

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

The Regular Meeting of the Bal Harbour Village Council was held on Tuesday, March 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 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 led by Mrs. Susan Packer, Village Resident and Councilman Packer's wife.

3. AGENDA: REQUEST FOR DELETIONS/ADDITIONS: Mr. Treppeda distributed and requested the addition of the following to the Consent Agenda: Motion Approving Repair of Garage Doors (\$3,682.00).

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

4. SPECIAL PRESENTATIONS: Chief Hunker reported that Lt. Charles Merrill won a LEO (Law Enforcement Officer) Award. Chief Hunker also received a LEO Award for helping to put the event together.

5. CONSENT AGENDA: No items were removed from the agenda.

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

Tab A: Minutes: February 15, 2011 Regular Council Meeting

Tab B: \$91,583.79 in Police Forfeiture Funds:

Federal - \$76,583.79 (\$15,000.00 Purchase of Equipment for Active Shooter Safety and Response Program, \$6,608.79 Purchase of Computer Software from Advance Public Safety, \$2,975.00 Travel Expenses for Two Honor Guard Members to Washington D.C. for Police Memorial Week, \$52,000.00 Purchase of 20 Apple Mac Laptop Computers includes Maintenance/Support/Software/Laptop Stands for Vehicles).

State - \$15,000 for the Bal Harbour Police Department Crime Watch Crime Prevention Program (for purchases and expenses)

- Tab C: Re-Enter Mutual Aid Agreement with Fort Lauderdale Police Department
- Tab D: Amendment to the Memorandum of Understanding with South Florida Internet Crimes Against Children (ICAC) Operational Task Force
- Tab E: Renewal of Grubbs Emergency Services Agreement for Disaster Debris Removal (April 2011- April 2014)
- Tab F: \$18,150.00 in Resort Tax Funds and Authorization of Agreement with Zambelli Fireworks to Provide the Independence Day Fireworks Display
- Tab G: \$5,500.00 for Fire Alarm Systems and Security, Inc. to Install Compliant Fire Alarm Warning Devices (replacement of outdated fire alarm warning devices) at Village Hall
- Tab H: \$6,480.00 in Security District Funds for Renewal of the Maintenance Agreement with TEM Systems for the Security District Gate
- Tab I: Execution of Interlocal Agreement between the Miami-Dade County Transit Agency and Bal Harbour Village for Bus Shelter Funding (the Village has received an appropriation of \$250,000 from the Federal Government for new bus shelters and must work with a local government entity certified to act as a "pass-through" for the funds. The Miami-Dade Transit Agency charges a 10% fee for acting as a "pass-through").
- Added Item: \$3,682.00 for American Overhead Door Co., Inc. to Repair the Garage Doors in the Public Works Building

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

6. PUBLIC HEARINGS:

Quasi-Judicial Public Hearings: None.

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:

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

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING CHAPTER 18 "TAXATION AND FINANCE" OF THE BAL HARBOUR VILLAGE CODE OF ORDINANCES BY AMENDING ARTICLE V "SPECIAL ASSESSMENTS"; CLARIFYING AND REVISING VILLAGE AUTHORITY TO LEVY SPECIAL ASSESSMENTS FOR THE PROVISION OF CERTAIN IMPROVEMENTS AND SERVICES AND PROVIDING APPLICABLE PROCEDURES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

A motion was offered by Councilman Packer and seconded by Councilwoman Cohen to approve the Ordinance.

Dina Cellini, 211 Bal Cross Drive, suggested leaving the interest rate at five percent, instead of increasing it to eight percent.

Beth Berkowitz, 10160 Collins Avenue, addressed the Council. She reserved her comments for the next item.

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.

