

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

The Regular Meeting of the Bal Harbour Village Council was held on Tuesday, November 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 7:08 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
Matthew Pearl, 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. AGENDA: REQUEST FOR DELETIONS/ADDITIONS: None.

4. SPECIAL PRESENTATIONS:

Aletha Player, Area Manager External Affairs - FPL (Florida Power & Light Company), discussed the FPL project inside the gated area, to address the outages. She explained that the first phase (north Harbour Way and the west side of Collins Avenue) would replace 8,000 feet of cable and add transformers, which should be completed by the end of January 2012. She continued that the second phase would replace seven of the existing transformers and add 4,000 feet of new cable, with construction estimated to begin in February 2012. Ms. Player reported that FPL was working with the residents to resolve some conflicts with existing landscaping. She explained that the third phase would be along south Harbour Way, inside the gated community. She summarized that once the project was completed, a new reliable system would be in place.

Councilman Packer questioned how the condominiums on the east side would be affected during the first two phases, since there were also outages there. Ms. Player explained that the east side could be looked at separately, if there were issues there, but noted that the project was specifically designed for the gated area and the west side of Collins Avenue. She explained that buildings that were pointed out at the workshop meeting were looked at and some work had already been done. She requested that any additional issues on the east side be brought to her attention. Mayor Rosenfield requested that residents inform Mr. Treppeda of any issues on the east side.

Brian Mulheren, 10245 Collins Avenue, discussed the power outages in the

condominium buildings on the east side that also needed to be addressed.

Councilman Sanz discussed the outages and thanked FPL for reacting to the comments. Ms. Player noted that more outages could be experienced during the construction work, but assured that FPL would be very responsive whenever there was an outage.

Councilwoman Cohen discussed the painted markings. Ms. Player reported that FPL had requested that the marking company use a water-based lighter paint. She noted that the law required that they use the current paint, but she knew that the Village was working on getting the legislation changed.

Ms. Player distributed the FPL sustainability report for 2011.

Officer of the Month for October 2011: Chief Hunker discussed the Islands Beach Bash, to benefit the Surf Bal Bay PAL (Police Athletic League) and to promote drug awareness. A video was displayed of the event.

Chief Hunker presented Police Lieutenant Charles Merrill with the Officer of the Month plaque, for October 2011.

Employees of the Month for October 2011: Chief Hunker presented Ms. Monica Arneson, Administrative Assistant to the Chief, with an Employee of the Month plaque for October 2011. Ms. Pamela Flanders, Patrol Secretary, was not in attendance to receive her Employee of the Month plaque.

Presentation to Lisa Petrillo: Chief Hunker presented Village resident Lisa Petrillo with a plaque, in appreciation of her continued support and assistance with the Islands Beach Bash event.

Lisa Petrillo discussed the importance of the event, which promoted drug awareness.

Chief Hunker thanked the Council, Manager, and staff and discussed the funds raised through the event, for the Police Athletic League.

5. CONSENT AGENDA:

Councilman Packer requested the removal of Tab E.

Brian Mulheren, 10245 Collins Avenue, requested the removal of Tab G.

Assistant Mayor Blachar requested the removal of Tabs H and I.

Approval was requested for the following remaining items:

Tab C: Expenditure of Federal Forfeiture Funds for the following items: \$399.98 monthly (48-month lease for a 2012 Dodge Charger V6 Police Car) and \$7,138.20 (\$5,831.00 for the purchase of the vehicle at lease end at the Village's option and the remainder for covert lighting and striping), an additional \$399.98 monthly (48-month lease for another 2012 Dodge Charger V6 Police Car) and \$7,138.20 (\$5,831.00 for the purchase of the vehicle at lease end at the Village's option and the remainder for covert

lighting and striping), \$3,500.00 for the Brickman Group to replace sea oats that were damaged during the Beach Bash event, and \$15,000.00 donation to the Surf-Bal-Bay Police Athletic League

