

BAL HARBOUR VILLAGE COUNCIL MEETING MINUTES
REGULAR MEETING - JULY 27, 2010

The Regular Meeting of the Bal Harbour Village Council was held on Tuesday, July 27, 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 7:25 p.m. by Mayor Rosenfield. The following were present:

Mayor Jean Rosenfield
 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
 Daniel L. Abbott, Village Attorney

Absent: Assistant Mayor Joni D. Blachar

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

2. PLEDGE OF ALLEGIANCE: The Pledge was previously done at the Council Workshop Meeting.

3. AGENDA: REQUEST FOR DELETIONS/ADDITIONS: Mr. Treppeda requested the addition for approval of up to \$100,000 to replace or fix the generator for Village Hall. *It was the consensus of the Council to add the item requested.*

4. SPECIAL PRESENTATIONS:

Officers of the Month for July 2010: Chief Hunker presented Officer Ramon Fernandez, Officer Steven Goldberg, Officer Greg Matthews, and Sergeant Leo Quinn with Officer of the Month plaques for July 2010.

5. CONSENT AGENDA:

Dina Cellini, 211 Bal Cross Drive, requested that Tab I be removed.

Neil Alter, 9801 Collins Avenue, requested that Tabs C, D, and E be removed.

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

Tab B: May 20, 2010 Council Workshop Meeting Minutes
 June 15, 2010 Regular Council Meeting Minutes
 June 30, 2010 Special Council Meeting Minutes

- Tab F: Agreement with Marcum Rachlin for preparation of Audited Financial Statements for Fiscal Years 2010/2011/2012
- Tab G: Contract renewal with New Community Strategies for Finance Director services for three years (beginning July 23, 2010)
- Tab H: Bid award for Force Main Lining Project from Pump Station 1 to Pump Station 2 to Kailas Construction, the low bidder, at a cost of \$276,000.00
- Tab J: Mears Leasing agreement to replace Public Works Truck #278 (2010 GMC Sierra 1500, 48-month lease, \$475 monthly)
- Tab K: Engineering fees of \$233,200.00 for Craig A. Smith & Associates for the Sewer Main Replacement Project (task 1 and tasks 4 through 9) from Pump Station 2 to 74th Street on Collins Avenue

A motion was offered by Councilman Packer and seconded by Councilwoman Cohen to approve the items on the Consent Agenda, except for Tabs C, D, E, and I. The motion carried (4-0).

Tab C – Motion Approving Expenditure of Resort Tax Funds: Neil Alter, 9801 Collins Avenue, questioned the amount and how it was applied.

Mayor Rosenfield explained that the Resort Tax Committee recommended approval of \$90,910.00 for the following items on July 15, 2010: International Luxury Travel Mart (ILTM) Conference \$29,410, Virtuoso Travel Mart \$10,000, Argentina Sales Trip \$14,000, 30-day Cancellation Notice of PR Contracts with Robyn Ross and Christine Procel, two tables for Project Newborn Charity Event \$7,000, Blog for Bal Harbour Tourism Website \$5,500, and Upgrade to Handicapped Accessible bus up to \$25,000.

Mr. Alter questioned if the Village now had representation in Mexico. Mayor Rosenfield explained that the Committee had previously approved that. She also reported that three Councilmembers were in attendance at the Committee meeting.

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

Tab D – Motion Approving Expenditure of Police Forfeiture Funds: Neil Alter, 9801 Collins Avenue, questioned the amount and how it was applied.

Mayor Rosenfield explained that approval was requested for \$54,000 in Police Forfeiture Funds for the following items: Donation to Ruth K. Broad Elementary School Drug Education Program \$6,000, Donation to F.I.U. Biscayne Bay Campus Cultural Series \$3,000, and Purchase of equipment for Vice, Intelligence, and Narcotics Squad \$45,000.

Mr. Alter suggested that additional funds be approved for the Ruth K. Broad Elementary School Drug Education Program.

Maria Rodriguez, Principal - Ruth K. Broad Bay Harbor K-8 Center, explained what the money would be used for.

Chief Hunker explained that 15% of the forfeiture proceeds needed to go to education. He

spoke in favor of approving the items.

A motion was offered by Councilman Packer and seconded by Councilwoman Cohen to approve Tab D (the expenditure of \$54,000 in Police Forfeiture Funds). The motion carried (4-0).

