

**BAL HARBOUR VILLAGE**  
**GATED RESIDENTIAL SECTION ADVISORY COMMITTEE**  
**REGULAR MEETING MINUTES – JULY 31, 2012**

A Regular Meeting of the Bal Harbour Village Gated Residential Section Advisory Committee was held on Tuesday, July 31, 2012, in the Council Chamber at Bal Harbour Village Hall (655 – 96<sup>th</sup> Street, Bal Harbour, Florida).

**1. CALL TO ORDER/ROLL CALL:** The meeting was called to order at 7:02 p.m. by Assistant Mayor Blachar. The following members were present:

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

Absent: Stuart Sobel

Others Present: Alfred J. Treppeda, Village Manager  
Ellisa Horvath, MMC, Village Clerk  
Mayor Jean Rosenfield  
Councilwoman Patricia Cohen  
Councilman Martin Packer  
Police Captain Leo Quinn

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

**2. PLEDGE OF ALLEGIANCE:** The Pledge was led by Bal Harbour Police Captain Leo Quinn.

**3. APPROVAL OF MINUTES:** *A motion was offered by Dr. Lechuk and seconded by Mr. Gold to approve the June 12, 2012 Regular Meeting Minutes. The motion carried (4-0).*

**4. DISCUSSION OF GATE ARM ON BAL BAY DRIVE:** Mr. Treppeda reported that Integrated Systems was working on a different gate system, to address the Committee's concerns. He recommended not proceeding with any changes, since the Shops would be approaching the Village with plans, in the future. Assistant Mayor Blachar voiced concern about people coming into the neighborhood improperly. Captain Quinn confirmed that the vehicles were still piggybacking, but didn't think that the issue was rampant. Mr. Holder noted that the Committee had already recommended to the Council against moving the gate. He spoke against the issue being postponed and in favor of proceeding with reaching a solution. Dr. Lechuk questioned what the Shops would propose. Mr. Treppeda didn't know, but thought that the Committee should see the proposal, before deciding to proceed. Dr. Lechuk didn't think that it would hurt to wait to hear what the Shops would be proposing. Mr. Gold agreed. Assistant Mayor Blachar discussed a prior idea to have one lane in and one lane out, but agreed that the decision could wait.

**Councilwoman Patricia Cohen, 10275 Collins Avenue**, explained that trap arms were installed at the Harbour House building, but they still had the same problem with people piggybacking. She noted that it was a tough problem to alleviate and there wasn't a perfect solution.

**5. FINANCIAL UPDATE AND PROPOSED BUDGET FOR FY 2012/2013 – CHRISTOPHER WALLACE, FINANCE DIRECTOR:** Mr. Wallace reviewed the Financial Update provided in the agenda.

Dr. Lelchuk questioned the increase of \$11,000.00 for legal fees. Mr. Wallace offered to provide the details, but noted that the bills normally lagged 60 days.

**Dina Cellini, 211 Bal Cross Drive**, questioned if the assessment for single family homes was increased for 2012/2013. Mr. Wallace explained that depended on when it was paid (a discount was offered for payment in November and an additional amount would be due for payment in January). He clarified that the Council still needed to approve the assessment rate, but that the proposed assessment net was \$12-\$14 less than the current one. Mr. Treppeda reported that the amount for 2012/2013 would be \$3,595.52 gross. Mr. Wallace reported that the discount would be approximately 4%, so the difference between years would be about the same. Ms. Cellini reviewed the landscape materials line items.

**6. DISCUSSION AND UPDATE ON CODE ENFORCEMENT:** **Oscar Patino, Code Enforcement Officer**, addressed the Committee. He discussed the focus on ensuring that workers left the District, per the Village Code. Mr. Holder questioned if workers had time to load up their trucks, or if they had to be out of the area by 5:30 p.m. Mr. Patino clarified that as long as they were not making any noise they could still be in the area until 9:00 p.m. He added that work would normally be allowed for emergencies inside the home, if other residents were not disturbed. He noted that anything else would require approval from the Village Manager.

