

**BAL HARBOUR VILLAGE COUNCIL MEETING MINUTES**  
**REGULAR MEETING - DECEMBER 15, 2009**

The Regular Meeting of the Bal Harbour Village Council was held on Tuesday, December 15, 2009, 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 7:23 p.m. by Mayor Rosenfield. The following were present:

Mayor Jean Rosenfield  
 Assistant Mayor Joni D. Blachar  
 Councilwoman Patricia Cohen  
 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 General Employees Retirement Board meeting.

**3. AGENDA: REQUEST FOR DELETIONS/ADDITIONS:** Mr. Treppeda requested that Tab C be amended to remove the \$10,000 donation to the PAL, since it was previously approved. He also reported that the Officer of the Month for November 2009 will be presented next month.

**4. SPECIAL PRESENTATIONS:**

**Officer of the Month - November 2009:** This item was postponed until the January meeting.

**Metro Dade K9:** Chief Hunker introduced Officer Fruchey and his canine Remy. Officer Fruchey reported that the Village's donation was used for the K-9 monument at Tropical Park and for training equipment.

***Tony and Maria Guzman, Metro Dade K9,*** thanked the Council for the Village's donation and discussed the benefits to the K-9 officers. Mrs. Guzman presented plaques to Mayor Rosenfield, Chief Hunker and Officer Fruchey, in recognition of the Village's donation and support.

**5. CONSENT AGENDA:**

***Dina Cellini, 211 Bal Cross Drive,*** requested the removal of Tabs I and K.

**Neil Alter, 9801 Collins Avenue**, requested the removal of Tabs F and G.

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, G, I, and K. The motion carried (5-0).*

#### **Tab F – Motion Approving Resort Tax Committee**

**Recommendations: Neil Alter, 9801 Collins Avenue**, questioned the Committee recommendations and amounts. Mr. Weiss reported the total amount to be \$22,972.01. Mayor Rosenfield explained that the majority of the amount is for the Kid's Club. Councilwoman Cohen requested additional information on the program.

**Carolyn Travis, Director of Tourism Marketing**, explained the program as an initiative for tourists and residents. She reported that the amount is for various items for the program through April, but explained that the intention is for the program to be completely subsidized. She reported that the program will be advertised in the Village newsletter and flyers will be sent to residents.

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

#### **Tab G – Motion Approving Performance Bonuses for General**

**Employees: Neil Alter, 9801 Collins Avenue**, questioned the correlation to percentage. Mr. Treppeda explained that the employee bonus is based on an evaluation done by supervisors, with General Employees eligible to receive up to a 4% bonus and Department Heads eligible to receive up to a 5% bonus. He explained that the bonus program was implemented when the merit steps were deleted. Mr. Alter requested the total amount for the bonuses. Mr. Treppeda reported it to be \$85,052.38.

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

#### **Tab I – Motion Approving Purchase of Bollard Lights for Beach**

**Jogging Path: Dina Cellini, 211 Bal Cross Drive**, questioned efforts to recoup money from the Contractors that damage the lights. Assistant Mayor Blachar expressed her concern regarding that also and reported that Mr. Treppeda advised that every effort is made to catch the people responsible for the damage for payment. She reported that the cost to replace some of the lights has been reimbursed from the people who damaged them.

**Dan Nieda, Building Official**, reported that the St. Regis contractors will be paying for the lights that they damaged (three-four).

*A motion was offered by Councilman Sanz and seconded by Councilman Packer to approve Tab I. The motion carried (5-0).*

**Tab K – Motion Approving Renewal of Employment Contract with Chief Thomas Hunker: Dina Cellini, 211 Bal Cross Drive**, spoke against a multi-year

contract being placed on the Consent Agenda. She discussed the employees receiving cost of living and longevity increases and discussed the need to tighten belts when the times are tough. She thinks that the salary, in addition to a performance bonus, is larger than it should be. She questioned the Chief's expense account, which she thinks is large. Ms. Cellini questioned if the contract has a 6% signing bonus that was on the last contract. Mr. Treppeda reported that it does not. Ms. Cellini suggested that the Council carefully review the salary, bonus, and perks, which add up to a large sum. Mr. Treppeda reported that the employees did not receive a cost of living increase this year.

