

BAL HARBOUR VILLAGE COUNCIL MEETING MINUTES
REGULAR MEETING – OCTOBER 20, 2009

The Regular Meeting of the Bal Harbour Village Council was held on Tuesday, October 20, 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 7:16 p.m. by Mayor Rosenfield. The following were present:

Mayor Jean Rosenfield
 Assistant Mayor Joni D. Blachar
 Councilwoman Patricia Cohen¹
 Councilman Martin Packer
 Councilman Jaime M. Sanz

Alfred J. Treppeda, Village Manager
 Ellisa L. Horvath, CMC, Village Clerk
 Andrea Greenblatt, Administrative Assistant
 Richard J. Weiss, Village Attorney

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

2. PLEDGE OF ALLEGIANCE: The Pledge was previously done at the Retirement Board meeting.

Councilwoman Cohen arrived.

Mayor Rosenfield discussed the MADD event, which 3300 people attended. Chief Hunker thanked Lisa Petrillo, who hosted the event, Lt. Merrill, the Shops, etc.

Janet Mondshein, MADD Director, thanked the Chief, police dept., council, etc. Mayor Rosenfield presented Ms. Mondshein with a key to the Village.

3. AGENDA: REQUEST FOR DELETIONS/ADDITIONS: Mr. Weiss requested that Tab 1 (Transmittal of the Bal Harbour Village DRAFT Evaluation and Appraisal Report to the State for Preliminary Review) be deleted from the agenda.

A motion was offered by Councilman Sanz and seconded by Councilman Packer to delete Tab 1 from the Agenda. The motion carried (5-0).

4. SPECIAL PRESENTATIONS:

Officer of the Month for September 2009: Chief Tom Hunker presented Officer Braxton McClam with the Officer of the Month plaque, for September 2009. Officer McClam thanked Officer Hatcher for a joint effort in the arrest.

¹ Councilwoman Cohen arrived after Roll Call.

5. CONSENT AGENDA:

Dina Cellini requested the removal of Tabs I and N.

Anamarie Kelly requested the removal of Tab P.

Mr. Treppeda requested the addition of an item for Construction Depot (\$13,100 for Breakroom/Kitchen Renovations) to the agenda.

A motion was offered by Councilman Packer seconded by Councilman Sanz to add the Construction Depot item requested to the agenda. The motion carried (5-0).

Mr. Treppeda requested that Tab R be adjusted for approval of \$154,000, to only cover the field survey (task 2) and utility locates (task 3). He reported that the Village is working with the Town of Surfside on the sewer line.

Babak Raheb requested the removal of Tabs F, K, and L.

Mr. Treppeda requested approval for the remaining items on the Consent Agenda.

A motion was offered by Assistant Mayor Blachar and seconded by Councilman Packer to approve the items on the Consent Agenda, excluding Tabs F, I, K, L, N, and P. The motion carried (5-0).

Tab F – Motion Approving Cost for Planting Ten Coconut Trees on the Beach Donated by Kenilworth Condominium: The item is for approval of \$2,650.00 for Vila & Son to plant ten coconut trees on the beach, donated by the Kenilworth Condominium.

Babak Raheb, 128 Balfour Drive, questioned if resort tax funds will be used for this as well as Tabs K and L, since they are for beautification of the Village. Mr. Treppeda explained that the beautification portion was moved out of the resort tax budget into the general budget (under Beautification & Maintenance), but explained that half of the money received from the St. Regis project goes into that fund, which will be use to pay for those items.

A motion was offered by Councilman Sanz and seconded by Assistant Mayor Blachar to approve Tab F. The motion carried (5-0).

Tab I – Motion Approving Village Review of Study of Proposed Entrance/Signal Modification Plan Prepared for the St. Regis Project: The item is for approval of up to \$5,000.00 for IBI Group to review proposed plans for roadway modifications and signalization/crosswalk reconfigurations, on behalf of the Village, as submitted by the St. Regis project.

Dina Cellini, 211 Bal Cross Drive, agreed that the Village should review the plans, but suggested that the St. Regis pay for it, since they want to change it and the existing plan is working properly. Mr. Treppeda explained that the Village Department doesn't have staff to review the plans and reported that it's not required in the Development Agreement.

A motion was offered by Assistant Mayor Blachar and seconded by Councilwoman Cohen to approve Tab I. The motion carried (5-0).

