

BAL HARBOUR VILLAGE
GATED RESIDENTIAL SECTION ADVISORY COMMITTEE
REGULAR MEETING MINUTES – NOVEMBER 13, 2012

A Regular Meeting of the Bal Harbour Village Gated Residential Section Advisory Committee was held on Tuesday, November 13, 2012, in the Council Chamber at Bal Harbour Village Hall (655 – 96th 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, Chair. The following members were present:

Assistant Mayor Joni D. Blachar
Daniel S. Holder
Ira S. Lelchuk
Stuart Sobel

Absent: Daniel Gold

Others Present: Councilwoman Patricia Cohen
Councilman Martin Packer
Alfred J. Treppeda, Village Manager
Ellisa Horvath, MMC, Village Clerk

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

2. PLEDGE OF ALLEGIANCE: The Pledge was led by Mr. Sobel.

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

4. FINANCIAL UPDATE – CHRISTOPHER WALLACE, FINANCE DIRECTOR: Mr. Wallace reviewed the update provided in the agenda.

Mr. Wallace explained that the assessment bills were now part of the tax bills. He added that since the assessment money wouldn't be received until December through February, reserves (contingency) would be used until payments were received. He noted that \$345,000.00 was in the unassigned fund balance.

Mr. Holder questioned if the contingency fund would be used, until the assessment money was received. Mr. Wallace agreed. Mr. Holder questioned if the money would be put back into reserves, once it was received. Mr. Wallace explained that the contingency was to cover hurricanes and cash flow needs, which was not included in the fund balance amount. He clarified that the fund balance was a balance sheet concept that was not appropriated. He added that the contingency line item was an operating concept, so the money was available and could be used. He explained that the budget would have to be amended, to use the money in fund balance.

Mr. Sobel clarified that the fund balance could be used in the future, to subsidize the budget and in turn to lower the assessment next year. Mr. Wallace agreed. He noted that \$20,000.00 was used for the current year budget, from fund balance.

Assistant Mayor Blachar reported that Village Engineer Greg Jeffries (CAS) had explained at the last RAC meeting that the residents would probably not have to pay for repaving the streets in the Gated Area, since the Village would repave the streets, as part of its water and sewer system project.

5. REVIEW OF THE FOLLOWING DRAFT PROPOSED ORDINANCE: Assistant Mayor Blachar explained the proposed Ordinance and discussed the importance of maintaining high property values.

Assistant Mayor Blachar discussed security and safety. She urged residents to purchase keys for their children to use the pedestrian gate, in lieu of sneaking in through the vehicular gate. She also urged drivers not to allow vehicles to piggyback them into the neighborhood.

The following DRAFT proposed Ordinance was read, by title, by Mrs. Horvath:

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING CHAPTER 21 "ZONING," ARTICLE IV "SUPPLEMENTARY DISTRICT REGULATIONS," SECTION 21-354 "PROJECTIONS INTO SETBACK AREAS" CONCERNING THE PLACEMENT AND INSTALLATION OF PLAY EQUIPMENT WITHIN FRONT YARDS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Gabriel Groisman, 191 Bal Bay Drive, discussed the hole in the fence on Park Drive and Balfour Drive.

Mr. Groisman spoke against the Ordinance and in favor of allowing playground equipment in the front yard, with some type of barrier for protection, to prevent the kids from running into the street. Mr. Sobel questioned if Mr. Groisman would still be opposed to the Ordinance, if the playground equipment was allowed, but a hedge was required. Mr. Groisman spoke in favor of a hedge/landscaping for safety, not for screening, as long as there wasn't a height requirement.

David Schottenstein, 70 Camden Drive, spoke in favor of grandfathering in existing playground equipment. He spoke against the Ordinance and in favor of allowing tasteful playground equipment, with something in front of it.

Jana Falic, 150 Harbour Way, (representing eight houses) spoke against the Ordinance and agreed with Mr. Groisman.

Nina Rudolph, 212 Bal Bay Drive, suggested an approval process by the Committee, to prevent people from abusing the allowance.

Dr. Lelchuk suggested that the Architectural Review Board may be the appropriate venue

for review.

Yankee Andrusier, 150 Camden Drive, spoke against an approval process through the Architectural Review Board, since that would be a tremendous/lengthy process. He spoke against the Ordinance.

