

BAL HARBOUR VILLAGE COUNCIL MEETING MINUTES
REGULAR MEETING – FEBRUARY 15, 2011

The Regular Meeting of the Bal Harbour Village Council was held on Tuesday, February 15, 2011, 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 7:05 p.m. by Assistant Mayor Blachar. The following were present:

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

Absent: Mayor Jean Rosenfield

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

2. PLEDGE OF ALLEGIANCE: The Pledge was led by Village Special Master and resident Valerie Rennert.

3. AGENDA: REQUEST FOR DELETIONS/ADDITIONS: None.

4. SPECIAL PRESENTATIONS:

Thank You for Contribution – City of Miami Police Major McQueen:
This item was done later in the meeting.

5. CONSENT AGENDA:

Anamarie Kelly, 77 Camden Drive, requested that Tab D be removed.

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

Tab A: Minutes: January 18, 2011 Regular Council Meeting

Tab B: \$6,000.00 in Resort Tax Funds for the Travel and Leisure Travel Agency Advisory Board Event (2/24/2011-2/25/2011)

Tab C: \$68,700.00 in Police Forfeiture Funds and Authorization for an Equal Trade Federal - \$5,000 Donation to the Young Men's Academy for Academic and Civic Development at MacArthur-South, Equal Trade-in (12 old boat engines and 2 small

boats) for Acquisition of 3 Mercury Verado Outboard Boat Engines for Police Boat, \$45,000 for Purchase of Equipment for Vice, Intelligence and Narcotics Squad, and \$7,200 for 3-Year Lease (\$200 per month) of e-Studio 3530c Copier for Vice, Intelligence and Narcotics Squad

State - \$4,500 for Donation to Police Officers Assistance Trust for Three Tables at the LEO Awards Gala and \$7,000 for Annual Hosting of Miami-Dade County Association of Chiefs of Police Dinner at Sea View Hotel

- Tab E: \$230,525.00 to Award the Bid to Kailas Corporation (the low bidder) for the Conversion of Sewer Pump Station #1 to Submersible Pumps
- Tab F: Approval of Continued Membership with the Child Abduction Response Team (CART) and Authorization to Enter Into a Mutual Aid Agreement between CART and the Florida Department of Law Enforcement (to provide personnel to investigations of child abductions, when necessary)
- Tab G: Designation of the Unusable Office Furniture from the Building and Police Departments as Surplus and Authorization for the Destruction or Donation of the Surplus Furniture to a Non-Profit Organization

A motion was offered by Councilman Sanz and seconded by Councilman Packer to approve the items on the Consent Agenda (Tab Items A,B,C, E, F, and G), with the exception of Tab D. The motion carried (4-0).

Tab D – Motion Approving Expenditure of Police Budgeted Funds: The request was for the following item: \$3,475.50 Broward County Police Academy Fee (to sponsor one of the Village Police Dispatchers in the Part-Time Broward County Police Academy, in anticipation of two openings in 2012, due to retirement).

Anamarie Kelly, 77 Camden Drive, requested that the item be tabled. She noted that the Council was requested to review the Police budget, since it was the Village Attorney's opinion that budgeted police could not police in a private area (the Security District). Ms. Kelly read an Attorney General Opinion.

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

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:

Request for Sign Permit – Joseph Imbesi, Bal Harbour Club:

Joe Imbesi, 175 Camden Drive, requested authorization to place “no trespassing” signs at the marina, in response to people not picking up after their dogs on his marina property and concern with people on the seawall fighting, etc. Mr. Imbesi explained that his Attorney advised that the signs should be posted, otherwise Mr. Imbesi would be liable if someone was hurt on his property.

Assistant Mayor Blachar reviewed the Code requirement that the signs needed to be 66 square inches. She noted that if Mr. Imbesi would like larger signs, then he would need to request a variance. Mr. Imbesi requested that the signs be posted immediately and then he would apply for the variance for the larger signs. Assistant Mayor Blachar thought that nine signs was excessive. Mr. Imbesi explained that there would be a sign located at each entrance or exit, in the grass at the south side of the marina (where there was no ingress and no egress), and one on the peninsula. Councilman Packer suggested a small decorative fence. Mr. Imbesi didn't like the idea of a fence and didn't think the residents would either. Assistant Mayor Blachar suggested four signs. Mr. Imbesi agreed.

A motion was offered by Assistant Mayor Blachar and seconded by Councilwoman Cohen to approve four signs at 66 inches each.