- Tab D: Approval to dispose/donate the following Police Department items:
Donation to Young Men's Academy at MacArthur South
(five file cabinets, two book shelves, and one round table)
Transfer title of unusable 2002 Kawasaki Jet Ski (Vehicle #232)
(to Broward Motorsports of Fort Lauderdale)
Sale of 1999 Proline Sportcuddy 3000 boat with money to be returned to the State Forfeiture fund
(sale value is approximately \$19,000.00)
Sale of 2007 North Star trailer for scrap metal that is rusty and unusable
(unknown sale value)
- Tab F: Re-Appointment of Lois Evans as the Fifth Trustee on the Police Retirement Board, for a two-year term (October 1, 2011 – September 30, 2013)
- Tab J: \$7,282.00 from the Sewer Fund for G-Tec for the purchase (\$5,977.00) and installation (\$1,305.00) of a new meter for Sewer Station #2
- Tab K: \$5,346.36 to purchase uniforms for the Public Works Department from Creative Ad Specialteez, LLC
- Tab L: \$22,059.30 in Beatification & Maintenance funds, to purchase 30 ballasts and 30 fixtures from Cardello Electric Supply Co., to use as replacement parts for the date palm lighting units on Collins Avenue
- Tab M: \$1,295.00 monthly (\$1,165.50 forfeiture funds monthly and \$129.50 general funds monthly) and authorization for the Village Manager to work with the Village Attorney in negotiating an acceptable contract with HBS, to provide 50 Mbps of bandwidth to Village Hall, with a fiber optic line to be run into Village Hall (this replaces the prior approval to use Windstream for these services)
- Tab N: Approval for Village Manager to execute an agreement with Britt-Angela Williams & Consultants, Inc. to provide temporary employee placement services
- Tab O: \$89,373.82 for Kailas to provide emergency repairs to a water line that was leaking onto the surface of 96th Street, in front of the Church by the Sea

A motion was offered by Assistant Mayor Blachar and seconded by Councilman Packer to approve the items on the Consent Agenda, except for Tabs B, E, G, H, and I. The motion carried (5-0).

Tab B – Motion Approving Minutes: The request was for approval of the October 18, 2011 Regular Council Meeting Minutes. This tab was accidentally left off the motion for approval of the Consent Agenda items.

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

Tab E – Motion Approving Amendments to Chief Hunker’s

Employment Agreement: Councilman Packer requested that the item be explained. Mr. Treppeda explained that the request was for authorization for amendments to Chief Hunker’s Employment Agreement (renewed at the December 2009 meeting). Since Chief Hunker would enter the DROP on December 1, 2011, he requested that the 6% salary increase (agreed to be deferred until the end of the contract) be factored into the Chief’s retirement calculations. He explained that doing so would require a lump sum payout of the 6%, from January 1, 2010 through November 30, 2011. He added that the remaining 6% increase would continue to be deferred for the term of the amended contract, which would run from December 1, 2011 through December 31, 2013. He explained that in compliance with a new Florida State Statute, the severance period in the agreement would be reduced from six months to twenty weeks.

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

Tab G – Motion Approving Expenditure of Resort Tax Funds:

The request was for \$31,874.17 in resort tax funds for the following items: \$24,560.00 Mexico Sales Plan, \$3,500.00 Project New Born Event table, and an additional \$3,814.17 Director of Tourism Bonus.

Brian Mulheren, 10245 Collins Avenue, spoke against exceeding the cap that was put into place, for the Director of Tourism bonus.

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

Tab H – Motion Approving Funds for Annual Snow Festival:

The request was for \$8,740.00 for the 9th Annual Snow Festival, proposed to be held in Bal Harbour Park, on January 14, 2012 (Saturday).

Assistant Mayor Blachar suggested that the festival be moved to Sunday, for increased attendance.

Michael O’Quinn, Park Director, confirmed that could be done. Assistant Mayor Blachar suggested that someone keep track of the attendance on the Sunday versus the Saturday that it was held on the prior year.

Councilman Sanz suggested that some park expenses come from resort tax funds. Mr. Pearl noted that could be looked into. Mayor Rosenfield explained that the festival was included in this year’s Park budget, but that it could be looked into for resort tax funds to be used in the future.

A motion was offered by Assistant Mayor Blachar and seconded by Councilman Packer to approve Tab H, with the amendment that the Snow Festival be held on Sunday, January 15, 2012. The motion carried (5-0).

Tab I – Motion Approving Funds for Repairs to Village Park:

The request was for \$28,072.44 in contingency funds, for painting and repairs to the

Village Park.