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 CREATING DIVISION III "GATED RESIDENTIAL SECTION ADVISORY COMMITTEE" OF ARTICLE III "BOARDS, COMMITTEES AND COMMISSIONS" OF CHAPTER 2 "ADMINISTRATION"; PROVIDING FOR THE CREATION OF THE GATED RESIDENTIAL SECTION ADVISORY COMMITTEE WHICH SHALL BE CHARGED WITH MAKING RECOMMENDATIONS TO THE VILLAGE COUNCIL REGARDING THE COLLECTION AND EXPENDITURE OF SPECIAL ASSESSMENT FUNDS COLLECTED FROM PROPERTY OWNERS WITHIN THE RESIDENTIAL SECTION OF THE VILLAGE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

A motion was offered by Councilman Packer and seconded by Assistant Mayor Blachar to approve the Ordinance.

Beth Berkowitz, 10160 Collins Avenue, voiced concern that the last paragraph didn't specify that it was for the gated portion of the residential section. Mr. Weiss explained that was defined in the actual Ordinance and Ms. Berkowitz was only referring to the title of the Ordinance.

Betsey Bystock, 80 Park Drive, suggested that the number of members be increased to seven and that the membership be proportioned to include multi-unit representation as well as the private homes.

Dina Cellini, 211 Bal Cross Drive, spoke in favor of an Advisory Committee, but requested that there be term limits (Civic Association had a limit of three 1-year terms). She questioned if the cone of silence would apply to the Committee when purchasing products and services (the Village opted out of it), if the members would be required to file financial disclosures and requested clarification on the definition of reside. Mr. Weiss

responded that the cone of silence would not apply (the Village opted out of it), financial disclosure would be required, and the Council could request clarification of the word "reside" if they wanted.

Doug Rudolph, 212 Bal Bay Drive, suggested that the members be owners, with their primary residence in the District. He spoke against term limits and spoke in favor of selecting the best qualified people to serve.

Dan Holder, 24 Bal Bay Drive, spoke in favor of seven members, an appropriate percentage representing the apartments, being flexible, and providing term limits. He noted that it may be difficult to get seven qualified people and if there were term limits it might be difficult getting people willing to serve.

Brian Mulheren, 10245 Collins Avenue, spoke against forming a Committee for the District, since it was not conforming to the law. He pointed out that the law required a homeowners association. He spoke in favor of having a Budget Committee.

Mayor Rosenfield reported that there would be budget workshop meetings before the formal budget meetings.

Councilman Packer agreed that the condominium owners should be represented, reside should mean the primary residence, and the membership should be expanded from five to seven members.

A motion was offered by Councilman Packer and seconded by Councilman Sanz to increase the number of members from five to seven.

Doug Rudolph, 212 Bal Bay Drive, suggested having a minimum of five and a maximum of seven members, based on the quality of resumes received.

Assistant Blachar discussed the difficulty in getting seven people to serve and requested that it be left at five members.

Councilman Packer spoke in favor of some representation on the Committee from the condominium owners that live in that District.

Councilman Packer withdrew his amendment to the motion. Councilman Sanz withdrew his second to the amendment.

Mr. Weiss explained that since the members would be appointed by the Council, the Council had full discretion.

Mr. Treppeda questioned if the Board members could select alternates. Mr. Weiss explained that they could, but he wouldn't recommend that due to the desire to have continuity.

Mayor Rosenfield discussed primary residence. Mr. Weiss explained that the member must own property and reside there. Councilwoman Cohen agreed that the definition should be fine-tuned. She spoke in favor of it being their primary residence. Mr. Weiss questioned her meaning of primary residence. Assistant Mayor Blachar discussed using homestead. Councilwoman Cohen didn't think that using homestead would be good. Mr. Weiss requested clarification on what the Council would want changed regarding the residency

issue. Assistant Mayor Blachar suggested that the language be left, which could be changed in the future if needed.

Mr. Weiss summarized that nothing was changed in the proposed 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.

8. RESOLUTIONS:

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

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, APPROVING A FORM TRAFFIC CONTROL AGREEMENT BETWEEN BAL HARBOUR VILLAGE AND THE OWNERS OF REAL PROPERTY LOCATED WITHIN THE GATED RESIDENTIAL SECTION OF BAL HARBOUR VILLAGE FOR THE ENFORCEMENT OF THE STATE UNIFORM TRAFFIC CODE ON THE ROADS LOCATED THEREIN; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

Mr. Weiss explained that there is an agreement in effect, but that this agreement would be sent to the owners to sign, in addition to that.