Tab K – Motion Approving Proposal to Fertilize Coconut Palms and Ixora on the Beach: This item is for approval of up to \$10,200.00, for up to three fertilization applications per year, by Spray Pro, for plantings on the beach.

Babak Raheb, 128 Balfour Drive, noted that his question was answered.

A motion was offered by Councilman Sanz and seconded by Assistant Mayor Blachar to approve Tab K. The motion carried (5-0).

Tab L – Motion Approving Funds for Replacement Sod for Collins Avenue Irrigation Project: This item is for approval of an additional \$11,503.00 for sod replacement.

Babak Raheb, 128 Balfour Drive, noted that his question was answered.

A motion was offered by Councilman Sanz and seconded by Councilwoman Cohen to approve Tab L. The motion carried (5-0).

Tab N – Motion Approving Renewal of Village Manager Employment Contract: This item is for approval of a contract with Alfred Treppeda as Village Manager, from October 1, 2009 through April 30, 2013.

Dina Cellini, 211 Bal Cross Drive, questioned how the employment contract was negotiated and any legal requirements for a procedure. She noted that in the past a Councilmember negotiated the contract and suggested that in the future the contracts be negotiated with the help of an independent third party group.

Mr. Weiss reported that in the past a Councilmember acted as a fact finder and provided information to the Council. He reported that Mr. Treppeda requested that the Village Attorney draft his requirements for placement on the agenda for an open discussion. He clarified that no negotiation was held. Mayor Rosenfield explained that she was advised what Mr. Treppeda was asking for, but did not negotiate anything. She noted that per the existing contract, Mr. Treppeda was entitled to a 6% raise for any extended contract, which he has offered to wait to take until the end of the contract. Ms. Cellini questioned if Mr. Treppeda will receive a COLA (cost of living increase) during the contract. Mr. Weiss reported that Mr. Treppeda will receive the same COLA that other general employees are entitled to, after October 1, 2009. He clarified that since Mr. Treppeda is interested in extending his current contract, he would be entitled to the additional 6% as stipulated, but noted that Mr. Treppeda is deferring that amount to the end of the contract without interest. Ms. Cellini questioned the request for \$350 monthly insurance coverage allowance once employment is terminated. Mayor Rosenfield explained that is until Mr. Treppeda finds other employment or until retirement age for Medicare. Ms. Cellini discussed the inappropriateness of placing the item on the Consent Agenda. Mr. Treppeda clarified that he spoke to Councilmembers individually regarding questions about his contract request. Assistant Mayor Blachar discussed Mr. Treppeda's entitlement for a 6% increase now and his decision to delay that, due to the economic situation. She clarified that doing so is beneficial to the Village, not to Mr. Treppeda. She reported that his salary is comparable to other city managers and may even be less than some. Assistant Mayor Blachar

commented on the great job that Mr. Treppeda does. Ms. Cellini suggested that future employment contracts not be placed on the Consent Agenda. Assistant Mayor Blachar noted that the complete agenda is now placed online for public viewing and that any item can be removed from the Consent Agenda if needed. Mayor Rosenfield clarified that the 6% will not affect his retirement, since he has entered the DROP and his date has already been determined.

Mr. Weiss reported that his firm did not take their COLA increase either this year.

Doug Rudolph, 212 Bal Bay Drive, thanked Mr. Treppeda for the job he has done and would like him to stay for a long time. He discussed Mr. Treppeda's years of service and knowledge of the Village.

Mr. Treppeda reported that he has been with the Village for 28 years and hopes to continue that working relationship.

A motion was offered by Councilman Sanz and seconded by Assistant Mayor Blachar to approve Tab N. The motion carried (5-0).

Tab P – Motion Approving Award of Bid for Park Drive and Camden Drive Drainage Project: This item is for approval of \$108,455.00 to award the Park Drive & Camden Drive Drainage Project to Kailas Corp.

Anamarie Kelly Stoppa, 77 Camden Drive, reported that the last drainage project resulted in a charge to residents for repaving after the project. She questioned the extent of the project, the damage to the street, and if the Village will pay for repaving. Mr. Treppeda wasn't aware of any charges, but noted that homeowners would be billed when the streets are repaved, because the streets are private. He reported that this project is small and there will not be any charges to the homeowners.

