

BAL HARBOUR VILLAGE COUNCIL MEETING MINUTES
REGULAR MEETING – APRIL 17, 2012

The Regular Meeting of the Bal Harbour Village Council was held on Tuesday, April 17, 2012, 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 7:06 p.m. by Mayor Rosenfield. The following were present:

Mayor Jean Rosenfield
Assistant Mayor Joni D. Blachar
Councilman Martin Packer¹
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 Local Planning Agency Meeting.

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

4. SPECIAL PRESENTATIONS:



Presentations to Donors to The American Cancer Society Relay for Life – Chief Hunker: Chief Hunker presented plaques to the following donors to The American Cancer Society Relay for Life: ONE Bal Harbour (presented to their Manager Ricky), Richard Parrillo, Joe and Orla Imbesi, Jim and Electra Agras, Carpaccio Restaurant, Joe and Janet Dippell, Indian Creek Mayor Benny and Juliette Klepach, Stephen Schott, and Orly Alexander.

Chief Hunker recognized Janey Mayville, American Cancer Society, and Officer Orr. Ms. Mayfield thanked the donors and explained the Relay for Life event.

Mayor Rosenfield thanked all of the donors.

Update on Beach Erosion – Brian Flynn PERA, Miami-Dade County Department of Permitting, Environment and Regulatory Affairs: Mr. Flynn discussed the Haulover sand bypassing and jetty modification project, which they have been working on with Coastal Systems International. He reported that the permit applications were completed and executed. He continued that the applications would be submitted, once a Memorandum of Understanding was executed between the County and

¹ Councilman Packer left the meeting prior to the Consent Agenda and returned to the meeting during Other Business.

the Village, since the County would be the Applicant.

Mr. Flynn noted that he was also working with the Army Corps of Engineers for a renourishment project scheduled for December 2012, which would place over 200,000 cubic yards of sand on the beach. He reported that the State, Federal, and County funding for that was in place. He expected to submit the application to the State next week.

Mr. Flynn reported that they were working with Coastal Systems International on a supplemental project to that, which would include extending the jetty further to hold more sand, which Councilman Packer had suggested, and providing bypassing every three to five years. He reported that the Federal government would pay for 50% of the costs, the State would pay for up to 75% of the non-Federal share, and the Florida Inland Navigation District would possibly pay for up to 50% of the remaining costs.

Brian Mulheren, 10245 Collins Avenue, questioned what would be done in the meantime. Mr. Flynn reported that the beach was inspected on a monthly basis and they didn't want to be over-reactionary, since nature would probably correct the problem on its own. He noted that they were aware of the problems at the north end of the beach and offered to work with the County Parks Department to do some re-grading and possibly place some sand in that area.

Councilman Packer left the meeting.

5. CONSENT AGENDA: Approval was requested for the following items:

Tab A: March 20, 2012 Regular Council Meeting Minutes;

Tab B: Police Forfeiture Funds for the following items:

State:	\$3,000.00	Michael Krop Sr. High School Crime Education Program
	\$1,200.00	North Miami and Miami Beach Police Athletic League (Donation to Strokes for Success Golf Tournament)
	\$3,000.00	Police Officer Assistance Trust Donation

Federal:	\$26,337.70	2012 Chevrolet Tahoe 1500 for Police Dog Unit
	\$ 5,000.00	Lighting, striping, and radio equipment;

Tab C: Resort Tax Funds for the following items:

\$25,000.00	Brazil Sales/Media Mission (Sao Paulo and Rio de Janeiro and participation in VISIT USA)
\$15,000.00	Mexico Sales/Media Mission;

Tab D: Gated Residential Section Funds for the following item:

\$493.00 for Florida Integrated Systems to install a safety beam and reconfigure the Bal Bay Drive gate so it will close with the loop and not with the timer;

Tab E: \$18,150.00 in Resort Tax Funds and approval of agreement for Zambelli Fireworks Manufacturing Co. to provide the Independence Day Fireworks

Display;

- Tab F: \$8,397.00 in Water/Sewer Funds, \$2,869.00 in General Funds, and award of bid to Landscaping Associates, Inc. for landscaping replacements at Sewer Station #2 (\$8,397.00 from the Water/Sewer fund) and on the east side of Village Hall (\$2,869.00 from the General fund);
- Tab G: \$175,680.00 in Water/Sewer Funds and award of bid to Kailas Contractors for water meter replacements at the Plaza, Balmoral, Sea View and Bal Harbour 101 buildings;
- Tab H: \$27,973.38 in Water/Sewer Funds and approval of Change Order #1 for Kailas Corp. for the installation of a backflow preventer, tapping saddle, and restoration of landscaping around the new water meter assemblies at the Tower (9999 Collins Avenue) and Palace (10101 Collins Avenue) buildings; and
- Tab I: \$11,393.43 in Water/Sewer Funds and award of bid to Kailas Contractors for replacement of the sewer lateral that serves 241 Bal Bay Drive.

