

**BAL HARBOUR VILLAGE COUNCIL MEETING MINUTES**  
**SPECIAL MEETING – MAY 31, 2011**

A Special Meeting of the Bal Harbour Village Council was held on Tuesday, May 31, 2011, 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 7:27 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  
James White, Village Attorney

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

- Tab A:       \$ 5,308.00 in Police Forfeiture Funds:  
              Federal - \$4,050.00 Donation to Surf Bal Bay PAL Event  
              State - \$1,258.00 Donation for two Apple iPads to Dr. Michael Krop Sr. High School  
              Crime Education Club
- Tab B:       \$12,265.00 for Government Finance Consultants, Inc. for the Village's Fixed  
              Asset Inventory
- Tab C:       Authorization for the Execution of an Interlocal Agreement with the South  
              Florida Regional Transportation Authority to serve as recipient grantee of  
              funds from The Federal Transit Administration for Bus Shelter funding (they  
              will act on the Village's behalf as a "pass through" agency for the federal  
              earmark for bus shelter funding)
- Tab D:       Authorization for the Village Manager and Village Attorney to formulate and  
              execute a Memorandum of Understanding between Bal Harbour Village and  
              the Town of Surfside for a Joint Sewer Project with the terms as outlined in  
              the Agenda
- Tab E:       Authorization for the Village Manager to execute the Agreement for  
              telephone service to Village Hall from AT&T

Tab F: Amendments to the ATSC Hosting Agreement, which was approved at the May Council Meeting

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

#### **4. PUBLIC HEARINGS:**

**Ordinance Second Reading/Public Hearing:** The following Ordinance was read by title by Mrs. Horvath:

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING CHAPTER 21 "ZONING," ARTICLE I "IN GENERAL," SECTION 21-1 "DEFINITIONS AND RULES OF CONSTRUCTION" OF THE VILLAGE CODE OF ORDINANCES CREATING A VACATION RENTAL DEFINITION; AMENDING CHAPTER 21 "ZONING," ARTICLE IV "SUPPLEMENTARY DISTRICT REGULATIONS" OF THE VILLAGE CODE CREATING SECTION 21-363 "VACATION RENTAL USES;" PROVIDING FOR VACATION RENTAL USE REGULATIONS; AMENDING THE LIST OF PERMITTED, CONDITIONAL, AND PROHIBITED USES IN ZONING DISTRICTS WITHIN THE VILLAGE RELATING TO VACATION RENTAL USES; AND PROVIDING FOR AN EFFECTIVE DATE.

***Michael Miller, Village Planner***, explained the Ordinance. He explained that the Village did not have any regulations regarding vacation rentals. He reported that new State law required that government entities needed to have something on the books by June 1, 2011, in order for the regulations to be legal. He recommended that the Council provide something, which could be amended later, if necessary.

***James White, Village Attorney - Weiss Serota Helfman***, explained the Ordinance, in conformity with direction given by the Council at the last meeting, to be as stringent as possible within the parameters of the law. He discussed pending litigation on a municipality that prohibited rentals for less than six months. Mr. White reviewed the proposed Ordinance, permitting vacation rentals for a minimum of seven days, less than six months, and not more than three times per year. He reviewed the application and certificate process. Mr. White discussed the litigation against Miami Beach, which prohibited vacation rentals of less than six months. He requested direction from the Council, but noted that anything stricter may open the Village to a challenge.

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

Mayor Rosenfield opened the public hearing.

***Dina Cellini, 211 Bal Cross Drive***, suggested that it be the Village's responsibility to ensure that the owners complied. Mayor Rosenfield explained that residents could contact the Village Manager or Code Enforcement if they knew of someone who was not complying.

***Brian Mulheren, 10245 Collins Avenue***, explained that Village staff could find out easily who was renting, since nobody was allowed in the Security District unless they owned or rented there. Assistant Mayor Blachar explained that if a resident placed someone on a list to gain entry, then the Village wouldn't know that they rented.

**Sarah Sheridan, 160 Bal Cross Drive**, suggested an application at Village Hall, with a copy of a lease and/or a background check required. Mr. White explained that the Ordinance required that a copy of the lease be provided, but did not require a credit or background check. Councilman Packer questioned if that could be done. Ms. Sheridan voiced concern regarding the condominium owners, which allowed a minimum rental of three months.