Daniel Holder, 24 Bal Bay Drive, spoke against eliminating public access to the seawall and suggested that a portion be dedicated to the Village, to be left open, without Mr. Imbesi having the liability.

Mr. Imbesi explained that he would not consider dedicating anything on the bay property to the Village. He was amicable to a solution that eliminated his liability and didn't involve dog droppings on his property. Assistant Mayor Blachar suggested waiting to see if the problem continued now that the public was aware of it. Mr. Imbesi suggested that people walk without their dogs, but explained that he needed to be absolved of any liability. Assistant Mayor Blachar suggested that Mr. Weiss and Mr. Treppeda have further discussion with Mr. Imbesi on what further action could be taken.

Dina Cellini, 211 Bal Cross Drive, urged the Council not to vote on the motion until it was discussed further with Mr. Imbesi and the Village had a clear understanding of what it was approving. She noted that part of Mr. Imbesi's request was to have a trespass with warning, which would mean an arrest after a warning was given, which seemed to be an excessive solution to the problem of owners not picking up after their dogs. She also noted that the Village was using 50% of the Yacht Basin property as part of its green space inventory. Ms. Cellini urged the Council to re-think the ramifications and noted that the Club had been there for over 60 years and had always been able to work with the residents. She urged that the motion not be voted on, until the Council figured out what it wanted.

Gabriel Grossman, 145 Bal Bay Drive, reported that the only safe place to walk with children was on the Club property, since there was no sidewalk. He noted that people would need to walk in the street if “no trespass” signs were posted. He encouraged further discussion before action was taken.

Mr. Imbesi explained that everyone who walked around in the Village used the streets to walk. He clarified that the Yacht basin was his and he needed to protect himself and the people that he was doing business with.

Steve Scheinman, 234 Bal Cross Drive, suggested that Mr. Imbesi be absolved of any liability and an agreement be reached.

Guy Kurlandski, 70 Camden Drive, spoke against the postponement of the liability issue, since an accident could occur in the meantime.

Assistant Mayor Blachar closed the public discussion.

Councilman Packer was not opposed to signs being placed, but suggested that something be worked out with Mr. Imbesi in the future. He urged residents to use the new dog park at Haulover.

Mr. Weiss voiced concern about the Village getting involved in private property. He clarified that the Club was private property owned by Mr. Imbesi and surrounded by other private property. He suggested that the Civic Association speak with Mr. Imbesi. He clarified that no solution would be appropriate for the Village to take liability for private property. He noted that the neighbors needed to work things out and spoke against the Village getting involved.

Assistant Mayor Blachar spoke in favor of allowing four signs at 66 square inches, with a variance required for larger signs.

Mr. Imbesi explained that he would rather be neighborly.

The motion carried (4-0).

Thank You for Contribution – City of Miami Police Major McQueen:

Major McQueen provided a Powerpoint presentation showing what the Village's contribution money was used for. Assistant Mayor Blachar explained that the Village's donation was from the Police Forfeiture funds and taxpayer dollars were not used.

Report Regarding Residential District Research: Mr. Treppeda reviewed his report and recommendations.

Assistant Mayor Blachar opened the meeting to public discussion.

Babak Raheb, 128 Balfour Drive, suggested that another assessment be done, instead of adding to the existing one, which was only for security. He spoke in favor of only allowing west side unit owners and not their renters, unless they would be responsible for liability. He discussed concern about robberies, etc. and the need to verify those who were owners.

Guy Kurlandski, 70 Camden Drive, questioned the meaning of use of streets. Mr. Weiss explained that the property owners on the west side had the same rights to use the streets as the people inside the gates, not just for access to the parks.

Assistant Mayor Blachar explained that west side residents needed to show identification

that they lived on the west side, in order to gain entry into the gate. She noted that Mr. Treppeda recommended that the west side residents not be provided an eGO pass, since they would not be contributing to the security assessment.

Anamarie Kelly, 77 Camden Drive, reviewed Resolution No. 464 and noted that the vote for the Security District (206 votes) was not done correctly (there are 310 lots and 75% of that would be 233). She added that certain apartment complexes on Bal Bay and Bal Cross Drive were not allowed to vote (Fairfield Manor, etc.). She reported that according to the 2010 Assessment Schedule 284 lots were taxed and 75% of that would be 213. She requested verification of the voting certificates that were signed, because she didn't sign one. She would also like a deed from the Civic Association showing what they owned. She discussed the usurping of everyone's rights.