**Doug Rudolph, 212 Bal Bay Drive**, discussed Chief Hunker's merits, experience, and how lucky the Village is to have him. He discussed the amount of money that the Chief generates for the community and what he gives back to the community. Mr. Rudolph thanked the Chief for the great job that he does and his wonderful staff. He spoke in favor of the Council approving the contract.

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

Chief Hunker thanked the Council and expressed his pride in being the Village's Chief.

## **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 III "ARCHITECTURAL REVIEW BOARD" OF CHAPTER 5.5 "APPEARANCE CODE" OF THE BAL HARBOUR VILLAGE CODE OF ORDINANCES TO AMEND THE PROCEDURE FOR ARCHITECTURAL REVIEW BOARD ISSUANCE OF CERTIFICATES OF APPROPRIATENESS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR INCLUSION IN THE CODE, AND 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 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. 2009-540.**

## **Resolutions/Public Hearings:**

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

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, ELECTING TO USE THE UNIFORM METHOD OF COLLECTING NON-AD VALOREM ASSESSMENTS LEVIED WITHIN THE RESIDENTIAL

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**SECTION OF THE VILLAGE (THE "SECURITY AREA") FOR THE COST OF MAINTAINING A SECURITY PROGRAM WITHIN THE SECURITY AREA; STATING A NEED FOR SUCH LEVY; PROVIDING FOR THE MAILING OF THIS RESOLUTION TO REQUIRED OFFICERS AND DEPARTMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

Mayor Rosenfield opened the item for public discussion.

**Dina Cellini, 211 Bal Cross Drive**, expressed concern that the resolution will enable someone to challenge the gate. Mr. Weiss did not want to give an opinion on property rights and suggested that the Homeowners Association seek their own counsel to do so. Ms. Cellini suggested postponing the vote on the resolution to allow the Civic Association to look into it, because she doesn't want to be exposed to a challenge. Mr. Weiss explained that this would be for the fiscal year beginning Oct 1, 2010 and thinks that the Association has plenty of time. He clarified that the resolution could be rescinded at any time. Ms. Cellini questioned the procedure. Mr. Weiss explained that it's part of the budget procedure. Chris Wallace, Finance Director, explained that the resolution doesn't commit the Village to use the process, but allows the Village to choose to do so next summer. He clarified that this only addresses how the assessment is billed and collected and is common for many municipalities. Mr. Weiss doesn't think there is a down side to the Village adopting the resolution. He clarified that it gives the Village the ability to do so at budget time. He explained that the Civic Association will have time before the budget process to seek counsel. Mr. Wallace explained that the statutes require that the resolution be adopted by the end of the fiscal year for the property appraiser and tax collector to be compelled to use it. He clarified that it preserves the option for the Village. Mr. Wallace explained that instead of the Village levying an assessment (sending, collecting, deposit, etc.) it would go to the property appraiser and tax collector and is just a mechanism to bill and collect. He reported that it's an expensive process for the Village to bill and collect. Ms. Cellini thinks that it's more complicated than that and questioned why the resolution says that the Village intends to use the process. She requested that Assistant Mayor Blachar bring the resolution to the attention of the residents within her district.

**Doug Rudolph, 212 Bal Bay Drive**, suggested that the Council be cautious in passing the resolution and spoke in favor of the Village continuing to collect the assessment instead of the County. He suggested that the Village Attorney review the resolution again.

**Neil Alter, 9801 Collins Avenue**, questioned the cost of maintaining a security program. Mr. Treppeda estimated it to be \$230,000. Councilman Packer questioned if the Resolution needs to be passed at the current meeting. Mr. Weiss explained the timing involved to obligate the property appraiser to use the method next year. He clarified that if the Council doesn't pass the resolution now, then there is a chance that it won't go into place for next year. Councilman Packer clarified that before it would go into affect it would come back before the Council for approval. Mr. Weiss reported that it would. Councilman Packer suggested that in the meantime the Civic Association can get counsel and speak before the Council.

