

# **BAL HARBOUR VILLAGE COUNCIL MEETING MINUTES**

## **REGULAR MEETING – NOVEMBER 16, 2010**

The Regular Meeting of the Bal Harbour Village Council was held on Tuesday, November 16, 2010, 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 8:11 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  
Richard J. Weiss, Village Attorney  
Anthony L. Recio, 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:** *A motion was offered by Assistant Mayor Blachar and seconded by Councilman Packer to delete Tabs H, I, and J from the agenda. The motion carried (5-0).*

**4. SPECIAL PRESENTATIONS:** None.

**5. CONSENT AGENDA:**

*Dina Cellini, 211 Bal Cross Drive,* requested that Tabs A and C be removed.

*Brian Mulheren, 10245 Collins Avenue,* requested that Tab B be removed.

Assistant Mayor Blachar requested that Tab E be removed.

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

Tab D: \$4,464.26 (striping, removal of lights for re-use, and installation of lights for two new Sergeant vehicles) and \$800 monthly for 48 months (leases on two 2010 Ford F150 4X4 Sergeant vehicles) in Police Budgeted Funds

Tab F: Approval of \$525.00 monthly (\$925.00 monthly less the \$400 monthly Federal/State subsidy) for the Three Party Agreement with VPSI Inc. for a replacement van for the Public Works Vanpool program

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

**Tab A – Motion Approving Minutes:** The request was for approval of the following minutes: August 30, 2010 Council Workshop Meeting, September 14, 2010 First Budget Hearing, and October 19, 2010 Regular Council Meeting.

*Dina Cellini, 211 Bal Cross Drive*, requested that the minutes for the October 19, 2010 Regular Council Meeting be changed on page 5, to reflect that the ordinance would be reviewed.

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

**Tab B – Motion Approving Expenditure of Resort Tax Funds:** The request was for approval of \$62,000.00 in Resort Tax Funds for the following items:

**Agreement with Spoke Comunicacao & Marketing** **\$12,000.00**  
((\$2,000 per month for 6 months to handle public and media relations in Brazil)

**Contribution to Greater Miami Convention & Visitors Bureau** **\$50,000.00**  
((\$25,000.00 from the 09/10 Resort Tax Budget and \$25,000.00 from the 10/11 Resort Tax Budget, with conditions determined by the Village Director of Tourism and Village Manager)

*Brian Mulheren, 10245 Collins Avenue*, requested an explanation of the money spent. He suggested using the GMCVB for more things, instead of other consultants, and having them provide a proposal on what they would do for the money. Mayor Rosenfield explained that a proposal was requested from the GMVCB, which would be reviewed to determine the return on investment.

Councilman Packer reported that Carolyn Travis was doing an excellent job on her selection of consultants, etc.

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

**Tab C – Motion Approving Expenditure of Police Forfeiture Funds:** The request was for the following items:

**Miami Police Athletic League** **\$10,000.00**  
(Donation for youth programs with the purpose of preventing juvenile delinquency)

**Lease of Drug Interdiction/Mobile Command Post Support Vehicle** **\$400.00 monthly**  
(48-month Lease for 2010 Ford F150 4x4 FX4)

**Lease on Specialized Drug Task Force Vehicle** **\$400.00 monthly**  
(48-monthly Lease for 2010 Ford F150 4x4 Lariat)

**Striping and Installation of Lights** **\$4,464.26**  
(Striping of one vehicle, removal of lights for re-use and installation on two new vehicles)

<b>Mothers Against Drunk Driving (MADD) Fundraising Event</b>	<b>\$2,497.00</b>
(Additional funds needed for the Moonlight MADDness Event)	
<b>Crime Watch Prevention Program</b>	<b>\$5,048.00</b>
(Purchase of items related to the Village Crime Prevention Program run by Officer Orr)	

**Dina Cellini, 211 Bal Cross Drive**, questioned if the money to the Miami Police Athletic League was in lieu of the money given to the Surf-Bal-Bay Police Athletic League. Chief Hunker explained that it was not and that the Surf-Bal-Bay program was given \$15,000. Ms. Cellini spoke in favor of approval.

Councilwoman Cohen discussed the importance of the donation and read the letter submitted by Major Craig E. McQueen, President - Miami Police Athletic League, Inc. Mayor Rosenfield spoke in favor of the anti-crime activities.

Mayor Rosenfield reported that Chief Hunker was honored by the South Florida Shomrim Society as the Law Enforcement Officer of the Year for 2010.

