

BAL HARBOUR VILLAGE COUNCIL MEETING MINUTES
REGULAR MEETING – MAY 25, 2010

The Regular Meeting of the Bal Harbour Village Council was held on Tuesday, May 25, 2010, 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 7:24 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, MMC, 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 Local Planning Agency Meeting.

3. AGENDA: REQUEST FOR DELETIONS/ADDITIONS:

Mr. Treppeda requested to add an item to the consent agenda that no Council meeting be held in August.

A motion was offered by Assistant Mayor Blachar and seconded by Councilman Sanz to add the no meeting in August item to the Consent Agenda. The motion carried (5-0).

4. SPECIAL PRESENTATIONS:

Special Introduction of Lawrence Staab, Son of Robert J. Staab, Bal Harbour Police Lieutenant Killed in the Line of Duty in 1957: Chief Hunker presented Mr. and Mrs. Staab with a memorial plaque and several archival items. Mr. and Mrs. Staab addressed the Council.

Officers of the Month for April 2010: Chief Hunker presented Captain Michael Daddario and Office Hector Gonzalez with the Officer of the Month plaques.

Chief Hunker announced the Grand Opening of the Police Communications/Operations Center at the Bal Harbour Shops on May 26, 2010 at 10:00 a.m.

Councilman Packer commended the Chief and Police Department on the county-wide DUI (Driving while Under the Influence) checkpoint, at 96th & Collins/Harding Avenue.

Mayor Rosenfield introduced Brian Flynn, DERM.

Mr. Flynn discussed the possibility of seeing signs of the oil spill from the Gulf in Bal Harbour and reported that the situation was being monitored. He distributed brochures showing the protocol to follow if tar balls are seen. He urged people not to remove the samples themselves, since they are considered hazardous waste. He discussed the ongoing coordination.

Babak Raheb, 128 Balfour Drive, discussed the upcoming hurricane season and urged the Village to have something proactive in place in response to the oil spill.

Mr. Flynn reported that the Village is scheduled for beach renourishment in August, through the Army Corps of Engineers. He noted that Coastal Systems should be reporting soon on their study.

5. CONSENT AGENDA:

Ms. Cellini requested the removal of Tabs D, E, and I, for discussion.

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

- Tab B: March 25, 2010 Council Workshop Meeting Minutes and April 20, 2010 Regular Council Meeting Minutes
- Tab C: \$49,672,000 in Resort Tax Funds (\$3,672 for Nomi Pilates: wellness in Bal Harbour, \$36,000 annually for Liaison Group services for marketing in Mexico, \$6,500 for June travel expenses for Mexico City, Buenos Aires and Sao Paolo, and \$3,500 for New York City area media and trade events)
- Tab F: \$6,450 to purchase a water meter handheld data collection device and transfer cradle from Sunstate Meter and Supply, Inc. (the sole-source supplier)
- Tab G: Donation of the surplus Express Bus to Barry University's Broadcast Journalism School for use as an instructional aid for their program
- Tab H: Sale of Vehicle #268 to Police Department Retiring Mechanic, Alonzo Clark, for \$8,000

Added Item: No Council meeting to be held in August

A motion was offered by Assistant Mayor Blachar and seconded by Councilman Sanz to approve the items on the Consent Agenda, excluding Tabs D, E, and I. The motion carried (5-0).

Tab D – Motion Approving Expenditure of Police Forfeiture Funds:

Approval was requested for the following items: \$108,290 surveillance equipment for VIN van, \$79,155.95 annually for Detective's salary, \$2,000 donation to Dr. Michael Krop Sr. High School Youth Crime Watch Program, \$1,000 to sponsor a Britto designed parking meter to be placed at Bal Harbour Park, and \$3,437.50 Engineering fees for Bal Harbour Shops Station Generator.

Dina Cellini, 211 Bal Cross Drive, questioned if other Police Department salaries could be legally charged to the forfeiture fund and if the Detective's other benefits (car, etc.) would also be charged to the forfeiture fund.