Mr. Holder discussed a non-compliant sign on Bal Bay Drive noting that the fence was electric, for the dog. Mr. Patino agreed that the sign was not legal, but added that people with medical issues needed to know that the fence was electric. He discussed it being similar to signs being placed on lawns warning of pesticides, etc. Mr. Holder didn't think that the sign was too big, but that the issue was the dog charging at someone. Mr. Patino discussed the leash ordinance. He will check with the Village Attorney and speak to the Owner regarding it.

Dr. Lelchuk questioned the status of eliminating POD storage in front yards. Mrs. Horvath reported that the proposed Ordinance would be considered by the Council for second reading, at the September 13, 2012 Council Meeting.

**UPDATE ON STREET PAVING:** **Greg Jeffries, CAS (Craig A. Smith & Associates)**, reported that the sanitary sewers, water mains, and drainage issues were being reviewed, which would need to be resolved, before any street paving was done.

Assistant Mayor Blachar questioned if the Village, not the gated area residents, would need to pay for those repairs. Mr. Jeffries responded that the Village would be responsible. Mr.

Treppeda clarified that it would be paid for from the Water & Sewer fund. He added that he would provide a recommendation to the Council on how he and the Engineers thought it should be paid for. Mr. Jeffries expected that a recommendation would be provided for the September Council meeting.

Mr. Jeffries clarified that the paving part of the project would not be scheduled for two years. He noted that the sanitary sewer evaluation was due, at the end of October, to DERM (the County).

Assistant Mayor Blachar discussed the deteriorated condition of the roads and issues with ponding water. Mr. Jeffries reported that he had photos cataloging the areas that needed to be looked into, to modify the drainage system, which would be addressed in the report. Mr. Holder discussed the use of baffles in the storm drains. Mr. Jeffries explained the drainage and pump system. Mr. Holder questioned if the baffles would alleviate oil. Mr. Jeffries reported that it would to a certain extent, but that he would look at that as a water quality issue.

**Dina Cellini, 211 Bal Cross Drive**, questioned if the flooding issues would be addressed. Mr. Jeffries advised that they would.

Mr. Gold reported that flooding did not occur on Bal Bay Drive, until after the road was dug up and wasn't repaired properly. He emphasized the need to repair the roads properly, after the Village tore them up. Mr. Jeffries agreed that some cleanout work needed to be done, which would be included in the report. Dr. Lelchuk questioned if there was a mechanism to insure that the road was put back to their specifications. Mr. Jeffries advised that there was and that he would look at the situation that Mr. Gold discussed. Assistant Mayor Blachar questioned if some of the issues could be resolved now. Mr. Jeffries thought so and advised that he would look at that and see what could be done, on an immediate basis, and then for the future. Mr. Treppeda explained that Mr. Imbesi would be replacing a portion of the pipe, etc. on Bal Bay Drive. Mr. Jeffries added that a temporary fix had been provided there, because the pipe collapsed.

Mr. Holder requested that they ensure that bonds were provided for the project. Mr. Jeffries clarified that a warranty bond would be required as part of the bid (one year was the standard). Mr. Holder thought that one year was too short. Mr. Jeffries agreed and noted that they would determine the length of time for the bond, but that would be calculated into the bid price, by the contractors. Mr. Holder suggested that at least a five-year bond be required.

**Steve Scheinman, 234 Bal Cross Drive**, commented that the roads had existed since 1946, without any major overhauls. Mr. Jeffries clarified that since 1946 there had been various patches, repairs, etc. and a repaving project was done in 1973-1975. He noted that the roads were past their useable life. Dr. Scheinman questioned the metrics of the repaving assessment. Assistant Mayor Blachar didn't know and pointed out that there may not be an assessment for the residents, but that would be addressed in the report to the Council. Dr. Scheinman discussed the assessment formula and noted that there may be a need for repairs for potholes, etc. but he wasn't sure that there was justification to repave the entire gated area and create a large assessment. Assistant Mayor Blachar clarified that there was currently no repaving assessment and she didn't know that there would be one, until the report was presented. She pointed out that the repaving cost may be paid by the

Village.

