

BAL HARBOUR VILLAGE
GATED RESIDENTIAL SECTION ADVISORY COMMITTEE
REGULAR MEETING MINUTES – DECEMBER 7, 2011

A Regular Meeting of the Bal Harbour Village Gated Residential Section Advisory Committee was held on Wednesday, December 7, 2011, in the Council Chamber at Bal Harbour Village Hall (655 – 96th Street, Bal Harbour, Florida).

1. CALL TO ORDER/ROLL CALL: The meeting was called to order at 7:01 p.m. by Assistant Mayor Blachar. The following members were present:

Assistant Mayor Joni D. Blachar
Daniel S. Holder
Ira S. Lechuk

Others Present: Councilwoman Patricia Cohen
Councilman Martin Packer
Alfred J. Treppeda, Village Manager
Ellisa L. Horvath, MMC, Village Clerk
Richard J. Weiss, Village Attorney

Absent: Daniel Gold
Stuart Sobel

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

2. PLEDGE OF ALLEGIANCE: The Pledge was led by Village resident Darcee Siegel.

3. APPROVAL OF MINUTES: *A motion was offered by Dr. Lechuk and seconded by Mr. Holder to approve the August 2, 2011 Regular Meeting Minutes. The motion carried (3-0).*

4. OVERVIEW OF THE COMMITTEE: Assistant Mayor Blachar explained that the Committee was established by the Village Council, to make recommendations regarding landscaping and security of the gated area, but is not a homeowners association. She clarified that the gated area assessment increased, due to the items that needed to be paid for in the neighborhood, including lighting, water, landscaping, etc. She reported that the goal was to make the area nicer than it had been. Assistant Mayor Blachar reported that the Brickman Group had started in October and had begun to clean up the entrance and along Park Drive. She discussed the reason for a contingency fund for hurricanes, etc. She noted that numerous meetings had been noticed and held regarding the assessment increase, etc. She explained that the residents needed to pay the assessment, in order to maintain the security and landscaping in the area.

Mr. Weiss clarified that it was inappropriate to use public taxpayer money to maintain that area, so the Council formed the Committee to give advice on what the landscaping should look like, what should be spent, etc. in the gated area. He clarified that the Committee

made a recommendation to the Council, regarding the amount for the assessment, which was set annually. He explained that the current assessment was set for the year and could not be adjusted until the following year. Mr. Holder requested clarification that the formula could not be changed for the current year. Mr. Weiss agreed. Mr. Treppeda distributed information on the assessment formula.

Yvette Perez, 90 Park Drive #1, spoke against the language that was used in the assessment letter, which she felt was threatening. She suggested that payments be allowed through March. Mr. Treppeda clarified that the unpaid balance would accrue interest, per the Village Code. Ms. Perez spoke against interest being charged. Mr. Treppeda noted that unpaid assessments had always accrued interest.

Raj Singh, 53 Camden Drive, was surprised by the assessment increase. He didn't see the savings in the Village's budget by transferring the costs to the gated area and noted that none of the expenses were cut. He spoke against an interest of 5%. He spoke in favor of the entire Village contributing to enhancing the roads, since they had been torn up for drainage problems, etc. Mr. Singh reported that a lot of the trees in the gated area were moved to the gated area from other areas in the Village and were the property of the Village, but now the gated area was being required to pay for the maintenance of the trees. He suggested that the job be bid out. He spoke in favor of the assessment formula and the common areas being addressed.

Betsey Bystock, 80 Park Drive, spoke in favor of the assessment formula being based on square footage or property value. She suggested that the west side residents that were allowed in the gated area should also have to pay some sort of assessment.

Abe Sher, 174 Park Drive, suggested that the 30% contingency fund be decreased, since there wasn't an emergency this year. Assistant Mayor Blachar explained that an emergency could still be possible. Mr. Sher felt that the security had been lost, since a lot of the landscaping had been removed along the Park Drive wall. Assistant Mayor Blachar discussed the goal to make the area beautiful and noted that removal of some of the vegetation was necessary, as a first step. Mr. Treppeda agreed.

