

BAL HARBOUR VILLAGE COUNCIL MEETING MINUTES
REGULAR MEETING – FEBRUARY 17, 2009

The Regular Meeting of the Bal Harbour Village Council was held on Tuesday, February 17, 2009, 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 7:00 p.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 led by the Police Chaplain, Rabbi Simeon Schreiber.

3. AGENDA: REQUEST FOR DELETIONS/ADDITIONS:

Dina Cellini, 211 Bal Cross Drive, requested the removal of Tab D.

Councilman Jacobi requested the removal of Tab K.

Mr. Treppeda requested the addition of a \$3,600 monthly dock lease with the Bal Harbour Yacht Club, under the Village Manager Item - Update for Dock of Police Boat.

A motion was offered by Councilman Packer and seconded by Councilman Sanz to approve the addition/deletion of the requested items on the Agenda. The motion carried unanimously (4-0).

4. SPECIAL PRESENTATIONS:

Officer of the Month for January 2009: Chief Hunker presented Officer Greg Matthews with the Officer of the Month plaque, for January 2009.

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

Tab B: January 20, 2009 Regular Meeting Minutes

- Tab C: \$149,905.00 (\$134,905.00 to Purchase Sea Hunter 35 Boat and \$15,000.00 Presentation of Armored Car Robbery Training) in Police Forfeiture Funds
- Tab E: \$51,679.00 to Purchase Master Parking Meters for the North Municipal Parking Lot
- Tab F: \$6,140.00 for Lukes' Landscaping to Replace a Date Palm Tree on 96th Street
- Tab G: \$409.53 Monthly for a 36-Month Lease of a Toshiba Copier for the Administrative Offices
- Tab H: \$4,722.40 Additional Fees for Lukes' Landscaping for Sod, Labor & Soil at the Former Transfer Station Location
- Tab I: \$138,000.00 for Construction Depot to Construct a Police Department Sally Port
- Tab J: Approval of Proposal from Gabriel Roeder Smith for GASB Statement #45 Audit Work

A motion was offered by Councilman Packer and seconded by Councilman Sanz to approve the items on the Consent Agenda, with the exception of Tabs D and K. The motion carried unanimously (4-0).

Discussion of Tab D – Motion Approving Acceptance of Donation for

Police Department: Dina Cellini, 211 Bal Cross Drive, questioned the donation violating ethic gift rules and requested the disclosure of any relationship the Council, Village or Department Heads have with the donor that may pose a conflict. No disclosures were made by the Council or Village Manager.

Chief Hunker explained that United Group Insurance Company offered \$10,000 to defray costs of the Miami-Dade County Association of Chief of Police Dinner Meeting. He reported that any money left over after the dinner would be used to assist a charity effort to distribute shoes to the needy in the Dominican Republic.

Mr. Weiss reported that there is no prohibition for the Village to accept a donation from a private party.

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

Discussion of Tab K – Motion Approving Resort Tax Committee Recommendation for Temporary Consulting Agreement to Oversee Marketing and Promotion of Bal Harbour Village: Assistant Mayor Rosenfield explained that the Resort Tax Committee agreed that someone is needed to fill the position temporarily, while applications are accepted and reviewed. Councilman Jacobi is not comfortable with Carolyn Travis being hired as a consultant, since she is an applicant for the position.

Brian Mulheren, 10245 Collins Avenue, agreed that she shouldn't apply for the job and be the consultant. He suggested reviewing the resumes received for a temporary person.

Paul Pruess, 10101 Collins Avenue, spoke against hiring anyone as a consultant that is being considered for the job.

Assistant Mayor Rosenfield clarified that the Resort Tax Committee voted unanimously to hire Ms. Travis temporarily and reported that she previously served as the Village's Tourism Director.

Dr. Michael Krop, 9601 Collins Avenue and Resort Tax Committee Member, explained that the Committee felt that in fairness to the hotels and industry and since the money is available, it would be good to have someone hit the ground running. He also pointed out that it would allow time for the Committee to search for the permanent position. He added that the Committee was impressed with Ms. Travis. Dr. Krop is not sure if being the consultant would give Ms. Travis an advantage for the permanent position.

Paul Pruess, 10101 Collins Avenue, agreed that Ms. Travis can advise, but that in doing so she would forfeit her right to be part of the Committee.

Gabriella Webster, 30 Park Drive, is happy the Committee is moving forward.

Councilman Jacobi spoke in favor of Ms. Travis choosing either to be a consultant or an applicant, but not both.

Councilman Packer clarified that Ms. Travis is not a member of the Committee and that she was asked to explained the duties of the Director position to the Committee. He spoke in favor of Ms. Travis serving on a per month basis, until a permanent selection is made, to focus on ads/promotions.

Councilman Sanz spoke in favor of Ms. Travis choosing either to be a consultant or an applicant for the position.

A motion was offered by Councilman Packer to hire Carolyn Travis (CMT) on a month to month basis. The motion died, due to the lack of a second.