Assistant Mayor Blachar suggested that the residents interested in improving the Park meet with the Park Director to discuss ideas, before the money was spent for repairs.

Councilwoman Cohen agreed and noted that some residents had also complained to her about the Park. She discussed the need for a recreation area.

A motion was offered by Councilman Sanz and seconded by Assistant Mayor Blachar to postpone Tab I for further discussion. 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: The following Resolution was read, by title, by Mrs. Horvath:

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, ELECTING TO USE THE UNIFORM METHOD OF COLLECTING NON-AD VALOREM ASSESSMENTS LEVIED WITHIN A PORTION OF THE INCORPORATED AREA OF THE VILLAGE, CONSISTING OF THE GATED RESIDENTIAL SECTION, FOR THE COST OF PROVIDING SERVICES, FACILITIES OR PROGRAMS FOR SECURITY AND LANDSCAPE PURPOSES; STATING A NEED FOR SUCH LEVY; PROVIDING FOR THE TRANSMITTAL OF THIS RESOLUTION TO REQUIRED OFFICERS AND DEPARTMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Treppeda explained that this would allow the Village to place the gated area assessment on the tax bills next year.

Mayor Rosenfield opened the public hearing.

Gabriela Webster, 30 Park Drive, spoke in favor of the resolution, but with the intention that a more realistic formula be addressed in the future. Councilman Sanz pointed out that the item had been advertised and residents should have spoken during the process. Ms. Webster pointed out that the process was done over the summer. Mayor Rosenfield requested that the comments be addressed during the Gated Residential Section Advisory Committee meeting. Assistant Mayor Blachar discussed the advertisement that was done for the meeting, when the formula and assessment were discussed. She noted that the assessment was done the same way as prior years and was done as fair as possible, but that it wasn't possible to make everyone happy. She discussed the need to maintain the neighborhood and items that needed to be addressed, which the Committee agreed on.

Dan Holder, 24 Bal Bay Drive and Gated Residential Section Advisory Committee

Member, pointed out that the Committee was an advisory committee and that the Council could either accept or reject its recommendations. He discussed the short timeframe that the decision had to be made regarding the assessment, due to the urgency of the landscaping issue.

Dina Cellini, 211 Bal Cross Drive, questioned if adopting the resolution would set the details in stone. Mr. Pearl explained that the resolution was the first step to place the assessments on the tax bills, but that it did not set the assessment roll.

Assistant Mayor Blachar reported that the Gated Residential Section Advisory Committee would hold a meeting, after the assessment bills were mailed.

Councilman Sanz spoke in favor of the Committee meeting being noticed. He discussed the increase in the assessments.

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

A motion was offered by Assistant Mayor Blachar and seconded by Councilman Packer to approve the Resolution. The motion carried (5-0); thus becoming Resolution No. 2011-748.

Mayor Rosenfield clarified that the Village operated twelve months a year and, although it tried to accommodate the residents, the budget was required to be adopted in September every year.

7. ORDINANCES FIRST READING/PUBLIC INPUT: 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 AMENDING DIVISION 2 "POLICE" OF ARTICLE IV "OFFICERS AND EMPLOYEES" OF CHAPTER 2 "ADMINISTRATION" BY CREATING SECTION 2-111 "FINGER PRINTING"; CREATING A SERVICE CHARGE FOR THE PROVISION OF FINGER PRINTING SERVICES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

Mr. Treppeda explained that the Village would like to recover the costs charged to it by other agencies for electronic fingerprinting.

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

A motion was offered by Assistant Mayor Blachar and seconded by Councilman Sanz to approve the 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, ADOPTING A SCHEDULE OF FEES FOR THE PROVISION OF

FINGER PRINTING SERVICES; PROVIDING FOR AN EFFECTIVE DATE.

Mr. Treppeda explained that the Village was requesting a fee of \$50.00, for finger printing services. Chief Hunker explained that the Village was only passing on charges by the State, for digital fingerprints.

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. 2011-749.