Mr. Sher pointed out that, although the gated area residents were responsible for the roadwork, the roads were being used by those visiting the marina, as well as by FPL, the Village, etc. He spoke in favor of some portion of the cost for the roads to be borne by the Village. He clarified that damage was being caused to the roads, for the benefit of the entire Village.

Shoshana Biton, 168 Park Drive, expressed concern with safety of the children in the neighborhood, with speeding cars and people not stopping at the stop signs. She urged the residents in the neighborhood to sign the agreements in favor of police presence in the neighborhood again. Mr. Weiss would prefer to have 100% of the signatures for the police to enforce the traffic laws. He clarified that the roads in the gated area were private, so it wasn't the Village's position to tell people what to do in there. He explained that the agreement would allow the Village to enforce the traffic laws in the gated area. He clarified that all of the property in the gated area was private.

Mr. Holder thought that the Village only needed 70% of the signatures. Mr. Weiss explained that the closer it was to 100% the better it would be.

Allison Levin, 121 Camden Drive, offered the form to anyone who wanted to sign one and spoke on the importance of having the police enforcement. Assistant Mayor Blachar clarified that there wasn't a charge for the extra police enforcement.

A motion was offered by Assistant Mayor Blachar for staff to recommend approval of looking into speed bumps for the gated area neighborhood. The motion died, due to the lack of a second.

A motion was offered by Dr. Lelchuk and seconded by Mr. Holder to recommend approval to direct staff to look into ways to control speeding, in the gated area neighborhood. The motion carried (3-0).

Betsey Bystock, 80 Park Drive, requested that the Committee consider a motion to reconsider the assessment formula, for next year. Assistant Mayor Blachar clarified that would come up during the budget process.

Yvette Perez, 90 Park Drive, questioned who decided the formula for the assessment. Assistant Mayor Blachar explained that the same formula was used, as the prior security assessment. She clarified that the Committee recommended that the Council approve the same formula as prior years, which the Council approved. She added that notices were sent out regarding the meeting and the assessment, to the residents. Dr. Lelchuk clarified that the Committee recommended that the Council approve the same formula that had been used for the security assessment, since the 1980s.

Abe Sher, 174 Park, discussed the public safety issue that he felt overrode the need to obtain 100% signatures for traffic enforcement. He noted that the Village would get sued, if a child was hit by a car. He noted that the Village had an obligation today for police enforcement of traffic. Assistant Mayor Blachar pointed out that the residents and community needed to get involved. She clarified that the gated area was a private neighborhood. Mr. Sher pointed out that there were people who had access to the gated area that were not paying a fee. Mr. Weiss will review the State statute with Mr. Sher.

Dr. Stephen Scheinman, 234 Bal Cross Drive, spoke against the assessment notice being sent at the same time as the holiday letter for the Village employees. He also spoke against the necessity for a 30% increase, for the sprinklers on Park Drive. He discussed the need for rain sensors. Dr. Scheinman thought that the roads were fine and did not need to be addressed. He suggested that some of the revenue from red light camera tickets, for turning right at Harbour Way, be used for the gated area.

Gabriella Webster, 30 Park Drive #15, spoke in favor of having speed bumps and addressing the assessment formula, which was unfair. She requested that a motion be made to redo the formula, based on appraised property value, square footage, etc.

A motion was offered by Mr. Holder and seconded by Dr. Lelchuk to recommend approval of looking into establishing the formula for alternate assessment methods to determine. The motion carried (3-0).

Assistant Mayor Blachar clarified that the assessment formula would be an ongoing discussion.

Raj Singh, 53 Camden Drive, discussed the 30% contingency fund. He spoke in favor of pro-rating the collection of the assessment, since the hurricane season was over. He noted that the 5% interest fee would be challenged. Assistant Mayor Blachar clarified that the next hurricane season was still within the current budget. She explained that the budget had been passed and would not be changed. Mr. Singh suggested that the residents be able to pay 50% of the assessment now and 50% on May 1, 2012, instead of having to pay for it all at once.