Jan Solomon, Development Officer – Office of the Vice Provost - FIU Biscayne Bay Campus, thanked the Council and residents for the donation. She invited everyone to attend the cultural events.

Tab E – Motion Approving Amendments to Agreement with American Traffic Solutions (ATS): Neil Alter, 9801 Collins Avenue, requested an explanation of the amendments.

Mr. Treppeda clarified that the agreement needed to be amended, to comply with the State statute that was passed.

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

Tab I – Motion Approving Security District Funds for Engineering Study of the Wall along Park Drive: Approval was requested to expend \$1,200 in Security District funds for a structural engineering study to be performed of the damaged wall along Park Drive, prior to receiving bids for repair and/or replacement.

Mr. Treppeda explained that the Civic Association would like to get an engineering study at the request of the Building Official. He reported that Council approval was needed to expend the funds. Councilman Sanz noted that the wall was in disrepair and questioned if an engineering report was needed, since it would delay fixing the wall. Mr. Treppeda explained that since it was a structural issue, an engineering study was required, prior to issuing a permit for the work.

Dina Cellini, 211 Bal Cross Drive, voiced concern that District #5 was at a disadvantage since Assistant Mayor Blachar was not in attendance and that as a unit owner at the Lanai Condominium Assistant Mayor Blachar did not participate in the Council's discussion on the issue. She felt that even though the Civic Association had authorized expenditure of the money, it was premature to move forward, since the issue was being researched. She voiced concern that the Council's authorization for the expenditure would force them to approve the repair of the wall and the issue of who owned the wall, etc. was still unresolved. Ms. Cellini clarified that the wall pre-existed the Security District and the District did not pay for the wall. She thinks that the wall was built with funds by the Lanai Condominium. She explained that the wall wasn't an issue before, because there wasn't a guard gate. She suggested that both the Security District and the Lanai pay for the study and repairing the wall, but spoke against it being paid exclusively by the Security District.

Anamarie Kelly, 77 Camden Drive, discussed an excerpt from a recital signed by former Village Manager Carole Morris. She questioned who had the deed to the parks (in the Security District). She suggested that the Village find out the ownership of the property first and then deal with it. She reported that the Civic Association did not own the parks. She questioned who built the wall and who pulled the permit. Ms. Kelly spoke against spending money for the attorney to research the issue.

Dan Nieda, Village Building Official, reported that portions of the wall were in disrepair. He noted that the wall wouldn't collapse on its own, but a storm could cause some pieces to fly and the wall was immanently dangerous.

Dan Holder, 24 Bal Bay Drive, reported that the other walls were also in disrepair. He discussed options to remove the walls and put in recycled fencing (if it was to remain private) or be left open. He didn't know if the money should be spent on the study.

Gabriela Webster, 30 Park Drive, discussed the general approval of the Civic Association, the Lanai and the Building Official to prevent damage or harm to anyone in the area. She spoke in favor of the Council supporting the Civic Association and Building Official to proceed.

Dan Nieda, Village Building Official, noted that putting the legality of who owned the wall aside, it was a small amount to determine if the walls could be repaired or not. He explained that if the walls became too costly to repair, then other types of fencing could be looked at.

Councilman Sanz was appalled at the condition of the wall and agreed that a storm could cause the concrete in the wall to fly. He spoke in favor of finding out if the wall could be fixed and then determining who should fix it. Councilman Packer agreed that it would only be authorization for the structural engineering process. He questioned if by approving the survey if the Village would be obligated to any further responsibility.

Mr. Abbott didn't think that the Village would incur any additional responsibility if the wall was not owned by the Village. He clarified that approval would only be to undertake a study to find out the status of the wall, which wouldn't incur the Village to any responsibility.

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

Added Item – Motion Approving Funds for Generator for Village Hall:

Approval was requested for up to \$100,000 to either fix or replace the generator for Village Hall.

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

6. PUBLIC HEARINGS:

Zoning Hearings/Quasi-Judicial Public Hearings: None.