Mayor Rosenfield explained that the Village would advise the condo managers of the regulations. Chief Hunker will have code enforcement look into the issue. He noted that renters could also be regulated by the eGO passes that were issued by the Police Department.

Mr. White explained that the Ordinance required the Owner to complete an application and receive a Certificate from the Village Manager. He advised that a background check would be outside the duty of the Village and went beyond the scope of what the Village could do.

Councilman Packer questioned how non-compliance would be handled. Mr. White explained that would be handled through a code violation.

Assistant Mayor Blachar requested the most stringent restrictions and thought that the Ordinance was too lenient. She spoke against allowing seven day rentals and suggested a three or six month minimum. She suggested making it stricter and then amending it, if there was a problem. Councilwoman Cohen and Councilman Sanz agreed. Mr. White suggested a minimum of three months and three times per year. Councilwoman Cohen noted that the residents in the community wanted to keep the community non-vacation rental friendly, because it would change the quality of the neighborhood. She spoke against allowing vacation rentals.

Councilman Packer questioned if the zoning laws allowed for an area to be zoned for vacation rentals and not permitted other than in that area. Mr. Miller advised that could be done. Councilman Packer suggested that it be attacked through a zoning ordinance.

Mayor Rosenfield questioned how the Village could deny the rights of the condos. Councilman Packer explained that he was referring to the homes. Mayor Rosenfield questioned how the Village could deny the rights of homeowners and place regulations after they have had their homes. Mr. White explained that the Village could enact zoning regulations and laws. He noted that currently it was not a permitted use, but if the Village received a lawsuit, then it would be stuck with no regulations on the books due to the new State law.

Assistant Mayor Blachar suggested that the Attorney's advice be followed. Councilman Sanz discussed both Palm Beach and Boca Raton having six month minimums. Mr. White agreed that the six month minimum did exist, but that it was the subject of current litigation. Assistant Mayor Blachar suggested going with the stringent minimum and seeing what happened. Councilman Packer agreed that it should be as stringent as possible, which allowed nothing less than six months and twice a year. Councilwoman Cohen spoke in favor of allowing nothing less than one year. Mayor Rosenfield questioned how contracts that were already in place would be handled. Mr. White noted that the Village could provide a grandfather clause, if the lease was entered into prior to the Ordinance.

**Sara Sheridan, 160 Bal Cross Drive**, questioned how the Ordinance would be enforced.

Assistant Mayor Blachar pointed out that the Ordinance should cover homes and condominiums and the more stringent rules should be followed.

**Sara Sheridan, 160 Bal Cross Drive**, discussed the ONE Bal Harbour, which was a hotel/condo project. She explained that some of the rooms were on a hotel basis, but they had the ability to opt out of the hotel pool. She didn't think that the ONE strictly condos were being rented out on a monthly basis.

**Brian Mulheren, 10245 Collins Avenue**, discussed the Planned Development Agreement with ONE. Mr. Treppeda explained that a meeting was scheduled with the ONE Manager to address an issue of a block of hotel rooms that were sold.

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

Mayor Rosenfield spoke in favor of limiting the Village's liability. Councilman Sanz spoke in favor of making the Ordinance stricter. He noted that Bal Harbour was different than Miami Beach, since alot of the homes in Miami Beach were built with the intention of being rented out. He suggested that the Council listen to the residents and prohibit rentals of less than six months.

***A motion was offered by Councilman Packer and seconded by Councilman Sanz to amend the motion to provide for a minimum rental of six months and twice a year. The motion for the amendment 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 motion to accept the Ordinance, as amended, 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. 2011-549.***

Mr. Treppeda will notify the residents and condominium managers.

Councilwoman Cohen questioned what the recourses would be. Mr. Treppeda explained the code enforcement process.

Mr. White will modify the Ordinance with the requested changes.

Mr. White reviewed page 11 of the Ordinance. He requested the deletion of j(1)(iv), regarding trash pickup. He requested the deletion of "curbside" on number 2.

Assistant Mayor Blachar requested that number 1 on page 11 be changed to read "in the unit" and that it not read "on or within 10 feet of the front door." Mr. White agreed to change the wording.