## **7. TRAFFIC ENFORCEMENT UPDATE/DISCUSSION OF SPEED**

**BUMPS:** Mr. Treppeda reported that Village Attorney Richard Weiss would provide an opinion at the September Council meeting, on whether or not the Police could enforce traffic in the Gated Area.

Mr. Treppeda reported that Mr. Weiss' office was doing research on speed bumps, which would be presented at the next meeting, if needed.

Dr. Lelchuk noted that Mr. Weiss had already provided an opinion and he didn't understand why it was being researched again. Assistant Mayor Blachar clarified that the opinion may be changed, based on the amount of signatures that would be required for traffic enforcement. Dr. Lelchuk didn't want to pay for the research twice, if it wasn't done properly the first time. He spoke in favor of stopping any further research and noted that over a majority had signed the petition that they wanted traffic enforcement. He added that if any problems with that came up, then it could be decided by a court. Assistant Mayor Blachar explained that the Village Attorney would present his findings to the Council and if he provided the opinion that the Police should not be enforcing the traffic, then the Council would abide by that opinion. She clarified that further research was being done to see if it would be possible to allow the officers to issue traffic citations in the area. She spoke in favor of finishing the research and hearing the final opinion, before the speed bumps were decided on. She discussed the possibility of installing more signs showing the speed limit, as well as a flashing sign that would show people how fast they were going, in the interim. A map showing locations of the stops signs was distributed.

***Dina Cellini, 211 Bal Cross Drive***, noted that regardless of the Village Attorney report, the resident on Park Drive believed that there was a lot of speeding on Park Drive. She suggested that a stop sign be placed on Park Drive, in the interim. Dr. Lelchuk agreed that should be done. Assistant Mayor Blachar spoke in favor of a speed limit sign.

***Shani Biton, 168 Park Drive***, requested anything that would deter speeding on her street. She noted that people had slowed down, in response to the flashing sign in front of her house, which noted their speed. She pointed out that no speed limit signs were provided in the middle of Park Drive.

Assistant Mayor Blachar requested that a speed limit sign be installed on Park Drive. Mr. Treppeda discussed the history of stop signs in the Gated Area and complaints received by the residents regarding them. Assistant Mayor Blachar requested that either a stop sign or speed limit sign be provided on Park Drive. She clarified that, if the Police could enforce in the area, then the speed bumps may not be needed. Mr. Holder suggested that if a positive ruling was received on enforcement, then the wording "strictly enforced" or "radar enforced" could be placed on the signs. Captain Quinn spoke in favor of a speed limit sign over a stop sign, so that drivers would know what the speed limit was. Assistant Mayor Blachar agreed and noted that if that didn't work, then the stop sign could be looked at. Mr. Gold noted that some signs only flashed when someone was speeding, which could be looked at, if the speed limit sign didn't work.

***A motion was offered by Dr. Lelchuk and seconded by Mr. Holder to install two speed limit signs now, on Park Drive (around the 168 house number). The motion carried (4-0).***

Captain Quinn will meet with Ms. Biton for placement of the signs and to find out if she would like the flashing light sign to be turned off at a certain time. Mr. Treppeda will order the signs.

**8. DISCUSSION OF LIGHTING:** Mr. Treppeda reported that there were 91 lights, in the Gated Area. He explained that he had looked into the Committee using Mr. Gold, since he was in the lighting business, and explained that there was a conflict since he was a Committee member. He clarified that if the Committee still wanted to use him and Mr. Gold agreed to the process, then the procedure would be to receive an opinion from the County Ethics Commission. He added that the Council would then need to approve using Mr. Gold by a 2/3 vote.

