BAL HARBOUR VILLAGE COUNCIL MEETING MINUTES
REGULAR MEETING – DECEMBER 21, 2010

The Regular Meeting of the Bal Harbour Village Council was held on Tuesday, December 21, 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 7:23 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, MMC, Village Clerk
Richard J. Weiss, Village Attorney
Andrea Greenblatt, Administrative Assistant

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: None.

4. SPECIAL PRESENTATIONS:

Historic Structure Survey – Janus Research: ***Emily Sheckels, Janus Research,*** provided an overview of the survey. She explained the goal to identify potential historic structures in the residential areas and discussed the process. She requested suggestions of residential historians. Mayor Rosenfield suggested Stanley Whitman, Bal Harbour Shops. Councilwoman Cohen suggested Anamarie Kelly.

Ken Hardin, Janus Research, discussed the importance that everyone knew what was going on, since they would be taking photos, etc. He discussed the positive aspects for the community.

Don Orner, 10245 Collins Avenue, questioned the cost and what would be done with the results of the study afterwards.

Mr. Treppeda explained that the study was required under the Comprehensive Plan. Mayor Rosenfield explained the State requirements.

Jay Smith, Village Director of Human Resources and Community Outreach, explained that the cost was $34,000, with a grant paying for half of that amount. He reported that the survey would be done to determine potential historic buildings and to document them for future reference.

Robert Collins, Michael Miller Planning – Village Consultant, explained that after the survey was completed it was up to the Council to determine what should be done with it. He clarified that it was mainly an institutional record and was within the State's Comprehensive Plan requirements. Councilwoman Cohen questioned if commercial buildings and the Church would be included. Mr. Treppeda explained that the study would not include anything other than residential buildings. Mr. Collins explained that the process began in 2006 for the grant, for structures at least 50 years old, and there weren't any buildings in the commercial district at that time that were eligible. He explained that the Shops would still not be eligible, but that it would be up to the Council if the Church or Village Hall structures were added.

Dina Cellini, 211 Bal Cross Drive, thought that the Church was in the residential section of Bal Harbour.

Assistant Mayor Blachar questioned if a home was designated a historic structure if the homeowners would have a difficult time if they wanted to renovate. Mr. Hardin explained that it was up to the Council to decide. Ms. Sheckels explained that the house would really need to show its historic structure. Mr. Hardin explained that they would just be providing a record. Councilwoman Cohen discussed the approach that Miami Beach took. Ms. Sheckels explained that it was up to each municipality to decide. Mr. Collins reported that Janus Research would be coming back in March, with the draft report, and that there would be another meeting at the end of July. He discussed bringing the County Historic Board on at that time.

Mr. Weiss reported that the Church was located in the B Business District. Ms. Cellini noted that the platt showed it as residential.

Babak Raheb, 128 Balfour Drive, questioned if the homeowner could go to the State for their own property to be designated historic, if the Village didn't do anything with the survey. Mr. Weiss explained that a homeowner could apply for historic designation. He explained that this would be regarding an historic ordinance. Mr. Treppeda clarified that the survey would only include residential buildings, not the Church, Village Hall, or the Shops.

Anamarie Kelly, 77 Camden Drive, clarified that the Church was not on the business platt and was in the Residential section (block 2) in the Recorder's Office. She noted that it was deemed to be solely deeded as a church and nothing else.

Mr. Weiss clarified that Janus Research was reviewing residential structures, not what the property was zoned as, and it was up to the Council to add the Church.

5. CONSENT AGENDA:

Babak Raheb, 128 Balfour Drive, requested that Tabs B, C, D, E, and F be removed. Assistant Mayor Blachar discussed the items and explained that the entire agenda was provided on the internet ahead of the meetings.

