. He continued that there has never been any allegations of a sunshine law violation and clarified that it's an issue of ethics, alleged conflicts of interests and alleged voting on issues that members may have had a direct benefit from.

Mayor Berlin read the oath and complaint filed by Mr. Alter. He thinks that Mr. Alter could have specifically named the members he was directing the complaint against, instead of the entire Committee. He disagreed that Mr. Alter did a good thing in that four innocent people with reputations at stake had to defend themselves against a baseless complaint and had to hire attorneys to do so. Mayor Berlin does not consider that to be an example of good citizenship. He doesn't think it's fair for a person who volunteered to serve on a committee to have to pay legal fees to defend themselves.

Mayor Berlin questioned who should have to pay to reimburse the legal fees of the Committee members. He doesn't think the issue sends a good signal to people volunteering to serve the community. Mayor Berlin thinks it's outrageous that residents have to pay legal fees, due to one resident filing a baseless complaint and questioned Mr. Weiss as to any grounds for the Village to reimburse those legal fees. He explained that an Ordinance provides for the reimbursement of legal fees for Councilmembers, but not Committee members, which he thinks is inappropriate. Mayor Berlin will ask Mr. Weiss to prepare an ordinance for Committee members to be similarly protected.

Mayor Berlin questioned Mr. Weiss if the Village can reimburse the legal fees. Mr. Weiss responded that it can. Mr. Weiss clarified that his office has never felt that there was a legal problem with the Resort Tax Committee. He explained that there is a law that exempts tourist-oriented committees from conflict of interest provisions. He noted that the Ethics Commission has not ruled on that, but Mr. Weiss reported that he has had discussions with them about the provision. Mr. Weiss explained that the County Code had a provision for many years allowing certain boards to opt out of the ethics provisions, so that those situations don't come up. He noted that at the same time the Village was considering an ordinance for the Board to opt out, the County Commission was moving forward to eliminate that provision, so the Council tabled the proposed ordinance. Mr. Weiss again clarified that no violation of the ethics code was found by the Ethics Commission. He reported that an ordinance provides protection to the Council, which enabled the Village to reimburse Mayor Berlin for his defense. He noted that there is not a code provision to provide automatic reimbursement to committee members; however, he clarified that the Council has the right to reimburse the members pursuant to County Code Section 2-1074. He clarified that if no violation has been found to have been committed, then the County Code gives the Council the power to reimburse the fees, but doesn't obligate them to do so. Mr. Weiss clarified that the Sunshine law doesn't apply to conflict of interest items.

Mr. Treppeda reported that a request was received from Lisa Perri-Molina and explained

that Randy Whitman will also be submitting a request for reimbursement of legal fees.

Councilman Packer thinks that it's anti-community for people to serve on committees, if they are not protected when something like this comes up. He is in favor of reimbursement.

*A motion was offered by Councilman Packer and seconded by Assistant Mayor Rosenfield to reimburse Lisa Perri-Molina \$630 for legal fees incurred. The motion carried unanimously (4-0).*

Mr. Weiss was directed to draft an ordinance covering committee members, applying the same standards, so that the Village is required to pay.

Mr. Treppeda was directed to place Randy Whitman's bill on an agenda, once it is received.

Mayor Berlin requested Mr. Weiss to look into a process for the Village to be reimbursed by Neil Alter for the legal fees paid by the Village. Mr. Weiss will look into that. Mayor Berlin recommended directing Mr. Weiss to come back with a recommendation at the next meeting, to pursue Neil Alter to make demand and if necessary to file suit to recover all of the fees the Village had to expend.

Councilman Packer doesn't have a problem directing Mr. Weiss to look into it; however, he doesn't think that Mr. Alter's complaint was frivolous and thinks that people should be able to ask a question without worrying about legal fees. Mayor Berlin pointed out that a resident asking a question is good citizenship, but filing a complaint without doing so is not.

Assistant Mayor Rosenfield doesn't have a problem directing Mr. Weiss to look into it. She expressed disappointment that the complaint was filed, because it was discussed that the Council would not appoint a new committee until the County made some decisions. She pointed out that the Council was listening to the residents, was waiting for the Commission to provide guidelines for selecting members, and was then blind-sided with the filing. She noted that Mr. Alter never contacted Mr. Treppeda regarding his complaint, which she feels is disappointing because it makes it an "us versus them" situation. Assistant Mayor Rosenfield wants to work to correct that and noted that Bal Harbour has always been a united community, which she would like to see continue.