A motion was offered by Assistant Mayor Blachar and seconded by Councilman Sanz to approve the Resolution.

Dina Cellini, 211 Bal Cross Drive, reviewed the Traffic Control Jurisdiction Agreement and voiced concern regarding 2(a) patrol on a random basis each day, subject to availability, which was in contradiction to Mr. Treppeda's comments last month that a police unit would continue to be in the Security District area. She questioned if the Security District could rely on a dedicated unit. Mr. Treppeda explained that the Security District was still one of the zones that had a unit dedicated to it. He added that there was not an obligation to have a car in there all the time and there hadn't been an obligation to have one in the past, but there had always been one assigned to that area, which would continue.

Dan Holder, 24 Bal Bay Drive, questioned if it was necessary to specify in the Ordinance how often the patrol would be. Mr. Weiss reported that the language was open ended and would give the officers permission to go in there on a random basis, which was needed.

Brian Mulheren, 10245 Collins Avenue, explained that there was an agreement with the Civic Association, which doesn't exist and had no standing. He noted that this agreement would be to enforce the traffic laws and was not and should not be an agreement that the officers should act as security guards. He pointed out that the officers didn't enforce condominium regulations and that it should be the same in the Security District.

Mr. Weiss explained that without this agreement or the one already in place, the Police would not be able to give uniform traffic citations within the area. He explained that it would also give the Police authority to come onto private property, as they do at the Shops, condominiums, etc. to perform appropriate patrol and not to provide a security guard service. He added that it would give them permission to come onto private property for patrol functions.

The motion carried (5-0).

9. REPORTS:

A. VILLAGE MANAGER:

Request for Expenditure of Resort Tax Funds: Mr. Treppeda requested approval for the following items:

Brazilian Sales Mission \$10,000.00
(Rio de Janeiro and Sao Paulo targeting travel trade and media coverage)

Revised Bonus Structure for Director of Tourism Cap of \$15,000.00
(30% of any increase in Resort Tax revenue based on the following: calculated and paid quarterly during the fiscal year (October-September), paid only on quarterly revenue increase when compared to the same quarter in the previous year, revenue decrease would result in no bonus for that quarter, quarters with no increase would not subtract from quarters with increases, entity must have one year of revenue before being included in the bonus calculation, the Development Agreement revenue would not be included in the bonus calculation, only revenue generated by 4% bed tax and 2% food/beverage tax would be included in the bonus calculation, the bonus amount would be capped at \$15,000.00 per year with any higher amount requiring Resort Tax Committee approval and Village Council ratification.)

Brian Mulheren, 10245 Collins Avenue, spoke against the bonus, since the Tourism Director was already eligible to receive up to a 5% bonus as a department head. He discussed a problem when the tourism bus was ordered and didn't think that she should receive a bonus due to that. He pointed out that she also received other benefits (insurance).

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

B. VILLAGE CLERK:

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

Discussion of Date Change for April Council Meeting: Mrs. Horvath requested that the Council consider changing the regular Council Meeting Date of April 19, 2011, to avoid conflict with a religious holiday (Passover). She suggested either April 27, 2011 or April 28, 2011 as a new date.

A motion was offered by Councilman Packer and seconded by Councilwoman Cohen to change the April Council Meeting date to Thursday, April 28, 2011. The motion carried (5-0).

C. VILLAGE ATTORNEY: No items were discussed.

D. MAYOR AND COUNCIL:

Discussion of Bus Shelters – Councilman Sanz: Councilman Sanz

requested the status of the bus shelters, since it had been a year since they were approved. Mr. Treppeda explained that the Village was awarded \$250,000 in Federal funds to pay for the project and that there was a process that needed to be followed. He explained that the Village could do it quicker using taxpayer dollars, if it wanted to forfeit the Federal money, which was expected in June 2012. He requested direction from the Council. Mayor Rosenfield pointed out that \$100,000.00 was removed from the budget, since it was determined that it was not reasonable to spend it in addition to the Federal funds. Mr. Treppeda added that the Village could not afford the selected style Option #9) unless another \$100,000.00 was budgeted. He noted that if the Village stayed with the same style as the existing shelter, then there would probably be enough money with the Federal funds.