5. BUDGET FOR FISCAL YEAR 2011/2012:

Chris Wallace, Finance Director, explained that the Village acted as an agent for the gated area and clarified that the proportion of the assessment hadn't changed for many years. He discussed the laws that were followed regarding the language for the assessment notices. He explained that the Committee reviewed and came up with a budget, with a contingency for cash reserves and for hurricanes. He noted that the budget was from October 1, 2011 through September 30, 2012. Mr. Wallace explained that if the money was not used in the contingency fund, then it would be up to the Committee and Council to decide whether or not the 30% amount would continue to be charged every year. He explained that in prior years the Village covered the cost of hurricane cleanup for the gated area, which it could no longer do.

Mr. Wallace clarified that notices were sent out and the assessment formula had remained the same, since there had not been a dispute regarding it at the Council meeting, which residents had been invited to attend and speak. He explained that once the assessment was set by the Council, as an equalization board, it could not be changed for that year.

Mr. Wallace explained that in future years the assessment would be paid through the tax bills, which should be easier. He clarified that the Village Code didn't allow for a payment plan.

Mr. Wallace explained that the Village's millage rate was lowered, in response to changes in the budget. He reported that landscape bids were received for the gated area and The Brickman Group was the lowest bid. He added that four public works employees were laid off, due to the significant difference in price in hiring Brickman.

Mr. Wallace explained that the assessment formula could not be based on the value of the property.

Mr. Wallace explained that the budget increase was mainly due to the landscaping costs and the contingency fund. Dr. Lelchuk questioned if the marina also paid an assessment. Mr. Wallace advised that they did. Mr. Treppeda explained the formula for single family homes, multi-family units, vacant lots, and the marina. Mr. Wallace pointed out that if the formula was changed, then some people would pay more and some would pay less than they were currently paying. He clarified again that the assessment could not be based on the value of the property.

Mr. Weiss explained the legal research that was conducted on the gated area. He reported that the Civic Association did not have the power to assess anyone and residents paying voluntarily wasn't working anymore. He continued that the residents requested that the Village assess the gated area, so they could pay for items that they needed. He explained

that the Council would like the gated area to take care of themselves. He clarified since the residents in the gated area don't have a way of collecting money to pay for their items, the Village has continued to do that for them.

Mr. Weiss clarified that the Village could no longer have a hurricane contingency for that area. He reported that the Committee was appointed to represent the wishes of the gated area. He added that if the gated area did not want to have a contingency fund, then it wasn't the Village's issue.

Assistant Mayor Blachar pointed out that if there wasn't a contingency and there was a hurricane, then everyone would be coming and screaming to the Committee asking why they didn't provide for a contingency.

Mr. Wallace pointed out that in comparing the multi-family units inside and outside of the gate, the units inside the gates were 31% greater than those outside the gates.

Dr. Lelchuk clarified that the contingency fund was for additional items (paving, lighting, etc.), not just for hurricanes. Mr. Holder questioned if the contingency had to be reserved for just hurricanes, or if it could be used for other items. Mr. Wallace advised that it could be used for other items, but the Council would defer to the Committee for recommendations on use of those funds.

Yvette Perez, 90 Park Drive, spoke in favor of allowing residents to pay the amount, for the hurricane fund, in May.

Dina Cellini, 211 Bal Cross Drive, discussed the need for a more diplomatic way to appoint the Committee members. Assistant Mayor Blachar explained the process and noted that ten residents had submitted resumes for consideration. Ms. Cellini felt that appointment of the members was subjective.

Ms. Cellini thought that the formula had always had a lot of controversy, since it was stacked against the apartment owners. She discussed the contingency fund increase from \$10,000 to \$250,000 and noted that nobody who spoke at the meetings ever suggested that the contingency be more than \$200,000. She pointed out that the Committee increased the amount to \$250,000, not to what the residents thought was reasonable. She clarified that she objected to the \$250,000 contingency amount, at the Council Budget Hearing. Ms. Cellini thought that a lot of the services (extermination, landscaping professional services, etc.) in the budget needed to be bid out. She clarified that the Plat of Bal Harbour noted that the Parks were for the use and enjoyment of the residents of the Residential Section of Bal Harbour. She thought that there was some language for the laws of the State of Florida to be enforced on the roads in the gated area.