This item was discussed again under the Other Business section.

6. PUBLIC HEARINGS:

Zoning Hearings/Quasi-Judicial Public Hearings: None.

Ordinances Second Reading/Public Hearings: The following proposed 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 Councilman Packer and seconded by Councilman Sanz to adopt.

Assistant Mayor Rosenfield opened the public hearing.

Michael Miller, Village Planner, explained the State mandate to add certain provisions into the Comprehensive Plan relating to the Village's water source, which is Miami-Dade County. He reported on the task to create a Water Supply Facilities Work Plan and to provide certain amendments to the Comprehensive Plan. He discussed the textural changes and inclusion of the policy requiring County certification of adequate water supply for proposed developments, in order to receive a Village Building Permit. He recommended adoption.

Anamarie Kelly, 77 Camden Drive, addressed the Council to discuss beach access as part of the Comprehensive Plan. Mr. Weiss clarified that the item is related only to the water supply.

Beth Berkowitz, 10160 Collins Avenue, questioned if the population used is based on permanent residency or permanent/seasonal/transient population. Mr. Miller reported that the calculation is based on the permanent resident population, as required. He noted that water use has decreased 23% in the Village, since 2000, mostly due to the loss of the convention hotel (Sheraton).

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 aye; Councilman Jacobi aye; Councilman Packer aye; Councilman Sanz aye; Mayor Berlin absent; thus becoming Ordinance No. 2009-533.

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 Bureau Chief has assured that a notice of intent will be issued by the end of the week for the State permit. He explained that a notice will then be published in The Miami Herald and the permit request will go before the County Commissioners in early March.

Paul Pruess, 10101 Collins Avenue, discussed working with the Army Corps and DERM, on behalf of the Bal Harbour Citizens Coalition, to ensure that the project gets done before the turtle nesting season. Mr. Flynn assured that the turtle nesting season will not impede on the renourishment of the beach.

Anamarie Kelly, 77 Camden Drive, discussed Florida Statute 161.141 regarding requirements for restoration projects and beach access. She reviewed the original Platt and discussed public use, prior access, a former street that went through the Bal Harbour Club (N.E. 102nd Way), prior amendments, and deed restrictions. She questioned what DERM has done to ensure that the Florida Statutes are being adhered to. She discussed beach access mandated in 1954 and questioned where the access is.

Councilman Packer reported that Joe Imbesi, owner of the Club, has agreed to open the beach access to residents of the Village, with the implementation of a key system. He noted that the Village Attorney is preparing an agreement. He thanked Mr. Imbesi for his good will.

Joe Imbesi, Bal Harbour Club, reported that residents living in Bal Harbour, determined by him, will be provided with a key for the beach access.

Discussion of Police Retirement Board Appointment: Mr. Treppeda reported that Cecil Mullen resigned from the Police Retirement Board and he will send out notification for the position. *It was the consensus of the Council to solicit resumes for the position.*

Update on Dock for Police Boat – Chief Hunker: Mr. Treppeda reviewed the Bal Harbour Yacht Club annual lease for \$3,600 for the police boat, effective March 1, 2009. Mr. Weiss reported that the dockage agreement will be updated with the information on the new boat.

A motion was offered by Councilman Packer and seconded by Councilman Sanz to approve, subject to the Village Attorney's revisions. The motion carried unanimously (4-0).

B. VILLAGE CLERK:

Lobbyist Registration Report: As of February 17, 2009: A list of Lobbyists currently registered with the Village was provided in the agenda.

Notice of Village Election: Mrs. Horvath reported that the Village Election is scheduled for April 7, 2009 at the Church by the Sea, for the District 1, 3, and 5

seats. She advised that qualifying is from February 11, 2009 through March 7, 2009. Candidates interested in running were directed to contact the Village Clerk.

C. VILLAGE ATTORNEY: Mr. Weiss reported that his office has been in contact with Ms. Berkowitz regarding beach access issues and a report will be provided at the next meeting.

D. MAYOR AND COUNCIL: Councilman Packer reported that the bus stop in front of the Bellini Condominium will be restored. He also reported that the lease agreement with the Shops will be on the next agenda and available to the public.

10. OTHER BUSINESS:

Discussion of Candidates Debate/Forum – Dina Cellini:

Assistant Mayor Rosenfield requested Mr. Treppeda to look into the process for a forum and provide the Council with suggestions. Mr. Treppeda is researching possible locations, dates, process, etc.

Dina Cellini, 211 Bal Cross Drive, requested a Candidates Forum. She reported that in Bay Harbor the Chamber of Commerce sponsors it, the moderator is Peter Cohen, and it is held at Bay Harbor Town Hall. She noted that the Village will know who the candidates are by March 7, 2009. Councilman Packer suggested a forum by the third week in March.

