

**BAL HARBOUR VILLAGE COUNCIL MEETING MINUTES**  
**REGULAR MEETING – NOVEMBER 18, 2008**

The Regular Meeting of the Bal Harbour Village Council was held on Tuesday, November 18, 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 9:03 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

Absent: Mayor Howard J. Berlin

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

**2. PLEDGE OF ALLEGIANCE:** The Pledge was done at the General Employees Retirement Board meeting.

**3. AGENDA: REQUEST FOR DELETIONS/ADDITIONS:**

*Beth Bercowitz, 10160 Collins Avenue*, requested the removal of Tab E from the Consent Agenda. *It was the consensus of the Council to remove Tab E from the Consent Agenda.*

**4. SPECIAL PRESENTATIONS:**

**Introduction by Councilman Packer of Church by the Sea Pastor**

**Leigh McCaffrey:** Councilman Packer introduced Pastor Leigh McCaffrey. Pastor McCaffrey reported that she is the Interim Senior Pastor and clarified that the Church has not been purchased by the Bal Harbour Shops.

**Presentation by Janet Mondshein – Executive Director of MADD:**

Ms. Mondshein thanked the Council for supporting Moonlight MADDness and commended the Police Department. She reported that next year's event is scheduled for October 16, 2009. Chief Hunker discussed educating children and families about drugs and alcohol.

**Officer of the Month for October 2008:** Chief Hunker presented Lt. Charles Merrill with the Officer of the Month plaque for October 2008.

**Employee of the Month for October 2008:** Chief Hunker presented Monica Arneson with the Employee of the Month plaque for October 2008.

**Officers of the Month for September 2008:** Chief Hunker presented Officer Jeff Hatcher and Officer Ramon Fernandez with Officer of the Month plaques for September 2008.

Chief Hunker recognized Village resident Bennett Blachar for leading a shoe drive, to help children in the Dominican Republic.

## **5. CONSENT AGENDA:**

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

Tab B: October 21, 2008 Regular Meeting Minutes

Tab C: \$170,600.00 in Resort Tax Funds

Tab D: \$21,526.40 and \$207.35 Monthly in Police Forfeiture Funds

Tab F: Mutual Aid Agreement with the City of Miami Beach Police Department

Tab G: Mutual Aid Agreement with the Miami-Dade County Public Schools Police

Tab H: \$78,157.50 for Emergency Repairs to Sewer Station #2

Tab I: \$26,013.53 annually, for a 4-Year Lease of a Tymco 435 Street Sweeper (The Village will own the machine after 4 years)

Tab J: \$4,300.00 for the Employee Holiday Party

Tab K: \$2,881.00 in additional Resort Tax Funds to purchase a Christmas Tree for Founders' Circle

Tab L: \$10,995.00 for Lukes' Landscaping to replace plants on the Beach

Tab M: \$6,204.00 for Rock Solid Rock to add crushed shell to uneven areas on the Beach

**A motion was offered by Councilman Jacobi and seconded by Councilman Sanz to approve the items on the Consent Agenda, with the exception of Tab E. The motion carried unanimously (4-0).**

### **Tab E - Motion Approving Expenditure of Police Budgeted Funds in**

**Accordance with Chief Hunker's Request:** Chief Hunker requested approval for the following items: \$20,810 for a Smart Variable Messaging Sign (VMS) Trailer, \$3,600 per year for a Lease Renewal with the Bal Harbour Yacht Club, and \$425 monthly for two-year leases for two motorcycles with Peterson's Harley Davidson.

***Beth Bercowitz, 10160 Collins Avenue***, discussed the proposed docking agreement with the Bal Harbour Yacht Club and suggested using the docking space behind the Village's Park instead. Chief Hunker discussed the lack of security for Park patrons, electricity/water,

protection from the elements, and direct access as deterrents for docking the boat behind the Park, but will look into the possibility.