Assistant Mayor Blachar questioned if the legal process would cost more than what the Committee was saving by using him. Mr. Gold explained that he didn't have any interest in making any money from the project, but agreed to go through whatever process was necessary.

Mayor Rosenfield questioned if the project would go out to bid. Assistant Mayor Blachar explained that it didn't need to go out to bid. She clarified that the cost would be 10% over Mr. Gold's cost. Councilman Packer thought that it was up to the Committee, since the project would be paid for by the Gated Area residents.

***Dina Cellini, 211 Bal Cross Drive***, questioned if the 10% was for overhead or if that was negotiable. Mr. Gold explained that he was not making any money off the project and he would charge what it cost him.

Councilwoman Cohen noted that she had offered to provide landscaping advice for the area, but was told that would be a conflict. Assistant Mayor Blachar will keep that in mind for the next project.

***A motion was offered by Mr. Holder and seconded by Dr. Lelchuk to proceed with using Mr. Gold for the lighting project. The motion carried (3-0), with Mr. Gold recused from voting.***

**9. DISCUSSION OF SWING SETS IN FRONT YARDS:** Assistant Mayor Blachar reported that she had received some complaints regarding swing sets in front yards. Mr. Treppeda noted that an ordinance would need to be passed, to prohibit them, if requested. Dr. Lelchuk questioned if those already in place would be grandfathered in. Mr. Treppeda wasn't sure. He explained that the Village could ask someone to move the swing set, but there wasn't any legal cause for them to do so.

Councilwoman Cohen questioned the objection to swing sets in the front yard, since the majority of people wouldn't have them there. Assistant Mayor Blachar pointed out that it didn't look nice and it would open it up for other items to be placed in front of the homes. She thought that it belonged in the back or the side of the house. Councilwoman Cohen questioned if there was consideration for people who couldn't place it in their back yard. Dr. Lelchuk pointed out that most of the Code addressed the aesthetic concerns of the neighborhood. He added that it wasn't common to put a swing set in the front yard, next to the street. Assistant Mayor Blachar agreed that it was an aesthetic issue and something would have to be put in the Code to address it, if the Committee wanted to.

Mr. Holder spoke in favor of also prohibiting basketball hoops, tree houses, etc. to be more encompassing. Assistant Mayor Blachar spoke against prohibiting basketball hoops. Mr. Holder thought that would depend on where the hoop was and if people were running into street after the ball, etc.

Mayor Rosenfield suggested that the Committee come up with a list of everything it didn't want in the front yard, to get it done at the same time. She pointed out that an ordinance would involve the Attorney's time.

Councilman Packer suggested that the Committee address the aesthetic issues. He noted that some people had hedges covering the entire front of their home and he spoke in favor of providing a height limit for hedges. Mr. Gold noted that some of the hedges had been there for over 10 years and it was difficult to get them to that height. He clarified that the problem was that there wasn't a homeowners association.

Mr. Gold suggested that the Owners be asked to move the swing set. Assistant Mayor Blachar agreed. Mr. Treppeda pointed out that the home may not have room in the back yard. Captain Quinn discussed concern on where the swing set would end up, during a hurricane.

**Dina Cellini, 211 Bal Cross Drive**, agreed that code enforcement was stricter years ago. She pointed out that the Code prohibited boats from being visible, so the general consensus of the community, as it was being formulated, was not to have those kinds of structures in the front yard. She thought that a permanent swing set was different than a playhouse, which could be moved. She agreed that something needed to be done. She suggested that swing sets be categorized, under the same prohibition as the boat. Mr. Treppeda reported that the Village Attorney had already ruled that it wouldn't fit under the same category as the boats and that the Code Enforcement Officers could not enforce removal of the swing sets now.

*It was the consensus of the Committee for the Code Enforcement Officer to speak with the homeowner, regarding moving the swing set.*

Mayor Rosenfield suggested checking with Bay Harbor, since they previously had the same problem.

Dr. Lelchuk will work with Mr. Treppeda and the Village Attorney on the issue.