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

**A motion was offered by Assistant Mayor Blachar and seconded by Councilman Packer to approve the Resolution. The motion carried (5-0). (Note: this item was discussed again under Other Business).**

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

**A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, ELECTING TO USE THE UNIFORM METHOD OF COLLECTING NON-AD VALOREM ASSESSMENTS LEVIED WITHIN THE INCORPORATED AREA OF THE VILLAGE FOR THE COST OF PROVIDING RECYCLING SERVICES AND SOLID WASTE SERVICES; STATING A NEED FOR SUCH LEVY; PROVIDING FOR THE MAILING OF THIS RESOLUTION TO REQUIRED OFFICERS AND DEPARTMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

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

Mr. Weiss explained the resolution. Councilman Packer spoke in favor of passing the resolution.

**A motion was offered by Assistant Mayor Blachar and seconded by Councilman Sanz to approve the Resolution. The motion carried (5-0); thus becoming Resolution No. 2009-718.**

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

**8. RESOLUTIONS:**

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

**A RESOLUTION OF THE BAL HARBOUR VILLAGE COUNCIL, INDICATING THE OFFICIAL INTENT OF THE VILLAGE TO ISSUE TAX-EXEMPT BONDS TO FINANCE THE COST OF INFRASTRUCTURE IMPROVEMENTS OR FOR OTHER VILLAGE PURPOSES AND TO USE A PORTION OF THE PROCEEDS OF SUCH BONDS TO REIMBURSE EXPENDITURES PAID OR INCURRED PRIOR TO THE DATE OF ISSUANCE THEREOF.**

Mr. Weiss explained that once the resolution is passed, any expenses incurred would be able to be paid for with bond proceeds, instead of general fund money.

Mayor Rosenfield opened the item for public discussion.

**Neil Alter, 9801 Collins Avenue**, questioned if the resolution is open-ended and if it is for specific projects, etc. Mr. Treppeda explained that there are a number of water/sewer projects that funding may be needed for. Mr. Weiss reported that the Resolution provides for a maximum amount of \$9.5 million.

**Dina Cellini, 211 Bal Cross Drive**, doesn't recall the Village borrowing money and questioned the bid process, etc.

**Chris Wallace, Finance Director**, explained that there is a lot of infrastructure that is 60 years old and is failing (water, sewer, stormwater). He reported that a competitive process would be used and a recommendation would be made to the Council to select a lender. He discussed borrowing to be the cheapest way to pay for the projects and explained that the resolution preserves the Village the option.

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

*A motion was offered by Assistant Mayor Blachar and seconded by Councilman Sanz to approve the Resolution. The motion carried (5-0); thus becoming Resolution No. 2009-719.*

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

**A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; URGING ALL MEMBERS OF THE FLORIDA LEGISLATURE TO SUPPORT LEGISLATION BANNING TEXTING WHILE DRIVING AND ALLOWING THE USE OF ONLY HANDS-FREE CELLULAR TELEPHONES BY DRIVERS; DIRECTING THE VILLAGE MANAGER TO TRANSMIT A CERTIFIED COPY OF THIS RESOLUTION TO THE MIAMI-DADE LEAGUE OF CITIES, THE FLORIDA LEAGUE OF CITIES, THE MIAMI-DADE LEGISLATIVE DELEGATION AND THE GOVERNOR OF THE STATE OF FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.**

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

*A motion was offered by Councilman Packer and seconded by Councilman Sanz to approve the Resolution. The motion carried (5-0); thus becoming Resolution No. 2009-720.*

## **9. REPORTS:**

### **A. VILLAGE MANAGER:**

#### **Coastal Systems International Presentation on Sand Transfer**

**Station Study:** John Studt and Tim Blankenship reviewed a Powerpoint presentation.

Mr. Studt recommended using contract dredging to see if it's effective, consider owning a dredge in the future, and modifying the north jetty to catch more sand that is escaping.

**Paul Pruess, 10101 Collins Avenue**, questioned if the beach would be closed during dredging. Mr. Studt reported that only the area being affected would be closed.

Mayor Rosenfield discussed the aesthetics. Councilman Packer questioned costs and funding. Mr. Studt explained that they would look to the County and DEP for funding opportunities. Mr. Blankenship estimated a dredge to cost approximately \$1 million per year. Councilman Packer spoke in favor of a permanent solution. Mr. Studt discussed additional costs for the operation of a sand transfer plant. Councilman Packer discussed sharing the cost. Mr. Treppeda reported that there is \$1.2 million in Resort Tax funds for beach renourishment.

