

**BAL HARBOUR VILLAGE COUNCIL MEETING MINUTES**  
**REGULAR MEETING – SEPTEMBER 13, 2012**

The Regular Meeting of the Bal Harbour Village Council was held on Thursday, September 13, 2012, at the Bal Harbour Village Hall Council Chambers (655 – 96<sup>th</sup> Street, Bal Harbour, Florida).

**1. CALL TO ORDER/ROLL CALL:** The meeting was called to order at 7:34 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 L. 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 previously done at the Second Budget Hearing.

Mr. Weiss clarified that there would not be further discussion of the site plan ordinances.

Mayor Rosenfield introduced John D. Couriel, who was running for the Senate seat in the Florida Legislature (District 35), which included the Village.

**3. AGENDA: REQUEST FOR DELETIONS/ADDITIONS:**

Mr. Treppeda requested the addition of \$15,000.00 in Resort Tax Funds, for a Russian Sales Mission.

Mr. Treppeda requested that Tab N be removed. He also requested that Tabs J, K, L, and M be deferred to the October 16, 2012 Council Meeting.

*A motion was offered by Councilman Sanz, and seconded by Assistant Mayor Blachar to add the requested item to the agenda, to remove Tab N, and to defer tabs J, K, L, and M until the October 16, 2012 Council Meeting. The motion carried (5-0).*

**4. SPECIAL PRESENTATIONS:**

**Miami-Dade Firefighter Casio Vargas and Hollywood Police Officer James Gibbons:** Chief Hunker presented Firefighter Vargas and Officer Gibbons with plaques, in appreciation of their efforts in saving the life of Bal Harbour Police Detective Hector Gonzalez.

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

- Tab A: July 17, 2012 Regular Council Meeting minutes;  
July 31, 2012 Special Council Meeting minutes;
- Tab B: Expenditure of Police Forfeiture Funds for the following items:  
**Federal:** \$20,000.00 Islands Beach Bash PAL Fundraising Event;  
\$20,000.00 Yearly Donation to Surf Bal Bay (PAL) Police Athletic League;  
  
**State:** \$5,000.00 for Ruth K. Broad Bay Harbor K-8 Center Anti-Drug and  
Anti-Bullying Campaign; \$5,000.00 Florida Crime Victim Services Programs;
- Tab C: Authorization to Execute a Memorandum of Agreement with the Miami-Dade  
Police Department for use of a Marine Patrol Radio;
- Tab D: Ratify the Village Manager's Appointment of Rafael Suarez-Rivas, P.A. as a  
Special Master for Bal Harbour Village, for a one-year term;
- Tab E: Authorization for the Village Manager to sign all necessary documents to  
renew the health insurance policy with Blue Care, the MetLife group dental  
policy, the MetLife/Safeguard vision policy and the liability policies with FMIT  
for another year;
- Tab F: Up to \$4,000.00 for co-sponsorship of the Miami-Dade League of Cities  
November 1, 2012 Dinner at the Sea View Hotel;
- Tab G: \$11,970.00 in Beautification/Maintenance Funds, to purchase 10 bollard  
lights from South Dade Lighting, to replace units along the beach jogging  
path;
- Tab H: Award the bus shelter bid to Sanchez-Arango Construction, direct the Village  
Attorney to draft an agreement with Sanchez-Arango for construction and  
installation of the bus shelters in accordance with the terms and conditions  
identified in the Invitation to Bid, authorize the Village Manager to execute  
the agreement with Sanchez-Arango for the construction and installation of  
the bus shelters, authorize the expenditure of up to \$294,000.00 in general  
funds (includes a \$25,000.00 contingency just in case so the project will not  
get held up if any legitimate change orders arise), and authorize the  
disposal/destruction as surplus of the existing bus shelters, (the federal funds  
award is \$250,000.00);

Item Added: \$15,000.00 in Resort Tax Funds, for a Russian Sales Mission.

**A motion was offered by Councilman Packer and seconded by Assistant Mayor Blachar to approve the items on the Consent Agenda. The motion carried (5-0).**

Mr. Weiss introduced Rafael Suarez-Rivas, who the Council appointed as a Special Master (on the Consent Agenda). Mr. Rivas reviewed his resume. Assistant Mayor Blachar disclosed that she worked with Mr. Rivas as an intern.

## **6. PUBLIC HEARINGS:**

### **Quasi-Judicial Public Hearings:**

**Consideration of a request from William Welsh (Owner of property located at 59 Camden Court, Bal Harbour, FL) for a variance from Section 21-128 "Garage Entry," to authorize a garage entry directly facing a street:** 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.