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

**Tab E – Motion Approving Eighth Annual Snow Festival at Bal Harbour**

**Park:** The request was for approval of up to \$9,350.00 (\$4,400 snow, \$1,500 dinner food, \$600 fun food, \$500 Kosher food, \$350 bounce house, \$200 tables and chairs, \$300 face painting clown, \$400 tents, and \$1,100 miscellaneous) for the 8<sup>th</sup> Annual Snow Festival at Bal Harbour Park on January 8, 2011.

Assistant Mayor Blachar spoke in favor of the festival, but against the \$4,400 for the snow. Mayor Rosenfield pointed out that the money was budgeted. Councilwoman Cohen agreed with Assistant Mayor Blachar and questioned resident input. Councilman Packer questioned the number of people that attended the event.

**Michael O'Quinn, Director of Park, Recreation, and Transportation**, reported that 200 to 300 people attended last year. He added that it was a good community event and that a lot of the residents only came because of the snow. He thought it would be a mistake not to have the snow. Assistant Mayor Blachar agreed that it brought the community together. She requested public input on the item.

**Betsy Bystock, 80 Park Drive**, suggested keeping the festival for the kids, if the events were kept for the seniors. She discussed replacing the snow with something less expensive if necessary. She discussed doing without one of the buses, etc. to cover the cost. Mayor Rosenfield requested that Ms. Bystock work with Mr. O'Quinn on creative ideas for the event that may not involve needing the snow. Mr. Treppeda clarified that no ad valorem taxes were used to fund either of the buses (the tourism bus paid with Village resort tax funds and the Village bus paid by the County).

**Lynne Mullen, 10150 Collins Avenue**, spoke in favor of having the festival and snow for the children.

**Brian Mulheren, 10245 Collins Avenue**, spoke in favor of the snow and festival, since it brought the community together.

Councilwoman Cohen spoke in favor of the party, but wasn't sure about the snow. She agreed that the snow should be kept, if the kids enjoyed it.

*A motion was offered by Councilman Sanz, and seconded by Councilman Packer to approve Tab E. 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 Mrs. Horvath:

**AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING CHAPTER 8 "ELECTIONS" OF THE VILLAGE CODE OF BAL HARBOUR VILLAGE, BY AMENDING SECTION 8-6 "PETITIONS OF CANDIDATES", SECTION 8-7 "DATE AND NOTICE OF ELECTION", SECTION 8-8 "CANVASSING OF ELECTION RETURNS; CERTIFICATES OF ELECTION", SECTION 8-9 "VACANCY IN CANDIDACY", SECTION 8-10 "NO EARLY VOTING"; TO PROVIDE FOR CHANGE OF VILLAGE COUNCIL REGULAR ELECTION DATE FROM APRIL OF ODD-NUMBERED YEARS TO NOVEMBER OF EVEN-NUMBERED YEARS TO COINCIDE WITH COUNTYWIDE GENERAL ELECTIONS; EXTENDING COUNCIL TERM OF OFFICE TO CONFORM TO REVISED ELECTION DATE SCHEDULE; REVISING QUALIFYING PERIOD FOR COUNCIL CANDIDACY TO CONFORM WITH CHANGE OF ELECTION DATE; EACH AS AUTHORIZED BY SECTION 100.3605(2), FLORIDA STATUTES; REVISING PROCEDURE CONCERNING ANY VACANCY IN CANDIDACY; FURTHER REVISING CHAPTER 8 "ELECTIONS" TO CONFORM TO ELECTION DATE CHANGE; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

Mayor Rosenfield opened the public hearing.

**Dina Cellini, 211 Bal Cross Drive**, renewed her concerns regarding the language in Section 8-10 (Early Voting). Mr. Weiss reviewed the Ordinance and recommended that the language be left in as it was written, even though the circumstance may never come up. Ms. Cellini thought that the language created unnecessary confusion and would be subject to multiple interpretations. She noted that the way the Ordinance was drafted the Village would never have a Council election that would not be a County-wide election. She spoke against leaving the language in. She clarified that the Village would never have to call a special election to elect a Councilmember, since the Ordinance stipulated that the Council would appoint a successor until the next general election. She clarified that the early voting section explained that there would be early voting whenever there was a County-wide election, but not when there was a special Village election. She spoke against including the word "Council elections" when it was already clear that there wouldn't be a Council election that was not a County-wide election. Councilman Packer discussed the Ordinance. Ms. Cellini clarified that there wouldn't be a time when a Councilmember would be elected during a special election. Assistant Mayor Blachar deferred to Mr. Weiss' recommendation. Mr. Weiss didn't think that the language would cause a problem, especially with the discussion on the record. He recommended that the language be left in as it was written.