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

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA (THE "VILLAGE") ESTABLISHING THE FUND BALANCE POLICY FOR THE GENERAL FUND AND THE TOURISM FUND OF BAL HARBOUR VILLAGE; AUTHORIZING THE VILLAGE MANAGER TO DO ALL THINGS NECESSARY TO IMPLEMENT THE POLICY AND CARRY OUT THE AIMS OF THIS RESOLUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Rosenfield reported that this was discussed during the budget process.

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. 2011-750.

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

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, APPROVING THE REQUEST BY SUSSCO, INC. FOR REDUCTION OF INTEREST AND RELEASE OF LIENS ON THE PROPERTY LOCATED AT 77 CAMDEN DRIVE; AND PROVIDING FOR AN EFFECTIVE DATE.

Mrs. Horvath reported that the Attorney representing Sussco, Inc. was registered as a Lobbyist (as listed on the Updated Lobbyist Registration Report).

Anamarie Kelly requested that approval be denied. She discussed the fraud perpetrated by Sussco Inc. against her in bankruptcy and circuit courts. Ms. Kelly noted that the Village could be liable, if it allowed the liens to be reduced from \$3.4 million.

Brian Mulheren, 10245 Collins Avenue, requested the amount of the liens and the reduction.

Councilwoman Cohen reported that the reduced amount was \$18,441.35.

Alex Palenzuela, Village Attorney, reported that the amount was based on actual liens on 77 Camden Drive and that the \$3.4 million figure included amounts that were never attached as liens, due to the pending lawsuits. He explained the liens (security assessment, code enforcement, and lot clearing) and clarified that the Village reduced interest that accrued on the liens, because the Village was unsure who owned the property when Sussco Inc. first took possession of the property. In addition, penalty interest on the guardhouse assessment lien was waived, since the Village had represented that the interest was 5%, when Sussco Inc. first took over the property.

Councilman Sanz voiced concern that the issue had been ongoing and questioned who

had clear title to the house. Mr. Pearl reported that the Miami-Dade County Appraiser recognized Sussco Inc. as the owner.

Assistant Mayor Blachar spoke in favor of approval, based on the Village Attorney's recommendation.

Beth Berkowitz, 10160 Collins Avenue, questioned the reliability of the County Appraiser, since they had been wrong before, and questioned what the additional liens were for, not included in the settlement.

A motion was offered by Assistant Mayor Blachar and seconded by Councilwoman Cohen to approve the Resolution. 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; thus becoming Resolution No. 2011-751.

9. REPORTS:

A. VILLAGE MANAGER:

Update on Sand Transfer Station Project – Coastal Systems International: **Penny Cutt, Coastal Systems International (coastal engineering firm designing the beach renourishment sand bypassing project for the Village)**, explained that they were close to submitting the applications for the Village's project. She discussed an Army Corps of Engineers project to place approximately 200,000 cubic yards of sand on the beach in Bal Harbour, in February 2013. She explained that the Village's Sand Transfer Project involved dredging and placing sand on the beach, improving the north jetty at Haulover Inlet, and creating a sand catchment area and routinely placing it on the beach. She discussed the intent to submit a request for State and County funding, for the Village's project.

Councilman Packer questioned Federal funding. Ms. Cutt reported that the Army Corps of Engineers was doing a project, so no additional Federal funding was expected. She discussed potential funding from the Florida Inland Navigation District, which she would also apply for.

Dan Holder, 24 Bal Bay Drive, suggested that the sand that ended up three to four feet offshore be recovered. Ms. Cutt explained that sand was moved on and off the beach naturally, so that sand could not be dredged.

Betsey Bystock, 80 Park Drive, discussed parking and noise issues.

Gabriela Webster, 30 Park Drive, discussed the massive cleanup of the landscaping on the beach, which she thought should be allowed to grow abundantly, to protect the beach. Mr. Treppeda explained that the Village had a contract with the Brickman Company for landscape maintenance, which was paid for through resort tax funds. Councilwoman Cohen explained that Brickman was weeding and beautifying the area.

Brian Mulheren, 10245 Collins Avenue, discussed the need for the lack of beach to be addressed now, with the County.

Ms. Cutt reported that the next renourishment, through the Army Corps of Engineers, was Bal Harbour Village Regular Council Meeting Minutes 11/15/2011

scheduled for February 2013. She discussed the issues Bal Harbour had as a barrier island. She explained that when the weather conditions returned to normal, then some of the sand would come back on the beach.

