

BAL HARBOUR VILLAGE COUNCIL MEETING MINUTES
SPECIAL MEETING – MARCH 26, 2009

A Special Meeting of the Bal Harbour Village Council was held on Thursday, March 26, 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 8:00 a.m. by Mayor Berlin. The following were present:

Mayor Howard J. Berlin
 Assistant Mayor Jean Rosenfield
 Councilman Martin Packer
 Councilman Jaime M. Sanz

Alfred J. Treppeda, Village Manager
 Ellisa Horvath, CMC, Village Clerk
 Richard J. Weiss, Village Attorney

Absent: Councilman Joel S. Jacobi

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

2. PLEDGE OF ALLEGIANCE: The Pledge was led by Mr. Treppeda.

3. DISCUSSION OF PROCESS FOR FILLING OPEN COUNCIL SEAT IN DISTRICT 4 – COUNCILMAN MARTIN PACKER: Councilman Packer requested the Council to come up with a procedure to solicit interest from the community. Assistant Mayor Rosenfield suggested that Mr. Treppeda provide notice that the Village is accepting resumes for the Council's review.

Dina Cellini - 211 Bal Cross Drive, requested discussion on the review process. Assistant Mayor Rosenfield suggested a process to be done at a public meeting. Ms. Cellini suggested that discussion of the item is premature, since a final judgment has not been entered in the Jacobi/Mullen case. She spoke in favor of Lynne Bloch-Mullen being appointed to the seat and urged priority to be given to residents living in District 4.

Neil Alter, 9801 Collins Avenue, spoke in favor of appointing Lynne Bloch-Mullen.

Anamarie Kelly, 77 Camden Drive, suggested clarification of the Charter on whether the appointed person has to live within the District. She discussed domicile versus residency for those serving on the Council. She suggested that experience versus living in the district and qualifications to run be examined.

Doug Rudolph, 212 Bal Bay Drive, questioned if public comments on the issue will be allowed at a later meeting. Mayor Berlin clarified that at least one more meeting will be held for public input.

Brian Mulheren, 10245 Collins Avenue, spoke in favor of appointing Lynne-Bloch Mullen. He discussed the meeting being premature, urged the Council to wait for a Judge to make

a decision, and suggested the new Council address the issue. He also suggested that background checks be done to verify the eligibility of the candidates.

Marjorie Schell, 9801 Collins Avenue, spoke in favor of appointing Lynne-Bloch Mullen.

Councilman Packer requested discussion on whether or not the case has been concluded. Mr. Weiss clarified that certain things are resolved. He explained that Councilman Jacobi filed his resignation effective April 1st, which creates a vacancy. He noted that the Judge granted a Summary Judgment that the Council, per the Charter, has the ability to fill the seat. Mr. Weiss added that an appeal could be filed on that, but he thinks that the Village has the right under the Charter to fill the vacancy. He agreed that the Charter isn't clear on the qualification of the person to fill a vacancy, but thinks it would be preferable to fill the seat with someone from the District. Councilman Packer agreed. He suggested that the Council solicit resumes from the entire community and then the Council discuss preferences.

A motion was offered by Assistant Mayor Rosenfield and seconded by Councilman Sanz to solicit resumes (no later than 5:00 p.m. on Friday, April 10, 2009) and for the Council to meet on Monday, April 13, 2009, at 7:00 p.m. for Discussion and Possible Selection of a Councilmember. The motion carried unanimously (4-0).

Mr. Treppeda will provide notice in the paper and on Channel 77.

4. DISCUSSION OF MEETING TIME FOR FIRST MEETING OF NEW COUNCIL ON APRIL 21, 2009 – COUNCILMAN MARTIN PACKER:

Councilman Packer suggested that the April 21, 2009 meeting be held at 7:00 p.m.

Assistant Mayor Rosenfield suggested that the April 21, 2009 meeting be held at the original schedule of 9:00 a.m. and allowing the new Council to select their meeting times on April 20, 2009. She clarified that the prior motion was to have the February and March meetings at 7:00 p.m., so the April meeting would automatically be scheduled for 9:00 a.m. unless that is changed by the Council. Mrs. Horvath agreed.

A motion was offered by Councilman Packer to schedule the April 21, 2009 Council Meeting for 7:00 p.m. The motion died due to the lack of a second.

