

BAL HARBOUR VILLAGE
LOCAL PLANNING AGENCY MEETING MINUTES
NOVEMBER 16, 2010

A Local Planning Agency Meeting was held on Tuesday, November 16, 2010, 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 Horvath, MMC, Village Clerk
Richard J. Weiss, Village Attorney

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

2. PLEDGE OF ALLEGIANCE: The Pledge was led by Lynne Bloch Mullen, Village resident.

3. APPROVAL OF MINUTES: *A motion was offered by Assistant Mayor Blachar and seconded by Councilman Sanz to approve the October 19, 2010 Regular Meeting Minutes, with the correction of Mayor Rosenfield's name on page 4. The motion carried (5-0).*

4. PUBLIC HEARINGS:

Consideration of the Following Ordinance to Amend the Comprehensive Plan Based on an Application Submitted by the Bal Harbour Shops: The following Ordinance was read, by title, by Mrs. Horvath:

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE FUTURE LAND USE MAP (FLUM) DESIGNATION OF A PARCEL OF LAND LOCATED AT 501 96TH STREET, BAL HARBOUR VILLAGE, FLORIDA, FROM "INSTITUTIONAL" TO "COMMERCIAL"; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Rosenfield opened the public hearing.

Mr. Weiss requested that the minutes from the October 19, 2010 Local Planning Agency Meeting be incorporated in the November 16, 2010 minutes.

John Shubin, Attorney - Shubin & Bass representing Bal Harbour Shops LLLP, the
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Applicant, explained that the Applicant had the intention to proceed with the Comprehensive Plan Amendments. He noted that the Applicant believed that they had the consent of the Church to move forward, on first reading, and requested the Village's consent to move forward on first reading. Mr. Shubin clarified that the Applicant had been told by the Church that they had consent, but they did not have anything in writing. He clarified that, under Florida law, the consent of the property owner was not required.

Councilman Packer questioned if there had been a sale of the Church. Mr. Shubin clarified that no sale had occurred, but noted that there had been discussion for years. Councilman Packer questioned if the congregation had voted to sell the Church. Mr. Shubin advised that they had not. He requested guidance from the Council on how to begin the process and discussed the desire for a full public hearing, etc. Councilman Packer spoke in favor of an agreement with the Church existing first. Mr. Shubin discussed the multiple elements involved and explained that the first two applications only dealt with the Comprehensive Plan. He explained the process. He discussed the logical aspect of proceeding with the Comprehensive Plan amendments, followed by open meetings, to accommodate the community's concerns. Councilman Packer noted that once the Council opened the door for the Church to be sold, it would result in also opening the door for Village Hall to be sold.

Kerry Rosenthal, Rosenthal Rosenthal Roscoe Kaplan (Aventura), Counsel for Church by the Sea, explained that the Church consented on first reading for the application for first reading. He added that the Church has had discussions and is having discussions about a possible deal. He clarified that the Church did not have plans to leave Bal Harbour and explained that the discussion involved relocating the Church elsewhere in Bal Harbour and the Shops possibly obtaining the current Church property. He discussed the study, planning, and communication involved, which was taking place. Mr. Rosenthal clarified again that the Church consented to the application at first reading, in light of the potential structure that the Church may have at the end of the Bal Harbour Shops. He reported that if the Church didn't move forward with discussions, then the Church would communicate that and would be aware of that position by second reading.

Sara Sinatra Gould, Calvin Giordano & Associates - Surfside Town Planner, reported that the Town of Surfside had serious concerns about traffic with the land use plan amendment, since 53% of the trips were coming from the south of 96th Street. She also reported having an issue with the trend analysis and requested that the Village look at it further.

Joseph Graubart, Surfside Vice Mayor, discussed the importance of the Church's history that bounded Surfside to Bal Harbour. He spoke against the Village passing legislation that may lead to the Village losing an important historic landmark. Mayor Rosenfield explained that the Church property did not belong to Bal Harbour.

Brian Mulheren, 10245 Collins Avenue, suggested that the Village wait until there was a deal and knew what the proposal was. He discussed the need to know about the traffic studies, which affected fire/police response, etc. He spoke against approval tonight and urged that it be deferred, until a proper time.

Michael Krop, 9601 Collins Avenue, spoke against the consideration of selling the Village Hall building and urged the removal of Tab I from the agenda. He noted that the Village needed more property, green space, etc. not less. Mayor Rosenfield clarified that the Bal Harbour Village – Local Planning Agency Meeting Minutes 11/16/2010

Ordinance being considered was for the Church property, not Village Hall.