**Neil Alter, 9801 Collins Avenue**, questioned if a Councilperson resigned if there was a possibility of holding an election or if that would just be subject to an appointment. Mr. Weiss explained that the Council would appoint someone to fill the seat.

**Brian Mulheren, 10245 Collins Avenue**, agreed with the main part of the Ordinance to save money, but spoke in favor of the Ordinance being clear and not up to interpretation.

Mr. Weiss didn't think that the Ordinance was open to interpretation and was very clear. He explained that going forward in the future there could be some circumstance that may come up where that language could be useful.

**Doug Rudolph, 212 Bal Bay Drive**, spoke in favor of following the Village Attorney's advice.

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

**A motion was offered by Assistant Mayor Blachar and seconded by Councilman Packer to approve the Ordinance. The motion carried (5-0), with the roll call vote as follows: Mayor Rosenfield yes; Assistant Mayor Blachar yes; Councilwoman Cohen yes; Councilman Packer yes; Councilman Sanz yes; thus becoming Ordinance No. 2010-545.**

**Ordinances First Reading/Public Hearings:** The following proposed Ordinances (tabs H, I, and J) were previously removed from the agenda.

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE FUTURE LAND USE MAP (FLUM) DESIGNATION OF A PARCEL OF LAND LOCATED AT 501 96<sup>TH</sup> STREET, BAL HARBOUR VILLAGE, FLORIDA, FROM "INSTITUTIONAL" TO "COMMERCIAL"; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE FUTURE LAND USE MAP (FLUM) DESIGNATION OF A PARCEL OF LAND LOCATED AT 655 96<sup>TH</sup> STREET, BAL HARBOUR, FLORIDA, FROM "MUNICIPAL" TO "COMMERCIAL"; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING DIVISION 11, ARTICLE III, CHAPTER 21 OF THE VILLAGE CODE TO CREATE A NEW SECTION 21-322 "SITE PLAN REVIEW;" PROVIDING FOR SITE PLAN REVIEW, INCLUDING APPLICABILITY OF REQUIREMENT, APPLICATION AND REVIEW PROCEDURE, COST RECOVERY, AND DEVELOPMENT AGREEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

**Resolutions/Public Hearings:** None.

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

## **8. RESOLUTIONS:**

The following Resolution was read by title by Mrs. Horvath:

**RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AUTHORIZING THE VILLAGE MANAGER TO APPLY FOR THE FEDERAL DRUG CONTROL AND SYSTEM IMPROVEMENT PROGRAM GRANT AVAILABLE THROUGH MIAMI-DADE COUNTY, AND TO APPLY FOR, RECEIVE, EXPEND AND AMEND BYRNE/JAG FORMULA PROGRAM FUNDS AND EXECUTE AGREEMENTS FOR THE VILLAGE POLICE DEPARTMENT RECORDS MANAGEMENT PROGRAM PURPOSES INDICATED HEREIN; PROVIDING EFFECTIVE DATE.**

Mr. Treppeda explained that the Grant would provide \$3,100. Chief Hunker explained that the Grant would be used to update the records management system, for the Police Department.

**A motion was offered by Councilman Packer and seconded by Councilman Sanz to approve the Resolution. The motion carried (5-0), with the roll call vote as follows: Mayor Rosenfield yes; Assistant Mayor Blachar yes; Councilwoman Cohen yes; Councilman Packer yes; Councilman Sanz yes; thus becoming Resolution No. 2010-734.**

The following Resolution was read by title by Mrs. Horvath:

**A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, REQUESTING FEDERAL FUNDING IN SUPPORT OF THE PORT OF MIAMI DEEP DREDGE PROJECT; PROVIDING FOR EFFECTIVE DATE.**

Mayor Rosenfield explained the discussion at the Miami-Dade League of Cities Dinner, which urged the municipalities to support a Resolution.

**A motion was offered by Councilman Packer and seconded by Assistant Mayor Blachar to approve the Resolution. The motion carried (5-0), with the roll call vote as follows: Mayor Rosenfield yes; Assistant Mayor Blachar yes; Councilwoman Cohen yes; Councilman Packer yes; Councilman Sanz yes; thus becoming Resolution No. 2010-735.**

## **9. REPORTS:**

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

**Request for Approval of 4COP SRX Retail Alcoholic Beverage License for Starr Restaurants (Harbour Restaurant Parnters LLC) – Bal Harbour Shops:** Mr. Treppeda explained the request from Starr Restaurants for a 4COP SRX license, to allow the sale of beer, wine, and liquor for consumption on the premises of their new restaurant.

