

BAL HARBOUR VILLAGE COUNCIL MEETING MINUTES
REGULAR MEETING – JUNE 19, 2012

The Regular Meeting of the Bal Harbour Village Council was held on Tuesday, June 19, 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 7:00 p.m. by Mayor Rosenfield. The following were present:

Mayor Jean Rosenfield
Councilwoman Patricia Cohen
Councilman Martin Packer

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

Absent: Assistant Mayor Joni D. Blachar
Councilman Jaime M. Sanz

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

2. PLEDGE OF ALLEGIANCE: The Pledge was led by Police Chief Tom Hunker.

3. AGENDA: REQUEST FOR DELETIONS/ADDITIONS: Mr. Treppeda requested that Tab I (Motion Approving Emergency Sewer Station Repairs) and Tab R (Discussion of Gated Residential Section Advisory Committee Recommendation) be removed from the agenda. He also requested that the following item be added to the Consent Agenda: Motion Approving \$15,000.00 for the Tri-City Electric Proposal, to be done prior to the installation of the new bus shelters.

A motion was offered by Councilman Packer and seconded by Councilwoman Cohen to remove and add the requested items from the Agenda. The motion carried (3-0).

4. SPECIAL PRESENTATIONS:

Presentation to Village Council by Janey Mayville, American Cancer Society Relay for Life: Janey Mayville, American Cancer Society Community Representative for Surf-Bal-Bay, and Emily Marquez, American Cancer Society Director, reported that \$51,000 was raised from the Relay for Life event. Mayor Rosenfield was presented with a plaque in appreciation of the Village's \$10,000 donation as a Gold sponsor.

Presentation to Village Council by the Police Athletic League (PAL): Jose Andrade, PAL Director and former Village Police Lieutenant, presented Mayor Rosenfield with a plaque in appreciation of the Village's continued support to the program. Chief Hunker commended Jose Andrade for taking over the after school programs.

Introduction of Representative Joseph "Joe" Gibbons: Mayor Rosenfield explained that the Village was now part of a new district which ran from Surfside to Dania Beach. She introduced Florida Representative Joseph "Joe" Gibbons, who was running for his fourth and last term. Representative Gibbons explained his representation in the House, reported that the election was August 14th, and urged residents to contact him regarding any issues with the State.

Presentation to Jaime Schapiro, AIA, Former Architectural Review Board Member: Mayor Rosenfield presented Jaime Schapiro with a token of appreciation for over ten years of service on the Architectural Review Board.

Presentation to Officer and Employee of the Month for May 2012: Chief Hunker presented Officer Madeleine Orr with the Officer of the Month plaque and Pam Flanders with the Employee of the Month plaque, for their involvement in the American Cancer Society Relay for Life event.

5. CONSENT AGENDA:

Anamarie Stoppa, 77 Camden Drive, requested that Tab F be removed.

Dina Cellini, 211 Bal Cross Drive, requested that Tab C and Tab K be removed.

Approval was requested for the following items:

Tab B: May 15, 2012 regular Council Meeting minutes;

Tab D: Designate and authorize the sale of surplus Police equipment:

Sell to Lt. Charles Merrill (upon retirement)

Glock Model 27 Firearm	\$405.00
iPad2	\$309.00

Sell via eBay or CarMax

2003 Ford Explorer (Unit #248);

Tab E: \$92,500.00 in Resort Tax Funds and Appointment to the Resort Tax Committee for:

\$67,500.00	2013 Public Art Program
\$25,000.00	Tourism Bus Program through September 2012

Appoint Marco Selva, St. Regis Hotel General Manager, as a member of the Resort Tax Committee;

Tab G: Ratify the Village Manager's appointment of Valerie Rennert as a Special Master for a one-year term;

Tab H: \$7,425.00 and Authorization for the Village Manager to execute the agreement with Frankel Interactive for web site design and development;

Tab J: \$53,436.00 in Sewer Funds for Hydra Systems, Inc. (the lowest bidder) to

replace the channel grinder at Pump Station #2;

Tab L: \$7,675.00 in Beautification & Maintenance Funds for the Brickman Group to replace plants on the beach;

Tab M: \$5,959.69 for Kailas Contractors for construction and installation of an aluminum baffle, at the Village's stormwater outfall pipe, located in the area of the marina at 200 Bal Bay Drive;

Tab N: \$70,177.36 in Water Funds for Change Order #1 (for additional landscaping to screen the new meters, additional piping work, and utility relocations) to the High Rise Water Meter Replacement Project; and

Additional Item: \$15,000.00 for Tri-City Electric Co., Inc. to provide electrical work, in preparation for the new bus shelters.

