

BAL HARBOUR VILLAGE COUNCIL MEETING MINUTES
REGULAR MEETING – OCTOBER 21, 2008

The Regular Meeting of the Bal Harbour Village Council was held on Tuesday, October 21, 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 9:44 a.m. by Mayor Berlin. The following were present:

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

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

2. PLEDGE OF ALLEGIANCE: The Pledge was done at the Local Planning Agency meeting.

3. AGENDA: REQUEST FOR DELETIONS/ADDITIONS:

Mayor Berlin commended Chief Hunker on the MADD (Mothers Against Drunk Driving) event.

Mr. Treppeda requested the removal of Tab C (Motion Approving Payment for Emergency Repairs to Sewer Station #2) from the Consent Agenda.

It was the consensus of the Council to remove Tab C from the Consent Agenda.

4. SPECIAL PRESENTATIONS: None.

5. CONSENT AGENDA:

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

Tab A: Minutes for the September 16, 2008 Regular Meeting and September 16, 2008 Second Budget Hearing

Tab B: \$67,800.00 in Resort Tax Funds (\$30,000.00 New York/New Jersey/Connecticut November Sales Mission, \$25,800.00 December Sales Mission to Toronto/Montreal, Canada, and \$12,000.00

Destination Photoshoot)

Tab D: \$5,521.00 plus \$54.00 per hour labor for Tri-City Electric to replace a breaker enclosure and provide repairs to the storm water pump station

Tab E: \$64,568.40 for Lukes' Landscaping to replace median plant materials throughout the year

A motion was offered by Assistant Mayor Rosenfield and seconded by Councilman Sanz to approve the items on the Consent Agenda, except for Tab C. The motion carried unanimously (4-0).

6. PUBLIC HEARINGS:

Zoning Hearings/Quasi-Judicial Public Hearings: None.

Ordinance Second Reading/Public Hearing: The following ordinance was read, by title, by the Village Clerk:

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE VILLAGE CODE BY AMENDING CHAPTER 2 "ADMINISTRATION" BY AMENDING SECTION 2-89 "DEFENSE OF OFFICIALS IN ETHICS MATTERS", BY AMENDING THE TERM "OFFICIAL" IN PARAGRAPH (A) "DEFINITIONS"; PROVIDING FOR EXPANSION OF APPLICABILITY TO INCLUDE THE DEFENSE OF MEMBERS OF VILLAGE BOARDS AND COMMITTEES INCLUDING ADVISORY BOARDS AND COMMITTEES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR 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 Ordinance on second reading. The motion carried unanimously (4-0), with the roll call vote as follows: Mayor Berlin yes; Assistant Mayor Rosenfield yes; Councilman Jacobi yes; Councilman Sanz yes; Councilman Packer absent; thus becoming Ordinance No. 529.

Resolutions/Public Hearings: The following resolution was read, by title, by the Village Clerk:

A RESOLUTION OF BAL HARBOUR VILLAGE, FLORIDA, ESTABLISHING SANITARY SEWER AND WATER RATES FOR THE 2008/2009 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 Councilman Jacobi and seconded by Councilman Sanz to approve the Resolution. The motion carried unanimously (4-0); thus becoming Resolution No. 707.

7. ORDINANCE FIRST READING/PUBLIC INPUT:

The following ordinance was read, by title, by the Village Clerk:

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA AMENDING THE BAL HARBOUR VILLAGE COMPREHENSIVE PLAN TO STRENGTHEN COORDINATION BETWEEN WATER SUPPLY AND LAND USE PLANNING BY AMENDING THE TEXT CONTAINED IN THE FUTURE LAND USE ELEMENT, POTABLE WATER SUB-ELEMENT OF THE INFRASTRUCTURE ELEMENT, CONSERVATION ELEMENT, INTERGOVERNMENTAL COORDINATION ELEMENT AND THE CAPITAL IMPROVEMENT ELEMENT OF THE BAL HARBOUR VILLAGE COMPREHENSIVE PLAN; ADOPTING AND INCORPORATING BY REFERENCE THE BAL HARBOUR VILLAGE WATER SUPPLY FACILITIES WORK PLAN INTO THE BAL HARBOUR VILLAGE COMPREHENSIVE PLAN; PROVIDING FOR ADOPTION OF THE PROPOSED AMENDMENTS; PROVIDING FOR TRANSMITTAL OF CERTIFIED COPIES OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS AND ALL OTHER UNITS OF LOCAL GOVERNMENT AND GOVERNMENTAL AGENCIES AS REQUIRED UNDER CHAPTER 163, PART II, FLORIDA STATUTES; PROVIDING FOR INCLUSION IN THE BAL HARBOUR VILLAGE COMPREHENSIVE PLAN; PROVIDING FOR REPEAL OF CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

A motion was offered by Assistant Mayor Rosenfield and seconded by Councilman Sanz to approve the Ordinance.