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

Tab A: Minutes: September 21, 2010 Second Budget Hearing and November 16, 2010 Regular Council Meeting

Tab E: Re-enter the Police Department Mutual Aid Agreement with Aventura Police Department

Tab G: $4,500.00 for Kailas Corporation to perform emergency sewer system repairs to Station #1 (Residential District)

Tab H: $10,246.50 from the Beautification & Maintenance Fund to purchase 30 light fixtures to replace worn out fixtures that light date palms on Collins Avenue from Cardello Electric Supply Co.

Tab I: $4,314.96 for Kailas Corporation to perform an emergency repair to the sewer line in front of the St. Regis construction site damaged by Megatran (FPL subcontractor), to be reimbursed to the Village by Megatran

Tab J: $6,679.58 for excess mileage for a vanpool vehicle (the amount is to be recovered by the $10,480.00 per year which will result from eliminating one van and implementing a participation fee for all vanpool riders)
Note: This item was also discussed under Other Business

A motion was offered by Assistant Mayor Blachar and seconded by Councilwoman Cohen to approve Tab Items A, E, G, H, I, and J on the Consent Agenda. The motion carried (5-0).

Tab B – Motion Approving Expenditure of Resort Tax Funds: ***Babak Raheb, 128 Balfour Drive,*** requested an explanation and the amount requested.

Mr. Treppeda explained the request for approval of an additional $25,000.00 in Resort Tax funds for the following item: $25,000.00 from the current budget as a contribution to the Greater Miami Convention & Visitors Bureau, which was part of the Resort Tax Committee's original recommendation in November. Mayor Rosenfield clarified that the Resort Tax Committee approved the expenditure in November.

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

Tab C – Motion Approving Expenditure of Police Forfeiture Funds: ***Babak Raheb, 128 Balfour Drive,*** requested an explanation and the amount requested. Mr. Weiss provided Mr. Raheb with the list of items.

The request was for the following items:

Donation to Police Officer Assistance Trust (POAT) Wounded Warriors Bike Ride	$5,000.00
Donation to Surf Bal Bay PAL/FIU Mentoring Program	$7,500.00
Donation for Police Unity (Bicycle) Tour	$5,000.00
Tremont Towing Storage Charge for Forfeited Vehicle	$4,755.50
Vehicle Lease for Specialized Narcotics Task Force	$ 375.00 Monthly

(48-month Lease)

Auction of 2003 Ford Explorer

Alarm System/Monitoring for Specialized Drug Task Force Office $1,899.00 Install
$ 44.99 Monthly Monitor

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

Babak Raheb, 128 Balfour Drive, requested an explanation and the amount requested for Tabs D and F.

Tab D – Motion Approving Expenditure of Police Budgeted Funds: The request was for approval of $27,010.00 for the administration of a Promotion Sergeant Exam and approval of a contract with the Miami Dade College School of Justice Assessment Center, which is governed by the Collective Bargaining Agreement.

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

Tab F – Motion Approving Performance Bonuses for General Employees: The request was for approval of $84,501.72 from the general fund for the 2010 employee performance bonus payments and $7,793.56 from the forfeiture fund (as per employment contracts).

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

6. PUBLIC HEARINGS:

Zoning Hearings/Quasi-Judicial Public Hearings: None.

Ordinances Second Reading/Public Hearings: None.

Ordinances First Reading/Public Hearings: None.

Resolutions/Public Hearings: None.

7. ORDINANCES FIRST READING/PUBLIC INPUT: None.

8. RESOLUTIONS: None.

9. REPORTS:

A. VILLAGE MANAGER:

Discussion of New White Fly Threat and Consideration of Proposal for Additional Treatments – Bill O'Leary, Village Landscape Architect:

Mr. O'Leary explained the new type of white fly (gumbo limbo spiraling white fly) that was affecting landscaping in Bal Harbour. He distributed photos showing the white fly on the coconut palms on 96th Street. He suggested that the insect control program be extended to include spraying of the coconut palms and the beach vegetation. Councilwoman Cohen questioned treatment for the sea grapes. Mr. O'Leary reported that the fly had not been seen on the sea grapes or sea oats. He requested an additional cost of $21,620 per year ($9,660 to start a six time per year program for the 230 palms within the residential district and $11,960 to increase the spray to six times per year for the beach). Assistant Mayor Blachar questioned the success of spraying. Mr. O'Leary noted that it was a new insect, but the spraying had appeared to begin to control it. Councilman Packer questioned the implementation of a requirement that homeowners spray at the same time as the Village to eliminate the fly. Mr. Treppeda noted that enforcement would be handled through code enforcement, if the plants were dead. Mr. Weiss reported that for aesthetic purposes the Village could do that. He discussed the practicality of implementing it without an expert monitoring it, etc. He noted that it could be done legally, but would be a huge undertaking. Mr. O'Leary explained that a gardener could not spray, since a licensed spray professional had to do it. He suggested providing residents with information on the Village's channel, newsletter, etc.

Babak Raheb. 128 Balfour Drive, questioned the life expectancy of the fly and the affect of the cold weather. Mr. O'Leary explained that cold weather would knock them back, but would not kill them. He explained the short life span, but noted that it multiplied rapidly. Mr. Raheb questioned any health side effects from spraying and discussed the possibility of spraying the entire Village, since the Village couldn't force people to spray. Mr. O'Leary offered to get more information from Spray Pro. He explained that all of the chemicals, etc. used would be monitored and met the criteria from the EPA, DERM, etc. He suggested getting a letter from the sub-contractor to make sure that they defined that.

Anamarie Kelly, 77 Camden Drive, questioned the State getting involved to remove landscaping that was a health hazard, etc.

Mr. Weiss didn't know if the Village had the ability to spray the entire Village, including all of the private property.

Councilman Sanz discussed the problem of one property spraying and the next one not. Mr. O'Leary believed that the program would be fairly well controlled for the Village's vegetation. He discussed the other municipalities that weren't spraying and discussed the importance of making homeowners aware of the issue. Mr. Treppeda explained that the funds would come out of contingency.

A motion was offered by Assistant Mayor Blachar and seconded by Councilman Packer to approve $21,620.00 for increased and new spraying for the spiraling whitefly.

Mr. Treppeda discussed the possibility of resort tax funds paying for some of the spraying. Councilwoman Cohen requested the amount to spray inside and outside of the gated community. Mr. Treppeda reviewed the proposal submitted by Spray Pro.

Mr. Raheb questioned if the County could help with the problem or pay part of the cost. Assistant Mayor Blachar discussed her belief that the County would be in favor of spraying, but explained that they would take longer to do something than the Village would. Mayor Rosenfield suggested that be investigated. Assistant Mayor Blachar agreed.

Brian Mulheren, 10245 Collins Avenue, discussed spending over $9,000.00 to spray in the security district, which would be using public money for private property. He noted that the Village would need to also provide that service to other private properties, if it was doing that for the security district.

Mr. Weiss anticipated that he would have a report on the whole security district issue, but explained that it was complicated. He noted that one of the issues that Mr. Mulheren was raising would be addressed in the report. He discussed the Village approving the expenditure and if it is determined that those residents in the security district should pay for it through a process that the Village sets up, then that would be addressed. He noted that the issues would be addressed at the next meeting.

Mr. Mulheren discussed concern with the issue affecting the whole Village and the need to spray everything in the Village. He suggested that the Village also notify surrounding communities and the County to make them aware of the problem.

It was the consensus of the Council for Mr. Treppeda to discuss the issue with the Managers of Surfside and Bay Harbor, to follow the Village in being proactive and to formulate a plan.

Don Orner, 10245 Collins Avenue, suggested air spraying. Mr. O'Leary didn't think that would be practical and would be very costly.

The motion carried (5-0).