Ordinances Second Reading/Public Hearings:

The following ordinance was read, by title, by Mrs. Horvath:

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE BAL HARBOUR VILLAGE CODE OF ORDINANCES BY AMENDING CHAPTER 19 "TRAFFIC AND MOTOR VEHICLES" BY AMENDING ARTICLE III "TOWING OF VEHICLES", BY AMENDING SECTION 19-30 "GENERALLY", BY CREATING SECTION 19-34 "MAXIMUM IMMOBILIZATION, NONCONSENT

TOWING AND STORAGE RATES FOR PROVIDING IMMOBILIZATION OR TOW SERVICES AT THE REQUEST OF PROPERTY OWNERS OR POLICE AGENCIES”, IN ORDER TO ESTABLISH TOWING RATES AND AN ADMINISTRATIVE FEE FOR THE TOWING OF VEHICLES FROM THE VILLAGE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

Mayor Rosenfield opened the public hearing.

Mr. Treppeda explained the ordinance.

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

A motion was offered by Councilman Sanz and seconded by Councilman Packer to approve the Ordinance. The motion carried (4-0), with the roll call vote as follows: Mayor Rosenfield yes; Assistant Mayor Blachar absent; Councilwoman Cohen yes; Councilman Packer aye; Councilman Sanz yes; thus becoming Ordinance No. 2010-542.

The following ordinance was read, by title, by Mrs. Horvath:

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA AMENDING ARTICLE II “LOCAL BUSINESS TAX” OF CHAPTER 9 “BUSINESS REGULATIONS AND BUSINESS TAX” OF THE BAL HARBOUR VILLAGE CODE OF ORDINANCES; PROVIDING FOR THE ISSUANCE OF BUSINESS TAX RECEIPTS FOR PRORATED PORTION OF THE FISCAL YEAR; PROVIDING FOR AN INCREASE IN CERTAIN BUSINESS TAXES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

Mayor Rosenfield opened the public hearing.

Mr. Treppeda explained the ordinance and recommended that it be approved to increase fees by 5%, since fees had not been raised since 1995. Councilman Packer questioned the procedure that would be used to enforce the ordinance. Mr. Treppeda explained that it would be handled through a Code Enforcement officer.

Anamarie Kelly, 77 Camden Drive, suggested that businesses be tracked through the Secretary of State web site.

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

A motion was offered by Councilman Packer and seconded by Councilwoman Cohen to approve the Ordinance. The motion carried (4-0), with the roll call vote as follows: Mayor Rosenfield yes; Assistant Mayor Blachar absent; Councilwoman Cohen yes; Councilman Packer yes; Councilman Sanz yes; thus becoming Ordinance No. 2010-543.

Resolutions/Public Hearings: None.

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, ESTABLISHING THE NON-CONSENT TOWING RATES THAT MAY BE CHARGED BY TOWING SERVICE PROVIDERS WITHIN THE VILLAGE IN ACCORDANCE WITH CHAPTER 19 OF THE VILLAGE CODE OF ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE.

Mr. Treppeda explained that the resolution set the towing rates, per authorization given in the ordinance approved earlier in the meeting.

A motion was offered by Councilman Packer and seconded by Councilman Sanz to approve the Resolution. The motion carried (4-0); thus becoming Resolution No. 2010-727.

The following resolution was read, by title, by Mrs. Horvath:

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, APPROVING RENEWAL OF FLORIDA DEPARTMENT OF TRANSPORTATION (THE "FDOT") LANDSCAPE MAINTENANCE AGREEMENT WITH THE VILLAGE; AUTHORIZING EXECUTION OF RENEWAL AGREEMENT; AND AUTHORIZING EXECUTION OF SUCCESSIVE RENEWALS IF OFFERED BY FDOT; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

Mr. Treppeda explained the resolution and noted that the Florida Department of Transportation paid the Village \$6,201 for maintenance.

A motion was offered by Councilman Packer and seconded by Councilman Sanz to approve the Resolution. The motion carried (4-0); thus becoming Resolution No. 2010-728.

9. REPORTS:

A. VILLAGE MANAGER:

Budget Report for Third Quarter (Fiscal Year 2009/2010)

Provided by Finance Director Christopher Wallace: Mr. Wallace reviewed the report. He discussed the appeals for property tax values and reported the loss of a \$132 million tax base due to that, which would create a \$320,000 loss in property tax revenues for the current fiscal year. He reported that due to delinquent property taxes, the Village had received nearly \$70,000 in fees (1,400% over the Village's original estimate of \$5,000). He summarized that it was a tight budget, but that everything would be worked out.