Mayor Berlin opened the public hearing.

Comments and presentations made at the Local Planning Agency meeting, regarding the ordinance, were adopted by reference.

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

The motion carried unanimously (4-0), with the roll call vote as follows: Mayor Berlin yes; Assistant Mayor Rosenfield yes; Councilman Jacobi yes; Councilman Sanz yes; Councilman Packer absent.

The following ordinance was read, by title, by the Village Clerk:

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, GRANTING TO FLORIDA POWER & LIGHT COMPANY, ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC FRANCHISE, IMPOSING PROVISIONS AND CONDITIONS RELATING THERETO, PROVIDING FOR MONTHLY PAYMENTS TO BAL HARBOUR VILLAGE, AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Treppeda noted that due to a conflict with the Village Attorney who does work for FPL, Cesar Seijas, Energy Alternatives, Inc. was hired to assist the Village in negotiations. The Village of Bal Harbour Franchise Agreement Final Report, dated September 9, 2008, prepared by Mr. Seijas, was included as part of the agenda.

Mayor Berlin noted that the only material request the Village didn't receive was for a shorter agreement.

Caesar Seijas, Energy Alternatives, Inc., reviewed the following items he negotiated with FPL for the Village: language to re-open the agreement in the future for consideration of future providers, clarification on gross revenues and other methodologies, favored neighbor relations, clarification of right-of-ways and easements, clarification of ability to audit franchise payments, allowance for future green initiatives, language provided for permits, and the provision for pilot programs. Mr. Seijas, Mr. Treppeda, and Mr. Weiss (based on Mr. Seijas' recommendation and with the note that his firm does some limited work for FPL) recommended approval of the agreement.

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

A motion was offered by Councilman Jacobi and seconded by Councilman Sanz to approve the Ordinance. The motion carried unanimously (4-0), with the roll call vote as follows: Mayor Berlin yes; Assistant Mayor Rosenfield yes; Councilman Jacobi yes; Councilman Sanz yes; Councilman Packer absent.

The following ordinance was read, by title, by the Village Clerk:

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE VILLAGE CODE BY AMENDING CHAPTER 6 "BUILDINGS AND BUILDING REGULATIONS", ARTICLE II "PERMITS AND INSPECTIONS", SECTION 6-33 "SERVICE CHARGES GENERALLY" TO INCREASE BUILDING PERMIT AND INSPECTION SERVICE CHARGES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR 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 Councilman Jacobi to approve the Ordinance. The motion carried unanimously (4-0), with the roll call vote as follows: Mayor Berlin yes; Assistant Mayor Rosenfield yes; Councilman Jacobi yes; Councilman Sanz yes; Councilman Packer absent.

The following ordinance was read, by title, by the Village Clerk:

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING CHAPTER 18 "TAXATION AND FINANCE" OF THE VILLAGE CODE BY REVISING ARTICLE II "RESORT TAX" BY AMENDING DIVISION 2 "RESORT TAX COMMITTEE", BY AMENDING SECTION 18-43 "COMPOSITION; APPOINTMENT; VACANCIES; COMPENSATION; REMOVAL FROM OFFICE, ETC." TO REVISE MEMBERSHIP QUALIFICATIONS AND INCREASE THE NUMBER OF MEMBERS APPOINTED TO THE RESORT TAX COMMITTEE, PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR AN EFFECTIVE DATE.

A motion was offered by Assistant Mayor Rosenfield and seconded by Councilman Jacobi to approve the Ordinance.

Mayor Berlin opened the public hearing.

Michael Krop, 9601 Collins Avenue, requested that the Council have total discretion on the money spent, including advertising, and for the Committee to be an advisory board.

Stanley Whitman, Bal Harbour Shops, noted that the Council approves the budget and receives a report of every Committee meeting. He clarified that the Committee has never spent money that wasn't approved by the Council.

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

The motion carried unanimously (4-0), with the roll call vote as follows: Mayor Berlin yes; Assistant Mayor Rosenfield yes; Councilman Jacobi yes; Councilman Sanz yes; Councilman Packer absent.

8. RESOLUTIONS: None.

9. REPORTS:

A. VILLAGE MANAGER:

Discussion of Bal Harbour Village Beach Erosion – Brian Flynn, Miami-Dade County DERM: Mr. Flynn expects permit approval within one to two months. He discussed \$3.5 million in additional state funding. He reported that the County is working with the Army Corps of Engineers to locate offshore sand sources for future Bal Harbour projects. Mr. Flynn will provide an update at the next meeting.

Paul Pruess, 10101 Collins Avenue, requested a more definitive project date and discussed the possibility of a future moratorium. Mayor Berlin thanked Mr. Pruess for his involvement in this issue. Mr. Flynn discussed the affects of the sea turtle nesting season, which will provide additional work restrictions from May 1 to November 1.