Mr. Treppeda explained that the Detective's salary and benefits would all be charged to the forfeiture fund. Chief Hunker explained the salaries and benefits that are charged to that fund. He discussed recent seizures and the guidelines that need to be followed to charge items to the forfeiture fund.

Chief Hunker reported that the Red Light Cameras would become State Law on July 1, 2010 and explained that certain items would change for the Village due to that (cost for the ticket and the Village's portion). He discussed the positive aspects of the program for the Village.

Assistant Mayor Blachar left the meeting.

Babak Raheb, 128 Balfour Drive, clarified that the Village would receive less money for the violations after July 1st. Chief Hunker agreed.

A motion was offered by Councilwoman Cohen and seconded by Councilman Sanz to approve Tab D. The motion carried (4-0).

Tab E – Motion Approving Award of Bid to Replace Section of Concrete Wall Behind Lanai Building Utilizing Security District Funds: Approval was requested for \$29,000 in Security Funds for Gables Grove Construction to repair the Security District wall behind the Lanai Condo building. The following proposals were received: \$29,000 Gables Grove Construction, \$38,700 Dorlom, and \$35,000 Authentic Concrete.

Dina Cellini, 211 Bal Cross Drive, questioned if research was conducted to determine that the wall was the responsibility of the Security District, since it predated the Security District formation. Mr. Treppeda reported that the wall provided security for the District, so it was his impression that the wall belonged to the residents in the Security District. Mr. Weiss reported that the wall had been historically treated as part of the Security District. He noted that he had never been asked to look at the ownership of the wall, so it would be up to the Council to direct it to be researched.

Anamarie Kelly, 77 Camden Drive, noted that the wall on Park Drive was not consistent, since it was put up by the individual buildings and not by the Security District.

Babak Raheb, 128 Balfour Drive, agreed that the wall was individual to each building and that the walls pre-existed the gates, etc. He agreed that was not the responsibility of the Security District.

Councilwoman Cohen reported that the entire wall was in disrepair and needed to be addressed, not just one portion of it.

No action was taken on this item.

Tab I – Motion Approving Guaranteed Response Services Contract:

Approval was requested to authorize the Village Manager to enter into an agreement with Hunter Construction for guaranteed response service, subject to legal review (the agreement review will be done by Bay Harbor Islands Attorney Craig Sherman, since the successful bidder is also a client of the Village Attorney's Office). The only response to the Request for Proposals was received from Hunter Construction Services. The cost for services would be recovered from the Village's insurance carrier.

Assistant Mayor Blachar returned to the meeting.

Dina Cellini, 211 Bal Cross Drive, questioned if the Village would pay the outside attorney. Mr. Weiss explained that Mr. Sherman reviewed the document as a courtesy and did not charge the Village.

Ms. Cellini noted that Cliff Schulman now works for the Village Attorney and questioned if he would be appearing before the Council on other items, since he has done that in the past (as a Lobbyist). Mr. Weiss reported that he would not be appearing before the Council.

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

6. PUBLIC HEARINGS:

Zoning Hearings/Quasi-Judicial Public Hearings: None.

Ordinances Second Reading/Public Hearings: None.

Resolutions/Public Hearings: The following Resolution was read, by title, by Mrs. Horvath:

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, ADOPTING AN EVALUATION AND APPRAISAL REPORT (EAR) OF THE VILLAGE'S COMPREHENSIVE PLAN; STATING THE INTENT OF THE VILLAGE COUNCIL TO AMEND THE COMPREHENSIVE PLAN BASED UPON THE RECOMMENDATIONS CONTAINED IN THE EAR; APPROVING TRANSMITTAL OF THE ADOPTED EAR TO THE DEPARTMENT OF COMMUNITY AFFAIRS (DCA) IN ACCORDANCE WITH SECTION 163.3191, FLORIDA STATUTES; PROVIDING AN EFFECTIVE DATE.