Discussion and Approval of Proposed Millage Rate:

Councilwoman Cohen discussed the revenue that the Village would receive from the red light cameras. Mr. Treppeda explained that new revenue source was already included before the shortage (on the revenue side). Mr. Wallace explained that they took a conservative stance on the vendor's estimate (70%) for the budget projections.

Councilman Packer questioned providing a separate bill for solid waste and the formula that would be used. Mr. Wallace explained that a study would need to be conducted and a methodology would need to be formed. Councilman Packer would like a comparison to be provided showing the difference between a fee for solid waste and how that would affect the millage rate. Mr. Wallace reported that it costs the Village \$800,000, so it would be approximately \$250-\$500 per house per year. He estimated that the millage rate would drop .3 mills. He discussed the advantage for residents paying for solid waste (encourage recycling, etc.). Councilman Packer discussed the garbage schedule. He suggested a different fee structure for the Shops. He questioned if the Village's revenue would be increased through a fee. Mr. Wallace reported that the fee would cover the costs. Councilman Packer discussed different rates for commercial and residential properties. Mr. Wallace reported that could be looked at. Mr. Abbott noted that special assessments would need to be fairly assessed. Mr. Wallace discussed the Village providing pickup for the residential properties and possibly having commercial properties privatized. Councilman Packer would like all of the ideas researched before the next meeting. Mr. Wallace estimated the study to cost \$10,000-\$15,000, which could be done in time for the upcoming budget. He noted that the proposed budget would be decreased by \$800,000 if the solid waste was billed separately.

Councilwoman Cohen discussed the recent elimination of the trash station and suggested that the garbage pickup include picking up landscape debris a couple of times a year. Mr. Wallace noted that most of the homes had landscaping companies that provided their own trucks, etc. to dispose of the debris.

Mr. Treppeda reviewed the Property Tax Rate Options (three scenarios) and discussed the difference between implementing and not implementing a garbage fee. He explained that the Village's millage rate was being penalized by having the garbage cost included. He added that 90% of the municipalities charged a separate garbage fee. Mr. Wallace reported that the millage rate needed to be set by August 2, 2010. He recommended the Option 1 higher rate option, which would allow the Village to lower it. He discussed the process. Councilman Packer suggested Option 1, which could be lowered. Councilman Sanz requested that another workshop meeting be held to discuss the budget before September.

Councilwoman Cohen questioned if a study needed to be done for the garbage fee. Mr. Wallace reported that it would be needed and suggested authorizing the Village Manager to approve up to \$15,000 to conduct the study. He noted that he could do the study or he could recommend someone else to do it. Mr. Treppeda suggested that Mr. Wallace's company conduct the study.

A motion was offered by Councilwoman Cohen and seconded by Councilman Packer to authorize the Village Manager to spend up to \$15,000 for a solid waste study, to establish an apportionment methodology of the cost of providing collection and disposal of solid waste.

Dan Holder, 24 Bal Bay Drive, thought the motion was to authorize the manager to expend the money. Mayor Rosenfield clarified that the motion was to do a study to see what it would cost. Mr. Wallace advised that the study would be done before the September hearing, to provide the Council with information for them to make a decision on the budget and millage rate and the cost of billing separately for solid waste.

Dina Cellini, 211 Bal Cross Drive, clarified that the motion was to look at the apportionment and methodology. She would like to be able to determine if it's in her best

interest to pay the solid waste fee separately and requested that the figures be available after the study to speak on the issue.

Mr. Wallace agreed that the information requested would be provided. Mayor Rosenfield clarified that the Village would determine what to charge the condominiums and then the condominiums would decide what to assess the owners. She thought that it would be a complicated issue for the condominiums.

Abraham Gotman, 9601 Collins Avenue, explained how the condominiums assessed fees to the owners.

Phil Corbisiero, 63 Bal Bay Drive, questioned if the proposal would use the existing work force. Mr. Wallace explained that it would use the existing resources, but noted that it would also look at the condominiums and the Shops to see what a private hauler may charge. Mr. Corbisiero spoke against spending \$15,000 that may result in letting some employees go. He agreed with the need to save dollars, but to also keep the loyal work force.

Gabriela Webster, 30 Park Drive, agreed with Mr. Corbisiero. She questioned if the revenue from the business tax receipt increase was accounted for. Mr. Wallace reported that it was. Ms. Webster discussed making cuts in lighting, sprinklers, etc.