**10. UPDATE ON STREET PAVING:** This item was discussed earlier in the meeting.

**11. UPDATE ON LANDSCAPING PROJECT:** Mr. Treppeda reported that the Landscape Company (Brickman) had agreed to indemnify all of the residents in the contract and would start the project within two weeks.

**12. ANNOUNCEMENT OF NEXT MEETING DATE: AUGUST 28, 2012, AT 7:00 P.M.:** *The August 28, 2012 meeting was cancelled, by consensus of the Committee.*

**13. SELECTION OF FUTURE MEETING DATES/TIMES:** *The next meeting was scheduled for October 2, 2012, at 7:00 p.m., by consensus of the Committee.*

Future meeting dates will be scheduled at the October meeting.

**14. OTHER BUSINESS:**

Councilwoman Cohen discussed a resident who had provided landscaping in front of his carport, to hide the items in it. She clarified that the resident was told to remove the landscaping, since a car had to be able to park under the carport. She discussed the mess which was now visible from the street, since the landscaping had been removed. Dr. Lelchuk pointed out that the Code required every home to have a garage or a carport. He clarified that the homeowner had a carport that a car could not be parked in, which didn't meet the requirements of the Code. Councilwoman Cohen reported that the homeowner had a garage. She questioned if the Code could prohibit people from putting items in the carport, if it wasn't used for a car. Assistant Mayor Blachar explained that the Code was put in place, so that people would have a place to park their car. She suggested that the resident get a storage shed for the backyard, or put a garage door on his carport (if that was allowed). Councilwoman Cohen questioned if people could be prohibited from storing things in their carport and, if not, they should be allowed to conceal it. Assistant Mayor Blachar suggested that be discussed with code enforcement.

Councilman Packer suggested that maybe some leeway be given for a temporary scenario, but pointed out that it wasn't allowed, if the intention was to use it permanently.

Mayor Rosenfield explained that the Council just passed an Ordinance (on first reading), which would prohibit POD storage. She didn't think that carports could be used for storage.

Mr. Gold didn't think that it was a temporary scenario, since money was spent on landscaping to screen it. Mr. Holder suggested that code enforcement look into it.

Councilwoman Cohen reported that code enforcement only spoke to the resident about removing the landscaping, not about cleaning up the carport. She reported that the law didn't prohibit them from storing in the garage.

***Dina Cellini, 211 Bal Cross Drive***, discussed the document that was sent to residents for traffic enforcement by the police. She read the area of the letter that she was concerned with. She didn't accept the Village Attorney's interpretation that each owner owned up to the center line of the street, because if someone got injured she would then be saying that she would be liable as the owner of the street. She clarified that if there was damage, she didn't have the authority to fix it. Ms. Cellini felt that by signing the document she would admit that she owned it, but she was not able to cure it. She noted that Dr. Scheinman felt the same way. She felt that those signing the document may be setting themselves up to potential liability.

Dr. Lelchuk thanked Ms. Cellini for her explanation. Ms. Cellini clarified that she did think that the homeowners owned the streets collectively, not just limited to the area in front of her property (all of the common elements are owned in common).

Dr. Lelchuk questioned why the Attorney felt that they didn't own them commonly. Mr. Treppeda will ask him. Mr. Gold requested that the Village Attorney be provided with Ms. Cellini's reason for not signing the document. Dr. Lelchuk suggested that the wording be changed. Mr. Gold felt that the Gated Area may be able to receive 100% of the signatures, if the language was changed to something everyone would be more comfortable with. Mr. Treppeda will relay that information to the Village Attorney.

Mr. Holder reported that the Council had voted for the Committee to be able to provide opinions on other items, but would need to get permission from the Council first. Mr. Treppeda explained that the Committee could make a recommendation on what they would like to formulate an opinion on, to go before the Council. Mr. Holder requested that the Committee's ability to formulate opinions on other items not be limited or require permission from the Council. He clarified that after the Committee provided an opinion, then the Council could decide to either approve or not approve it.