VILLAGE ATTORNEY: Mr. Weiss discussed correspondence received regarding a discrepancy of whether or not one of the Council candidates resides in the Village/District. He discussed a recommended process and suggested that the Council hear the facts of the circumstances from the candidate and make a decision. It was the consensus of the Council to address the issue at the current meeting. Mr. Weiss clarified that he received correspondence from Anamarie Kelly reporting that Patricia Cohen filed homestead exemption for a property in Surfside.

Anamarie Kelly does not think that Patricia Cohen is qualified to run, since she declared homestead exemption for her property in Surfside in 2008. She also discussed a government-mandated lien on that Surfside property.

Patricia Cohen, Council Candidate for District 3, provided documents showing that she resides in Bal Harbour at 10275 Collins Avenue #610. She explained her residency in

Surfside during renovations to her Bal Harbour apartment at the Harbour House, which she closed on in September 2007. She reported that her driver's license, voter's registration, etc. show her Bal Harbour address. Ms. Cohen clarified that she signed the residency affidavit stating that she has resided in the Village for at least one year and has documentation to prove it.

Ms. Cohen reported that she has a case pending with the building in Surfside regarding the lien, which she doesn't think relates to the residency issue. She clarified that she was not aware that it was a "government imposed" assessment.

Ms. Cohen provided documentation that was mailed to the County Property Appraiser indicating that she no longer resided in Surfside and no longer qualified for homestead exemption at that property. She explained a misunderstanding that she was required to file that change in person in order to receive homestead exemption for her Bal Harbour property.

The Council reviewed the Miami-Dade County 2008 Automatic Residential Renewal Receipt provided by Ms. Cohen, showing cancellation of the homestead exemption automatic renewal since she didn't live at the Surfside property as of January 1, 2008, dated February 2008. The Council reviewed the Miami-Dade County Property Appraisal Department for new homestead exemption showing the property in Bal Harbour. Ms. Cohen clarified that she was told that the new property was supposed to be submitted in person, so they provided the homestead exemption on the Surfside apartment instead of the Bal Harbour property.

Councilman Packer discussed ownership of the Harbour House residence. Ms. Cohen reported that she closed on the unit in September 2007. Assistant Mayor Rosenfield clarified that the Charter does not specify that someone has to own, but must reside in the Village. She doesn't understand why this is a question since it is dealing with ownership.

Mayor Berlin clarified that in order to qualify to run, Ms. Cohen needs to be a resident of the Village. He noted that Ms. Kelly has provided Miami-Dade County records showing that Ms. Cohen's apartment in Surfside was designated as her homestead for tax purposes and in order to do so, the property must be her principle residence. He summarized that Ms. Kelly has questioned that since Ms. Cohen's Surfside property was designated as her homestead in 2008 how she was able to fulfill the residency requirements to file and run in Bal Harbour in 2009. He added that Ms. Cohen has provided documents showing that the Surfside apartment was no longer her principle residence and that she would no longer be eligible for the exemption for that property.

Mr. Weiss discussed the issue of residence and reviewed court opinions.

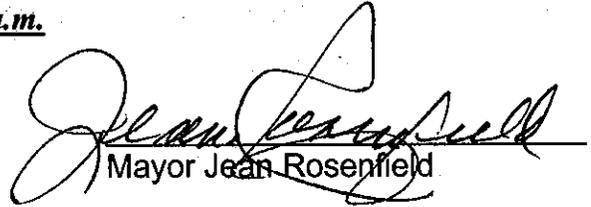
Ms. Cohen provided documents showing that she rented out the Surfside apartment in February 2008 for a year, which was extended.

Councilman Sanz questioned Ms. Cohen when she physically moved back into the Harbour House. Ms. Cohen reported that was in October 2007. Mayor Berlin questioned Ms. Cohen if she has been living in the Harbour House since the end of 2007. Ms. Cohen agreed that she has been living there full-time since then.

Councilman Packer doesn't see any problem from what has been presented.

A motion was offered by Councilman Packer and seconded by Councilman Sanz that the Council finds that Patricia Cohen is legally qualified to run. The motion carried unanimously (4-0).

5. ADJOURN: There being no further business, a motion was offered by Assistant Mayor Rosenfield and seconded by Councilman Sanz to adjourn. The motion carried unanimously, and the meeting adjourned at 9:00 a.m.



Mayor Jean Rosenfield

Attest:



Ellisa L. Horvath, CMC, Village Clerk