Dina Cellini, 211 Bal Cross Drive, questioned the recommendation for the residents in the gated community to maintain the security wall (she understood the parks, but not the walls). She noted that the District had nothing to do with the walls, since the walls existed before a majority of the homes were built, were different designs, and weren't built at the same time to create a boundary. She requested that the Village do more research. Ms. Cellini reviewed Ordinance No. 11 (1947) showing guidelines that the Village created for structures and walls. She voiced belief that further research would show that as the individual lots (west side) were developed each lot developed a wall behind their lot. She thought that it was unfair for the gated community to be responsible, if the Village didn't know who owned the walls. She discussed aerial photos showing west side lots undeveloped, with no wall behind them, which was an argument that the Developers of those lots built the walls. Ms. Cellini suggested that the walls were the responsibility of the west side buildings and their residents.

Stuart Sobel, 271 Bal Cross Drive and President of the Civic Association, agreed that there was room for debate regarding the history, but noted that Mr. Weiss and his staff had tried to resolve it. He discussed Mr. Weiss' report also allowing for some debate, since the Miami-Dade County Tax Assessor showed that the owner of the property being discussed was the Bal Harbour Civic Association. He didn't want to ask the Village Attorney to do more work and spoke in favor of the issue being resolved. He thought that Mr. Treppeda's recommendations were fair. Mr. Sobel reported that a Civic Association meeting was held and those in attendance made it clear that it didn't matter who put the walls up, because they wanted the walls to be maintained as an important factor to their property values. He noted that they agreed to take on the management of the green space and walls. He noted that the Village was still responsible for the sewers, lights, and possibly the pump stations. He clarified that access was not the same as ownership. He explained that the residents in the Security District had ownership of the streets and would allow access to the west side residents, per Mr. Treppeda's recommendations. He deferred to Mr. Weiss for the best legislative mechanism to accomplish Mr. Treppeda's recommendations. Mr. Sobel noted that whether they increased the Security District to call it a security, maintenance, and welfare district or enacted a new ordinance, the consensus at the Civic Association meeting was that they were willing, in the next budget cycle, to take over maintenance of the green space and repair/replace the walls as could be afforded.

Steve Scheinman, 234 Bal Cross Drive, pleaded that any second assessment be proportioned fairly, etc. Assistant Mayor Blachar reported the estimate to be around \$1,000 for the additional assessment.

Mr. Sobel understood the concerns, but discussed the need for the District to meet its

responsibility. He announced that the next Civic Association meeting would be March 2, 2011 at 7:00 p.m. He noted that the assessment would be discussed, but suggested that any increase be done in incremental amounts to solve the problems.

Carlos Conseca, 80 Park Drive, voiced concern about security and controlling transient people in the District. He questioned if the Quarzo hotel was included in the west side people who would be allowed in the District. He discussed increased traffic, etc. with people cutting through the District and also voiced concern about cars parking in the areas. Assistant Mayor Blachar explained that without an eGO pass, the west side residents would have to come in and leave through the front gate. She didn't know what the traffic increase would be, but didn't think that it would be that much. Mr. Conseca suggested that be looked into.

Yankee Andruiser, 150 Camden Drive, questioned what the debate was, since the system had worked for so many years. Mr. Weiss explained that questions were raised about the issue at a Council meeting and the Council felt that it needed to be looked at and he was directed to provide a report on the issue. Assistant Mayor Blachar summarized that Mr. Weiss' report concluded that the residents on the west side had the ability to enter the gate. She explained that Mr. Treppeda followed the opinion of the Village Attorney, in preparing his report.

Mike Izak, 90 Harbour Way and 187 Bal Cross Drive, questioned if the west side residents were restricted to only use the green space areas, or if they were also permitted to wander throughout the private roads. He noted that use of the condominium buildings' private property was not allowed to access the beach and questioned what the difference was. Mr. Weiss explained that the issue of ownership of the roads was different than the right to use the roads. He clarified that the ownership was for abutting property owners, but noted that within the plat that formed the community there were easements and the Village and people on the west side had an easement over the ownership that allowed them to use those roads. Mr. Izak questioned how that differed from the buildings on the east side not allowing access to the beach area. Mr. Weiss explained that when the Developer created the subdivision, prior to the gates, they gave the people on the west side of Collins Avenue rights to the interior portion. He explained that there could be easements on the east side along the ocean, but he hadn't looked at that. Mr. Izak questioned if the easement was for the owners or also tenants on the west side. Mr. Weiss explained that if the Council authorized moving ahead with Mr. Treppeda's recommendation, then he would look into that issue. Mr. Izak suggested those factors be looked at before access was given.