**Bradley Bartram, Vice President of Operations for Starr Restaurants,** requested approval and announced that the restaurant was expected to open January 15, 2011.

Councilman Sanz questioned if the restaurant would be open on both sides. Mr. Bartram advised that it would.

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

Assistant Mayor Blachar questioned if the Village could restrict smoking in the outside seating areas of the restaurants and how that would impact the restaurant business. Mr. Weiss advised that he would have to look at the legality of that.

Mr. Bartram explained that it was a draw for some people and they hadn't decided what they wanted to do, but he felt that in the long run, it would impact their business to restrict outside smoking at the restaurants.

Councilwoman Cohen discussed the amount of Europeans and South Americans that visited the Shops. She felt that restricting smoking would be devastating to the business of the restaurants.

**B. VILLAGE CLERK:**

**Lobbyist Registration Report: As November 16, 2010:** A list of Lobbyists registered with the Village was provided in the agenda. Mrs. Horvath provided a revised Lobbyist report, showing the addition of Randall A. Whitman and Matthew Whitman Lazenby as registered Lobbyists for Bal Harbour Shops, LLLP. She also reported that Kerry Rosenthal had registered at the meeting as a Lobbyist for the Church by the Sea.

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

**D. MAYOR AND COUNCIL:** This item was discussed later in the meeting.

**10. OTHER BUSINESS:**

**Public Comment:**

***Dina Cellini, 211 Bal Cross Drive,*** discussed the Village Ordinance prohibiting business in the residential section and requested that pro-bono legal services be allowed in the Village.

Mayor Rosenfield questioned allowing other professionals that saw patients on a non-paying basis, etc.

Mr. Treppeda felt that pro-bono legal services would be allowed, if there weren't alot of people going in and out of the residence.

***Neil Alter, 9801 Collins Avenue,*** spoke in favor of allowing pro-bono legal services.

***Brian Mulheren, 10245 Collins Avenue,*** questioned the status of the bus shelters. Mr. Treppeda explained the procedure to receive Federal funding for the project. He anticipated acceptance and a project manager to be provided in August 2011. He reported that the St. Regis would have to pay \$70,000 to \$80,000 for one shelter, so the shelters would be done all at once instead.

Mr. Mulheren discussed the hazardous lighting and sidewalk conditions in front of the St.

s project. Councilman Sanz agreed that it was very dark in that area. Mr. Treppeda reported that he had been working with Mr. Nieda on those issues and noted that the St. Regis would be installing some temporary lighting.

**Daniel Nieda, Building Official**, explained that the sidewalk had been covered with asphalt, to create a temporary smooth surface. He reported that the St. Regis was in the process of removing the curbing to align it, etc. He discussed the work with the signalization, which had damaged some of the lights, and noted that the St. Regis agreed to provide additional lights. Mr. Nieda explained that the project was in the last and final phase of the FPL work, which was the reason for the current conditions. He expected completion of that portion of the project towards the end of the year.

**Betsy Bystock, 80 Park Drive**, discussed the need for a bicycle path on Collins Avenue.

Chief Hunker discussed the number of bicycle violations and explained that according to the Department of Transportation there was not room on Collins Avenue for a bike lane. He reported that since January 2007 there were 500 accidents (14 with bicycles or pedestrians, eight were minor, and one was serious). He discussed the installation of mirrors to assist with the prevention of accidents. He spoke against a bike lane on Collins Avenue, since the beach path was safer.

**Neil Alter, 9801 Collins Avenue**, discussed the noise created by the steel plank in the street in front of the St. Regis.

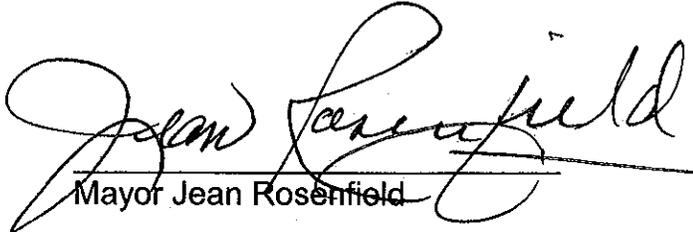
#### MAYOR AND COUNCIL:

Councilman Packer announced that, according to Sally Heyman's Office, the first part of the Haulover Dog Park would open on December 1, 2010.

Councilman Packer suggested that the Collins Avenue center median be narrower, to create room for a bike path on the side.

**11. ADJOURN:** There being no further business, the meeting was adjourned by consensus of the Council (5-0) at 9:20 p.m.

Attest:

  
Mayor Jean Rosenfield

  
Ellisa L. Horvath, MMC, Village Clerk