A motion was offered by Councilman Sanz and seconded by Assistant Mayor Blachar to approve the items on the Consent Agenda. The motion carried (3-0).

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: Mrs. Horvath read the following Ordinance title:

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING CHAPTER 21 "ZONING," ARTICLE III "DISTRICT REGULATIONS," DIVISION 9 "RM-5 MULTIPLE FAMILY RESIDENTIAL DISTRICT," SECTION 21-261 "PERMITTED USES" OF THE CODE OF ORDINANCES IN ORDER TO REMOVE "APARTMENT HOTELS" FROM THE LIST OF PERMITTED USES WITHIN THE RM-5 MULTIPLE FAMILY RESIDENTIAL ZONING DISTRICT; 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 Assistant Mayor Blachar and seconded by Councilman Sanz to approve the Ordinance. The motion carried (3-0), with the roll call vote as follows: Assistant Mayor Blachar yes; Councilman Sanz yes; Mayor Rosenfield yes; Councilwoman Cohen absent; Councilman Packer absent.

Resolutions/Public Hearings: None.

7. ORDINANCES FIRST READING/PUBLIC INPUT: Mrs. Horvath read the following Ordinance title:

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE BAL HARBOUR VILLAGE CODE OF ORDINANCES BY AMENDING SECTION 6-42 "FEE FOR CONSTRUCTION ACTIVITIES IN THE SECURITY DISTRICT OF RESIDENTIAL SECTION" OF ARTICLE II "PERMITS AND INSPECTIONS" OF CHAPTER 6 "BUILDINGS AND BUILDING REGULATIONS"; PROVIDING FOR EXPANDED USES OF FEE REVENUES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

Mr. Treppeda explained that the Ordinance had been recommended by the Gated Residential Section Advisory Committee. Assistant Mayor Blachar explained that the fee was presently limited to security usage and the Ordinance would broaden the uses. Mr. Weiss explained that the language was broadened as much as possible.

Mayor Rosenfield opened the item to public input.

Doug Rudolph, 212 Bal Bay Drive, explained that it was originally limited to security because that was all that the District was doing at that time. He didn't know if there were any legal limitations. Mr. Weiss explained that the Village wasn't allowed to tax people, unless it was allowed by law, and could only charge for the services that were being provided. Mr. Rudolph advised that he now understood.

Mayor Rosenfield closed the item to public input.

Assistant Mayor Blachar questioned if the fee could be used for the security guardhouse. Mr. Weiss advised that it could be used for that.

A motion was offered by Councilman Sanz and seconded by Assistant Mayor Blachar to approve the Ordinance. The motion carried (3-0), with the roll call vote as follows: Assistant Mayor Blachar yes; Councilman Sanz yes; Mayor Rosenfield yes; Councilwoman Cohen absent; Councilman Packer absent.

Mrs. Horvath read the following Ordinance title:

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE BAL HARBOUR VILLAGE CODE OF ORDINANCES BY AMENDING SECTION 2-74 "POWERS AND DUTIES" OF DIVISION 3 GATED RESIDENTIAL SECTION ADVISORY COMMITTEE" OF ARTICLE III "BOARDS, COMMITTEES AND COMMISSIONS" OF CHAPTER 2 "ADMINISTRATION"; PROVIDING FOR EXPANDED ADVISORY RESPONSIBILITIES FOR THE GATED RESIDENTIAL SECTION ADVISORY COMMITTEE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

Mr. Treppeda explained that the Ordinance had been recommended by the Gated Residential Section Advisory Committee. He clarified that if the Ordinance passed on second reading, then the Council would need to clarify what the authorization would be expanded to.

Mayor Rosenfield opened the item to public input.

Dina Cellini, 211 Bal Cross Drive, voiced concerns regarding expanding the scope of a group that wasn't elected and didn't have term limits. She spoke in favor of the Committee having term limits. She thought that the focus on security and landscaping was enough and suggested that the residents come before the Council, if they had concerns regarding other issues. She spoke against approval of the Ordinance.