Abe Sher, 174 Park Drive, questioned if the easement rights were specifically for the west side owners or if they (west side owners) were part of the same subdivision and had the same rights. Mr. Weiss explained that it was in the same plat dedication and they (west side owners) had the same rights as the homeowners within the District. Mr. Sher suggested if that was the conclusion, then every dwelling unit within the property should pay an equal share towards the costs.

Gabriel Grossman, 145 Bal Bay Drive, requested that extra time and care be taken for the issue. He noted that if the owners on the west side had access, then they should share in the assessment with regards to the wall. He suggested that there should be a separate assessment for security (to be paid by the District homeowners) and the other assessment for the wall should be shared. He discussed access for the west side owners and discussed concerns regarding traffic, guests of owners, etc. Mr. Weiss clarified that the

easement was for the roads and the green space, not limiting the use of the roads to get to the green space.

Richard Alman, 44 Bal Bay Drive, clarified that the taxpayer dollars that were being used for maintenance of the park areas could no longer be used for that. He thought that a credit should then be given to offset the expenses that would no longer be paid through the taxation and a pro-rata share be given back to the homeowners to then be re-allocated to how it would be done in the future. Mr. Weiss explained that the amount was being paid through ad valorem taxes and the budget for the following year should show a decrease in the ad valorem tax amount for that, with an increase in the security assessment fee. He explained that would be spread out among all the taxpayers of the Village, not just the Security District taxpayers. He clarified that there would be a re-allocation, but that it wouldn't be dollar for dollar, since the other taxpayers would also get a reduction in their ad valorem taxes. Mr. Alman spoke in favor of the owners on the west side paying for their pro-rata share.

Assistant Mayor Blachar thought that Mr. Treppeda's recommendation was fair. She clarified that the people on the west side were entitled to come in. She noted that if they were charged for access, then they would want eGO passes, gate keys, etc.

Beth Berkowitz, block 8 of the residential section of Bal Harbour - 10160 Collins Avenue, reported that she lived on the west side. She noted that not only her civil rights had been violated, but that the civil rights of the other west side owners had also been violated, since the gates went up. She clarified that, according to the dedicated plat, the west side was part of the Residential Section the same as the people who lived in the homes behind the gates. She noted that the east and west side owners paid taxpayer dollars for years, without being able to use the streets or parks that were dedicated for them. She clarified that if the west side residents were going to be charged, then everyone who was kept out of the Security District should receive payment.

Dan Holder, 24 Bal Bay Drive, requested that the Council be flexible for changes to be made down the road. He spoke in favor of only owners, not the residents, from the west side having access. He discussed providing identification for children to allow them to come in. Mr. Holder spoke in favor of addressing any parking problems.

Jack Gelinas, 10210 Collins Avenue - Lanai, reported that the wall was falling down behind the Lanai and Mr. Sobel had agreed that they would be responsible for fixing the wall. He questioned when the wall would be fixed or torn down, etc. He requested clarification that the Civic Association was responsible and owned the wall.

Mr. Treppeda explained that the ownership of the wall was unknown, but that the Civic Association had said they would take responsibility for the wall, which would be included in their assessment. He clarified that the Council had not agreed to anything yet.

Mr. Gelinas noted that if the wall had been abandoned, then he had the ability to tear it down in 15 days. He noted that the wall had been in disrepair for 18 months. Assistant Mayor Blachar reviewed the comments made by Mr. Treppeda and Mr. Sobel. Mr. Gelinas would like to know when the wall would be fixed.

Councilman Packer thanked the Civic Association for taking the reins, because their group needed to determine their own way of living. He clarified that the Civic Association had said that they would take responsibility for the wall and would fix it whether or not they owned it.

Mr. Sobel suggested that it be paid within the next budget cycle, along with the assessments. Mr. Treppeda explained the assessment method. He noted that if his recommendation was approved, then an ordinance would be passed to address the issue.

Assistant Mayor Blachar questioned if there was money in the District budget. Mr. Treppeda explained that there was, but only to fix the Lanai portion of the wall. Councilwoman Cohen noted that the wall deterioration was not just behind the Lanai. Councilman Packer spoke in favor of the Lanai wall being taken care of first. Assistant Mayor Blachar questioned if Security District funds could be approved for the Lanai portion of the wall. Mr. Weiss explained that could be done, if the Council would like to move forward with Mr. Treppeda's recommendation.