**Paul Pruess, 10101 Collins Avenue**, agreed in looking at a long-term solution. He recommended that the Council create a task force to look at the alternatives to present to the County to get them as a partner.

**Brian Flynn, DERM**, discussed State legislature putting more emphasis on inlet management (75% cost share). He reported that the State has removed the public access and parking requirements as well. He suggested periodic dredging using a contract dredge

and lengthening the Haulover jetty to catch more sand to work with. He suggesting having a pilot project to see the feasibility. He reported that the jetty is a Army Corps of Engineers easement.

Mr. Pruess questioned if the current permits would cover that. Mr. Flynn reported that they may be able to modify the permits, but noted that the State would probably require a new permit since it's a different process than trucking.

Mr. Studt will inform the County that the Village wants to work with them and provide a proposal to the Council for the next step.

*A motion was offered by Councilman Packer and seconded by Councilman Sanz to table the discussion until the January Council meeting. The motion carried (5-0).*

**Discussion of Tourism Logo:** **Carolyn Travis, Director of Tourism Marketing**, explained how the logo was developed. Mayor Rosenfield reported that the logo was unanimously approved by the Resort Tax Committee.

**Daniel Nieda, Building Official**, suggested that the logo be studied further to see if it's appropriate for Village business, other than tourism.

**Doug Rudolph, 212 Bal Bay Drive**, thinks there is some concern about using the logo for Village business and noted that there was not a great reaction from the residents. He suggested that the Council really consider it before proceeding with it, due to cost, etc.

**Dina Cellini, 211 Bal Cross Drive**, displayed the Bal Harbour Shops logo and thinks that it's inappropriate for the Village to have the same logo as the Shops. Ms. Travis reported that the logo for the Shops is black/white with a man/hat logo. She explained that the only time the green logo is used for the Shops is in their stationary.

Assistant Mayor Blachar is impressed with Ms. Travis' credentials and thinks that the logo is beautiful and elegant. She discussed the increase in tourism revenue. Ms. Travis discussed building brand equity and the need for the Village to take advantage of it. Councilman Sanz questioned why Bal Harbour Village wasn't used instead of Bal Harbour. Ms. Travis reported that in focus groups a Village had a connotation of 30 minutes outside of Tuscany. Mayor Rosenfield explained that the Village is not compelled to use the logo for both tourism and official Village business. She suggested that Ms. Travis work with focus groups and adapt the logo to make the residents happier. Councilman Packer suggested that the Village stick with the current seal, for official city business and stationary. Ms. Travis questioned a logo for signs in the Village and discussed the importance of consistency. Councilwoman Cohen agreed.

*A motion was offered by Councilman Packer and seconded by Councilwoman Cohen to table the portion to accept it as the official Village logo for further discussion. The motion carried (5-0).*

**Discussion of Bal Harbour Express Bus:** Mr. Treppeda recommended keeping the current bus and re-evaluating it in May 2010. Councilwoman Cohen questioned if the tourism bus can also be used as a shuttle bus for the Village. Mayor Rosenfield doesn't think so because it has a different schedule. Ms. Travis explained the tourism shuttle.

Mayor Rosenfield reported that the Village should be receiving \$250,000 for new bus shelters from the government. Councilman Packer is working on researching new bus shelters designs, etc.

**B. VILLAGE CLERK:**

**Lobbyist Registration Report: As of December 15, 2009:** A list of Lobbyists registered with the Village was provided in the agenda.

**Selection of Regular Council Meeting Times for Calendar Year 2010:** Mayor Rosenfield requested discussion on meeting times for 2010. She pointed out that the amount of people in attendance has not increased for night time meetings versus day time meetings.

Councilman Packer proposed continuing the Council Meetings at 7:00 pm for 2010. Assistant Mayor Blachar agreed that it's a good time, because most people work and there is a better chance of the public attending at night.

**A motion was offered by Councilman Packer and seconded by Assistant Mayor Blachar to schedule the Council Meetings at 7:00 p.m. for the year 2010.**

Councilman Sanz is okay with either day or evening meetings. Mayor Rosenfield reported that a Village resident had voiced to her that day meetings were better.