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

A motion was offered by Councilman Packer and seconded by Assistant Mayor Blachar to approve the Resolution. The motion carried (5-0); thus becoming Resolution No. 2010-725.

Councilman Packer requested that the minutes from the Local Planning Agency meeting on May 25, 2010 be included in the comments.

7. ORDINANCES FIRST READING/PUBLIC INPUT: None.

8. RESOLUTIONS: The following Resolution was read, by title, by Mrs. Horvath:

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA (THE "VILLAGE") AMENDING RESOLUTION NO. 2009-710 APPROVING THE LEASE AGREEMENT BETWEEN THE VILLAGE AND THE BAL HARBOUR SHOPS, LLLP FOR THE LEASE OF SPACE WITHIN THE BAL HARBOUR SHOPS FOR VILLAGE POLICE STATION USE; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Treppeda recommended approval and explained that the resolution clarified that the \$400,000 would be for construction costs, not including interest.

Dina Cellini, 211 Bal Cross Drive, questioned if the Village would now be paying the construction costs up front. Mr. Weiss explained that the lease agreement was not being changed and clarified that the original Resolution limited the amount to \$400,000 (including interest) and the proposed resolution would change that. He explained that it would still be paid on a monthly basis.

Babak Raheb, 128 Balfour Drive, questioned if the build-out was in lieu of rent. Councilman Packer advised that it was. Mr. Raheb requested clarification. Mr. Weiss explained that the terms of the lease would not change and that the contract was clear that the \$400,000 would be paid out on a monthly basis.

A motion was offered by Assistant Mayor Blachar and seconded by Councilman Packer to approve the Resolution. The motion carried (5-0); thus becoming Resolution No. 2010-726.

9. REPORTS:

A. VILLAGE MANAGER:

Discussion of Landscape Maintenance in the Security District:

Mr. Treppeda explained that he met with the Civic Association regarding the issue of the Village providing landscape maintenance in the Security District. He reported that Stuart Sobel, President of the Bal Harbour Civic Association, would be meeting with his Board. He distributed and read a letter received from Mr. Sobel.

Councilwoman Cohen understood Mr. Sobel's point that the practice had been in place for many years. She spoke in favor of researching the reasons for that and discussing if the Village wanted to continue doing that or not.

Councilman Packer discussed the condos that are in the Village now that didn't exist years ago, which is probably why the practice was done. He clarified that the Village didn't take care of landscaping on the East side (of Collins Avenue). He spoke in favor of exploring the issue and requested input from the residents.

Beth Berkowitz, 10160 Collins Avenue, discussed the plat showing that her building was in the residential section of Bal Harbour. She thinks that the Security District and the Residential District are the same. She clarified that the west side of Collins Avenue was

deeded and platted as the residential section. She read comments from the Raheb Attorney/Client Sessions. Ms. Berkowitz noted that the issue had been an ongoing problem that all the taxpayers' dollars had been paying for the maintenance, but could not use the areas in there. She suggested that refund be demanded on the taxes that had been used to pay for the maintenance of the Security District. She noted that it was an illegal entity and needed to be addressed.

Babak Raheb, 128 Balfour Drive, didn't think that it was the Council's responsibility to determine if the people on the West side were part of the District. He suggested separating the taxes collected from the Security District homes, to determine that it was more than the rest of the population. He clarified that the homes were the main tax base for 60 years.

Mayor Rosenfield suggested that Mr. Babak speak to Mr. Treppeda regarding the statistics.

Anamarie Kelly, 77 Camden Drive, reported that the Village was cutting grass and budgeting money for landscaping for private property. She discussed the plat. She questioned the terms of the settlement agreement with Mr. Raheb. She discussed the property owned by the individual residents. She didn't think that the Civic Association had any power.