Nina Rudolph, 212 Bal Bay Drive, understood Mr. Gelin's frustration, but thought that it was honorable for the Civic Association to say that they would take care of it. She requested that Mr. Gelin be patient and noted that fifteen days was not enough time.

Maya Ezratti, 115 Camden Drive, questioned the location of the Lanai, the cost to install a new fence, and the amount in the Security Fund. Assistant Mayor Blachar explained the location of the Lanai. Mr. Treppeda reported that the cost was \$15,000 for the fence behind the Lanai and that there was enough money in the Security Fund to cover that. Councilwoman Cohen explained that in order to placate the demands of the Lanai, the wall would be demolished and a fence would be installed in its place.

Doug Rudolph, 212 Bal Bay Drive, noted that if the gates were impaired then the values of the properties would plummet. He thanked Mr. Treppeda and Mr. Weiss for their proposal. He clarified that there needed to be an understanding that people paid for what they wanted. He spoke in favor of the Council looking at the basics and determining what steps needed to be taken given the issues that had been raised and ironing them out. He agreed that the situation needed to be resolved and the gates needed to be pristine and in good shape.

Anthony Gillam, 9800 Collins Avenue (Fairfield Manor - West Side of Collins Avenue), discussed the majority of the west side residents wanting to be on the beach and at the Shops, not behind the gates. He clarified that the people on the west side were ignorant to the rights that they had. He noted that if the west side residents had to pay for the privilege of entry, then it should be looked at carefully. Mr. Gillam didn't think that right of access should result in them having to pay a lot extra.

Don Orner, 10245 Collins Avenue, questioned if the Village was going to advance the money for the wall repair. Assistant Mayor Blachar clarified that Village money would not be used and that money in the Security Fund would pay for the Lanai wall. She explained that the Security Fund was comprised of assessment money from the residents inside the gates (approximately \$1,000 per year) and was not taxpayer money.

Brian Mulheren, 10245 Collins Avenue, suggested that a Florida Attorney General provide an opinion of whether the Security District was legal or not, since he didn't think that it was set up legally. He also requested an opinion on using Village Police in the Security District and the policing powers that they would have. He noted that public funds had been expanded on private property and gave the opinion that once that happened it became public property. Mr. Mulheren explained that people's civil rights were violated on the west side and the east side residents were violated who paid taxpayers dollars. He

noted that the Civic Association didn't have any standing, according to Mr. Weiss.

Mr. Mulheren requested that it be stopped immediately and not wait until the next budget cycle. He commended Councilwoman Cohen for bringing it up. He questioned who would refund the money, if taxpayer dollars were used.

Mr. Treppeda clarified that the Bal Harbour Shops owned their portion of the wall, so that portion would not be maintained.

Assistant Mayor Blachar closed the public discussion.

Councilwoman Cohen clarified that she brought the issue up, because she was concerned about the maintenance inside the gated community. She noted that the Council, not her alone, directed the Village Attorney to look into the Security District issue.

A motion was offered by Councilman Sanz and seconded by Councilwoman Cohen to accept the Village Manager Report and to instruct Mr. Treppeda, Mr. Weiss, and staff to implement Mr. Treppeda's recommendations.

Mr. Treppeda reviewed his recommendations.

Councilman Packer reviewed discussion from the public, including limiting access to west side owners and assessments for them. Mr. Weiss clarified that Mr. Treppeda had recommended that there not be an assessment for the west side owners, but that access be given. He would bring back more details for implementation that would address some of the issues raised regarding access for west side children, guests, etc. He questioned if the Council would like to move in that direction and authorize the creation of an ordinance, etc.

Councilman Packer questioned Police patrolling. Mr. Weiss will address that issue later in the meeting.

Councilwoman Cohen requested clarification that the Civic Association and the residents were in general agreement with the direction that Mr. Treppeda recommended.

Mr. Sobel explained that there was some general discussion, but that they wanted to start working with the details once a motion was passed.

The motion carried (4-0).

Assistant Mayor Blachar recused herself and left the meeting. Councilman Packer presided over the meeting.

Mr. Weiss noted that if the Council wanted Mr. Treppeda to move ahead with remedying the Lanai wall, then a motion should be made to authorize Mr. Treppeda to expend Security District funds for that purpose.