A motion was offered by Councilman Packer and seconded by Councilwoman Cohen to approve the items on the Consent Agenda, except for Tabs C, F, and K. The motion carried (3-0).

Tab C – Motion Approving Expenditure of Police Forfeiture Funds:

The request was for approval to expend forfeiture funds for the following items:

State: \$7,000.00 Donation to the Surf-Bal-Bay Police Athletic League (PAL)

Federal: \$14,749.26 for Advanced Public Safety Reportbeam Maintenance, \$55,000.00 for MRW Consulting Group which provides forfeiture fund accounting and analysis, \$25,000.00 for Franklin Investigations Inc. for a protracted police investigation, and \$125,000.00 for the Cooperative Automated License Plate Reader Program (Agreement to be considered by the Council via Resolution).

Dina Cellini, 211 Bal Cross Drive, voiced concern with using the same person (Franklin Investigations) for a contract yearly, instead of going out to bid. She suggested that the approval of the License Plate Reader Program be delayed, until the proposed Resolution was discussed by the Council.

Mr. Treppeda clarified that when multiple companies were available prices were obtained, but that certain things required specialized companies, such as MRW and Franklin Investigations. Chief Hunker agreed. Mr. Weiss discussed the specialization of Franklin Investigations and reported that his firm had used Mr. Franklin as a witness in the past. He clarified that the approval for the License Plate Reader Program was authorization to spend the money, but did not approve the agreement. He noted that if the Resolution was not approved, then the money would not be spent.

A motion was offered by Councilman Packer and seconded by Councilwoman Cohen to approve Tab C. The motion carried (3-0).

Tab F – Motion Approving Expenditure of Gated Residential Section

Funds: The request was for approval to expend Gated Residential Section funds for the following items:

\$79,107.00 Award of Landscaping Bid to Landscape Associates

\$10,000.00 (up to) Traffic Engineering Study/Purchase of Traffic Calming Devices

Anamarie Kelly, 77 Camden Drive, noted that 100% of the owners had not agreed to establish the Gated Residential Section and clarified that the homeowners could not be taxed without approval. She noted that the Council needed to follow the law, not an opinion. Mr. Weiss reported that the issue of police patrolling in that area was being reviewed. He added that the District was properly established at the time and had been operated under that for many years. He clarified that he accepted the opinion of Mr. Gold (Village Attorney at that time) that the District was properly established.

Dina Cellini, 211 Bal Cross Drive, spoke against approval of \$10,000 for the purchase of traffic calming devices and an engineering study, until the residents had further discussion regarding it. She noted that the placement of speed bumps would affect the composition of the neighborhood. She requested that the issue be withdrawn and placed on a future agenda, after the July 31st RAC (Gated Residential Section Advisory Committee) meeting.

Stuart Sobel, 271 Bal Cross Drive and RAC Member, reported that the Committee had discussed various ways to calm traffic and agreed to give residents the opportunity to speak on the issue at the next RAC meeting. He ensured that the least intrusive measure would be used, including stop signs. He wasn't opposed to the item being deferred, until after the RAC meeting.

Councilman Packer spoke in favor of a consensus being met, before coming to the Council. Mr. Weiss reported that it was up to the Council on whether or not to accept the recommendation of the RAC. Councilwoman Cohen thought that it was incumbent upon the Council to heed to the Committee's wishes. Mayor Rosenfield clarified that some members of the gated community had requested that the item be deferred.

Nina Rudolph, 212 Bal Bay Drive, wasn't opposed to the item being separated, for further study.

Brian Mulheren, 10245 Collins Avenue, didn't think that speed bumps were the solution and discussed communities that removed their speed bumps, due to problems with ambulances.

A motion was offered by Councilman Packer and seconded by Councilwoman Cohen to approve the first item (Award of Landscaping Bid to Landscape Associates) on Tab F. The motion carried (3-0).

Tab K – Motion Approving Village Manager to Execute Property Damage Release with Coastal Construction for Settlement of Claim for Damage to Bal Harbour Sewer Line:

The request was for approval of \$95,000.00 and authorization for the Village Manager to execute the Property Damage Release, to settle the claim against Coastal Construction, for damage they did to the Village's sewer line.

