

BAL HARBOUR VILLAGE COUNCIL MEETING MINUTES
REGULAR MEETING – SEPTEMBER 20, 2011

The Regular Meeting of the Bal Harbour Village Council was held on Tuesday, September 20, 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 6:18 p.m. by Mayor Rosenfield. The following were present:

Mayor Jean Rosenfield
Assistant Mayor Joni D. Blachar
Councilman Martin Packer
Councilman Jaime M. Sanz

Alfred J. Treppeda, Village Manager
Ellisa L. Horvath, MMC, Village Clerk
Richard J. Weiss, Village Attorney

Absent: Councilwoman Patricia Cohen

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

2. PLEDGE OF ALLEGIANCE: The Pledge was previously done at the Second Budget Hearing.

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

4. SPECIAL PRESENTATIONS:

Officer of the Month for August 2011: This item was discussed later in the meeting.

Richard Masten, Executive Director – Crime Stoppers of Miami-Dade, Inc.: This item was discussed later in the meeting.

5. CONSENT AGENDA:

Dina Cellini, 211 Bal Cross Drive, requested the removal of Tabs I, N, and O.

Mr. Treppeda requested approval for the following remaining items:

Tab C: July 19, 2011 Regular Council Meeting
July 19, 2011 Council Workshop Meeting (Budget)

Tab D: Expenditure of Police Federal Forfeiture Funds for the following items:
\$5,000.00 Donation to the Young Men's Academy for Academic and Civic Development at MacArthur-South, \$1,000.00 Donation to the Dade County PBA Love Fund POAT, \$1,072.56 Custom Spacesaver Shelving Unit by

Patterson Pope Inc. for the Police Administrative Office, \$3,500.00 Benchmark Seminars Training, \$2,660.00 for Car Trailer from David's Trailer, \$1,237.50 for Franklin Investigations Inc., \$3,195.58 for Emergency Vehicle Lighting and Siren for Drug Task Force Vehicle from Dana Safety Supply, and \$7,500.00 Yearly for Social Media Institute Inc. for handling Police Social Media Campaign

Tab E: Expenditure of Police Budgeted Funds for the following items: \$2,922.00 for lighting and siren for Police vehicle and (\$2,000.00) for disposal (sale) of Police vehicle

Tab F: Mutual Aid Agreement with Medley Police Department

Tab G: Expenditure of Resort Tax Funds, per the Resort Tax Committee Recommendations, for the following items: \$22,800.00 for United States Sales Action Plan for 2012, \$26,000.00 for Brazilian Sales Action Plan for 2012, \$22,360.00 for Argentinean/Chilean Sales Action Plan for 2012, \$29,000.00 for Russian Sales Mission, \$21,679.00 for International Luxury Travel Market (ILTM) Trade Show, \$7,500.00 for Bal Harbour City Guide Publication, \$91,020.00 for Movies on the Beach, \$12,000.00 (to be reimbursed by the St. Regis Hotel) for Bal Harbour Art Nights, \$23,000.00 for Sales and Marketing Retreat, \$2,500.00 Monthly for Russia Public Relations Firm, \$4,000.00 Monthly for Canada Public Relations Firm, \$4,200.00 Monthly for Mexico Sales Representative (for Sales and Public Relations efforts)

Tab H: Approval of the Gated Residential Section Advisory Committee Recommendations for the following items: direct the Village Attorney to explore the feasibility of requiring that temporary signs be placed on lawns that have been sprayed with pesticide and whether or not a less toxic pesticide could be required, and authorize the execution of an agreement with O'Leary Architectural Designs for up to \$20,000.00 for consulting landscape architecture services

Tab J: Up to \$9,416.00 from the Beautification & Maintenance Fund for the purchase of eight replacement bollard lights for the beach from South Dade Lighting

Tab K: \$22,059.30 from the Beautification & Maintenance Fund for the purchase of 30 ballasts and 30 fixtures from South Dade Lighting, to replace as they go bad, in the date palm lighting units on Collins Avenue

Tab L: \$15,500.00 from the Beautification & Maintenance Fund for 4,000 additional sea oats for the beach from The Brickman Group

Tab M: \$170,631.08 for Change Orders 3, 4, and 5, for the Collins Avenue Sewer Force Main Project

Tab P: Approval of New Contract with Munitytics for Finance Director Services

A motion was offered by Assistant Mayor Blachar and seconded by Councilman Sanz to approve the items on the Consent Agenda, except for Tabs I, N, and O. The motion carried (4-0).