A motion was offered by Councilman Packer and seconded by Councilman Sanz to direct the Village Manager to use the funds available in the Security Assessment Fund to repair the Lanai section of the wall, to remedy that situation.

Councilman Packer opened the public discussion.

Babak Raheb, 128 Balfour Drive, reported that on the previous motion Assistant Mayor Blachar failed to disclose that she was a former member of the Civic Association, she lives in the Security District, and she is a partner of the Lanai. He thinks that Assistant Mayor Blachar should have recused herself from the entire conversation. Mr. Raheb noted that the Civic Association didn't represent all the people in the District and the Village doesn't recognize them. He spoke against the Village taking a position, since Mr. Treppeda said that the Village didn't know who owned the wall. He requested that the prior vote be thrown out.

Stuart Sobel, 271 Bal Cross Drive, clarified that he reported that the Civic Association was willing to take responsibility for the wall in conversations with Mr. Treppeda and clarified that didn't mean that a contract would be signed tomorrow to demolish the wall. He explained that they needed to look at the quote for the Lanai wall and would address it. He clarified that the greater issue of the wall would take the next budget to fund.

Councilwoman Cohen clarified that the Council was considering a vote to expend as soon as possible funds in the security assessment fund, to rectify the portion of the wall behind the Lanai and replace it with another type of fence.

Mr. Sobel explained that the Civic Association would like Mr. Treppeda to be given authorization to enter into a contract, with their input, to replace the portion of the wall that they could afford to fix during the current budget cycle and then address the rest of it in the next budget cycle.

Maya Ezratti, 115 Camden Drive, questioned the amount in the Security District budget. Mr. Treppeda reported the fund balance to be approximately \$80,000. Ms. Ezratti questioned how many people had seen the wall. Mr. Sobel clarified that the wall needed to be fixed.

Mike Izak, 90 Harbour Way, suggested that the Lanai be allowed to tear down the wall, which would be most of the cost, and then the Association could temporarily put up a chain link fence.

Guy Kurlandski, 70 Camden Drive, spoke in favor of the residents having the time and opportunity to look at the wall. He wasn't aware of the Civic Association. He suggested that the Security residents discuss what they wanted to do among themselves. He discussed the need to formulize that before any money was spent.

Mr. Weiss explained the history of the Village.

Anamarie Kelly reported that the Civic Association didn't have a deed or claim to the property and didn't have any authority to enter into any agreements. She clarified that the Civic Association didn't have the authority to speak on behalf of any of the residents in Bal Harbour.

Councilwoman Cohen left the meeting. There was a momentary recess, due to the lack of a quorum. Councilwoman Cohen returned to the meeting. The meeting proceeded.

Carlos Conseca spoke against trashing the property values and security. He suggested that the residents set an example to make everyone's lives better.

Dan Holder, 24 Bal Bay Drive, questioned if the Civic Association would pay for the

repair. Mr. Weiss clarified that the Civic Association was not paying, but noted that they were in favor of using Security area money to take care of the wall. He reported that if the Civic Association had the ability to raise money then they would. He clarified that the Association was endorsing the idea to use security area funds. Mr. Holder questioned who had liability for injuries on the wall, streets, etc. of the Security District. Mr. Weiss explained that the Village had general liability insurance, but didn't have any responsibility of the streets.

Steve Scheinman, 234 Bal Cross Drive, suggested that since he owned up to the center of the road, then maybe he should wall off his section of the road. Mr. Weiss explained that his ownership of the road was subject to an easement that the Village and residents had and doing so would interfere with easement rights.

Doug Rudolph, 212 Bal Bay Drive, noted that the basic premise of the wall was to protect those inside the gate and to make the security system sound. He spoke against peacemealing the wall just for the Lanai section. He noted that the issue had been looked at and now the details needed to be addressed.

Councilwoman Cohen agreed with Mr. Rudolph and spoke in favor of a comprehensive plan to improve the area. She noted that the entire wall was in disrepair and that it all needed to be rectified. She thought that only repairing the Lanai section would be a Band-Aid approach.

Councilman Packer felt that it was up to the residents. He noted that they didn't have a homeowners association to enforce things, but there was a Civic Association and they should be friendly enough to everyone that they should agree. He noted that if the wall was breached, then their security would be breached. He suggested installing the chain link fence temporarily and then addressing it going forward.

The motion carried (2-1), with the roll call vote as follows: Councilman Packer yes, Councilwoman Cohen no, Councilman Sanz yes, Mayor Rosenfield absent, and Assistant Mayor Blachar absent.