B. VILLAGE CLERK:

Lobbyist Registration Report: As of November 15, 2011:

An updated list of Lobbyists registered with the Village was distributed by Mrs. Horvath prior to the meeting, which included Jeffrey Michael Cohen, representing Sussco, Inc.

C. VILLAGE ATTORNEY: No items.

D. MAYOR AND COUNCIL:

Councilwoman Cohen left the meeting.

Discussion of Bathrooms for the Park – Councilman

Packer: Councilman Packer discussed the need for restrooms at the Village Park and requested that the Manager be directed to obtain prices for two permanent restrooms there.

Councilwoman Cohen returned to the meeting.

Mayor Rosenfield directed Mr. Treppeda to come up with plans and costs for restrooms at the Park.

Discussion of Bus Shelters – Councilman Packer:

Councilman Packer discussed the immediate need for the bus shelters and suggested that resort tax funds be used, in lieu of waiting for the Federal funding. Councilman Sanz agreed, since the issue had been ongoing. Mayor Rosenfield pointed out that the Council had unanimously voted in favor of the Federal funding, which would be coming. She reported that the St. Regis would pay for the shelter in front of their property. She noted that it had been cost prohibitive to provide a prototype of the shelter, but that the funding was expected in a couple of months. Mr. Treppeda agreed and noted that the final step was the review by the Federal Transportation Agency, which was expected any time. Councilwoman Cohen clarified that she was not in favor of the style selected and wanted to see a prototype. Mr. Treppeda reported that the Federal funding would be \$250,000.00, which was expected shortly. Councilwoman Cohen pointed out that the Village did have shelters in place, in the meantime.

Brian Mulheren, 10245 Collins Avenue, discussed the need for the shelters and pointed out that there wasn't a shelter in front of the Bellini and the current shelters did not provide protection. He spoke in favor of using resort tax money to start the project, at least in the areas that didn't have shelters.

Councilman Packer pointed out that traditionally money from the resort tax fund was used for the shelters. Mr. Treppeda agreed and noted that the current shelters were paid for with resort tax funds.

Discussion of Florida Power & Light Outages –

Councilman Sanz: This item was discussed earlier in the meeting.

10. OTHER BUSINESS:

Public Comment:

Dina Cellini, 211 Bal Cross Drive, discussed issues with the Brickman Company in the gated area, including debris from Park Drive that had been left for days, trucks with signage that had been left overnight, and starting work at 8:00 a.m.

Mayor Rosenfield noted that the Gated Residential Section Advisory Committee would need to address those issues. Councilwoman Cohen explained that Brickman was trying to clear some of the material, so that FPL could start work at 9:00 a.m. She thought that Brickman was doing a great job on Park Drive. Councilman Sanz agreed that the debris had been left there for a long time. Mr. Treppeda noted that those items would be placed on the Gated Residential Section Advisory Committee Meeting Agenda for discussion.

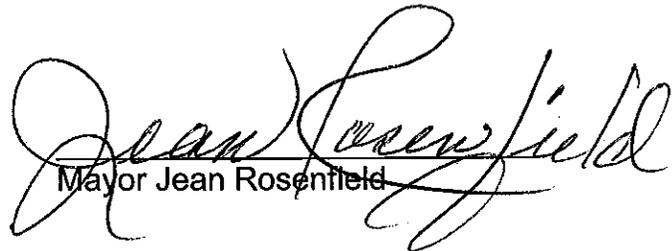
Dan Holder, 24 Bal Bay Drive, discussed the Resolution that was approved and clarified that the assessment wouldn't start for another year. Mr. Pearl clarified that the collection of the assessment via the tax bill wouldn't start for another year (for the 2012/2013 assessment). Mr. Treppeda explained that the 2011/2012 assessment would be mailed to residents from the Village tomorrow.

11. ADJOURN: There being no further business, *a motion was offered by Councilman Packer and seconded by Councilman Sanz to adjourn. The motion carried (5-0) and the meeting was adjourned at 8:50 p.m.*

Mayor Rosenfield announced that the next Council meeting was scheduled for Thursday, December 15, 2011.

Attest:


Ellisa L. Horvath, MMC, Village Clerk


Mayor Jean Rosenfield