Dina Cellini, 211 Bal Cross Drive, requested information, since the Village was being paid \$41,000.00 less than the expenses incurred by the Village and Coastal Construction was at fault. Mr. Treppeda explained that after two years of deliberation he and the Village Attorney agreed that \$95,000.00 was a fair settlement, to avoid litigation and other costs.

Brian Mulheren, 10245 Collins Avenue, spoke against the Village settling for less and in favor of going to litigation, since the Village would win and Coastal would have to pay. Mr.

Weiss explained that litigation would cost money and they felt that it was time to put it to rest. Mr. Treppeda clarified that the litigation costs were considered.

Neil Alter, 9801 Collins Avenue, questioned if the defenses offered by the other side induced the Village to settle. Mr. Weiss explained that there wasn't a guarantee that if the Village won that its Attorney fees would be covered.

A motion was offered by Councilman Packer and seconded by Councilwoman Cohen to approve Tab K. The motion carried (3-0).

6. PUBLIC HEARINGS:

Quasi-Judicial Public Hearings: Mr. Weiss explained the procedures for the quasi-judicial process. No disclosures were made by the Council. Those planning to speak at the hearing were sworn in by Mrs. Horvath. The following request was read by Mrs. Horvath:

Consideration of a request from Scot Greve (Contractual Buyer for 10275 Collins Avenue, CU1, Bal Harbour, FL) to allow an Executive Professional Business Center, aimed to serve the primary use of the residents of Harbour House, for their day to day convenience. Pursuant to Village Code Section 21-281(10)(i) convenience establishment uses within multiple-family developments within the OF and PD zoning districts may be permitted by the Village Council, after a public hearing: Mayor Rosenfield questioned if the Harbour House building had given approval for the Business Center. Mr. Treppeda did not think that the Board had approved the project yet. Mayor Rosenfield questioned the Applicant appearing before the Council, since the Harbour House Board had not given approval on the item.

Howard Pearl, Attorney for Harbour House Condominium, explained that the item had not been submitted to the Board of Directors yet.

Mr. Weiss clarified that the Applicant had the right to request a public hearing before the Council, but that the Council could request the Harbour House Board's decision first, before consideration.

A motion was offered by Mayor Rosenfield and seconded by Councilwoman Cohen to defer the item, until the Council heard from the Harbour House Board.

Councilman Packer agreed that more information was needed.

The motion carried (3-0).

Zoning Hearings/Quasi-Judicial Public Hearings: None.

Ordinances Second Reading/Public Hearings: Mrs. Horvath read the following Ordinance title:

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING ARTICLE V "SPECIAL ASSESSMENTS" OF CHAPTER 18 "TAXATION AND FINANCE" OF THE BAL HARBOUR VILLAGE CODE OF ORDINANCES BY

CREATING SECTION 18-121 "UNIFORM METHOD OF COLLECTION OF SECURITY AND LANDSCAPE SPECIAL ASSESSMENTS"; PROVIDING FOR THE UTILIZATION OF THE UNIFORM METHOD OF COLLECTING NON-AD VALOREM ASSESSMENTS FOR SECURITY AND LANDSCAPE SPECIAL ASSESSMENTS WITHIN THE GATED RESIDENTIAL SECTION OF THE VILLAGE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SAVINGS CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

Mayor Rosenfield opened the public hearing.

Anamarie Kelly, 77 Camden Drive, referred to her prior discussion regarding the formation of the District (Gated Residential Section). She reserved the right to discuss the Raheb litigation, under Other Business at the next meeting, regarding the law concerning the Residential Section of Bal Harbour. She noted that the District was illegal, because there was not 100% of a vote of the homeowners and a lack of compliance with the County rules to take it to them as a taxing district.

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

A motion was offered by Councilwoman Cohen and seconded by Councilman Packer to approve the Ordinance. The motion carried (3-0), with the roll call vote as follows: Councilwoman Cohen yes; Councilman Packer yes; Mayor Rosenfield yes; Assistant Mayor Blachar and Councilman Sanz absent; thus becoming Ordinance No. 2012-562.

Ordinances First Reading/Public Hearings: None.

Resolutions/Public Hearings: None.