Nina Rudolph, 212 Bal Bay Drive, thanked the Committee members for serving and pointed out that they had to pay the same assessment as everyone else did.

Neca Logan, 64 Camden Drive, requested how the total assessment amount was derived at. Assistant Mayor Blachar noted that all of the information was on the web site.

Sandra Dunn, 208 Park Drive, thanked the Committee for the meeting signs that were displayed in the gated area. She suggested that postcards be sent ahead of time, to notify

residents of future meetings. Assistant Mayor Blachar clarified that many postcards had been sent out for the meetings that were held. Ms. Dunn suggested that postcards be sent out before the bills, with the assessment amount, so people wouldn't be surprised when they received their bill.

Raj Singh, 53 Camden Drive, discussed the green spaces in the gated area, which were used to calculate the FAR ratio and allowed the east side to develop their buildings. He suggested that the oceanfront buildings pay an amount, since they benefitted from being able to build their buildings. He suggested that waste management be bid out, for a great savings.

Mr. Weiss pointed out that if the trees were not wanted in the gated area, then they could be removed. He read portions of the Village Attorney opinion on the Village's web site. He clarified that the Village Attorneys did not know who owned the green spaces in the gated area, but believed that they belonged to Miami Beach Heights, which was a defunct corporation, so by law they would be owned by the former trustees. He knew that the Village didn't own the green spaces. He also noted that the streets were owned by the abutting property owners. He explained that the Village was handling management of the area as a service.

Mr. Singh questioned who would pay for a tree that fell. Mr. Weiss explained that the Village wouldn't pay for anything. He reported that the areas deemed to be the common areas in the gated section were being maintained by Brickman, by contract.

Dr. Lelchuk clarified that anything the Committee decided to do would have to be paid for by the gated area. He urged Mr. Singh and all of the residents to read the Village Attorney Opinion on the web site.

Mr. Singh questioned how the contingency amount was determined. Assistant Mayor Blachar reported that the Committee came up with a number, because they didn't know the amount that would be needed.

Mr. Wallace clarified that nobody spoke at the equalization board regarding the assessment.

6. UPDATE ON LANDSCAPE MAINTENANCE AND PARK DRIVE CLEANUP ALONG WALL – BILL O'LEARY, LANDSCAPE ARCHITECT: Mr.

O'Leary discussed the massive cleanup and items that had been neglected for years. He reported that a lot of invasive plants had to be removed. He explained that the vegetation did not prevent someone from coming over the wall and if someone came over the wall then the residents could now see them trying to do so. Mr. O'Leary explained that he determined what would be removed and what would remain. He thought that the area had been dramatically improved, since Brickman took over landscaping from the Village. He discussed the improvement of the palms along Harbour Way. He added that Brickman had provided a lot of items, at no additional cost. He was pleased with Brickman's professionalism, etc. and he is making sure they were doing what needed to be done. He reported that the cleanup, along Park Drive, should be done in another couple of weeks. Mr. O'Leary explained that they planned to replant the gaps in the wall, with a more suitable plant (four to five feet high), which would grow dense and provide a better buffer. He explained that if the wall was to be pressure cleaned, then it needed to be done before

the new plants were installed. He clarified that there was currently no rain sensor and the sprinklers were on a manual valve.

Assistant Mayor Blachar questioned if there would be enough water for the new plants. Mr. O'Leary clarified that there wasn't any water in that area. He added that Park Drive had almost no irrigation and the irrigation that was there had to be turned on manually. Assistant Mayor Blachar requested prices from Mr. O'Leary, to upgrade the irrigation.

Dr. Lelchuk discussed the charrette. Mr. O'Leary advised that he was not ready yet, but needed direction. He reported that he was trying to plant a tree screen that was four to five feet high, to screen the wall. Assistant Mayor Blachar suggested that the Committee see what that looked like first and then decide where to go from there.