**Anamarie Kelly**, suggested using the County marina at Haulover. Chief Hunker reported that to be more costly, out of the Village's district, and with restricted hours. Ms. Kelly discussed a policing authority using private property. She suggested receiving an estimate from the County and looking into extending the dock behind the Park. Chief Hunker will research those items.

**Dina Cellini, 211 Bal Cross Drive**, requested the Council to direct the Chief to come back, at a time certain, with costs, etc. She spoke against arrestees on the boat being brought into her neighborhood. She discussed extending the dock. Ms. Cellini suggested negotiating a lease for less than a year, in case the dock is moved onto Village property. Chief Hunker will look into that. He noted that extending the dock would require DERM permits, etc. which he thinks will take a year. Chief Hunker will contact Haulover and research other options.

Assistant Mayor Rosenfield suggested discussing the Lease Renewal with the Bal Harbour Yacht Club at the December meeting, to see if a monthly lease is feasible, for the Council to proceed from there. Chief Hunker will research the possibility of a monthly lease, provide figures from Haulover, and research extending the Village dock, etc.

*A motion was offered by Councilman Packer and seconded by Councilman Sanz to approve the items on Tab E, except for the Lease Renewal with the Bal Harbour Yacht Club. 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 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.**

*A motion was offered by Councilman Sanz and seconded by Councilman Jacobi to approve the Ordinance on second reading.*

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

*The motion carried unanimously (4-0), with the roll call vote as follows: Assistant Mayor Rosenfield yes; Councilman Jacobi yes; Councilman Packer yes; Councilman Sanz yes; Mayor Berlin absent; thus becoming Ordinance No. 530.*

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.

*A motion was offered by Councilman Packer and seconded by Councilman Sanz to approve the Ordinance on second reading.*

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

*The motion carried unanimously (4-0), with the roll call vote as follows: Assistant Mayor Rosenfield yes; Councilman Jacobi yes; Councilman Packer yes; Councilman Sanz yes; Mayor Berlin absent; thus becoming Ordinance No. 531.*

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 Councilman Jacobi and seconded by Councilman Sanz to approve the Ordinance on second reading.*

Assistant Mayor Rosenfield opened the public hearing.

**Brian Mulheren, 10245 Collins Avenue**, suggested that the Miami-Dade County Commission on Ethics provide a ruling on the Ordinance, before the Council approves it. Mr. Weiss noted that the Ordinance itself does not create an ethical conflict, but clarified that any potential conflict would come from the people appointed.

**Gabriella Webster, 30 Park Drive**, spoke in favor of the Ordinance. She discussed the need to put the Committee back to work and focus on the long-term issues (beach, etc.).

Councilman Packer suggested a formula be created for the Council to appoint members, before passing the Ordinance. Assistant Mayor Rosenfield suggested approving the Ordinance and publishing/posting notices to accept resumes. Councilman Packer requested additional direction on the process to follow, once resumes are received. Assistant Mayor Rosenfield discussed interviewing, conducting background checks, and making a decision.

Assistant Mayor Rosenfield introduced the Tourism Director, Jose Lima, and noted that advertising is a major portion of what the Committee does. She discussed the State law and various items paid for with tourism funds (Christmas tree, bus shelters, beach plants, Bal Harbour Village Regular Council Meeting Minutes 11/18/2008

etc.). She encouraged people to submit resumes if they are interested in serving. She agreed that there has to be a procedure for selection of the members, but doesn't think it needs to be complicated. Mr. Weiss pointed out that the Ordinance requires the affirmative vote of four out of the five Councilmembers for approval. Councilman Packer clarified that Mr. Lima is doing a great job, without a Committee. He also pointed out that the properties are doing their own advertising.

**Dina Cellini, 211 Bal Cross Drive**, questioned if a procedure is set up in the Ordinance for the appointment of members. Mr. Weiss reported that no procedure is provided, but noted that the normal procedure would be to place an ad, receive resumes, set up a screening process, and approve members, etc. Ms. Cellini agreed that the composition should be made up of qualified individuals, as well as individuals that are interested.