Roger Kempler, 10245 Collins Avenue, didn't understand the Council voting on something when they didn't know what the plans were. He pointed out that no agreements or specific plans had been signed.

Mayor Rosenfield closed the public hearing.

A motion was offered by Councilman Packer and seconded by Assistant Mayor Blachar to recommend that the Ordinance be deferred (by the Council for the Church Property 501 – 96th Street parcel) until the Applicant, the Church, and the Village Manager met and it was determined that they had something concrete to present to the Council.

Mayor Rosenfield explained that the Council knew what the public did.

Councilman Packer disclosed that he had spoken with Mr. Taylor once.

Assistant Mayor Blachar didn't understand the rush of getting something passed on first reading. She requested something more concrete, input from community, etc. She spoke in favor of it being deferred, until more information was received. Councilman Packer would also like something more concrete, the Church membership voting and concurring with their leadership, a signed deal that the Church would sell to the Shops, where the Church would be going, etc. He noted that Mr. Miller (Village Planner) had indicated that he would not go along with the proposal, so the Council had the choice to either defer or deny it. He questioned if the Applicant could come back, if it was denied. Mr. Weiss advised that they could re-apply, but would have to pay the application fee again. Councilman Packer spoke in favor of deferring it, until they had something more concrete.

Mr. Weiss suggested that if the Council was considering deferring, that the Applicant, Church, and the Village Manager meet, until they felt that there was something more concrete to consider.

Mayor Rosenfield didn't think that zoning was a problem, but the Comprehensive Plan was. She wasn't ready to change the Comprehensive Plan, until she knew what would be going there and what the entire plan would be. She spoke in favor of Mr. Treppeda meeting with the Church and Mr. Shubin, with something more concrete. She spoke in favor of the item being deferred indefinitely, until the Shops came back. Mr. Weiss suggested that it be deferred until the Shops, Church, and Manager advised that it was ready to be heard again.

Mr. Shubin clarified that they were prepared to move forward, with an expansion, without the Village Hall. He noted that they could expand solely with the Church and without the Village Hall property. He requested that they consider each proposed amendment separately. He clarified that the Church was a private property owner. He added that there wasn't a requirement, under Florida Law, that they needed to file a site plan, in order to seek Comprehensive Plan approval. Mr. Shubin continued that they recognized the Village's concern, but explained that in order to have an expansion there had to be a comprehensive public hearing process. He reported that there would be years of opportunity for public communication on that. He explained that there wasn't a requirement to have the Church's consent, but they had it and there wasn't a need for a site plan. He

noted that they would like to proceed.

Mr. Weiss clarified that the intent of the motion was to provide more detail, not a site plan, and something more concrete.

Mr. Shubin requested that the item not be deferred, but noted that if it was, then they would like to know what the Council was looking for. Assistant Mayor Blachar explained that they needed information, so they could make a decision. She clarified that they needed something concrete on what the Shops would like to do.

Mr. Shubin clarified that they wanted to expand the Shops to the Church property and to relocate the Church property.

Beth Berkowitz, 10160 Collins Avenue, discussed concern about the language (restrictions) in the dedication for the Church property.

Brian Mulheren, 10245 Collins Avenue, noted that the Village property was never discussed; only the Church property was.

The motion carried (5-0), with the roll call vote as follows: Assistant Mayor Blachar yes; Councilwoman Cohen yes; Councilman Packer yes; Councilman Sanz yes; Mayor Rosenfield yes.

Mr. Weiss suggested that the Shops, the Church, and Mr. Treppeda meet, until they felt that there was enough structure to satisfy what the Council was looking for. Mr. Shubin agreed to do so. He added that they wanted a procedure where the public was involved. He discussed public workshops that would be held and clarified that they would like to see the process move forward, with public involvement. He explained that until they received guidance from the Council, it was difficult for them to do anything concrete.

Councilman Packer explained that since the Church was a public corporation, the congregation needed to vote. He spoke in favor of the Shops expanding, but explained that the sense of the Council was that it wanted to see something concrete. Mayor Rosenfield suggested that the Council give suggestions on the information they would like to receive from the Shops, to Mr. Treppeda.

Mayor Rosenfield clarified that there hadn't been any discussion about selling Village Hall.