Betsey Bystock, 80 Park Drive, discussed the dying Ficus hedge and questioned what was planned for the area of 20 through 90 Park Drive.

Dr. Lelchuk clarified that the area in front of the guard house was the responsibility of the gated area.

Mr. O'Leary clarified that the amount for the plants may be more or less than what was estimated. He explained that plans for that area had not been done yet, but would be looked at.

Assistant Mayor Blachar discussed plans to remove the Ficus tree that was falling over. Mr. O'Leary reported that the cost would be \$1,980.00 to remove the tree and stump. Mr. Treppeda distributed pictures of the tree. Assistant Mayor Blachar explained that this situation was another reason for the contingency.

A motion was offered by Dr. Lelchuk and seconded by Mr. Holder to recommend approval of \$1,980.00 for The Brickman Group (the low bidder) to remove the Ficus tree, in front of 146 Park Drive. The motion carried (3-0).

A motion was offered by Mr. Holder and seconded by Dr. Lelchuk to recommend approval of the minimum necessary, to ensure that the new plantings would survive in their initial period. The motion carried (3-0).

Mr. O'Leary advised that hand watering would be done to ensure that, which would just involve minimal labor costs. Assistant Mayor Blachar would like to know the cost of the system that would be needed in order to maintain them after that. Mr. O'Leary will look into that.

Abe Sher, 174 Park Drive, spoke in favor of creating a better screen in front of the wall and thought that more than 200 trees would be needed in order to do so.

Assistant Mayor Blachar explained that if money was used to paint the wall then it would be wasted, if the landscaping was going to cover the wall. She noted that the community could paint the wall or prices could be obtained to paint the wall. Assistant Mayor Blachar pointed out that a taller hedge would cost more and would grow even taller than what may be needed.

Mr. O'Leary reported that the 200 trees would only fill in the gaps and it would take two years for the plants to get to the top of the wall and be dense.

It was the consensus of the Committee that the first step was to clean the area up.

Assistant Mayor Blachar questioned painting the wall. The public spoke against doing so. Mr. O'Leary suggested that it be pressure cleaned, to remove the mold.

Councilwoman Cohen did not think that the wall looked nice and since it would take two years for the plants to grow she recommended that the taller trees be used or that the wall be painted. She added that if there was not proper irrigation then the trees would not grow as nicely. She encouraged that proper irrigation be installed.

Assistant Mayor Blachar questioned the cost to paint the wall.

Gabriella Webster, 30 Park Drive, spoke in favor of looking into a sprinkler system that was sensitive to moisture, and thought that one may possibly already be in place. She spoke in favor of water conservation. She wasn't necessarily supportive of The Brickman Group, but agreed that they did a good job.

Dina Cellini, 211 Bal Cross Drive, requested that Mr. Weiss clarify that the gated area needed to maintain the property between the gate and Collins Avenue. Mr. Weiss will report back at the next meeting, after he reviewed the report that determined who owned that area. Mr. Treppeda noted that the gated area owned that. Ms. Cellini pointed out that area was being used by the public at large and suggested that the Village pay for part of its maintenance.

Ms. Cellini pointed out that The Brickman Group had started work before 8:30 a.m. Assistant Mayor Blachar assured that the Village would make sure that they didn't start until 8:30 a.m.

Ms. Cellini noted that the Brickman Group had allowed debris to collect in the gated area for at least a week, which shouldn't be allowed. Assistant Mayor Blachar explained that, due to a complaint received, the debris was removed at an additional cost of \$2,760.00. Ms. Cellini felt that debris removal should have been in the initial contract. Assistant Mayor Blachar explained that debris was part of the large initial cleanup along Park Drive. She continued that the Village Manager had decided that the debris could be left, but since a complaint was received the debris was removed and the area was charged. She pointed out that was another reason for the Contingency fund. Ms. Cellini thought that the Committee needed to negotiate the contracts better, since that should have been included.

Ms. Cellini spoke in favor of the hedge, against a great deal more of trees, and against fancy landscaping that would have to be maintained, etc. She spoke in favor of keeping Park Drive manicured and simple. She spoke in favor of a charrette, to receive the consensus for the residents, before moving forward.