Phil Corbisiero, 63 Bal Bay Drive, recommended that the issue be researched and corrected if it was wrong. He discussed the possible loss of Village employees, if the Security District provided its own landscaping, which he would be against. He spoke against doing anything immediately and requested that the issue be researched to determine redirection of jobs, if necessary.

Mayor Rosenfield reported that it was not the intention of the Council for employees to lose their jobs. She discussed the possibility of redirecting jobs.

Guy Kurlandski, 70 Camden Drive, reported that the houses amount to 38-39% of the taxes. He noted that there wasn't any landscaping, just grass, and very basic maintenance in the Security District. He didn't understand what the people perceived that the Security District residents were getting.

Assistant Mayor Blachar discussed Mr. Sobel's request and spoke in favor of finding out why the Village has done the landscaping, since it has been in place for 62 years. She noted that if it needed to be changed, then it would be addressed and done with procedures, but not immediately. She discussed the meeting scheduled with the Civic Association next week and suggested tabling the issue.

Councilwoman Cohen discussed the elementary landscaping in the area and the lack of a system in place to provide the proper landscape maintenance. She spoke in favor of the area being landscaped properly and to determine who would pay for that. Mayor Rosenfield thinks that would be a discussion for the people who owned the homes in the district.

Councilman Packer suggested that the Village Attorney prepare a document with background/facts/figures to open it up to full discussion/workshop to get to the basic core of the question. Mayor Rosenfield questioned if an ordinance should be prepared that would propose a change. Assistant Mayor Blachar recommended that the Civic Association meet first to decide what they would like to do and notice their residents so they could participate in the discussion.

Councilman Packer questioned if the Security District repaired its own roads. Mr. Treppeda advised that it did, which was paid through an assessment. Councilman Packer spoke in favor of a full discussion, which would not be done overnight.

It was the consensus of the Council for Mr. Treppeda and Mrs. Horvath to prepare a staff report regarding the history of the landscape maintenance in the Village and for Mr. Weiss to look into the legal part of it. The Council would also like to hear from the Civic Association. This item will be discussed in September.

Discussion of Increasing Fees for Business Tax Receipts:

Approval was requested to increase the Business Tax Receipt fees by 5% and to provide clarification in the Code.

A motion was offered by Councilman Packer and seconded by Councilman Sanz to approve an ordinance to be prepared for the recommended changes. The motion carried (5-0).

B. VILLAGE CLERK:

Lobbyist Registration Report: As of May 25, 2010: A list of Lobbyists registered with the Village was provided in the agenda.

Selection of Budget Public Hearing Dates: The Council was requested to consider dates for the Budget Public Hearings in September.

Mayor Rosenfield discussed dates for the Second Budget Workshop Meeting.

It was the consensus of the Council to schedule the Second Budget Workshop Meeting for Tuesday, July 20, 2010, at 6:00 p.m.

The Council discussed dates for the Budget Public Hearings in September.

A motion was offered by Assistant Mayor Blachar and seconded by Councilman Sanz to schedule the First Budget Hearing for Tuesday, September 14, 2010, at 5:01 p.m. and to schedule the Second Budget Hearing for Tuesday, September 21, 2010 at 5:01 p.m. The motion carried (5-0).

C. VILLAGE ATTORNEY:

Discussion of Home-Based Business Occupations within Residential Zoning Districts: Mr. Weiss provided a draft ordinance in the agenda, which would allow home-based businesses and requested direction from the Council. Mr. Treppeda recommended proceeding with the ordinance.

Anamarie Kelly, 77 Camden Drive, spoke against allowing home-based business in the residential section, since it had never been allowed. She reported that she provided Chief Hunker with a list of residents that had a corporation listed with their home address, including Councilwoman Cohen. She expressed concern on who would police people coming in and out, etc.

Doug Rudolph, 212 Bal Bay Drive, spoke in favor of allowing home-based businesses, with the suggested restrictions to conduct business over the telephone and computer and

limiting traffic to a minimum.