Tab I – Motion Authorizing Village Manager to Enter into Agreement with The Brickman Group for Landscape Services within the Gated Residential Section: The request was for \$88,833.80 and authorization for the Village Manager to work with the Village Attorney to draft a contract between The Brickman Group and Bal Harbour Village, for the provision of landscape maintenance services in the gated area, to begin on October 1, 2011.

Dina Cellini, 211 Bal Cross Drive, questioned the Village's effort to get work with The Brickman Group, for the four Public Works employees that would be terminated.

Mr. Weiss explained that a clause would be provided in the contract, for a good faith effort for the company to hire those Village employees.

A motion was offered by Assistant Mayor Blachar and seconded by Councilman Packer to approve Tab I. The motion carried (4-0).

Tab N – Motion Approving Lease Agreement for Mailing System for Village Hall: The request was for authorization for the Village Manager to enter into a lease for 48 months, at \$155.00 per month, for a new mailing system for Village Hall.

Dina Cellini, 211 Bal Cross Drive, questioned who sent out the Village mailings, since she received her 4th of July flyer on July 6th (it was postmarked June 10th). Assistant Mayor Blachar noted that if it was postmarked in June then the late delivery could have been due to the post office, not the Village or its company.

A motion was offered by Assistant Mayor Blachar and seconded by Councilman Sanz to approve Tab N. The motion carried (4-0).

Tab O – Motion Approving Reappointment of Architectural Review Board Members: The request was to consider re-appointing James Silvers, Giorgio Balli, Paul Buzinec, and Christopher Cawley as members of the Architectural Review Board, for a term of two years.

Dina Cellini, 211 Bal Cross Drive, suggested that the Council consider appointing new members to the Board, since there were residents who would qualify to serve.

Assistant Mayor Blachar reported that she had spoken to Mr. Treppeda and Mr. Nieda regarding that. She noted that the four people who served on the Board did a great job and were very familiar with the Code, etc. She discussed the one position available on the Board and discussed placing an ad for it.

A motion was offered by Assistant Mayor Blachar and seconded by Councilman Sanz to approve Tab O. The motion carried (4-0).

6. PUBLIC HEARINGS:

Quasi-Judicial Public Hearings:

Sign Permit Request – St. Regis Bal Harbour (9701, 9703, and 9705

Collins Avenue): The request was consideration for a sign permit for the St. Regis sign package, including temporary signs indicating that they were hiring. The sign package was unanimously recommended by the Architectural Review Board. The Building Official and Village Manager also recommended approval of the permit for the entire St. Regis sign package.

Mr. Weiss explained the procedures for the quasi-judicial process. No disclosures were made by the Council.

Those planning to speak at the hearings were sworn in by Mrs. Horvath.

Mayor Rosenfield introduced two senior students, from Michael Krop High School, in attendance, to view the local government process.

Daniel Nieda, Building Official, discussed the signage package.

Keith Fordsman and Bill Eager, Landscape Architect, addressed the Council.

Councilman Packer questioned the location of the signs. Mr. Eager explained.

Assistant Mayor Blachar suggested that it be specified that 9703 was the hotel. Mr. Eager explained that the Fire Department had looked at the numbers and approved them, but that could be considered.

Mr. Nieda questioned if the temporary numbers would be replaced by the permanent numbers. Mr. Eager advised that they would be.

Councilman Sanz requested a rendering, with all of the signs shown.

Carter McDowell, Attorney representing the St. Regis - Bilzin Sumberg Baena Price & Axelrod LLP, requested approval and agreed to add that the center building was the hotel, if that was the consensus of the Council.