Update on Sand Transfer Station Engineering and Consideration of Proposal for Continuing Services – Coastal Systems International: ***John Studt, Coastal Systems International***, reviewed a Powerpoint presentation. Mr. Treppeda distributed the presentation. Mr. Studt discussed the process to find out if the Village could design and permit an improvement to the sand bypass. He noted that during the pre-application meetings, they found out that an enhanced bypass operation would be permittable and the regulatory agencies would be in favor of it. He reported that DEP had a funding focus on inlets starting in 2008. He believed that in two to three years the State would be funding beach work again. He explained that whatever the Village did could be submitted for reimbursement, for up to three years. Mr. Studt reported that Brian Flynn, DERM, supported the approach that Coastal Systems had come up with. He reviewed the sand movement. He discussed the use of the sandbar providing sand for the beach, but it being more difficult to get sand from it, due to a sea grass taking hold on the sandbar and poor quality material in the sandbar. He explained the next step for the Village and County working together would be permitting, which could take approximately two years. He explained that the process would move sand more regularly and maintain a more consistent beach over time for the Village. He noted that the proposal was for the permitting ($52,000 to get the permits submitted, with the remaining money in hourly fees for request for additional information from regulatory agencies).

Mr. Treppeda explained the request of $299,140.00, for items 8 through 10. He noted that the beach renourishment resort tax funds would be used.

Councilman Packer spoke in favor of the item. He questioned if the entire amount needed to be approved now, or if it could be divided between this year and next year. Mr. Studt explained the permitting was all one process, but clarified that the Village paid as the process went along. He didn't anticipate that the Village would pay more than $150,000.00

in the first year.

Assistant Mayor Blachar questioned how much more money the process would cost after items 8-10. Mr. Studt explained that the construction cost would be large, but estimated for all of the work to cost (dredging 200,000 cubic yards and moving it, reconstruction of the jetty and contracting for a dredge) over $10 million total. He reported that the State DEP could fund up to 75% and the Florida Inland Navigation District could fund up to 50%, so the Village had the potential to be fully reimbursed. Assistant Mayor Blachar questioned where the dredge would be. Mr. Studt explained the discussion of building a plant on the north jetty, but noted that the capital expenditure was not warranted for the amount of sand that needed to be moved. He explained that the plan would be to get the sand north of the Inlet and move it by dredge, so there would be a small ship dredging just north of the jetty and pumping onto the beach, once a month, for a few days at most.

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

Request for Approval of Installation and Monthly Monitoring Fees for Burglar Alarm System for Village Hall, Public Works, and Police Department Buildings: Mr. Treppeda requested approval of $4,400 (installation) and $107.99 monthly (monitoring) for ADT (lowest proposal) to install and monitor alarms at Village Hall, Public Works, and the Police Administrative Building/Holding Cells.

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

Discussion of Single Audit Requirement for Grants & Financial Assistance and Request for Approval of Additional Fees for Auditor – Christopher Wallace, Finance Director: Mr. Treppeda distributed an Addendum to the Engagement Letter dated June 28, 2010 of the Engagement of MarcumRachlin, a division of Marcum LLP, to include the schedule of expenditures of federal awards to the auditing process.

Mr. Wallace explained that since the forfeiture fund had spent more than $500,000 last fiscal year, it was required to have a single audit. He discussed compliance testing for the forfeiture fund, which was statutorily required and would cost approximately $7,500, to be paid by the forfeiture fund.

Mr. Wallace expected to have the audited financial statements for the January meeting, but explained that they may be delayed due to the additional audit and, if so, the statements would then be delivered at the February meeting.

A motion was offered by Councilman Packer and seconded by Assistant Mayor Blachar to approve the Addendum to the Agreement dated December 17, 2010. The motion carried (5-0).

B. VILLAGE CLERK:

Lobbyist Registration Report: As December 21, 2010: A list of Lobbyists registered with the Village was provided in the agenda.

Selection of Regular Council Meeting Times for Calendar Year 2011: Mrs. Horvath requested that the Council select times for the Council meeting schedule for 2011.

Mayor Rosenfield discussed a meeting time of 5:30 p.m. Councilwoman Cohen suggested 6:00 p.m. Councilman Sanz was not opposed to earlier (morning) meetings, but would be late if they started at 5:30 p.m., due to his work schedule. Councilman Packer suggested that the meetings remain at 7:00 p.m.