Guy Kurlandski, 70 Camden Drive, spoke against Ms. Kelly claiming 77 Camden Drive as her home.

Brian Mulheren, 10245 Collins Avenue, read the minutes from the prior Council meeting showing that the motion to prepare an ordinance was defeated 0-4. He questioned who directed Mr. Weiss to prepare and discuss the ordinance. Mr. Treppeda advised that he directed the Village Attorney to prepare the ordinance, since Mr. Abbott was not as familiar with the Village Code, and the Council requested Mr. Weiss to look at it.

Assistant Mayor Blachar discussed the residents who are operating illegally, since the Village doesn't provide a category for home-based businesses.

Mr. Weiss explained that after the last meeting it was his impression that the Council wanted more information and he determined that the best way to do that was to provide a draft ordinance for the Council to consider. He clarified that it was up to the Council whether or not to proceed.

A motion was offered by Councilman Packer to table the item for further discussion. The motion died, due to the lack of a second.

A motion was offered by Councilwoman Cohen and seconded by Assistant Mayor Blachar to direct the Village Attorney to place the Ordinance on the agenda for first reading. The motion carried (4-1), with Councilman Packer voting no.

Babak Raheb, 128 Balfour Drive, spoke against Councilwoman Cohen voting on the issue, since she directly benefitted from it. Mr. Weiss discussed the meaning of a conflict. Mayor Rosenfield noted that the motion stood and was legal according to Mr. Weiss. She clarified that the vote was only to place the Ordinance on the agenda for First Reading, not to approve it.

Albert Benzrihem, 10275 Collins Avenue, spoke in favor of the Village moving into the 21st century and didn't see a conflict with Councilwoman Cohen voting or making a motion on the issue.

Assistant Mayor Blachar agreed that the times had changed and noted that there were businesses that existed in homes that were in violation. She read the Draft Ordinance and the suggested restrictions. She spoke in favor of the ordinance.

Babak Raheb, 128 Balfour Drive, discussed problems with allowing home-based businesses. He thinks that Councilwoman Cohen had a conflict and that the issue should have been tabled.

D. MAYOR AND COUNCIL:

Mayor Rosenfield commended the Police Department for their quick response time. She discussed the recent loss of her husband. Councilman Packer also complimented the Police Department, who usually arrived before EMS.

Councilwoman Cohen discussed the request by residents to voice their opinion on the new bus shelter design. Mayor Rosenfield reported that the issue was voted on at the last Bal Harbour Village Regular Council Meeting Minutes 05/25/2010

meeting, the new design was approved (4-1), and the design would be going before the Architectural Review Board. She reported that the issue had been decided, unless the Council rescinded its action. She discussed the numerous meetings held regarding the issue.

Guy Kurlandski, 70 Camden Drive, reported that his postcards had been arriving after the meetings, but he saw the issue in the newsletter. He spoke against the new design, which he thought was too large, was architectural overkill, and would damage the aesthetics of the Village.

Colleen Kleepak, 291 Bal Bay Drive, spoke against the proposed shelters (eye sore, graffiti, maintenance costs).

Dina Cellini, 211 Bal Cross Drive, clarified that the Council approved a design for the shelters, but not the size, number, etc. She spoke against Councilwoman Cohen spreading false facts that the Council had approved 23-foot bus shelters at each stop, which was wrong. She clarified that the Council would discuss the size, number, etc. when the design was finally approved.

Councilwoman Cohen reported that the Village currently had seven shelters and she didn't think that the Council would approve less than that. She did not believe that she was providing false information.

Betsey Bystock, 80 Park Drive, discussed maintenance, graffiti, etc. She spoke in favor of the existing shelter design, which was un-obtrusive, low maintenance and blended in. She suggested replacing the existing shelters with the same design.

Mary Harris, 260 Bal Cross Drive, spoke in favor of the existing shelter design, which the police could monitor easily. She discussed never receiving notification of a workshop, etc.