Mr. Weiss clarified that he will speak to the Councilmembers individually to see if they want to pursue anything personally on the criminal side. He added that on the civil side, he will report on whether or not the Village could financially support, or bring a suit on behalf of an individual Council person, for a defamation action.

#### **Discussion of Hours of Operation of North Municipal Parking Lot:**

Mr. Treppeda explained that the Village has operated the parking lot owned by FDOT (Florida Department of Transportation), underneath the Haulover bridge, for many years. He explained that under the Village's prior operation, the lot was open from 6 a.m. to 10 p.m. following a murder on the beach and various other disturbances in the lot. He reported that FDOT is negotiating a new contract with the Village to operate the lot and are asking the Village to consider the following options: 24 hour lot operation with a fishing permit required from 10 p.m. to 6 a.m. or lot operation from 6 a.m. until 2 a.m., with a fishing or general permit required from 10 p.m. to 2 a.m. (a third option was deleted). He explained that FDOT is holding a meeting in North Miami concerning the issue on July 15, 2008, and he encouraged residents to attend. Mr. Treppeda doesn't think it's a good idea to change the operating hours of the lot. He reported that the lot is currently open 24 hours and the

police department is already receiving complaints. He suggesting notifying residents via postcards about the meeting and perhaps provide transportation to the meeting.

**Anamarie Kelly, 77 Camden Drive**, pointed out that the Village did not control the parking lot and allowed One Bal Harbour to use the lot and eliminate parking, which was against the FDOT agreement. She questioned why the Village is trying to negotiate something that FDOT has control of. She also questioned if the lot was improperly closed and if it's good citizenship to close access to the residents.

**Babak Raheb, 128 Balfour Drive**, spoke in opposition to 24-hour operation. He thinks that Village residents deserve to have the authority for operating hours. He noted that if FDOT wants to enforce the 24-hour operation, then the Village should give the lot back to them. He noted that if the Village has to enforce the lot, then FDOT should be billed. He thinks that people have the right to sleep, etc.

Chief Hunker agreed with Mr. Raheb and discussed the complaints received. He pointed out that the parking lot at Haulover Park isn't open 24 hours and questioned why Bal Harbour should be. He discussed safety issues and urged residents to attend the meeting.

Assistant Mayor Rosenfield questioned what would happen if someone parked in the lot without a fishing permit. Chief Hunker explained that the vehicle would be towed and a ticket may be written. Chief Hunker is more concerned about the safety issues. Assistant Mayor Rosenfield questioned if FDOT has offered to place an officer in the lot 24 hours a day, 7 days a week. Chief Hunker responded that they have not.

**Dan Nieda, Building Official**, pointed out that special interest groups (fishers/surfers) are complaining about an area that was renovated beautifully and that they don't have the best interest of the public in mind.

**Paul Pruess, 10101 Collins Avenue**, reported that the Palace Board supports the Chief and Village concerning the issue. He offered to circulate a petition, if Chief Hunker provides a draft, to present to FDOT. He also offered to write a letter, on behalf of the residents, etc.

**Brian Mulheren, 10245 Collins Avenue**, discussed the prior lease agreement with FDOT, which worked well. He noted that Haulover Park closes at 8:30 p.m. and reported that he has noticed the lot conditions decreasing due to the increase in hours (cars driving on the jetty, dogs, etc.). He suggested holding the FDOT meeting in Bal Harbour, since it concerns the residents. Mr. Mulheren suggested a 3-hour meter limit. He thinks that the situation needs to be controlled, otherwise there will be chaos (noise levels, beer bottles/cans, fishing off the walls, etc.). He thinks that DOT is listening to the special interest groups, not Bal Harbour residents. Mr. Mulheren suggested that the lot close at 8:30 p.m., when Haulover closes.

**Nina Rudolph, 212 Bal Bay Drive**, noted that alot of residents will be away on July 15<sup>th</sup>, when the DOT meeting is scheduled and doesn't think it's a good time. She also offered to circulate a petition. She agreed that the DOT meeting should be held in Bal Harbour, since it's a Bal Harbour issue.

**Dina Cellini, 211 Bal Cross Drive**, spoke against 24 hour operation of the lot and questioned the reason for extending the lot hours. Mr. Treppeda thinks that the Surfrider group and fishermen are requesting it. He clarified that people would still have access 24

hours, but the lot would not be available 24 hours. Ms. Cellini questioned the efforts the residents should be focused on. Mr. Treppeda suggested focusing on the prior hours of 6 a.m. until 10 p.m. Chief Hunker will provide information on calls received after 10 p.m.