**Brian Mulheren, 10245 Collins Avenue**, noted that the Committee is not an advisory board. Mr. Weiss clarified that it's primarily an advisory board, with one non-advisory capacity (advertising). Mr. Mulheren thinks a process should be provided. Assistant Mayor Rosenfield noted that the Village wants people who are interested in serving and are able to participate.

**Paul Pruess, 10101 Collins Avenue**, spoke in favor of approving the Ordinance and trusting the Council to place the right people on the Committee.

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

**The motion carried unanimously (4-0), with the roll call vote as follows: Assistant Mayor Rosenfield yes; Councilman Jacobi yes; Councilman Packer yes; Councilman Sanz yes; Mayor Berlin absent; thus becoming Ordinance No. 532.**

Assistant Mayor Rosenfield encouraged the submittal of resumes. Mr. Weiss explained the criteria provided in the Ordinance for members. He reported that the openings will be publicized with an application deadline, resumes will be received, and then the Council will decide how to review them.

**Resolutions/Public Hearings:** None.

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

**8. RESOLUTIONS:** None.

**9. REPORTS:**

**A. VILLAGE MANAGER:** Mr. Treppeda announced that Michael O'Quinn is the permanent Park Director. He also introduced the newest Police Officer, Eyleem Mederos.

**Discussion of Bal Harbour Village Beach Erosion – Brian Flynn, Miami-Dade County DERM:** Mr. Flynn reported that the draft Federal and State permits should be complete within the next two weeks, which would then have a 30-day period for comments. He clarified that once the permits are received, then the County

needs to issue a permit. He reported that they have received permission to work during the sea turtle nesting season. Mr. Flynn reported that assessments are being conducted on new sand sources for future Army Corps projects.

**Dan Holder, 24 Bal Bay Drive**, distributed photos showing the public beach signs and various items in the sea oats. He discussed oceanfront properties encroaching on the sea oats and artificial dune area, a concession stand and storage in the sea oats behind the St. Regis, a storage area for lawn chairs in the sea oats behind the Majestic, etc. Mr. Holder spoke in favor of protecting the sea oats and providing a new plan to remove any encroaching items. Mr. Treppeda and Mr. Nieda will research those issues. Councilman Packer requested that Mr. Weiss look into revoking permission for the concession stand, etc. behind the St. Regis. Assistant Mayor Rosenfield agreed that should be looked into.

**Neil Alter, 9801 Collins Avenue**, questioned if the beach renourishment will be done prior to the next hurricane season. Mr. Flynn advised that it will be.

**Anamarie Kelly**, discussed the property lines of the buildings being extended that used to end at the sea wall. She suggested asking the State why they aren't protecting the beach. Mr. Flynn noted that the property lines would remain the same. He doesn't know if any State permits were issued for the concession stand, storage areas, or widening the opening behind the St. Regis. Mr. Weiss will check to see if the proper permits were received.

**Marjorie Schell, 9801 Collins Avenue**, questioned the 70-80 foot opening between the sea oats behind the St. Regis and 30-foot opening behind the Majestic, while the other buildings have a 10-12 foot opening. Mr. Flynn reported that it's not the County's jurisdiction. Ms. Schell would like to contact her Congressional representatives and discussed the importance of the dunes. Assistant Mayor Rosenfield will provide Ms. Schell with contact information for her Congressional representatives. Mr. Weiss will look into the State permits and report at the next meeting.

**Paul Pruess, 10101 Collins Avenue**, thanked Mr. Flynn, Congresswoman Ileana Ros-Lehtinen and the Representative from Congresswoman Debbie Wasserman Schultz's office. He also thanked Paul Kruger (Army Corps of Engineers). He suggested that the beach renourishment not be done during the Christmas holidays. Assistant Mayor Rosenfield thanked Mr. Flynn.

Mr. Treppeda reported that Coastal Systems will present the report on a sand transfer station study, at the December meeting.