Assistant Mayor Blachar returned to the meeting.

Update on Red Light Cameras – Chief Hunker: Chief Hunker and Captain Michael Daddario displayed and reviewed a PowerPoint presentation.

Moises Gilinski, 287 Bal Cross Drive, spoke against the cameras, but understood that they were important. He noted that the signs alerting drivers to the cameras were hidden. He also noted that a right turn into the gated area was allowed before, but was not allowed after the cameras were installed. Assistant Mayor Blachar explained that the Florida Department of Transportation (FDOT) decided to place a sign there, which had nothing to do with the cameras. Chief Hunker agreed and noted that the red light camera legislation needed some tweaking. He reported that \$3 of each ticket went to the Project to Cure Paralysis.

Steve Scheinman, 234 Bal Cross Drive, saluted the police. He discussed his need to get to the hospital sometimes and the light not always functioning properly by staying red longer. Chief Hunker noted that Dr. Scheinman could argue that. Dr. Scheinman complained about not being able to turn right on red at Harbour Way (into the gated area). Chief Hunker explained DOT's determination.

B. VILLAGE CLERK:

Lobbyist Registration Report: As of February 15, 2011: A list of Lobbyists registered with the Village was provided in the agenda.

C. VILLAGE ATTORNEY:

Update Regarding Police Enforcement in Security District: Mr. Weiss discussed the Florida Statute that allowed the Police, if invited, to enforce traffic laws in private areas. He clarified that if the Village had authorization and an agreement in place by those who owned or controlled the private roads, then the Police could do so. He noted that the ownership area was muddy. He explained that there was a current agreement in place between the Village and the Civic Association, inviting the Village Police in for enforcement, meeting the Statute requirement. He clarified that the Civic Association was deemed to have ownership, prior to the Attorney report, because the tax records showed the Civic Association as the owner. Mr. Weiss advised that the safe thing to do was to send out a letter to the residents of the Security area asking if they wanted the traffic laws to be enforced in the District and to give consent as owners of the streets. He thought there were arguments that could be made that what the Village had in place was fine, but he would like to have the letters as a backup plan to having the agreement in place. He also suggested that the Civic Association send a letter out encouraging people to sign the letter and send it back to the Village. Mr. Weiss was comfortable with the Village continuing to enforce the traffic laws in the Security District.

Councilwoman Cohen questioned if the Police were also conducting security and doing regular patrol, etc. in the District. Mr. Weiss clarified that the Police did some normal patrolling in the Security District, but that this would be for the enforcement of traffic laws. Councilwoman Cohen questioned if any special provisions needed to be made for the Police to arrest in there, etc. Mr. Weiss advised that none were needed for that.

Babak Raheb, 128 Balfour Drive, clarified that the Civic Association didn't own the streets, the homeowners did. He questioned if the Village could be liable by giving an agreement for policing.

Guy Kurlandski, 70 Camden Drive, suggested that only west side residents on foot or bicycles be allowed, not vehicles, in order to limit liability. Mr. Weiss explained that there was no differentiation between access to the owners inside and outside the gates. Mr. Kurlandski suggested reviewing parking regulations, wear and tear on the streets, time allotted for parking, etc. Mr. Weiss explained that was up to the people within the District to address. He explained that the Village wasn't getting involved, since it was private property. Mr. Kurlandski spoke in favor of a compromise, but was concerned about access for the vehicles for west side owners and the need for rules to be put in place. Mr. Weiss explained that the Council had decided what they wanted to do, and that the private property owners could do what they wanted.

Dina Cellini, 211 Bal Cross Drive, questioned if the Village would also send the letters to the west side owners. Mr. Weiss explained that it would only be sent to owners in the Security District. Ms. Cellini questioned if the Police could continue to patrol the gated community. She thought that there was or should be a Police unit dedicated to the Security District every shift and hoped that would continue. Mr. Weiss explained that he hadn't dealt

with the patrol issue at all and was only dealing with the traffic enforcement issue. Mr. Treppeda clarified that a Police unit would continue to be in the Security District area.

Anamarie Kelly, 77 Camden Drive, reviewed an Attorney General opinion that public funds could not be used for private property, unless there was an agreement of all the owners. She discussed the Police budget and questioned how the Village would be reimbursing the taxpayers.

Abe Sher, 174 Park Drive, discussed the public safety issue that needed to be considered. He discussed the importance of the police patrol and traffic. He didn't want a child to be hit at night or people outside saying the Police couldn't come in and enforce the traffic.