***A motion was offered by Assistant Mayor Blachar and seconded by Councilman Sanz to make the changes discussed by Mr. White and Assistant Mayor Blachar on page 11. 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.***

**5. ORDINANCE FIRST READING/PUBLIC INPUT:** The following Ordinance was read by title by Mrs. Horvath:

**AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AUTHORIZING THE ISSUANCE OF NOT EXCEEDING \$10,000,000 OF CAPITAL IMPROVEMENT REVENUE BONDS OF THE BAL HARBOUR VILLAGE, FLORIDA; PROVIDING FOR A SUPPLEMENTAL RESOLUTION SETTING FORTH THE DETAILS OF SAID BONDS; AND PROVIDING AN EFFECTIVE DATE.**

Mr. Wallace explained that the bonds would be used to replace the underground infrastructure. He noted that he wouldn't know the amount, until the bids were received.

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

Mayor Rosenfield opened the public discussion.

**Brian Mulheren, 10245 Collins Avenue**, spoke against the bond issue being placed on a special council meeting agenda and not knowing the amount. He noted that the bond market was bad and thought that County bond money was paying for a substantial portion of the project. He discussed the Village's large reserve. He suggested waiting and then issuing a bond, if needed.

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

Mayor Rosenfield questioned the urgency of the discussion. Mr. Wallace explained that the issue had been contemplated for several months. He reported that the second reading would be held at the June or July Regular Council Meeting and resolutions would specify the amounts. He noted that it was a good time to issue bonds and thinks that the Village would get a good long time rate. He explained that the amount issued would depend on the rates received when it was bid out. Mr. Wallace reported that the Village would need some of the debt to fund the project and some reserves would also be used. He noted that the issue had been mentioned in financial reports and in the budget process during the past two years. He reported that the worst time to issue municipal debt was in October.

Mayor Rosenfield reported that a Budget Workshop Meeting would be held on June 21, 2011 at 5:45 p.m., prior to the Regular Council Meeting.

*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.*

**6. RESOLUTION:** The following Resolution was read by title by Mrs. Horvath:

**A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA (THE "VILLAGE") APPROVING THE SOVEREIGNTY SUBMERGED LAND LEASE RENEWAL BETWEEN THE VILLAGE AND THE BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.**

Mr. Treppeda explained that the lease was for the boat dock at the Village Park.

*A motion was offered by Councilman Packer and seconded by Councilman Sanz to approve the Resolution. The motion carried (5-0); thus becoming Resolution No. 2011-740.*

## **7. REPORTS:**

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

**Presentation of Study of Options for Cost Savings for General Pension Fund – Jim Rizzo, Plan Actuary:** Mayor Rosenfield questioned if the Florida Retirement System was a good option for the Village's Pension Plan.

*Jim Rizzo, GRS (Gabriel Roeder Smith & Company)*, reviewed his report in the agenda. He reported that the benefits offered to new hires would be lower. He explained that the Village could legally change the plan for current employees going forward, but it couldn't take away what they had already earned. He reviewed the history of the benefits.

Mr. Rizzo noted that the Village could roll back benefits for new hires or for new hires and existing employees. Mayor Rosenfield questioned the cost savings if that was done for new and existing employees. Mr. Rizzo didn't know, but explained that it would generate more savings than the report graphs showed that were provided. He noted that the graph would bend down faster in the earlier years, but would end up about the same. Councilman Packer requested actual figures showing that. Mr. Rizzo offered to provide a dollar amount and percentage of pay. He noted that there was no question that it should be done for new employees.

Assistant Mayor Blachar wasn't aware that benefits could be changed for the existing employees. Mr. Rizzo clarified that benefits couldn't be taken away for something that was already earned, but that they could be changed for the future.

*Brian Mulheren, 10245 Collins Avenue*, requested a presentation from Mr. Rizzo at the June 21, 2011 Council meeting. He questioned the amount that the Village had obligated going forward on the DROP and pension. He requested the amount that the Village had contributed to make up for the shortages in the Plan.