Doug Rudolph, 212 Bal Bay Drive, doesn't know if there is any perfect time for a Council meeting. He suggested that the Council wait to see if there will be candidates for an election, before looking into it. He noted that most towns do not have a forum and he questioned who would pay for it, how it would be noticed, etc. He suggested that if there is an expense involved then a private organization should pay for it and host it.

Neil Alter, 9801 Collins Avenue, spoke in favor of night meetings. He also spoke in favor of a forum, even if the candidates are unopposed, and doesn't think cost should be a barrier.

Brian Mulheren, 10245 Collins Avenue, spoke in favor of night meetings and a candidate forum.

Marjorie Schell, 9801 Collins Avenue, spoke in favor of night meetings and a forum.

Discussion of Election Residency Requirement and Liens on 77

Camden Drive – Anamarie Kelly: ***Anamarie Kelly, 77 Camden,*** questioned if domicile or residency will be used for determining eligibility for beach access, the cost of Doug Rudolph's lawsuit in 1999, and the discrepancy in taxes (lost revenue) paid by the Bal Harbour Club since its zoning change was not reported 10 years ago. She also questioned the investigation of the entire dump not being in Tract E.

Mr. Weiss reported that statutes concerning beach access are being researched and Mr. Imbesi, as the owner of the property, will determine who is a Bal Harbour resident. Mr. Weiss does not know the cost of the Rudolph lawsuit.

Councilman Packer reported that the access through Mr. Imbesi's property will be in

cooperation with the Village Manager, who will determine who lives in the Village.

Dina Cellini, 211 Bal Cross Drive, is opposed to the process of going to the Club to obtain a key and suggested that it be done through Village Hall. Mr. Treppeda explained that the property owner wanted to reserve that right. Ms. Cellini reported that she will be singled out because Mr. Imbesi has forbid her from entering the Club. Councilman Packer is sure that nobody who lives in Bal Harbour will be denied access. Ms. Cellini refused to go on the Bal Harbour Club property.

Joe Imbesi, Bal Harbour Club, reported that he will provide Ms. Cellini with a key and offered to deliver it. He added that Ms. Kelly can also have a key, at a special price.

Chief Hunker recognized Village resident Bennett Blachar for collecting over 3500 pairs of shoes for kids in the Dominican Republic.

Michael Krop, 9601 Collins Avenue, suggested discussion of Tab K again.

A motion was offered by Councilman Packer and seconded by Councilman Jacobi to approve the contract in Tab K, subject to Carolyn Travis withdrawing her application for the permanent position. The motion carried unanimously (4-0).

Gabriella Webster, 30 Park Drive, suggested dimming lights on the oceanfront, during turtle nesting season. She noted that the Village should encourage residents to volunteer to help with watching out for the turtles, etc. and other community service projects.

Doug Rudolph, 212 Bal Bay Drive, noted that the same amount of people attend the night meetings as the day meetings. He reported that the lawsuit he filed was pulled after a couple of days and the Village didn't spend money, as far as he knows. He noted that the Mullen lawsuit has gone on for over a year, the Village Charter was attacked and the Village was forced to spend \$190,000 in taxpayer dollars. He spoke in favor of people respecting the Charter that the Village lives under.

Neil Alter, 9801 Collins Avenue, noted that the Village was not forced to participate in the lawsuit and that it revolved around the eligibility of candidates. He added that the Village had the ability to withdraw during the proceedings and questioned why the Village remained as a participant when there were other alternatives (settlement, mediation, resolution).

Carlos Rivos, Sheetmetal Workers International Association, discussed picketing at the St. Regis site, due to the outsourcing of jobs to a Mexican company. He suggested the Council direct an inspector to review the work.

Brian Mulheren, 10245 Collins Avenue, spoke in favor of the Council looking into the issue and supporting the union workers that work and live here.

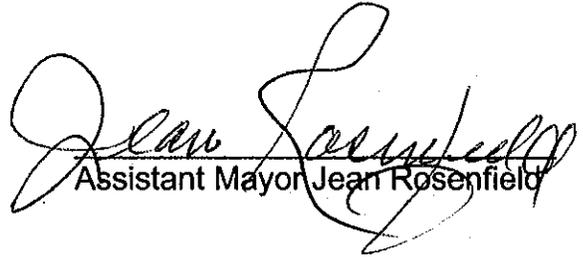
Anamarie Kelly, 77 Camden Drive, read the definition of residency and domicile in the Florida Statutes. She discussed the Village Code requirement of residency, not domicile.

Assistant Mayor Rosenfield announced the Sand Transfer Workshop Meeting on February 24, 2009, at 7:00 p.m.

Councilman Packer discussed possible dates for a candidate forum. Assistant Mayor Rosenfield clarified that the Village Manager will provide a plan for the Council's consideration.

11. ADJOURN: There being no further business, a motion was offered by Councilman Jacobi and seconded by Councilman Packer to adjourn. The motion carried unanimously (4-0) and the meeting adjourned at 8:20 p.m.

Attest:



Assistant Mayor Jean Rosenfield



Ellisa L. Horvath, CMC, Village Clerk