Jay Smith, Director of Community Outreach, explained that the Village had been working with the County since last year. He reported that the application for funding would be submitted in June 2011. He noted that the Village approved the Interlocal Agreement for the County to handle this for the Village. He explained that once a response was received (expected 6-8 weeks from the June submittal), then the Village could begin working with the County to get the shelters.

Councilman Sanz questioned if Resort Tax funds could be used for the shelters. Mr. Treppeda advised that they could be used, if approved by the Council. Councilman Sanz spoke in favor of using \$100,000.00 in Resort Tax funds, for the shelters.

Councilman Packer suggested that if the Federal money was a guarantee, then the Village should proceed that way. He added that the Resort Tax Committee could then be asked to budget the \$100,000.00 in their next budget, to be on target with the 2012 date.

Dina Cellini, 211 Bal Cross Drive, spoke in favor of budgeting \$100,000.00 in Resort Tax funds in the next year, to move forward with the design that was selected. She questioned where the \$350,000.00 amount for the shelters came from. Mr. Treppeda explained that the amount was an estimate provided by the Designer, since it could not be put out to bid yet. Ms. Cellini questioned what the process was.

Mr. Smith explained that the application process was being worked on now and the earliest date to submit the application would be in June.

Brian Mulheren, 10245 Collins Avenue, spoke in favor of using Resort Tax money to provide a prototype at the Bellini Condominium now, since the St. Regis wasn't providing a prototype and the Bellini did not have a shelter.

Assistant Mayor Blachar thought that eight shelters would be excessive. She spoke against using the Resort Tax funds, since that Committee was spending money to increase money coming into the Village for cultural events, etc. She noted that if money was removed from that budget, then some of those activities would be lost. She suggested four shelters and not taking the money from Resort Tax.

Mayor Rosenfield suggested that the Resort Tax Committee look at their budget for the upcoming year and then the number of shelters could be revised. Councilman Sanz did not think that four shelters (going north) and four shelters (going south) would be excessive. Councilwoman Cohen questioned Mr. Treppeda on the number of people that complained to him about the lack of shelters. Mr. Treppeda responded that nobody had complained.

Councilman Packer suggested that the Council walk along Collins Avenue to see that all of the bus shelters were being used.

10. OTHER BUSINESS:

Public Comment:

Amy Huber, the Law Firm of Shubin & Bass, on behalf of the Bal Harbour Shops, thanked the Council and the community for attending the Workshop meeting for the Shops preliminary expansion plans. She requested that the Council direct staff to work with them to determine the next steps in the process, if it was the Village's intent to move forward. Mayor Rosenfield explained that Mr. Treppeda would continue to meet with the Shops, but that the Council would not take any action until the Shops came back with some type of contract with the Church, to begin the process.

Ms. Huber explained that the Shops had no intention of moving forward on the pending applications without the commitment from the Church, but requested that the Council be open to additional workshops in the meantime for continued input. She noted that the Shops was working with the Church.

Mayor Rosenfield explained that the Village was open to discussion, once more definitive information was received. Ms. Huber explained that the Shops would also like more definitive comments and direction from the Council as well. Mayor Rosenfield suggested that Ms. Huber speak with Mr. Treppeda to see when another workshop could be held. She explained that the Council was not ready to express its opinion at the current meeting.

Ms. Huber noted that they were happy to have resident input, but would also like Council input.

Mr. Weiss introduced Matthew Pearl, from his firm.

Assistant Mayor Blachar discussed the success of the movie on the beach.

11. ADJOURN: There being no further business, *a motion was offered by Councilman Packer and seconded by Councilwoman Cohen to adjourn. The motion carried (5-0) and the meeting was adjourned at 8:14 p.m.*

Attest:


Ellisa L. Horvath, MMC, Village Clerk


Mayor Jean Rosenfield