A motion was offered by Councilman Packer and seconded by Councilwoman Cohen to approve Tab P. The motion carried (5-0).

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, AMENDING ARTICLE VI "FINANCIAL MATTERS" OF CHAPTER 18 "TAXATION AND FINANCE" OF THE BAL HARBOUR VILLAGE CODE OF ORDINANCES BY CREATING SECTION 18-144 "SERVICE CHARGE FOR INFORMATION ON VILLAGE LIENS" IN ORDER TO PROVIDE A MECHANISM FOR THE VILLAGE TO IMPOSE A SERVICE CHARGE ON PERSONS SEEKING INFORMATION REGARDING THE AMOUNT AND STATUS OF VILLAGE CHARGES AND LIENS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE, PROVIDING FOR AN EFFECTIVE DATE.

A motion was offered by Assistant Mayor Blachar and seconded by Councilman Packer to approve the Ordinance.

Mayor Rosenfield opened the item for public discussion.

Anamarie Kelly noted that there were ten residential requests and 61 apartment requests for the year, which she doesn't think is excessive. She spoke against passing the ordinance.

Babak Raheb, 128 Balfour Drive, questioned the amount to be charged. Mr. Treppeda reviewed the Ordinance. Mr. Raheb discussed public records. Mr. Treppeda discussed the reason for the charge and noted that it's comparable to other municipalities, which also charge. Councilman Packer explained that public documents are available to view, but clarified that if something is needed in writing, then there is extra work and costs involved.

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

The motion carried (5-0), with the roll call vote as follows: Mayor Rosenfield aye; Assistant Mayor Blachar aye; Councilwoman Cohen aye; Councilman Packer aye; Councilman Sanz aye; thus becoming Ordinance No. 2009-537.

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 2009/2010 FISCAL YEAR; ESTABLISHING AN EFFECTIVE DATE.

A motion was offered by Assistant Mayor Blachar and seconded by Councilman Packer to approve.

Mayor Rosenfield opened the item for public discussion. There being no comments, Mayor Rosenfield closed the public discussion.

The motion carried (5-0), thus becoming Resolution No. 2009-717.

7. ORDINANCES FIRST READING/PUBLIC INPUT: The following ordinance was read by title by the Village Clerk:

AN ORDINANCE OF BAL HARBOUR VILLAGE, AMENDING THE BAL HARBOUR VILLAGE CODE OF ORDINANCES BY REPEALING CHAPTER 8.5 "FLOOD DAMAGE PREVENTION" AND BY ENACTING CHAPTER 8.5 "FLOOD DAMAGE PREVENTION" IN ORDER TO COMPLY WITH THE REQUIREMENTS OF THE STATE OF FLORIDA AND THE NATIONAL FLOOD INSURANCE PROGRAM; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

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

Mayor Rosenfield opened the item for public discussion. There being no comments, Mayor Rosenfield closed the public discussion.

The motion carried (5-0), with the role call vote as follows: Mayor Rosenfield aye; Assistant Mayor Blachar aye; Councilwoman Cohen aye; Councilman Packer aye; Councilman Sanz aye.

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

AN ORDINANCE OF BAL HARBOUR VILLAGE AMENDING THE FISCAL YEAR 2010 BUDGET BY REALLOCATING PREVIOUSLY APPROPRIATED FUNDS AND APPROPRIATING LAPSED FUNDING FROM THE FISCAL YEAR 2009 BUDGET; AUTHORIZING EXPENDITURES; PROVIDING FOR IMPLEMENTATION; AND ESTABLISHING AN EFFECTIVE DATE.

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

Mayor Rosenfield opened the item for public discussion.

Babak Raheb, 128 Balfour Drive, requested an explanation. Mr. Treppeda explained the ordinance.

Dina Cellini, 211 Bal Cross Drive, discussed Section 2B and questioned if the money should be re-appropriated for 2010, not 2009. Mr. Treppeda agreed that it should be re-appropriated for 2010. Ms. Cellini questioned if the amount of \$186,000 shown for Section 2A is the salary. Mr. Treppeda reported that it's not entirely salary and noted that it also includes benefits.

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

The motion carried (5-0), with the role call vote as follows: Mayor Rosenfield aye; Assistant Mayor Blachar aye; Councilwoman Cohen aye; Councilman Packer aye; Councilman Sanz aye.