Councilman Packer didn't think that expanding the Committee's limitation was necessary, since anyone in the community could speak at the Council meetings.

Mr. Holder clarified that the Committee currently had the authority to give opinions on security and landscaping issues, but thought that they should be able to advise the Council on other issues that would have an impact on the Gated Area, without having to receive permission from the Council to provide that opinion. Mr. Treppeda explained that there needed to be some type of control, since the Village collected the assessments for security and landscaping, for the Gated Area. He clarified that the Village Attorney had added language to allow permission to be given on certain items, after those items were approved by the Council for the Committee to formulate an opinion on.

Councilwoman Cohen questioned why the Council had to approve the items, since it was an advisory committee. She felt that since it was a private community, they should be deciding what they want, not the Council. Assistant Mayor Blachar agreed, but explained that since a homeowners association was not created in the beginning, this was the best that could be done.

Mr. Holder requested that the Committee be able to provide an opinion on the Shops. Assistant Mayor Blachar agreed that permission should be requested for the Committee to give an opinion on the Shops expansion project.

Councilwoman Cohen suggested that the Committee be given permission to give an opinion on anything related to their quality of life.

Mayor Rosenfield pointed out that the Shops affected the entire community and everyone would have a chance to speak at the Council meeting, as individuals.

Mr. Treppeda clarified that the Committee needed to make a list of items that they would like to be able to discuss and provide an opinion on (such as Bal Harbour Shops, the gate, etc.) for approval by the Council. Mr. Gold suggested that expansion of the Bal Harbour Shops be on the list.

Mayor Rosenfield noted that the Council would like to hear from the residents individually, on the Shops expansion.

Assistant Mayor Blachar noted that Mr. Holder was saying that the Committee needed to receive permission from the Council to discuss that. Mr. Treppeda reported that there was a legal reason that the Committee's discussion items were limited.

Mayor Rosenfield explained that they could only legally discuss landscaping, security, and maintenance.

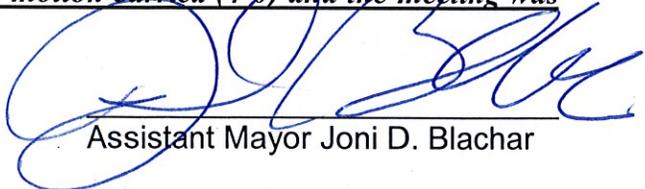
Councilman Packer clarified that the Committee was charged with landscaping, security and maintenance for the Gated Area. He added that everyone who lived in the Gated Area had the right to an opinion on the Shops, gate, etc. and could attend the Council meetings for those items. He pointed out that the Committee was not elected by the residents living in the community. He added that they were appointed by the Council, so for the Committee to provide something without a majority opinion of the residents in that area would not be right and wasn't the intention of the Committee.

Councilwoman Cohen noted that the Committee could discuss anything under other business.

**Dina Cellini, 211 Bal Cross Drive**, questioned why the Committee wasn't engaging in more communication with the community, regarding the Shops expansion. She clarified that the Village Attorney had said that the Council was not authorized to accept all the opinions by the Committee, other than for landscaping, maintenance, and security. She suggested that the Committee find that out specifically, but she didn't think that the point was to prohibit discussion of other items. Mr. Holder agreed that it wouldn't prohibit discussion, but would prohibit the Committee making a recommendation. He spoke in favor of changing the policy. Ms. Cellini suggested that if the Committee had a recommendation, then it could go to the Council and the Village Attorney would say whether or not they could hear it.

**15. ADJOURN:** There being no further business, a motion was offered by Mr. Gold and seconded by Dr. Lelchuk to adjourn. The motion carried (4-0) and the meeting was adjourned at 9:07 p.m.

Attest:

  
Assistant Mayor Joni D. Blachar

  
Ellisa L. Horvath, MMC, Village Clerk