Anamarie Kelly, 77 Camden Drive, spoke in favor of having the meetings at 9:00 a.m.

The Council discussed scheduling the meetings at 9:00 a.m. Councilman Packer spoke against 9:00 a.m., since people who worked could not attend.

Brian Mulheren, 10245 Collins Avenue, spoke in favor of having the meetings at 7:00 p.m.

Dave Orner, 10245 Collins Avenue, spoke against having the meetings at 9:00 a.m.

Councilman Sanz could not make earlier meetings, unless they were in the morning. Councilman Packer and Councilwoman Cohen spoke against morning meetings. Councilwoman Cohen spoke in favor of night meetings.

A motion was offered by Councilman Packer and seconded by Assistant Mayor Blachar to schedule the Council Meetings for 7:00 p.m. for the 2011 calendar year. The motion carried (5-0).

C. VILLAGE ATTORNEY:

Status Report Regarding Residential District Research: This item was discussed earlier in the meeting (under the White Fly discussion). A report is expected at the January meeting.

D. MAYOR AND COUNCIL:

Consideration of Annual Performance Bonuses for Village Manager and Village Clerk: The Council discussed consideration of a 5% performance bonus for the Village Manager and Village Clerk.

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

10. OTHER BUSINESS:

Public Comment:

Anamarie Kelly, 77 Camden Drive, questioned the reason that the Village Attorney Status Report on the residential district was taking so long. She was concerned that neither she nor Beth Berkowitz had been contacted, since they had alot of documentation on the issue.

Mr. Weiss reported that the issue was extremely complicated and he was focused on

providing something in January. He explained that another set of issues came up that needed to be reviewed.

Ms. Kelly discussed PB44, page 98, Section 2 regarding the dedication, etc. She discussed Mr. Raheb's case and signed documents from the Civic Association that didn't have any power, deed restrictions transferred to the Club but the dedication not being transferred, etc.

Dave Orner, 10245 Collins Avenue, questioned if the Village received money from the red light camera violations. Chief Hunker advised that the Village had received $700,000 thus far. He reported that as of July 1, 2010 the Village now received $70 from each ticket, with the State receiving the majority of the money. He explained that out of the $70 the Village paid a monthly fee, per intersection, to the company. He discussed the process, including penalty fees, etc. Chief Hunker clarified that the Village currently had three intersections and two more intersections would be installed, for a total of five intersections.

Assistant Mayor Blachar questioned if the amount of tickets had increased or decreased, due to more public awareness. Chief Hunker reported the amount to be the same, but reported less accidents.

Dina Cellini, 211 Bal Cross Drive, requested that the Vanpool issue be discussed again. She was disappointed that the financial burden was placed on the workers that didn't make great salaries. Mr. Treppeda explained the Vanpool employees contributing to the program, in order to offset the cost for the Village and to recover costs associated with an excess mileage charge for one of the vehicles. Ms. Cellini spoke against the employees having to contribute and requested that it be placed on the next agenda for additional discussion.

Councilman Sanz requested that the Vanpool discussion be placed on the January agenda.

Don Orner, 10245 Collins Avenue, questioned if the documents from the agenda were available before the meetings. Assistant Mayor Blachar explained that the agenda was provided online and a hard copy was also available at Village Hall. Councilwoman Cohen encouraged the public to review the agenda before the meetings, so that the meetings would run more efficiently.

Councilman Packer presented the Bal Harbour Police Benevolent Association plaque to the Council that had been given to him at the PBA holiday party.

Assistant Mayor Blachar discussed her experience lighting the menorah at Founder's Circle.

11. ADJOURN: There being no further business, ***the meeting was adjourned by consensus of the Council (5-0) at 9:06 p.m.***

Mayor Jean Rosenfield

Attest:

Ellisa L. Horvath, MMC, Village Clerk