Consideration of the Following Ordinance to Amend the Comprehensive Plan Based on an Application Submitted by the Bal Harbour Shops: The following Ordinance was read, by title, by Mrs. Horvath:

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE FUTURE LAND USE MAP (FLUM) DESIGNATION OF A PARCEL OF LAND LOCATED AT 655 96TH STREET, BAL HARBOUR, FLORIDA, FROM "MUNICIPAL" TO "COMMERCIAL"; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Rosenfield opened the public hearing.

Charles Ilvento, 10205 Collins Avenue, discussed plans for the Church that he saw. As a member of the Church by the Sea and a former Church Treasurer, he discussed the mismanagement. He discussed the history of the Church and the restrictions for selling it. He discussed plans for the Church to lease property from Mr. Whitman, which showed ingress and egress from the back side of Village Hall.

Dina Cellini, 211 Bal Cross Drive, suggested that the Ordinance be denied or deferred, since it was clear that the Council couldn't grant it, with regard to what the Council did on the other application. She questioned the procedure that would take place regarding a discussion of purchasing Village Hall. She didn't think that a discussion between Mr. Shubin and Mr. Treppeda would be appropriate and that it should be more transparent.

Mayor Rosenfield agreed that there should be a procedure that would best benefit the Village. She spoke in favor of it being deferred.

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

Councilman Packer spoke in favor of it being deferred, until a discussion with Mr. Treppeda and Mr. Weiss was held and produced a plan to be presented to Council. Mr. Weiss noted that the item could be deferred, until a workshop had been held, to understand what the proposal was. Councilman Packer agreed and added that the Village Manager and Village Planner should meet with the Applicant and come back, with a workshop held after that.

A motion was offered by Councilman Packer and seconded by Assistant Mayor Blachar to recommend that the Ordinance be deferred (by the Village Council for the Village Property 655 – 96th Street parcel) until a Workshop Meeting was held.

Mr. Weiss suggested that after the workshop, the item would be put back on the agenda, only after the concurrence of the Village Manager and the Village Planner to do so. Councilman Packer suggested that a workshop be held, after the Church's decision was made. Mr. Weiss clarified that the item would be deferred, until a workshop was held and the Council directed Mr. Treppeda to put it back on the agenda.

The motion carried (5-0), with the roll call vote as follows: Assistant Mayor Blachar yes; Councilwoman Cohen yes; Councilman Packer yes; Councilman Sanz yes; Mayor Rosenfield yes.

A motion was offered by Councilman Packer and seconded by Assistant Mayor Blachar to reconsider the motion for the deferral of the First Ordinance (Church Property 501 – 96th Street parcel).

Neil Alter, 9801 Collins Avenue, questioned initiating a workshop when no proposal or offer had been presented. Mr. Weiss clarified that the motion was to defer until a workshop meeting was held, which would involve a presentation by the Shops, etc. He noted that after the workshop the Council could direct that the Ordinance be placed back on the agenda.

Councilman Packer rescinded his motion to reconsider. Assistant Mayor Blachar rescinded her second to the motion.

**Consideration of the Following Ordinance to Create Section 21-322
Providing for Site Plan Review for B Business Zoning:** Mr. Weiss recommended that
the following Ordinance also be deferred:

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF BAL
HARBOUR VILLAGE, FLORIDA, AMENDING DIVISION 11, ARTICLE III,
CHAPTER 21 OF THE VILLAGE CODE TO CREATE A NEW SECTION 21-322
"SITE PLAN REVIEW;" PROVIDING FOR SITE PLAN REVIEW, INCLUDING
APPLICABILITY OF REQUIREMENT, APPLICATION AND REVIEW
PROCEDURE, COST RECOVERY, AND DEVELOPMENT AGREEMENT;
PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE;
PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

*A motion was offered by Assistant Mayor Blachar and seconded by Councilman Packer to
recommend that the Ordinance be deferred (by the Village Council). The motion carried (5-0),
with the roll call vote as follows: Assistant Mayor Blachar yes; Councilwoman Cohen yes;
Councilman Packer yes; Councilman Sanz yes; Mayor Rosenfield yes..*

5. ADJOURN: There being no further business to come before the Local
Planning Agency, *a motion was offered by Assistant Mayor Blachar and seconded by
Councilman Sanz to adjourn. The motion carried (5-0) and the meeting was adjourned at 8:10
p.m.*

Attest:


Ellisa Horvath, MMC, Village Clerk


Mayor Jean Rosenfield