Mr. Eager explained the signs.

Councilman Packer discussed the possible problems with birds. Mr. Eager noted that was considered. Mr. McDowell agreed and explained that it wouldn't be a problem.

Mayor Rosenfield noted that they used the same artist at other locations. Mr. Eager agreed.

Assistant Mayor Blachar questioned if illumination would be used elsewhere. Mr. Eager advised that it would be.

Councilman Sanz questioned when the front element would be completed. Mr. Eager explained that pending approval and permitting, they expected the signage to be installed after the hotel opened. Mr. McDowell discussed their goal to open in January.

Mayor Rosenfield requested that the blue and red pipes be covered. Mr. McDowell

explained that they were working on that.

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

Abe Gotman, 9601 Collins Avenue, questioned their ability to build a hotel that did not have any windows.

Mr. Eager explained that the Collins Avenue side of the hotel was the only one of four facades that didn't have windows. Mr. McDowell explained that area did not have windows, since the fire stairs were located there.

Councilman Packer questioned if any lighting was provided on that concrete portion of the hotel. Mr. Eager advised that there was not, since it wasn't allowed per the turtle code. Mr. Nieda added that they also didn't want to take away from the lighting on the Medjool Palms.

The motion carried (4-0), with the roll call vote as follows: Mayor Rosenfield yes; Assistant Mayor Blachar yes; Councilwoman Cohen absent; Councilman Packer yes; Councilman Sanz aye.

Mr. Nieda requested approval for the additional temporary sign package, which advertised that the St. Regis was hiring.

A motion was offered by Councilman Packer and seconded by Councilman Sanz to approve. The motion carried (4-0).

Zoning Hearings/Quasi-Judicial Public Hearings: None.

Ordinances Second Reading/Public Hearings:

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

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING CHAPTER 13 "PENSIONS AND RETIREMENT BENEFITS" ARTICLE II "EMPLOYEE'S PENSION PLAN" OF THE VILLAGE CODE TO COMPLY WITH THE INTERNAL REVENUE CODE BY AMENDING SECTION 13-28 "RETIREMENT DATES AND RETIREMENT BENEFITS"; SECTION 13-31 "TERMINATION OF EMPLOYMENT"; SECTION 13-35 "AMENDMENT, TERMINATION AND DISCONTINUANCE OF PLAN"; AND SECTION 13-38 "MISCELLANEOUS PROVISIONS"; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Mayor Rosenfield opened the public hearing.

Dina Cellini, 211 Bal Cross Drive, requested how this would change the Village's pension plan.

Mr. Weiss explained that it didn't change the way the plan worked and the IRS regulations required the amendment. He disclosed that a separate plan Attorney provided the

Ordinance for the Village.

Mr. Treppeda explained that the amendments were mandatory and spoke in favor of approval.

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

The motion carried (4-0), with the roll call vote as follows: Mayor Rosenfield yes; Assistant Mayor Blachar yes; Councilwoman Cohen absent; Councilman Packer yes; Councilman Sanz ave; thus becoming Ordinance No. 2011-555.

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

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING CHAPTER 5.5 "APPEARANCE CODE," ARTICLE II "APPEARANCE PLAN," SECTION 5.5-5 "CRITERIA FOR APPEARANCE" OF THE VILLAGE CODE OF ORDINANCES PROVIDING FOR ROOF FINISHES CONSISTENT WITH BUILDING ARCHITECTURE AND ALLOWING FLAT ROOFS ON SINGLE FAMILY STRUCTURES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

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

A motion was offered by Councilman Sanz and seconded by Councilman Packer to approve the Ordinance. The motion carried (4-0), with the roll call vote as follows: Mayor Rosenfield yes; Assistant Mayor Blachar yes; Councilwoman Cohen absent; Councilman Packer yes; Councilman Sanz ave; thus becoming Ordinance No. 2011-556.