Nina Rudolph, 212 Bal Bay Drive, suggested not having Brickman on Sundays, to save money. Mr. Treppeda explained that on Sundays they swept up, in order to keep the same level of service. Ms. Rudolph spoke in favor of a charrette, but suggested looking at the whole area, not just one area. Assistant Mayor Blachar agreed that a charrette should be

held.

Assistant Mayor Blachar suggested that the following items be discussed at the next meeting: price for pressure cleaning and painting the wall, taller trees, and irrigation.

Assistant Mayor Blachar discussed the cost of \$2,760.00 to remove debris every day from the cleanup, until the end of the project. Mr. O'Leary clarified that the agreement with Brickman was for them to leave the piles for three days and then remove them, which would enable them to bring in one large truck. Assistant Mayor Blachar questioned if the amount could be less if they didn't pick up daily. Mr. O'Leary will find out.

Dina Cellini, 211 Bal Cross Drive, reported that the debris pile was in the area for seven days. Mr. Treppeda explained that Ms. Cellini was the only complaint he received, but agreed that the pile was very high.

Assistant Mayor Blachar spoke in favor of the debris removal every three days. Dr. Lelchuk requested that it be looked into whether or not the pile was left for seven days, which would be a breach of the contract. Mr. O'Leary will look into that. Assistant Mayor Blachar noted that if they were in breach, then they shouldn't have to pay anything.

Mr. O'Leary clarified that the remainder of the cleanup debris would be picked up every three days, not daily, to save money. Assistant Mayor Blachar agreed.

A motion was offered by Dr. Lelchuk and seconded by Mr. Holder to recommend approval of \$2,760.00 for debris removal by Brickman, if Brickman picked up the pile within the three days specified in the contract and \$0 if Brickman picked up the pile after the three days, which would be a breach of the contract. The motion carried (3-0).

A motion was offered by Dr. Lelchuk and seconded by Mr. Holder to recommend approval of \$5,610.00 for Brickman for the one time invasive vegetation removal on Park Drive. The motion carried (3-0).

7. SELECTION OF MEETING DATES/TIMES: Mr. Weiss explained that a charrette would be held during the next several meetings, which would provide an opportunity for the public to discuss what they wanted to see for the area. The Committee requested that the meetings be held in January and February 2012.

Councilman Packer suggested a telephone squad, to get the residents to attend.

Assistant Mayor Blachar questioned the cost for a postcard mailing.

Sandra Dunn, 208 Park Drive, reported that a postcard mailing would be a little over \$200.

Assistant Mayor Blachar suggested that one mailing be done noticing the meetings in January and in February.

Mr. Wallace suggested that a letter may be more effective than a postcard, which would be approximately \$465.00

A motion was offered by Dr. Lelchuk and seconded by Mr. Holder to recommend approval for the Village Manager, to provide a mailing (letter) for the next two RAC meetings. The motion carried (3-0).

Neca Logan, 64 Camden Drive, suggested that the mailing be sent after the holidays.

Betsey Bystock, 80 Park Drive, also suggested that the flashing signs be posted in the Village, with the meeting dates/times. Assistant Mayor Blachar agreed.

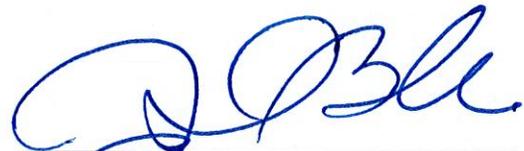
Rene Cidiani, 24 Bal Bay Drive, spoke in favor of taking care of the property in front of the gate, because it doesn't make sense to have the front of the property look so bad. He suggested that the plans be a 5-year project.

8. OTHER BUSINESS: None.

9. ADJOURN: There being no further business, *a motion was offered by Assistant Mayor Blachar and seconded by Dr. Lelchuk to adjourn. The motion carried (3-0) and the meeting was adjourned at 9:45 p.m.*

Attest:


Ellisa L. Horvath, MMC, Village Clerk


Assistant Mayor Joni D. Blachar