8. RESOLUTIONS: None.

9. REPORTS:

A. VILLAGE MANAGER:

Discussion of Possible Demolition of 97 Camden Drive: Mr. Treppeda discussed code enforcement fines on the property. He reported that Building Official Dan Nieda and Village Attorney Alex Palenzuela attended the County Unsafe Structure Board, which approved the Village demolishing the house.

Alex Palenzuela, Village Attorney, discussed the process to date. He reported that the property has been in foreclosure since September 2008, a sale is scheduled for December 3, 2009, and a prospective buyer would like to close on the property. He suggested waiting until after the foreclosure sale date to demolish, to increase the Village's ability to recover the cost of demolition. He explained that a potential buyer has sued the servicing agent and if it is not resolved at mediation, then the attorney for the mortgage company will try to apply for a permit. Mr. Palenzuela recommended waiting until the foreclosure process is resolved, before proceeding with demolition, to hopefully allow the sale to go through instead.

Anamarie Kelly questioned who the potential buyers are. Mr. Palenzuela reported that the people who showed up at the Unsafe Structure Board Hearing were Dr. and Mrs. Sher.

Babak Raheb, 128 Balfour Drive, spoke in favor of the Council authorizing funds for the demolition of the house at 97 Camden drive.

A motion was offered by Assistant Mayor Blachar and seconded by Councilman Packer to authorize funds in the amount of \$18,480.00 for demolition of the house at 97 Camden Drive in the event that no permit is pulled by the owner of the property for demolition or repair (discretion will be exercised to demolish the house at such time as the Village's chances for recovery of the demolition fees are best). The motion carried (5-0).

Presentation of Bus Shelter Prototype – GAP Architectural

Products: Mr. Treppeda introduced **Sandra Ortiz, GAP Architectural Products**. He explained that the \$250,000 federal funds that were awarded are not guaranteed. He suggested waiting until Congress has signed the bill into law awarding the funds.

Ms. Ortiz presented a Powerpoint on a bus prototype, which was designed in partnership with BMW. She reviewed the focus on protection from the rain, as well as maintenance and safety concerns.

Babak Raheb, 128 Balfour Drive, spoke against the design shown.

Mayor Rosenfield clarified that it was just a presentation and noted that the Village doesn't know if the Federal money will be received.

Ms. Ortiz reported that was a presentation of a possibility. She discussed placing a prototype.

Request for Motion Approving Transmittal of the Bal Harbour Village DRAFT Evaluation and Appraisal Report to the State for Preliminary Review: This item was deleted from the agenda.

Discussion and Consideration of Redistricting Services Agreement – Ronald R. Schultz, Ph.D.: Mayor Rosenfield explained that this item is for Dr. Schultz to look at the possibility of redistricting the Village, for voting purposes.

Ronald R. Schultz, Ph.D. reviewed his resume.

Mayor Rosenfield requested approval to hire Dr. Schultz and to discuss the issue at a future time.

Councilman Packer spoke in favor of the idea, but suggested holding a workshop meeting with Dr. Schultz to explain and discuss the issue.

A motion was offered by Councilman Sanz and seconded by Councilwoman Cohen to approve the contract with Dr. Schultz. The motion carried (5-0).

Dr. Schultz will be provided with a time and date for another meeting for discussion on how Bal Harbour Village Regular Council Meeting Minutes 10/20/2009

to proceed.

Discussion of Garbage Fee for Fiscal Year 2010/2011 and Discussion of Billing Security Assessment on Tax Bill for Fiscal Year 2010/2011:

Christopher Wallace, Finance Director, recommended that the Village approve proceeding with the preparation of resolutions (for the 197 process), which would allow, but not require, the Village to place the garbage fee and security assessment on the property tax bill, which would save the Village money and is common in municipalities. He reported that doing so would preserve the Village's right to place special assessments on the property tax bill and explained that advertisements would be published and a public hearing would be required.

Babak Raheb, 128 Balfour Drive, spoke against doing so.

A motion was offered by Councilman Packer and seconded by Assistant Mayor Blachar to direct the Village Attorney to prepare the appropriate resolutions for the next Council meeting. The motion carried (5-0).