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

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING CHAPTER 2 "ADMINISTRATION," CHAPTER 10 "MARINE STRUCTURES, ACTIVITIES AND WAYS," CHAPTER 11 "NUISANCES," AND CHAPTER 12 "OFFENSES," OF THE VILLAGE CODE OF ORDINANCES TO ADDRESS FIREARM REGULATIONS PREEMPTED BY STATE LAW; AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

Mayor Rosenfield urged the Village residents to request a revision to the law.

The motion carried (4-0), with the roll call vote as follows: Mayor Rosenfield yes; Assistant Mayor Blachar yes; Councilwoman Cohen absent; Councilman Packer yes; Councilman Sanz ave; thus becoming Ordinance No. 2011-557.

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 Approval of 4COP-S Liquor License for St. Regis Resort & Residences (9701 Collins Avenue): The Request was for authorization for the Village Manager to sign the 4COP-S License application for the St. Regis Resort, through Bal Harbour Hotel LLC, indicating compliance with the Village's Zoning Code. Approval would allow for the sale of beer, wine, and distilled spirits for consumption on the premises or by the package.

Carter McDowell, Attorney representing the St. Regis - Bilzin Sumberg Baena Price & Axelrod LLP, requested approval.

A motion was offered by Councilman Packer and seconded by Councilman Sanz to approve.

Anamarie Kelly, 77 Camden Drive, voiced concern regarding the ONE Bal Harbour serving liquor on the beach, which was in violation of a County ordinance. She requested confirmation that no liquor would be served beyond the seawall.

Mr. McDowell confirmed that the application did not apply to the beach.

Assistant Mayor Blachar didn't have a problem with liquor on the beach. Mr. Weiss will look into the issue, but clarified that the application was just for the St. Regis property, not the beach.

The motion carried (4-0).

B. VILLAGE CLERK:

Lobbyist Registration Report: As of September 20, 2011:

A list of Lobbyists registered with the Village was provided in the agenda.

C. VILLAGE ATTORNEY: No items.

D. MAYOR AND COUNCIL: No items.

SPECIAL PRESENTATIONS:

Officer of the Month for August 2011: Captain Leo Quinn presented the Officer of the Month plaques to Officer Hector Gonzalez and Sergeant Jack Young.

Richard Masten, Executive Director – Crime Stoppers of Miami-Dade, Inc.: Mr. Masten presented the Council with a plaque, in appreciation of the Village's contribution to the Crime Stoppers program.

10. OTHER BUSINESS:

Public Comment:

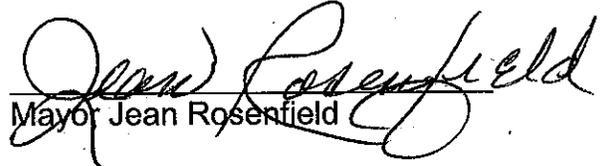
Anamarie Kelly discussed the Traffic Control Jurisdiction Agreements with the homeowners, in the gated area. She noted that the agreement was inaccurate, since the homeowners had the use and enjoyment, but were not deeded the streets. She added that the Civic Association did not have the authority to sign an agreement or impose liability on the homeowners. She requested the agreement with the County, since without it there wasn't a right to tax or assess. She reviewed several attorney general opinions and explained that there had to be an agreement, for the Village to patrol in a private area. Ms. Kelly discussed the misuse of public funds, for the benefit of private property. She added that an agreement was needed for the repayment of the use of police officers.

Mrs. Horvath reported that the Village's first Clerk, Mary Wetterer, passed away on September 16, 2011. She noted that Ms. Wetterer had served the Village for 40 years and was also one of the first Village residents. Mayor Rosenfield requested that a plaque be placed at Village Hall, in her memory.

11. ADJOURN: There being no further business, *a motion was offered by Assistant Mayor Blachar and seconded by Councilman Sanz to adjourn. The motion carried (4-0) and the meeting was adjourned at 7:17 p.m.*

Attest:


Elisa L. Horvath, MMC, Village Clerk


Mayor Jean Rosenfield