***Daniel Nieda, Building Official***, reviewed his report, which is summarized as follows: the Applicant seeks approval for a front facing garage entry, where the Code requires a side facing garage entry for all new homes built after January 1, 1999. The Architectural Review Board (August 1, 2012 meeting) recommended that the new home be granted a Certificate of Appropriateness, pending resolution of the garage entry variance request. The Board opined that the variance petition is reasonable given that the subject lot is irregularly shaped, making a side facing garage approach difficult to achieve. The property meets the 11 conditions to demonstrate an undue hardship. The Building Official notes that this nonuse variance petition seeking relief from front facing garage approach in the R-2 Single Family Residential District, stipulated by Section 21-128 of the Code, seems to rise to the standard required for granting of a non-use variance.

***Jorge Esteban, Architect***, addressed the Council. He explained the design to access the garage, through the trellis feature. Assistant Mayor Blachar discussed the process that was needed to get to the garage and voiced concerns of whether or not there was anywhere to park in front of the house. Mr. Esteban reviewed the plans for the cars and his desire to remove the gates in front of the trellis. Mr. Nieda confirmed that the Architectural Review Board had recommended approval of the project. Assistant Mayor Blachar requested that the owners be notified that there was talk about not allowing swing sets in the front of homes, since there wasn't any room in the back for a swing set. She advised that topic would be discussed at the next Gated Residential Section Advisory Committee (RAC) meeting.

***Yankee Andrusier, on behalf of the Owners***, discussed the swing sets.

***Raj Singh, 53 Camden Drive***, noted that if there were a lot of cars, then some would have to be parked outside the gates, which would make it difficult to get out of the driveway. He clarified that temporary parking on the street was okay, but not permanent parking. Assistant Mayor Blachar suggested that issue be discussed at a RAC meeting. Mr. Esteban clarified that there would be room for ten cars, including the garage space.

Assistant Mayor Blachar understood that it was an irregular shaped lot, which was a hardship. She didn't have a problem with approval, but wanted it to be clear that this was an irregular shaped lot, which would be at a severe disadvantage, if approval was not given. She discussed the difficulty to receive a variance. Mr. Nieda explained the change in the Code to a hardship standard for a variance, which had to run with the land.

**A motion was offered by Councilman Packer and seconded by Councilman Sanz to approve the variance. 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.**

Councilwoman Cohen questioned why front facing garages were no longer allowed. Mr. Nieda explained that Mayor Hirschl felt that a side garage made the homes more appealing. Councilwoman Cohen questioned how that compared to other municipalities. Mr. Nieda didn't know. Councilwoman Cohen discussed the need for the Village to be open and suggested that it be researched to see what other high end communities allowed. Mr. Nieda noted that the older homes had front facing garages and the new homes had side facing garages. Assistant Mayor Blachar thought that side facing garages made the homes statelier.

**Doug Rudolph, 212 Bal Bay Drive**, explained that the Code was changed to side garages, because the garages were being used for items other than cars. He added that the intent was to have garages that couldn't be looked into.

**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:** This item was deferred until the October 16, 2012 Council Meeting.

**Zoning Hearings/Quasi-Judicial Public Hearings:** None.

**Ordinances Second Reading/Public Hearings:** The following Ordinance was deferred until the October 16, 2012 Council Meeting:

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING CHAPTER 21 "ZONING," ARTICLE I "IN GENERAL," SECTION 21-1 "DEFINITIONS AND RULES OF CONSTRUCTION" TO PROVIDE FOR A DEFINITION OF "PORTABLE STORAGE UNIT"; AMENDING ARTICLE IV "SUPPLEMENTARY DISTRICT REGULATIONS," IN ORDER TO CREATE SECTION 21-364 "PORTABLE STORAGE UNITS" OF THE CODE OF ORDINANCES TO PROHIBIT THE PLACEMENT AND USE OF "PORTABLE STORAGE UNITS" WITHIN THE GATED RESIDENTIAL SECTION OF THE VILLAGE, AS SPECIFICALLY DEFINED IN THIS SECTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

**Ordinances First Reading/Public Hearings:** The following Ordinances were deferred until the October 16, 2012 Council Meeting:

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; AMENDING SECTION 21-320 OF THE VILLAGE CODE TO CLARIFY THE APPLICABILITY OF COUNCIL REVIEW OF A TRAFFIC STUDY; PROVIDING

FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING SECTION 21-316 OF THE VILLAGE CODE TO AMEND THE LIST OF USES AND SET FORTH PERMITTED AND CONDITIONAL USES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Resolutions/Public Hearings: None.