Discussion of Not Accepting Stimulus Funds for New Bus: Mr. Wallace explained that if the Village took money from the County, then it would have to comply with rules, including turning the entire Village fleet into a Federal fleet, going forward. He clarified that at the end of the first year, the Village would spend more money than it receives.

A motion was offered by Councilman Packer and seconded by Assistant Mayor Blachar not to accept the grant. The motion carried (5-0).

Fiscal Year 2008/2009 Final Budget Report – Finance Director Christopher Wallace: Mr. Wallace reported that the budget was on track, with some decreased revenue, but finishing ahead due to fewer expenditures. Mayor Rosenfield explained that Mr. Wallace and Mr. Treppeda are aware and have been preparing for the deletion of the money from St. Regis project, in the future.

Dina Cellini, 211 Bal Cross Drive, discussed \$1.1 million in the General Fund and questioned the plan regarding the bus shelters, which she thinks need to be addressed. She questioned the cost of a shelter and when the Village will buy the shelters. Mr. Treppeda doesn't know the prices, since the ones presented were just developed. Mayor Rosenfield requested that the Village receive prices and discussed fixing the existing ones in the meantime. Mr. Treppeda reported that \$100,000 is currently budgeted. Mayor Rosenfield discussed a glass manufacturer. Mr. Treppeda reported that the shelters cannot be easily retrofitted, due to hurricane requirements, etc. Councilman Packer offered to bring proposed bus shelters to the next Council meeting.

Doug Rudolph, 212 Bal Bay Drive, agreed that it should be researched, but thinks that whatever is done should be first class.

None in attendance liked the shelters presented.

Mayor Rosenfield clarified that Councilman Packer and Mr. Treppeda will look into the shelters.

B. VILLAGE CLERK:

Lobbyist Registration Report: As of October 20, 2009: A list of Lobbyists registered with the Village was provided in the agenda.

- C. **VILLAGE ATTORNEY:** No items were discussed.
- D. **MAYOR AND COUNCIL:**

Councilman Packer reported that he attended the October Resort Tax Committee meeting and complimented the Director of Tourism, Carolyn Travis.

Mayor Rosenfield discussed various Committee items including upcoming events and a new Bal Harbour logo.

Councilman Sanz reported that he also attended the Committee meeting and discussed the wonderful job Ms. Travis has done during her three months of employment.

Assistant Mayor Blachar reported that the Council attended the Miami-Dade County League dinner in October.

10. OTHER BUSINESS:

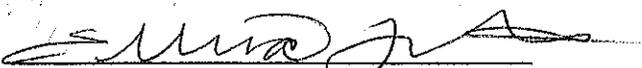
Anamarie Kelly discussed 290 Bal Bay Drive, Village Code Section 21-161, and requirements for the RM-5 district. She noted that a hotel and restaurant are not allowed in that District under the Village Code. She requested that action be taken regarding a hotel in a residential section.

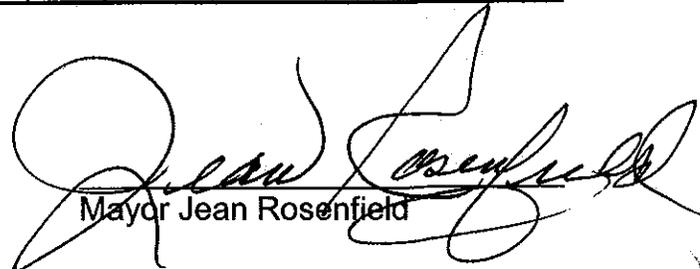
Chief Hunker reported that the red light cameras (Collins Avenue & Harbour Way) are in effect and that warnings will be provided for three months. He reported that agreements are being worked on for additional locations. Councilman Packer questioned the status of the legal challenge on the issue. Chief Hunker reported that the attorneys are working on the issues and explained that the money will be held for nine months.

Pat Shirkeys distributed information and discussed the American Cancer Society Relay for Life for the Surf-Bal-Bay Neighborhood in May 2010. Assistant Blachar suggested that the information be included in the Village newsletter.

11. ADJOURN: There being no further business, *a motion was offered by Councilman Packer and seconded by Councilman Sanz to adjourn. The motion carried (5-0) and the meeting adjourned at 9:04 p.m.*

Attest:


Ellisa L. Horvath, CMC, Village Clerk


Mayor Jean Rosenfield