#### **Discussion of Workshop Meeting Regarding Police Station at**

**Bal Harbour Shops:** Mr. Treppeda requested direction on holding a Council workshop meeting on this issue. Councilman Packer reported that the result of the Committee was to recommend that the Council move forward. He discussed the importance of the project and suggested moving forward with the lease.

**Dina Cellini, 211 Bal Cross Drive**, discussed the sparsely attended Committee meetings held in August and ethics issues tied to the agreement. She suggested the Council have further discussion and clarified that the Committee's motion to approve the item was subject to the investigation of any ethical implications, which there are. She urged the Council not to move forward and to open it up for discussion.

Assistant Mayor Rosenfield spoke in favor of having a workshop meeting as soon as possible. Mr. Treppeda suggested reinstating the prior Committee. Councilman Packer agreed.

*A motion was offered by Councilman Sanz and seconded by Councilman Jacobi to reappoint Councilman Packer as Chair, Gabriella Webster, Babak Raheb, Paul Pruess, and Simeon Schreiber to the Committee.*

**Brian Mulheren, 10245 Collins Avenue**, offered to serve on the Committee.

Assistant Mayor Rosenfield explained that all members of the public are invited to attend the Committee meetings. She clarified that the Village operates 12 months a year.

*The motion carried unanimously (4-0).*

**Anamarie Kelly**, is not against the move, but spoke against waiving any ethical issues. She noted that Stanley Whitman is a lobbyist and Randy Whitman is on the Resort Tax Committee, which she believes are both violations of the ethics laws.

Assistant Mayor Rosenfield requested the Committee to come back to the Council with a recommendation.

**Betsey Bystock, 80 Park Drive #5 and Civic Association Board member**, will discuss her issues at the Committee meeting.

Assistant Mayor Rosenfield requested notice of the meeting to residents. Chief Hunker requested a decision by January. He will find out if the space is still available.

#### **Discussion of Fees to Bal Harbour Club for Use of Land for**

**Trash Transfer Station:** Mr. Treppeda explained that Joe Imbesi, owner of the Bal Harbour Club, is offering to lease the property currently used by the Village for the trash transfer station for \$3,500.00 per month. He reported that due to tough economic times, the Club is unable to continue offering the use of the land at no charge.

**Beth Bercowitz, 10160 Collins Avenue**, questioned which funds would be used for payment. Mr. Treppeda reported that General Funds would be used. Ms. Bercowitz pointed out that it's primarily used by the Security District. Mr. Treppeda agreed, but explained that it is also used by the Village. Ms. Bercowitz discussed alternatives for dumping the Village's vegetation elsewhere. She pointed out that taxpayer dollars are being spent for private vegetation waste and to maintain green space in the Security District, which is not accessible to everyone in the Village. She suggested that the Village find another solution.

**Brian Mulheren, 10245 Collins Avenue**, suggested looking at other less expensive alternatives, such as direct trucking to the main dump.

**Pat Nelson, on behalf of the Bal Harbour Club and Joe Imbesi**, reported that the area has been used for many years by the Village, residents, gardeners, etc. at no charge. She clarified that instead of closing the dump, Mr. Imbesi is requesting a fee and for the area to be kept cleaned and be used for foliage only. Councilman Packer questioned if the private gardeners using the dump are charged. Ms. Nelson reported that they aren't. Councilman Packer questioned why the Village should be charged if they are not.

**Anamarie Kelly**, discussed the use of the dump over many years. She is surprised that Mr. Imbesi is threatening to close the area, if the Village doesn't pay.

**Gabriella Webster, 30 Park Drive**, clarified that it's Mr. Imbesi's property and it's the Village's choice whether to accept the charge or not.

Councilman Jacobi suggested looking at alternatives to take the trucks directly to the landfill. Mr. Treppeda will get a cost. Councilman Packer suggested that the Village look into taking it directly to the main dump or the most efficient way, without impeding on private property. Mr. Treppeda noted that the Village is also paying to dump the items placed at the trash transfer station by residents/gardeners in the Security District.