**7. ORDINANCES FIRST READING/PUBLIC INPUT:** None.

**8. RESOLUTIONS:** None.

**9. REPORTS:**

A. VILLAGE MANAGER:

**Request by Joe Imbesi to Cap His Responsibility for Attorney and Other Related Fees for Land Swap Deal at \$15,000.00:** This item was removed from the agenda.

**Discussion of Police Retirement Board Position:** The Council was requested to consider whether to re-appoint Dr. Abraham Gotman to the Police Pension Board (for another two-year term) or seek resumes from interested residents.

Assistant Mayor Blachar discussed the number of years that Dr. Gotman had served and done a great job, which was why she didn't agree with term limits. Councilman Sanz agreed.

**A motion was offered by Assistant Mayor Blachar and seconded by Councilman Packer to appoint Dr. Abraham Gotman to the Police Retirement Board (for another two-year term). The motion carried (5-0).**

**Request for Approval of Consulting Proposal with Olmedillo X 5 Inc. for Pre-Development Process with the Bal Harbour Shops and Surrounding Properties:** Mr. Treppeda recommended approval to utilize the consulting services of Olmedillo X 5, Inc. for assistance with the process leading up to the approval of a Development Agreement with Bal Harbour Shops for the proposed expansion project, and with Consultatio, Developer of the proposed condominium on the former Bal Harbour Club site (10201 Collins Avenue).

Councilman Packer clarified that Mr. Olmedillo's proposed hourly rate was \$200.00.

**A motion was offered by Assistant Mayor Blachar and seconded by Councilman Sanz to approve. The motion carried (5-0).**

**B. VILLAGE CLERK:**

**Lobbyist Registration Report: As of September 13, 2012:**

The list of Lobbyists registered with the Village was included in the agenda.

**Announcement of No Village Election:** Mayor Rosenfield reported that since neither of the candidates were opposed, the Village would not be holding its election on November 6, 2012. She added that Martin Packer and Jaime Sanz were elected by operation of law. The Council Induction Meeting was scheduled for Monday, November 19, 2012, at 10:00 a.m.

**C. VILLAGE ATTORNEY:** Mr. Weiss did not report on any items.

**D. MAYOR AND COUNCIL:** This item was discussed later in the meeting.

**Discussion of Bus Shelters – Councilman Sanz:** No update was provided on this item.

**10. OTHER BUSINESS:**

**Public Comment:**

***Penny Sepler, 10275 Collins Avenue***, questioned the status of the new entry signs for the Village. Mayor Rosenfield reported that the project had been referred to FIU (Florida International University), with a stipend provided for the winning student. Ms. Sepler suggested that the Village consider using a professional architect for the project.

***Doug Rudolph, 212 Bal Bay Drive***, discussed the importance of notifying the community about the workshop meeting (for the site plan ordinances) and didn't think that the Police flashing sign would be the best way to accomplish that. He suggested that a postcard be mailed. Councilwoman thought that people would throw that away. Mr. Rudolph suggested that large writing be used, to entice people to look at it. He discussed the importance of making Mr. Olmedillo clear on where the Village was in the process and the list of the issues with the Shops expansion. Mr. Weiss explained that they wanted to make sure that the Village and the proper staff were in place, to prepare for a possible process with the Shops. He clarified that Mr. Olmedillo would be used to work on a site plan ordinance, to make sure that there was a process that protected the Village. He added that Mr. Olmedillo would also help with a Development Agreement, for the former Club property. Mr. Weiss clarified that if there was a transaction with the Shops, then Mr. Olmedillo would be involved in that. He thought that Mr. Olmedillo was a good fit, since he had a background in general government and planning. Mr. Rudolph agreed that it made sense to have Mr. Olmedillo in early.

Mr. Nieda discussed the Planned Development process. He thought that there were deficient guidelines, for the Business District. Mayor Rosenfield discussed the advantage of workshop meetings.