Mr. Raheb suggested giving the Village Attorney the ability to look into a suit, if DOT doesn't agree to the hours. He thinks Bal Harbour is being discriminated against, since Haulover closes at 8:30 p.m.

**Vince Reuben, FDOT Property Management Administrator, and Maria Llanes, FDOT Property Management Agent**, explained that if the Village doesn't agree to the terms of the lease, then there will not be a lease. Mayor Berlin offered the Village Council Chambers for the meeting. Ms. Llanes explained that the meeting facility must hold at least 100 people, with ample parking. Mayor Berlin thinks that a facility can be found either in or closer to Bal Harbour. He thinks that the issue impacts Bal Harbour the most. Mr. Reuben agreed. Mayor Berlin questioned the timing of the meeting. Ms. Llanes explained that they wanted to resolve the issue as soon as possible, since no lease is in place. Chief Hunker explained that the police cannot enforce parking, etc. on the lot without a lease. Ms. Llanes thinks that it's beneficial to everyone to reach a resolution as soon as possible.

Assistant Mayor Rosenfield questioned why the prior lot hours aren't an option. Ms. Llanes reported that what they are proposing is a trial basis. She noted that if during the trial basis an earlier closing time is justified, then they would reconsider and renegotiate the operating hours. Mayor Berlin suggested the prior hours (6 a.m. to 10 p.m.) on a trial basis for a year, to see if there are any complaints or issues. He thinks that a small group of people are making it an issue who don't live in the community and who want to assert their political will. Mayor Berlin doesn't think that the Village will agree to a 24-hour proposal or one that operates late into the early morning hours. Mr. Reuben clarified that everything has been agreed to in the lease, except for the operating hours. He requested that the Village submit a proposal to FDOT.

**A motion was offered by Assistant Mayor Rosenfield and seconded by Councilman Jacobi that a proposal be submitted to FDOT that the Village is requesting the lot hours be 6:00 a.m. to 10:00 p.m. The motion carried unanimously (4-0).**

Ms. Llanes requested clarification that the small enclosed area for fishermen will remain open. Chief Hunker clarified that the pedestrian areas are open 24 hours. He noted that they aren't stopping anyone from fishing and going to the beach. He clarified that he doesn't want people there for criminal activity, etc. Mr. Reuben noted that they understand the Village's position and are looking at the big picture.

Mr. Weiss thinks that the lot is a huge liability for FDOT and noted that the Village agreed to take responsibility for that lot because bad things were happening there. He clarified that part of the reason for the agreement was for the Village to be responsible for what went on there, but in exchange would control the hours and the lot. Mr. Reuben thinks that the Village has done a very good job with the lot.

**Discussion of Possible Committee to Review and Make Recommendations Regarding Proposed Police Station at Bal Harbour Shops:** Mr. Treppeda explained that the Shops has offered the use of a 2,500 square foot space for the police department's use. He noted that Chief Hunker would like to locate uniform patrol, dispatch, and possibly detectives to the space. Mr. Treppeda recommended appointing a

committee to look into the feasibility of a proposed police station at the Bal Harbour Shops. He clarified that there would not be a charge for the lease. Chief Hunker discussed the benefit of having a sub-station at the Shops, including flood issues, etc.

Mayor Berlin discussed the sunshine and ethics laws that would be applicable to the committee members.

**A motion was offered by Councilman Jacobi and seconded by Assistant Mayor Rosenfield for the Committee to be comprised of Assistant Mayor Rosenfield as Chair, Councilman Packer, and two residents selected by each of them. The motion carried unanimously (4-0).**

**Dina Cellini, 211 Bal Cross Drive**, suggested that the Committee be suspended until the Fall, since residents will be affected by many issues (response time, etc.). Assistant Mayor Rosenfield requested Chief Hunker to address the comment on response time. Chief Hunker explained that the response time will not be affected and clarified that a police unit is always in the Security District. Councilman Packer is sure that it will take more than one Committee meeting and thinks that if the process begins in June/July, then it will continue until a conclusion is ready to present to the Council. Mayor Berlin thinks that there are a number of issues and requested that the Committee not bring anything back before September to the Council. Ms. Cellini thinks that's fair. Councilman Jacobi discussed the current conditions in the squad room and agreed that the process should be started now.