Mayor Rosenfield requested Mr. Rizzo to return during the budget discussions, with a full report. Mr. Rizzo clarified that he would study the same benefits for the existing employees and new hires, after a certain date. Mayor Rosenfield requested that all options be considered.

**Request for Approval of Funds for Study of Cost Savings Measures for General Pension Fund:** Mr. Treppeda requested approval of \$6,000.00 out of the General fund, for the existing study that was conducted and \$2,000.00 for additional studies.

**A motion was offered by Councilman Packer and seconded by Councilwoman Cohen to approve \$8,000.00 for the studies (\$6,000 for the studies just completed and \$2,000 for additional studies). The motion carried (5-0).**

**Outsourcing Solid Waste Services:** Mayor Rosenfield discussed the possibility of the Village outsourcing solid waste services. Mr. Wallace explained that the only way to compare costs would be to put it out to bid. He noted that bids in Broward County had been extremely aggressive and had saved many municipalities a lot of money. He noted that the level of service that the Village had was very unusual and

explained that backyard service would cost more than curbside service. He reported that it could be studied, but that the Village would only have figures to compare if it was put out to bid. Councilman Packer pointed out that the Village employees did work other than the garbage and questioned if the loss/gain could be figured out. Mr. Wallace will look at the impact on other services. Assistant Mayor Blachar questioned if any of those employees would be retiring. Mr. Treppeda advised that they would not. Mayor Rosenfield noted that the Public Works Department hadn't been replacing anyone who had left.

## **8. OTHER BUSINESS:**

### **Public Comment:**

**Brian Mulheren, 10245 Collins Avenue**, requested an update on the FPL response to the power outages and the progress on the bus shelters.

Councilman Sanz requested that FPL attend the June Council meeting.

Mayor Rosenfield reported that the Village had to select another agency to handle the bus shelter Federal money for the Village.

Mr. Treppeda reported that FPL would be scheduling a meeting on June 15, 2011, to update the Security District residents.

Mr. Mulheren suggested that the condominiums also be invited to attend.

**Vacation Rental Ordinance:** Councilwoman Cohen reviewed the Ordinance that was passed on vacation rentals and discussed the certificate requirements. Mr. Treppeda thought that condominiums should have been exempted from the Ordinance, but noted that it applied to condominiums as it was passed. Assistant Mayor Blachar noted that it could be fine-tuned in the future.

Councilman Packer discussed an event at Haulover Park with Commissioner Sally Heyman for pet owners and their dogs to swim at the beach. Mayor Rosenfield discussed complaints received about the lack of cleanliness at the Haulover dog park. Councilman Packer will advise Commissioner Heyman.

Assistant Mayor Blachar questioned if the resumes received for the Gated Residential Section Advisory Committee would be discussed at the June 21, 2011 meeting and if the applicants would be in attendance. Mayor Rosenfield explained that the resumes would be discussed and the applicants should be at that meeting. Mr. Treppeda will request the applicants to attend the meeting.

Councilman Packer questioned if the Civic Association would be disbanded. Assistant Mayor Blachar believed that it would be.

Assistant Mayor Blachar requested that code enforcement look at the private property sign at the co-op property, located to the right of the Security District main gate.

Mayor Rosenfield suggested that Commissioner Heyman be contacted regarding the amount of garbage left at Haulover Park, after Memorial Day weekend. She suggested that additional trash cans be provided there. Assistant Mayor Blachar requested more police

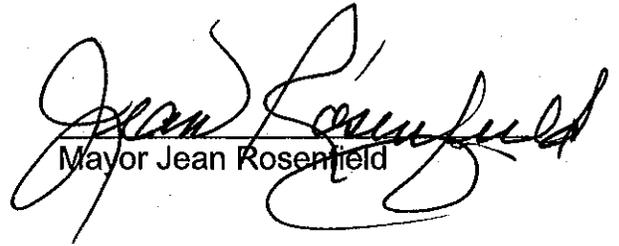
enforcement for parking tickets during that weekend.

**9. ADJOURN:** There being no further business, *a motion was offered by Councilman Sanz and seconded by Councilman Packer to adjourn. The motion carried (5-0) and the meeting was adjourned at 9:01 p.m.*



Attest:

  
Ellisa L. Horvath, MMC, Village Clerk

  
Mayor Jean Rosenfield