Councilman Packer spoke in favor of the survey to enable the Council to make an intelligent decision.

Ms. Webster requested that the study be available on the web site.

Dan Holder, 24 Bal Bay Drive, reported that as President of a co-op association he saw it as a problem and didn't see the great benefit. He spoke against the study and spoke in favor of leaving the garbage where it was, since the affect on the millage would be nominal.

The motion carried (3-1), with the roll call vote as follows: Mayor Rosenfield no; Assistant Mayor Blachar absent; Councilwoman Cohen yes; Councilman Packer yes; Councilman Sanz yes.

It was the consensus of the Council for the Village Manager to go in the direction of Option 1 (raise the property tax rate to 3.1684 and use half of the budget stabilization fund in the amount of \$1 million), without a garbage fee.

B. VILLAGE CLERK:

Lobbyist Registration Report: As of July 27, 2010: 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 Sanz requested that another Council Workshop Meeting be scheduled for the budget to be discussed. Mr. Wallace discussed the public hearings that would be held. The Council discussed holding a budget workshop meeting on August, 30, 2010. Mr. Wallace explained that the solid waste study may not be available by then. Councilman Sanz

requested that the budget be substantially completed by the workshop meeting, to allow people to ask questions on line items. Mr. Wallace expected to have the items available for all reasonable questions.

It was the consensus of the Council that a Council Workshop Meeting to discuss the budget be scheduled for Monday, August 30, 2010, at 6:00 p.m., to be noticed on channel 77, on the web site, emailed, and displayed on the Police Department's electronic sign.

10. OTHER BUSINESS:

Public Comment:

Dina Cellini, 211 Bal Cross Drive, requested that the Village separate items that it could not live without for the next budget workshop (salary, pension, insurance, etc.). Mr. Wallace reported that only 10%-11% of the budget was discretionary and he would do his best to separate the items as requested.

Ms. Cellini questioned if the Village could have any input with the County regarding the appeal of property taxes. Mr. Abbott explained that, per Florida statute, the Village would receive notice of the appeals and could appear at the hearings. He clarified that the people making the decisions for the tax appeals knew that those decisions would affect the tax revenue that the Village would receive. Ms. Cellini questioned if it was appropriate for the Village to provide input at the hearings. Mr. Abbott didn't know if the amount saved would cover the amount that would need to be paid for the Village to attend. He reported that most local governments did not appear. Ms. Cellini suggested that the Village look into that.

Ms. Cellini discussed a recent drowning in the news due to a rip current and suggested that the Village look into options for placing flags on the beach to warn of rip currents, jellyfish, etc.

Chief Hunker offered to have Lt. Merrill contact the County regarding flags.

Jay Smith, Director of Human Resources and Community Outreach, reported that the ONE Bal Harbour Hotel had flags that they displayed.

Councilman Packer suggested that each condo building be supplied with the flags.

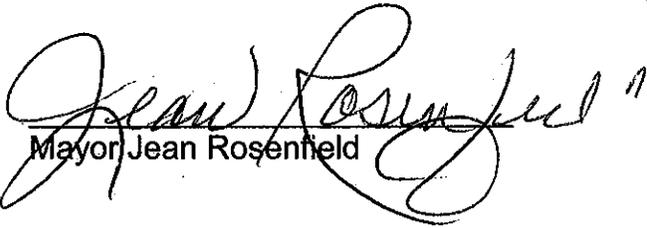
Chief Hunker preferred that the Village handle the flags if requested to ensure they were done properly. He will report back at the next meeting.

Dan Holder, 24 Bal Bay Drive, didn't think there was an international flag that was used. Mr. Smith explained that the flags were a State adopted system. Mr. Holder suggested that the Village provide a sign with an explanation of what each flag meant. He discussed the liability issues.

Abraham Gotman, 9601 Collins Avenue, discussed residents receiving tax reductions, which the Council should be aware of. He reported that his building put a sign at the entrance to the beach warning of the tide conditions. He didn't know how much the flags would help.

11. ADJOURN: There being no further business, a motion was offered by Councilman Packer and seconded by Councilwoman Cohen to adjourn. The motion carried (4-0) and the meeting adjourned at 9:28 p.m.

Attest:


Mayor Jean Rosenfield


Ellisa L. Horvath, MMC, Village Clerk