**Babak Raheb, 128 Balfour Drive**, spoke in opposition to forming a committee that studies moving anything to the Bal Harbour Shops for free, due to possible conflicts. He is against Councilman Packer serving on the Committee, since he has previously expressed that he approves selling the Village (Hall) to Mr. Whitman. He prefers a more neutral person on the committee.

**B. VILLAGE CLERK:**

**Lobbyist Registration Report: As of June 17, 2008:** A list of Lobbyists currently registered with the Village was provided in the agenda.

Mrs. Horvath reported that the Miami-Dade Elections Department has set up a new optical scan voting machine in the lobby for demonstrations.

**C. VILLAGE ATTORNEY:** Mr. Weiss reported that a motion for intervention was filed in the federal lawsuit, dealing with the 77 Camden Drive property, as instructed at the May meeting.

**Resort Tax Committee Update:** Mr. Weiss reported that no changes are required legally for the Resort Tax Committee ordinance and explained that the Council has the discretion to appoint anyone (residents or business owners) they want to the Committee. He discussed the tourist exemption. He suggested that the Council proceed. **It was the consensus of the Council to appoint Assistant Mayor Rosenfield to serve as a member of the Committee.** Assistant Mayor Rosenfield will speak with Mr. Weiss and Mr. Treppeda, figure out a process, and come back with recommendations of members for the Council to consider.

Councilman Packer clarified that he is not a lobbyist for Mr. Whitman and that he spoke with Chief Hunker about the police station item. He considers himself to be very fair and

open and will not do something if he thinks it's not correct for the Village.

**D. MAYOR AND COUNCIL:**

**Discussion/Action Regarding May 29, 2008 "Proof of Residency" Article in The SunPost:** Mayor Berlin discussed an article in the SunPost, quoting a number of residents and individuals.

***Lynne Bloch-Mullen, 10150 Collins Avenue***, read an email she sent to the writer, Angie Hargot, noting her belief that she was misquoted. Ms. Mullen noted that she never received a reply. Ms. Mullen read the letter sent to Councilmembers, dated May 29th, clarifying that she was misquoted in the article. Ms. Mullen read that her correct quote was "there is so much corruption in politics". She clarified that the Article quote was not accurate.

***Michael Krop, 9601 Collins Avenue***, clarified that his quote in the newspaper was also wrong and thinks that it's possible that other quotes are wrong.

***Anamarie Kelly, 77 Camden Drive***, asked Councilman Jacobi to resign his position as a Councilman in Bal Harbour, for the betterment of the community.

***Brian Mulheren, 10245 Collins Avenue***, noted that he heard Mrs. Mullen and reported that she did not say what was quoted. He thinks the Council should address the issue of the Councilmember that doesn't live in the Village. Mayor Berlin read Mr. Mulheren's quote and questioned if that was correct. Mr. Mulheren agreed that it was.

***Dina Cellini, 211 Bal Cross Drive***, echoed Mr. Mulheren's comments on the Council addressing the merits of the pending lawsuit against Jacobi and what the article is about (Jacobi's lack of qualifications to run for Council in April 2007).

Councilman Packer clarified that discussion is before a judge. He also thinks that the item discussion is out of order. Mayor Berlin and Councilman Jacobi clarified that the discussion is regarding the article, not the lawsuit. Councilman Jacobi questioned if Mr. Treppeda contacted the Sunpost. Mr. Treppeda responded that the SunPost editor and writer stand by the article and its quotes.

***A motion was offered by Councilman Packer to table the discussion. The motion died, due to the lack of a second.***

***Marjorie Schell, 9801 Collins Avenue***, questioned Councilman Jacobi staying on the Council, given the circumstances written in the papers.

***Gabriela Webster, 30 Park Drive***, hopes the Council will keep Councilman Jacobi in response to the people who voted for him. She thinks that any ethical issues will be resolved by the Boards. She thinks that ethics need to be balanced and noted that she would question any substitute or placement of Ms. Mullen on any Board or the Council. She requested the Council keep and support Councilman Jacobi.

Assistant Mayor Rosenfield clarified that it's not the Council's job to dismiss a member of the Council. She noted that it has been taken before a judge to decide. She pointed out that there is no legal right for the Council to remove someone from the Council. Assistant Mayor Rosenfield is tired of being accused and clarified that she is not corrupt and, discussing the

article, pointed out that not all government is corrupt and that there are honest politicians. She noted that the Council listens to the residents and the Council should be treated fairly.