**MAYOR AND COUNCIL:** Councilman Packer requested that Section 21-281 of the Village Code be amended, to limit the number of uses allowed for the oceanfront condominiums and to place restrictions, including the size of a doctor office or to limit a doctor office to the first floor. Councilwoman Cohen agreed and discussed its

affect on the quality of life, in a residential building. Councilman Packer requested Council consensus, to look into amending 21-281 of the Code, to make the list of allowed uses more restrictive. Assistant Mayor Blachar didn't have a problem with them having businesses in the Oceanfront district. Mr. Weiss reviewed the Village Code and explained that nothing was permitted, unless it was listed in the Code. Councilman Sanz thought that the businesses could get out of hand and discussed concern regarding security and traffic. Councilwoman Cohen thought that a large commercial space would negatively affect an oceanfront condominium. Mayor Rosenfield suggested that written approval for a commercial use be required by 80% of the residents in the building. She also suggested that something be provided in the Code, for the commercial entity to assume a responsibility to provide security. Councilwoman Cohen agreed. Councilman Packer would like to make the Code as restrictive as possible, to only allow a doctor or dentist on the first floor, after approval by the building residents. Assistant Mayor Blachar agreed that the majority of the owners should be needed for approval. She didn't want to tell the buildings that they couldn't have those businesses there. The Council discussed the fact that they were residential buildings, not the Business District. Mr. Weiss discussed the current Code and clarified that the Council currently had the ability to turn a business down, if it wasn't an allowed use. Councilman Sanz suggested that commercial entities go to the Business District, if they wanted a business. He didn't think commercial entities should be allowed in the Oceanfront buildings, but existing business would be allowed to stay. The majority of the Council spoke in favor of not allowing any new businesses in the Oceanfront District. Assistant Mayor Blachar disagreed.

**Daniel Nieda, Building Official**, spoke against not allowing anything, since the PD District required multiple uses (restaurants and spas). Mr. Weiss pointed out that the PD (Planned Development) would have to be changed. Mr. Nieda spoke in favor of allowing restaurants, spas, convenience establishments, florists, and travel agents.

Councilwoman Cohen noted that the buildings weren't hotels or airports, but were luxury condominiums.

**Doug Rudolph, 212 Bal Bay Drive**, spoke in favor of allowing restaurants for the buildings. He suggested that certificates from 80% of the owners be required, to show that the building wanted it. Councilwoman Cohen spoke against owner approval, since that could be misrepresented by the building to the owners and there were a lot of foreign owners, etc.

Councilman Packer thought that the hotels should be treated differently and these restrictions would only apply to the condominiums. He added that anything in existence wouldn't be touched.

Mayor Rosenfield pointed out that the new building condominium (10201 Collins Avenue) planned on having a restaurant and a spa, open to the public.

Mr. Rudolph suggested that the PD District be excluded from the discussion, since the Village would be negotiating with the properties in that district.

**Dr. Abe Gotman, 9601 Collins Avenue**, spoke against allowing buildings to have restaurants open to the public, due to security, traffic, and parking issues.

Councilman Sanz discussed issues with the buildings having businesses open to the public. Mayor Rosenfield questioned if the building residents would like to have the

restaurants open to the public, since she didn't think that most building restaurants could exist, without being open to the public.

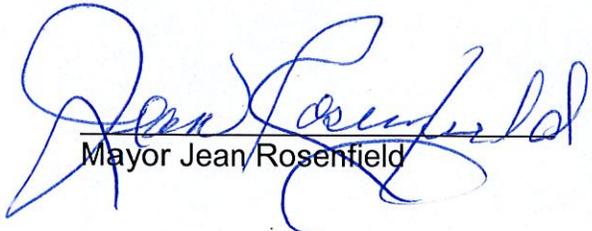
Mr. Weiss will draft an Ordinance for the Oceanfront District, eliminating commercial uses, with restaurants and spa/health clubs allowed, but limited to the residents of the building (per majority of the Council).

*It was the consensus of the Council that a postcard would not be necessary for the workshop meeting for the site plan ordinances, since it was just a procedural meeting.*

Assistant Mayor Blachar discussed the recent rapes/murder (89<sup>th</sup> Street and Collins Avenue, 77<sup>th</sup> Street between Harding/Collins, 79<sup>th</sup> Street and the beach) close to Bal Harbour and suggested a joint meeting with other area police chiefs. Chief Hunker reported that the open space park (between 82<sup>nd</sup> Street to 87<sup>th</sup> Street - south of Bal Harbour) was causing the problem and urged residents not to go there at night. Chief Hunker discussed a Reverse 911 system. *It was the consensus of the Council for Chief Hunker to provide information on the Reverse 911 system, to notify residents of hurricanes, notices, etc. (and the possibility for it to be paid with forfeiture funds).*

**11. ADJOURN:** There being no further business, *a motion was offered by Assistant Mayor Blachar and seconded by Councilwoman Cohen to adjourn. The motion carried (5-0) and the meeting was adjourned at 9:20 p.m.*

Attest:

  
Mayor Jean Rosenfield

  
Ellisa L. Horvath, MMC, Village Clerk