Anamarie Kelly, 77 Camden Drive, agreed with Ms. Cellini and noted that the original Civic Association didn't have any authority. She spoke against giving that power to the individuals appointed by the Council. She clarified that there weren't any authorized representatives of the individual homeowners, so the Council shouldn't give the Committee members the authority to speak for the residents. Mayor Rosenfield explained the process in which all of the homeowners were invited to submit a resume, to serve on the Committee.

Doug Rudolph, 212 Bal Bay Drive, noted that the Committee provided a representative group of homeowners, who had the direct interest of what went on in the gated area. He clarified that the Committee was in lieu of a homeowners association. He spoke in favor of empowering the Committee to do everything that they could.

Stuart Sobel, 271 Bal Cross Drive and member of RAC, clarified that the Committee was advisory and made recommendations to the Council. He noted that the Committee's purpose was to provide a forum for the residents to meet on issues that pertained to their needs and interests (assessments, landscaping, etc.). He explained that the Ordinance would just provide a broader mandate for the Committee to be able to make recommendations on other items that were needed, since not everything fit into security or landscaping.

Assistant Mayor Blachar agreed with Mr. Sobel and clarified that the Ordinance would expand the Committee's advisory abilities. She spoke in favor of the ordinance.

Mayor Rosenfield closed the item to public input.

A motion was offered by Assistant Mayor Blachar and seconded by Councilman Sanz to approve the Ordinance. The motion carried (3-0), with the roll call vote as follows: Assistant Mayor Blachar yes; Councilman Sanz yes; Mayor Rosenfield yes; Councilwoman Cohen absent; Councilman Packer absent.

8. RESOLUTIONS: Mrs. Horvath read the following Resolution title:

RESOLUTION FOR ASSISTANCE 2012 UNDER THE FLORIDA INLAND NAVIGATION DISTRICT WATERWAYS ASSISTANCE PROGRAM.

Mr. Treppeda explained that the Resolution was requested by the Florida Inland Navigation District in order for the Village to receive funding. He clarified that the Resolution didn't bind the Village to anything.

Mayor Rosenfield opened the item to public input. There being no comments, Mayor Rosenfield closed the item to public input.

A motion was offered by Assistant Mayor Blachar and seconded by Councilman Sanz to approve the Resolution. The motion carried (3-0); thus becoming Resolution No. 2012-755.

Mrs. Horvath read the following Resolution title:

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, URGING LOCAL RETAILERS SELLING TOBACCO PRODUCTS TO REFRAIN FROM SELLING AND MARKETING FLAVORED TOBACCO PRODUCTS BECAUSE SUCH PRODUCTS TEND TO PROMOTE AND INFLUENCE TOBACCO USE BY MINORS AND YOUNG ADULTS.

Mayor Rosenfield opened the item to public input.

Catherine Puentes, Westland Hialeah Sr. High Senior, on behalf of SWAT (Students Working Against Tobacco) spoke in favor of the Resolution.

Karen Riva, City of Miami Beach Education Committee Chair, requested support, even if it didn't apply to retailers in Bal Harbour, in order to raise awareness.

Anamarie Kelly, 77 Camden Drive, spoke in favor of children getting involved, but voiced concern that if candy tobacco was stopped, then it would be extended to tobacco, cigars, pharmaceuticals, fatty foods, etc. She spoke in favor of focusing on education that it was bad to use them, but spoke against taking the rights of others away.

There being no additional comments, Mayor Rosenfield closed the item to public input.

Mayor Rosenfield explained that the students were requesting a law to be passed. Assistant Mayor Blachar thought that what the students were doing was great and encouraged them to continue with other municipalities as well. Mayor Rosenfield also commended the students and urged them to spread the word to other high schools.

A motion was offered by Assistant Mayor Blachar and seconded by Councilman Sanz to approve the Resolution. The motion carried (3-0); thus becoming Resolution No. 2012-756.

9. REPORTS:

A. VILLAGE MANAGER:

Quarterly Financial Update – Provided by Finance Director Christopher Wallace: Mr. Wallace reviewed the report provided in the agenda. Mayor Rosenfield questioned if the results had been received for the residents who had applied for tax reductions. Mr. Wallace reported that the results had not been received yet.