Councilman Jacobi noted that public officials get accused on a daily basis of being corrupt.

Mayor Berlin requested that Ms. Mullen address the Council for discussion. Ms. Mullen noted that, on the advice of Counsel, she cannot answer any questions. Mayor Berlin read the quotes in the article by Ms. Mullen, which he thinks is liable/slander. He pointed out that Ms. Mullen hasn't done anything to correct the quote. He clarified that the SunPost has reported that they haven't been contacted by anyone regarding correction of the quotes in the article. He discussed the affect on the residents and Council, regarding the article.

Mayor Berlin questioned the Village Attorney what action is available to the Council regarding the issue. Mr. Weiss noted that if the Council believes the comments are liable, then there's a civil and criminal side. He advised that it's a crime to communicate liable material to a newspaper. He explained that if a member of the Council felt there was a crime committed, then they would need to file a complaint with the State Attorney's Office, which would investigate it. Mayor Berlin requested Mr. Weiss to contact individual Council members to see if they want to pursue anything.

On the civil side, Mr. Weiss discussed defamation. He noted that a suit could be brought against that person for damages, but that would have to be done by the Councilmembers individually. Mr. Weiss has to research if his office could represent Council members.

Mayor Berlin noted that, on the civil side, he would be willing to forego a lawsuit for the quote if Ms. Mullen does the following: acknowledges that what she said was wrong, says she didn't have then and she doesn't have now and is unaware of any facts to substantiate those statements about the Council being corrupt, she regrets saying what was said and wants to retract it, she apologizes to the entire Council and community, prints those items in a paper of general circulation (SunPost, Neighbors), and sends a copy to all Village residents, allowing the Council to approve the content. He clarified that if Ms. Mullen does those things, then he would accept the apology and consider the matter to be resolved on the civil side.

Mr. Weiss noted that the issue of the criminal side is separate.

## **10. OTHER BUSINESS:**

***Babak Raheb, 128 Balfour Drive***, suggested using forfeiture funds for gas for police vehicles.

***Dina Cellini, 211 Bal Cross Drive***, opposed any DOT meeting at the Bal Harbour Club.

Councilman Jacobi left the meeting.

Ms. Cellini thinks that Mr. Alter and Mr. Raheb are both good citizens. Mayor Berlin explained that he wasn't speaking about Mr. Alter or Mr. Raheb personally, but the manner of handling an issue. Ms. Cellini noted that Mr. Raheb filed a complaint against the Mayor and he didn't go through the exercise of good citizenship with regard to Kent Security. She thinks the Mayor's comment was the only time a person could be a good citizen is if they came to the Council for discussion about an issue as opposed to going directly to the ethics

commission. Mayor Berlin noted that Ms. Cellini misunderstood his comments and took them out of context.

**Anamarie Kelly, no address given**, requested that the Council take the settlement of the Raheb lawsuit off the table and place it on an agenda for discussion. She thinks that it's in the best interest of the community to resolve the issue.

Assistant Mayor Rosenfield clarified that she wants to listen to everyone and is looking for everyone to come back to one community. She doesn't want it to be an "us versus them" scenario.

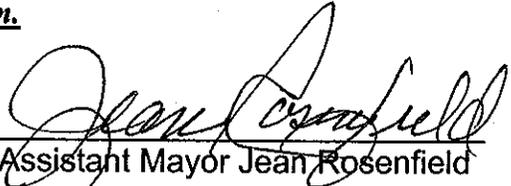
Chief Hunker announced an upcoming DUI checkpoint.

Mr. Weiss clarified that regarding the article he will speak to individual Councilmembers personally to see whether there's something they want to pursue criminally and, on the civil side, he will look into whether or not the Village could financially support or bring a suit on behalf of an individual Councilperson for some sort of defamation action.

Mayor Berlin and Mr. Weiss suggested canceling the regular meeting in July.

*A motion was offered by Assistant Mayor Rosenfield and seconded by Councilman Packer to cancel the Regular Council meeting in July. The motion carried unanimously (4-0).*

**11. ADJOURN:** There being no further business, *a motion was offered by Councilman Packer and seconded by Assistant Mayor Rosenfield to adjourn. The motion carried unanimously (4-0) and the meeting adjourned at 11:21 a.m.*

  
Assistant Mayor Jean Rosenfield

Attest:

  
Ellisa L. Horvath, CMC, Village Clerk