7. ORDINANCES FIRST READING/PUBLIC INPUT: None.

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

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN BAL HARBOUR VILLAGE, THE TOWN OF BAY HARBOR ISLANDS, THE TOWN OF GOLDEN BEACH, THE CITY OF SUNNY ISLES BEACH AND THE TOWN OF SURFSIDE PROVIDING FOR THE VILLAGE'S PARTICIPATION IN THE LICENSE PLATE RECOGNITION CAMERA SYSTEM ISLAND COMMUNITIES INITIATIVE; PROVIDING FOR IMPLEMENTATION; PROVIDING AN EFFECTIVE DATE.

Chief Hunker explained the program.

Dina Cellini, 211 Bal Cross Drive, questioned if the program would capture all of the tags or just to alert of a felon that was targeted. She discussed concerns with misuse and breaches and requested that an individual be notified if their data was breached. Chief Hunker reviewed the program and explained that personal data was not collected through the images. He clarified that the Police Dispatcher would research additional information if requested. Ms. Cellini questioned what the potential breaches were that were referenced on page 8 (14.2). She voiced concern about people misusing her information and requested that she be informed if there was a breach of her information.

Anthony Soroka, Village Attorney, explained that any breach would be addressed and clarified that the main database was already used by the Police Department. He further explained that part of the annual report were recommendations on how to address any breaches. Mr. Soroka noted that the agreement addressed a lot of the issues that Ms. Cellini was raising.

Ms. Cellini requested that she be contacted, if her security was breached. Chief Hunker noted that anyone who was affected by a breach would be contacted.

Neil Alter, 9801 Collins Avenue, requested that language be included in the document that the Department notify the person of a breach. Chief Hunker reported that there was a standard operating procedure for any breach. Mr. Alter questioned if the images were based on a stop or would capture every vehicle. Chief Hunker clarified that images would be captured for every vehicle that entered/exited the Village.

Beth Berkowitz, 10160 Collins Avenue, gave the opinion that it smelled of big brother.

Brian Mulheren, 10245 Collins Avenue, spoke in favor of the system and questioned where the cameras would be placed.

Chief Hunker reported that cameras would be placed at the entrances/exits of all the communities involved. He explained that no cameras would be placed in Bal Harbour, since it was surrounded by the other communities. Chief Hunker didn't see the program as being big brother and explained that the only time they would respond was if there was an alert or if there was an incident in the community requiring them to search the database.

A motion was offered by Councilman Packer and seconded by Councilwoman Cohen to approve the Resolution. The motion carried (3-0); thus becoming Resolution No. 2012-757.

9. REPORTS:

A. VILLAGE MANAGER:

Presentation of Comprehensive Annual Financial Report – Marcum LLP: Michael Fuderman, Audit Partner – Marcum, reviewed the audit for Fiscal Year ended September 30, 2011.

Discussion of Gated Residential Section Advisory Committee Recommendation: This item was removed from the agenda, at the beginning of the meeting.

B. VILLAGE CLERK:

Lobbyist Registration Report: As of June 19, 2012: The list of Lobbyists registered with the Village was included in the agenda.

Selection of Dates for First Budget Public Hearing, Second Budget Public Hearing, and September Regular Council Meeting: Chris Wallace, Finance Director, reviewed dates to meet requirements.

It was the consensus of the Council to schedule a Budget Workshop Meeting on July 10, 2012, at 5:00 p.m. and one on July 17, 2012, prior to the Regular Council meeting, if deemed necessary.

It was the consensus of the Council to schedule the First Budget Public Hearing for September 4, 2012 at 5:01 p.m., the Second Budget Public Hearing for September 11, 2012, at 6:01 p.m., and the Regular Council Meeting for September 11, 2012, at 7:00 p.m.

- C. VILLAGE ATTORNEY: Mr. Weiss did not report on any items.
- D. MAYOR AND COUNCIL:

Discussion of Bus Shelters – Councilman Sanz: Mr. Treppeda reported that the Federal funds were slowing everything down, since items had to be bid out, and there were issues with the structural footing. He reported that the project was moving.

Discussion of Bal Harbour Entrance Signs – Councilwoman Cohen: Councilwoman Cohen requested that the item be deferred, until additional information was obtained.

10. OTHER BUSINESS:

Public Comment:

Dina Cellini, 211 Bal Cross Drive, requested that the DRAFT budget be available online, prior to the Workshop Meeting, scheduled for July 10th.

11. ADJOURN: There being no further business, a motion was offered by Councilman Packer and seconded by Councilwoman Cohen to adjourn. The motion carried (3-0) and the meeting was adjourned at 8:29 p.m.

Attest:


Ellisa L. Horvath, MMC, Village Clerk


Mayor Jean Rosenfield