Jana Falic, 150 Harbour Way, did not receive any meeting notification, but spoke to an Architectural Review Board Member. She spoke against the new design (increased loitering, police would have to monitor more closely, graffiti, etc.). She spoke against using anything that could be damaged and spoke in favor of enhancing the shelters.

Babak Raheb, 128 Balfour Drive, spoke in favor of replacing the shelters, but spoke against using glass, due to the generation of heat.

Nina Rudolph, 212 Bal Bay Drive, urged people to go to the Architectural Review Board meeting to voice their opinion.

Sylvia Delgado, 291 Bal Bay Drive, discussed the cost and suggested using the money for something else. Mayor Rosenfield explained that the Village would be receiving a Federal grant and the money had to be used for bus shelters. Assistant Mayor Blachar explained that the Village may need to pay more than the amount of the grant. Mayor Rosenfield agreed, but noted that the Village also budgeted for that item.

Penny Sepler, 10275 Collins Avenue, questioned how much more it would cost. Mayor Rosenfield explained that it would depend on the design and explained that the Village was trying to stay within the limits of the grant. Ms. Sepler questioned the reason they were being replaced. Mayor Rosenfield explained that they were falling apart. Councilwoman Cohen suggested that they be replaced with the same design. Penny doesn't think that the

current shelters stick out, etc.

Albert Benzrihem, 10275 Collins Avenue, spoke about the un-obtrusiveness of the current bus shelters, etc. He spoke against the size of the proposed shelters and spoke in favor of having something that looked nice but didn't overshadow the character of the Village.

Brian Mulheren, 10245 Collins Avenue, spoke against discussion of the item, since it was not placed on the agenda and a Councilperson rallied people to attend. He explained that the item was discussed numerous times and the need to correct the lack of protection of the current shelters.

Councilman Sanz discussed the need for shelters that provide protection. He urged the residents to think of other people and to be global.

Assistant Mayor Blachar agreed with Councilman Sanz that the item had been discussed many times and there was ample opportunity for the public to provide comment. She urged residents to attend the Architectural Review Board meeting to voice their opinion. She clarified that the Council still had the issue of the number and size of the shelters. Assistant Mayor Blachar urged residents to look at the meeting agendas that were provided online.

Councilman Packer clarified that the shelters would not be larger than the existing, were designed by a designer, would be as unobtrusive as the current ones, and would provide more protection. He didn't think that the Village had a problem with graffiti. He reported that the item would now go to the Architectural Review Board to decide which way to go.

10. OTHER BUSINESS:

Public Comment:

Mayor Rosenfield discussed the recent contributions by the Village's Police Department to the Dade County Most Outstanding Students and to the Dr. Michael Krop Sr. High School Youth Crime Watch Program.

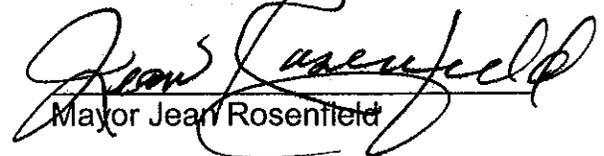
Sara Sheridan, 160 Bal Cross Drive, spoke in favor of the Pilates and health/wellness program and urged that it be continued by the Village.

Assistant Mayor Blachar discussed a loose dog in the neighborhood that bit a person in the neighborhood. Chief Hunker reported that the dog was being removed from the neighborhood by the owner. He reported that the same dog bit another dog in the neighborhood, but a report was never made on the incident. He requested that the police be notified if there was an incident, so that it could be documented.

11. ADJOURN: There being no further business, a motion was offered by Assistant Mayor Blachar and seconded by Councilwoman Cohen to adjourn. The motion carried (5-0) and the meeting adjourned at 9:57 p.m.

Attest:


Ellisa L. Horvath, MMC, Village Clerk


Mayor Jean Rosenfield