Fiscal Year 2007/2008 Final Budget Report - Finance Director Christopher Wallace: Mayor Berlin requested the annual audit by January. Mr. Wallace reported that is on schedule.

Mr. Wallace reported that the pre-closing report shows the Village finishing in very good financial condition, with surpluses in each of the funds. He doesn't expect to see any major adjustments to the funds with the end-of-year post-closing report.

Discussion of Christmas Tree at Founders' Circle: Mr. Treppeda reviewed possibilities for the replacement of the Christmas tree at Founders' Circle. He discussed future plans for the Whitman Trust to include a Christmas tree in plans to beautify Founders' Circle. In the meantime, Mr. Treppeda discussed several ideas and recommended the option of using the tree normally placed in front of Village Hall, as the easiest/quickest solution, but noted it would be smaller. Mayor Berlin discussed purchasing a tree for reimbursement by the Whitman Foundation. Assistant Mayor Rosenfield will provide information on a possible vendor for leasing a tree.

Anamarie Kelly, suggested the Village discuss options for Mr. Whitman to help the Village to acquire a similar tree (height, etc.). Mr. Treppeda reported that resort tax funds can be used to purchase decorations. The Council discussed the option to lease an artificial tree.

Dina Cellini, 211 Bal Cross Drive, suggested that North Miami Mayor Kevin Burns, who has a Christmas tree business, sell the Village a tree at cost. She thinks that would be the most cost effective and attractive option.

A motion was offered by Assistant Mayor Rosenfield and seconded by Councilman Jacobi to approve up to \$10,000 for the Village Manager to replace the Christmas Tree at Founders' Circle. The motion carried unanimously (4-0).

B. VILLAGE CLERK:

Lobbyist Registration Report: As of October 21, 2008: A list of Lobbyists currently registered with the Village was provided in the agenda.

C. VILLAGE ATTORNEY:

Draft Ordinance for Review: Mr. Weiss provided a draft ordinance for review by the Council amending "Reservation of Rights and Immunities" of Section 2-89 "Defense of Officials in Ethics Matters." Mayor Berlin requested a survey of other municipalities, to see if similar language is provided.

D. MAYOR AND COUNCIL:

Tourism Update – Assistant Mayor Rosenfield: Assistant Mayor Rosenfield reviewed the history of the Village's resort tax. She also reviewed the members of the GMCVB (Greater Miami Convention and Visitor's Bureau) Executive Committee and Board of Directors, which include people in the restaurant and hotel business, who decide how tourism money should be spent. Assistant Mayor Rosenfield clarified that the Village's ads are done to promote Bal Harbour and include small logos of the hotels/shops in the Village. She further explained the purpose is to bring tourists to Bal Harbour, to support the infrastructure. Assistant Mayor Rosenfield reviewed the beautification items done for the Village, using resort tax funds.

10. OTHER BUSINESS:

Anamarie Kelly, reviewed Chapter 23 of the Village Charter and questioned why her qualifications were not reviewed by the Council when she was not allowed to run in the last election.

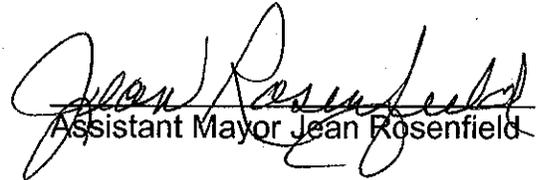
Neil Alter, 9801 Collins Avenue, questioned the status of installing cameras at 96th Street, Collins Avenue, and Harding Avenue for public safety and to generate revenue. He distributed a newspaper article and suggested that the Council pass a resolution urging Village restaurants/hotels to donate excess food to the homeless, in conjunction with new voluntary State legislation. Mr. Treppeda will review the item for placement on the next Council agenda. Chief Hunker reported that a Committee is reviewing a Request for Proposals that was received for the cameras, which will be brought to the Council for final approval.

Sylvia Holder, 20 Park Drive, discussed the poor appearance of the concession stand, volley ball poles, etc. behind the St. Regis site. She suggested that sea oats be planted in

place of the volleyball area. Mr. Treppeda explained that those items may be used by the St. Regis, which has State approval. He will direct code enforcement to cite any violations.

Marjorie Schell, 9801 Collins Avenue, suggested additional plantings behind the St. Regis site, to protect the beach. She discussed the poor appearance of the concession stand and believes the Village's congressional representatives will be addressing it.

11. ADJOURN: There being no further business, a motion was offered by Councilman Sanz and seconded by Assistant Mayor Rosenfield to adjourn. The motion carried unanimously (4-0) and the meeting adjourned at 10:43 a.m.


Assistant Mayor Jean Rosenfield

Attest:


Ellisa L. Horvath, CMC, Village Clerk