**The motion carried (5-0).**

***Neil Alter, 9801 Collins Avenue***, spoke in favor of holding the Council meetings at night and also televising them.

**C. VILLAGE ATTORNEY:** No items.

**D. MAYOR AND COUNCIL:**

**Consideration of Annual Performance Bonuses for Village Manager and Village Clerk:**

**A motion was offered by Councilman Packer and seconded by Councilman Sanz to approve. The motion carried (5-0).**

**10. OTHER BUSINESS:**

**Public Comment:**

***Doug Rudolph - 212 Bal Bay Drive***, discussed the resolution changing the way the Security District is assessed. He expressed concern for the residents in the Security District and discussed the recent challenge to that District. He requested that the Council reconsider the resolution.

Mr. Weiss doesn't think that it's appropriate for the Village to have the responsibility of Bal Harbour Village Regular Council Meeting Minutes 12/15/2009

protecting the private property rights of the people living in the Security District. He understands Mr. Rudolph's concern, but doesn't think that it's the Village's place to advise private citizens on that.

Mayor Rosenfield understands Mr. Rudolph's comments, but questioned how the Village has undertaken collecting for the District, etc. Mr. Weiss clarified that Mr. Rudolph is conveying the thought that there may be an adverse affect to the residents in that District, by doing anything at all. Mr. Rudolph noted that the Association is paying the Village to administer the program and clarified that the Village is not paying for anything.

Assistant Mayor Blachar clarified that this just provides the Village with an option. Mr. Rudolph explained that the Council doesn't know that doing so will not affect anything. He discussed the recent litigation on the challenge to the District. He spoke against passing the resolution, without further knowledge on how it will affect the residents.

Councilman Sanz expressed concern with what the Village went through before. Assistant Mayor Blachar discussed the need to resolve the issue. Mr. Rudolph invited Assistant Mayor Blachar to go through the issues with him to try to find an answer.

Mr. Weiss thinks that this just affects the assessment collection method, but clarified that Mr. Rudolph is saying that by changing anything at all there is some risk to challenge the District.

*A motion was offered by Assistant Mayor Blachar and seconded by Councilwoman Cohen to reconsider Tab R.*

Mr. Rudolph doesn't think that it should be done, until the Council knows whether or not it will injure the Security District residents.

Councilman Packer requested Mr. Wallace's opinion.

**Chris Wallace, Finance Director**, reported that he is fine with the collection either by the Village or County. He understands Mr. Rudolph's concern and explained that the Village can continue to bill and step up collection. He discussed the lien process. Mayor Rosenfield discussed the condos collecting their own assessments. Mr. Rudolph discussed the Association's inability to do so, due to the way it was set up. Councilman Sanz questioned why this is being done now, if the Village has been collecting it for years. Mr. Wallace explained that it's a common practice for municipalities. Mr. Weiss clarified that it's a better way for collecting, absent the other issue. Mr. Rudolph clarified that the Village isn't being harmed with the way it is done now, but that the Security District residents might be. Assistant Mayor Blachar thinks that the Village should leave the collection as it currently is.

*The motion carried (5-0).*

*Mr. Weiss reported that the original resolution is on the table, as if it was never discussed. The original resolution was not passed, due to the lack of a motion.*

**Dina Cellini, 211 Bal Cross Drive**, requested that the Council consider appointing a budget committee.

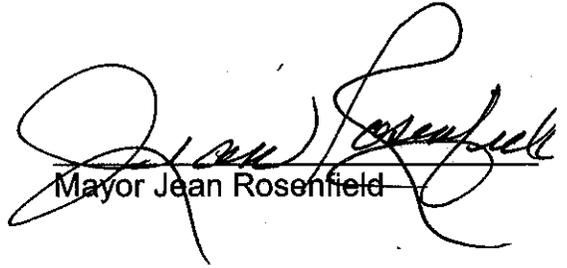
Ms. Cellini discussed the need for flags, signs, etc. to avoid potential liability on the beach.

Mr. Treppeda reported that he is looking into those issues.

Mayor Rosenfield will research what other municipalities are doing regarding budget committees.

Councilman Packer agreed with the suggestion for a budget committee and thinks that the Council should appoint a series of committees to involve the residents on different subjects. Councilman Sanz agreed that more residents should be involved. Mayor Rosenfield will speak to Mr. Treppeda and Mr. Weiss about those items.

**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 10:03p.m.

  
Mayor Jean Rosenfield

Attest:

  
Ellisa L. Horvath, CMC, Village Clerk