B. VILLAGE CLERK:

Lobbyist Registration Report: As of April 17, 2012: Mrs. Horvath distributed a Revised list of lobbyists registered with the Village, at the beginning of the meeting, since one Lobbyist registered for another Principal after the agenda was provided.

C. **VILLAGE ATTORNEY:** Mr. Weiss reported that the Village was being sued by the Bal Harbour Shops, as a result of the curb cut issue. He explained that the Shops filed a petition for review of the Council's action on the issue. He reviewed that the first step was to have mediation and the next step was to present the case to the mediator. Mr. Weiss requested an Executive Session for the Bal Harbour Shops versus Bal Harbour Village case, to be set by the Clerk.

D. **MAYOR AND COUNCIL:**

Discussion of Repaving of the Streets in the Gated Area –

Assistant Mayor Blachar: Assistant Mayor Blachar discussed the plan to repave the streets in the near future (six to twelve months). Mr. Treppeda added that the repaving would be done after other infrastructure work in the area was completed. Assistant Mayor Blachar explained that she requested that the item be on the agenda, to provide awareness. Mr. Treppeda reported that the Village Engineer would provide an updated estimate for the work at the May 1, 2012 Gated Residential Section Advisory Committee (RAC) meeting.

Stuart Sobel, 271 Bal Cross Drive and RAC member, explained that it was important for the Committee to know if the Village would pay for the curbs, since it had paid for them in the past. He clarified that the curbs and gutters had only been replaced once. Mr. Treppeda confirmed that the Village had paid for them in the past, since they were considered part of the drainage system. Assistant Mayor Blachar clarified that the Village Engineer had mentioned, at the last meeting, that it was important to replace the curbs/gutters at the same time that the repaving was done.

Mayor Rosenfield requested the cost estimate, before voting on whether or not the Village would pay for a portion.

Discussion of Bus Shelters – Councilman Sanz:

Councilman Sanz reported that the project was almost there. Mr. Treppeda explained that they were working on some pending items, including an alternate footing design due to utility conflicts. He added that the electric was also in the process for lighting and markings would be done for the utilities. He reported that the goal was to finish during the summer.

Mr. Treppeda reported on a Florida Department of Transportation milling & paving project.

Peter Kunen, Village Engineer – Craig A. Smith & Associates, will provide a schedule for the project, once it is received.

10. OTHER BUSINESS:

Public Comment:

Stuart Sobel, 271 Bal Cross Drive, commended the Village Manager and Police Chief and requested that the Council consider working on plans so that the Village wouldn't lose either one of them, in the near future.

Anamarie Kelly, 77 Camden Drive, spoke in favor of defending the lawsuit regarding Bal Cross Drive. She objected to the plans, which were the goal of the Shops, and spoke in favor of protecting the private roads. She pointed out that Village Hall was in violation of the Bal Harbour Village Regular Council Meeting Minutes 04/17/2012

96th Street ingress/egress. Mayor Rosenfield clarified that no presentation had been made to the Council regarding the Shops' plans. She agreed that the Village would defend the lawsuit.

Dina Cellini, 211 Bal Cross Drive, thanked Councilman Sanz for addressing the bus shelter issue every month and spoke on the importance of the bus shelters.

Councilman Packer returned to the meeting.

Ms. Cellini discussed redistricting and requested that the Council place the issue on the Council agenda, since the updated population figures had been received from the census.

Ms. Cellini clarified that Mr. Treppeda was in the DROP (Deferred Retirement Option Plan) and asked if he could assume the manager position again. Mr. Treppeda didn't know and explained that his participation in the DROP would end in a year, which was the same time that his contract would end. Mayor Rosenfield noted that the State had different rules regarding the DROP, but people could come back after the DROP. She explained that there were still questions regarding that. Ms. Cellini questioned if that also applied to the Chief, because he entered the DROP recently. She will contact Mr. Treppeda for more information.

Councilman Sanz thanked Ms. Travis (Director of Tourism Marketing) for her work. He spoke in favor of the Village Lobbyist looking into the possibility of placing the upcoming art project in the medians. Mayor Rosenfield confirmed that the Lobbyist had been contacted to lobby for the Village on that issue. Assistant Mayor Blachar agreed that Ms. Travis was doing a wonderful job. She discussed the success of the movie nights.

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 8:21 p.m.

Attest:



Ellisa L. Horvath, MMC, Village Clerk



Mayor Jean Rosenfield