**Dina Cellini, 211 Bal Cross Drive**, enjoys the benefit of the gardeners using the dump site in the Security District. She noted that the Village at large also benefits by using it for the Collins Avenue and 96<sup>th</sup> Street vegetation. She suggested that Mr. Treppeda negotiate a substantially reduced monthly amount with Mr. Imbesi.

Mr. Treppeda will report back at the next meeting. Councilman Packer reported that the gardeners from the east side buildings do not use the dump. He suggested that the gardeners using the dump pay a small fee.

**B. VILLAGE CLERK:**

**Lobbyist Registration Report: As of November 18, 2008:** A list of Lobbyists currently registered with the Village was provided in the agenda.

**C. VILLAGE ATTORNEY: No Items.**

**D. MAYOR AND COUNCIL:** Councilman Packer thanked the Council and staff for the bouquet sent.

**10. OTHER BUSINESS:**

**Discussion of Redistricting – Dina Cellini:** Ms. Cellini noted that the Village Charter calls for the districts to be divided equally and requested that the issue be looked into. Assistant Mayor Rosenfield directed Mr. Treppeda to look into the procedure to follow for redistricting.

Ms. Cellini requested that the amendments regarding the Defense of Officials Ordinance, which was passed in October, be revisited. Mr. Weiss reported that it will be placed on the December agenda, to allow Mayor Berlin to participate in the discussion.

**Gabriella Webster, 30 Park Drive**, discussed the Master Plan and questioned the Council addressing future challenges including long term issues of city hall, police department, public works, infrastructures, FPL/phone company repairs, fiber optics, wireless services, bus stop at Sunny Isles Library, etc. to improve the quality of life.

Assistant Mayor Rosenfield noted that several items are in the process and discussed the economy. Mr. Treppeda will look into the addition of a bus stop at the Sunny Isles library.

Assistant Mayor Rosenfield requested that members from the community put things in writing, for the Council's consideration. Councilman Packer is in favor of the Village revisiting the Master Plan. Mr. Treppeda reported that there will an evaluation and appraisal process for the comprehensive plan, in the near future.

**Neil Alter, 9801 Collins Avenue**, questioned the status of the red-light cameras. He also discussed the safety of the turn-around at the SunTrust Bank. Mr. Treppeda reported that the U-turn issue has been referred to FDOT, by the County.

**Dan Holder, 24 Bal Bay Drive**, recommended following ADA guidelines on fonts, backgrounds, etc. on the Information Channel and Web Site. He questioned the status of the White Fly issue. Mr. Treppeda reported that notices will be sent to residents regarding the problem, along with the names of companies available for spraying. Mr. Holder requested that the sidewalk on 96<sup>th</sup> Street, along Saks Fifth Avenue, be kept open during construction and suggested that guidelines be provided to keep sidewalks open during construction. He discussed problems with iguanas in the Village.

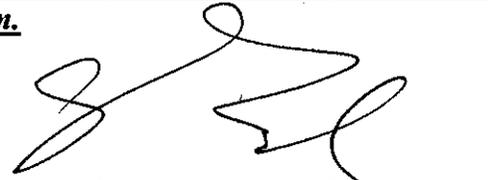
Chief Hunker expects to have a contract for the cameras on the December meeting agenda. He requested public input on using electronic passes on boats, for security.

**Brian Mulheren, 10245 Collins Avenue**, discussed the need for an agreement for the parking lot under the Haulover Bridge (owned by FDOT). Mr. Treppeda discussed the outstanding issue with FDOT, regarding underground drainage maintenance.

**Neil Alter, 9801 Collins Avenue**, suggested residents send correspondence to FDOT regarding the lot. Mr. Treppeda suggested any correspondence be sent to Gus Pego, FDOT District Secretary.

Mr. Treppeda reported that keys for the beach access, near the Plaza Condominium and the Bal Harbour Club, will be sold to residents only.

**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 10:58 a.m.



Mayor Howard J. Berlin

Attest:



Ellisa L. Horvath, CMC, Village Clerk