Update Regarding Issue of Excavation Markers: Mr. Weiss explained that Florida Statute pre-empted the issue of excavation markers, so the Village didn't have the ability to regulate that. Assistant Mayor Blachar suggested that a company be hired to remove the markings. Mr. Treppeda agreed and advised that was being looked into. Councilwoman Cohen noted Coral Gables had an ordinance regulating the markers. Mr. Treppeda explained that the Coral Gables Ordinance was overturned and they couldn't enforce it.

It was the consensus of the Council that the issue be looked into.

Babak Raheb, 128 Balfour Drive, noted that FPL had markings on his property and questioned if individuals could contact them and tell them to clean it up or they would be sued. Assistant Mayor Blachar noted that could be tried.

Nina Rudolph, 212 Bal Bay Drive, reported that there was a new chalk that would wash out after a period of time. Mr. Treppeda agreed and explained that the Village was trying to pass an ordinance to require that chalk be used. He noted that the Village could ask, but not require, that washable chalk be used. Councilwoman Cohen noted that there were no markings in Palm Beach. Mr. Treppeda will look into Palm Beach.

D. MAYOR AND COUNCIL:

Designation of Bal Harbour's Director and Alternate to the Miami-Dade County League of Cities Board of Directors: Assistant Mayor Blachar explained the request from the Miami-Dade County League of Cities.

A motion was offered by Councilwoman Cohen and seconded by Councilman Sanz to designate Assistant Mayor Blachar to serve as the Village's Director on the Miami-Dade County League of Cities Board of Directors. The motion carried (4-0).

A motion was offered by Assistant Mayor Blachar and seconded by Councilman Packer to designate Councilman Packer to serve as the Village's Alternate on the Miami-Dade County League of Cities Board of Directors. The motion carried (4-0).

10. OTHER BUSINESS:

Public Comment:

Babak Raheb, 128 Balfour Drive, requested that the water rate be changed to the actual amount used and not a minimum rate, which was too high. He also requested that the Village compare its rates to other municipalities.

It was the consensus of the Council for Mr. Treppeda to look into the minimum amount for the water bills.

Anthony Gillam, 9800 Collins Avenue, discussed his building owning half of the street in front of them. He questioned if that was legally binding until it was challenged, etc. He noted that their property deed didn't indicate that they owned the street and questioned if they should be talking to their insurance company about extending the insurance to the center of the street. Mr. Weiss clarified that it wasn't the Village's job to determine their liability, but they should talk to their insurance company. He explained that his opinion was given for guidance to the Council.

Mr. Gillam questioned who would arbitrate the appearance standards in the District. Mr. Weiss explained that was private property. He explained that they were not being dictated by the Village, but were being asked by the Village. He clarified that when a major street job needed to be done an assessment was done by the Village to take care of it. He explained that it was a service that the Village was providing to the residents.

Babak Raheb, 128 Balfour Drive, questioned if the Village could enforce its Code on private property. Mr. Weiss advised that it could.

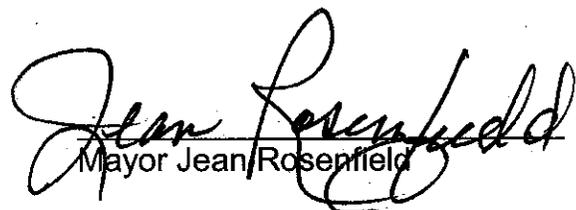
Dina Cellini, 211 Bal Cross Drive, requested clarification on the motion that was made regarding the Lanai wall. Councilman Packer and Mr. Treppeda clarified that the motion was to use security assessment funds to demolish the wall and replace it with a chain link fence. Councilman Packer clarified that it was clear that there would be no break in the security of the District.

Daniel Nieda, Building Official, explained that the \$14,500 amount was a preliminary estimate.

Don Orner, 10245 Collins Avenue, spoke against Ms. Travis' (Director of Tourism Marketing) bonus being taken away, since she was doing a wonderful job. Councilman Packer clarified that certain things needed to be addressed regarding the bonus and that it would be brought back to the Council.

11. ADJOURN: There being no further business, *a motion was offered by Councilman Sanz and seconded by Councilwoman Cohen to adjourn. The motion carried (4-0) and the meeting was adjourned at 10:35 p.m.*

Attest:


Mayor Jean Rosenfield


Ellisa L. Horvath, MMC, Village Clerk