Dina Cellini, 211 Bal Cross Drive, was okay with playground equipment, as long as it was hidden/camouflaged from the street, by a hedge or landscaping. She suggested that the Ordinance be prospective, if it was approved. She pointed out that for the homes on the water, the front yard was on the waterway and the backyard was on the street, which would need to be clarified in the Ordinance.

Mr. Treppeda reported that the Village Attorney was reviewing that.

Jose Biton, 168 Park Drive, spoke against the Ordinance and agreed with Mr. Groisman. He expressed safety concerns with the high hedges in the neighborhood.

Mr. Holder discussed other items including trampolines, basketball hoops (which needed a hard surface), skateboard ramps, etc. He spoke in favor of some reasonable restrictions.

Vivian Perez, 198 Park Drive, spoke against the Ordinance.

Chana Lipskar, 153 Bal Bay Drive, pointed out that alot of properties had illegal high hedges, on top of the street, which were more dangerous than swing sets. She spoke against the Ordinance, but agreed there should be a hedge in front of the playground equipment, for safety not for camouflage.

Assistant Mayor Blachar didn't think any Ordinance addressed the height of the hedges. Dr. Lelchuk pointed out that there were set back rules in the Code. Mr. Treppeda will check with the Building Official.

Paul Hamburger, living at 157 Bal Cross and building a home at 118 Camden Drive, spoke against the Ordinance and agreed with Mr. Groisman on a short hedge for safety. He discussed safety concerns with his children playing in the backyard where the pool was, versus playing in the front yard. He discussed the difficulty establishing an approval process for playground equipment.

Daniel Goldfarb, 66 Bal Bay Drive, 59 Camden Court, and 131 Bal Cross Drive, spoke against the Ordinance and seeing just landscaping/hedges and no houses. He agreed with Mr. Groisman.

Tila Falic, 61 Camden Court, spoke against the Ordinance. She didn't think a hedge was the solution.

Mr. Holder explained that the Council had sent the Ordinance back to the RAC, to discuss whether or not it should be retroactive.

Sandra Dunn, 208 Park Drive, agreed with Nina Rudolph, She discussed the prior beautification committee, the code for the community, and the aesthetics for the neighborhood. She suggested a compromise.

Daniel Sragowicz, 275 Bal Bay Drive, spoke against the Ordinance. He spoke in favor of a clean neighborhood, but didn't think that meant it had to be clear of children toys.

Abe Sher, 174 Park Drive, spoke against the Ordinance and agreed with Mr. Groisman. He suggested a mechanism to site those that are an eyesore, nuisance, or a safety issue.

Councilwoman Cohen clarified that the RAC provided recommendations to the Council, for the Gated Area. She noted that she had objected to the Ordinance, when it came before the Council. She clarified that the Council had recommended that the Ordinance come back before the RAC. Assistant Mayor Blachar clarified that the Ordinance was sent back to the RAC for clarification on whether or not it should be retroactive. Mrs. Horvath clarified that the Ordinance had not been presented to the Council on first reading yet. Councilwoman Cohen disagreed with the Ordinance and encouraged everyone to voice their opinion.

Mr. Sobel felt that the overwhelming consensus of the community was that it was against the Ordinance. He didn't see the need to legislate it and was in favor of neighbors speaking to each other if they had a problem.

Mr. Holder agreed that the majority of the community seemed to be opposed to the Ordinance. He liked the idea of a hedge/fence for safety. He didn't like the fact that there wasn't a way to deal with a nuisance. He spoke against moving forward with the Ordinance and to re-address it, if it became a problem.

Dr. Lelchuk agreed that there was an outpouring from the community that it was against the Ordinance. He was okay with putting the Ordinance on hold and allowing the community to come together and do what was respectful of their neighbors.

Yankee Andrusier, 150 Camden Drive, discussed the importance of communication and pointed out that some issues could be resolved by speaking to people.

Assistant Mayor Blachar agreed, but also discussed the importance of having rules. She clarified that they were trying to avoid conflict, by putting some rules in place, so that things were not out of control.

Assistant Mayor Blachar discussed safety concerns with having a swing set in the front yard. She explained that she was there to represent the people in the neighborhood and pointed out that there might be some people who didn't want the swing sets that weren't in attendance. She thought that a compromise would be to allow swing sets in the front yard, as long as they were hidden from view with landscaping and to alleviate kids from running into the street. She suggested that the hedge be as high as needed, for screening from view.

Chana Lipskar, 153 Bal Bay Drive, didn't think that a high hedge was safer than a low hedge. She thought that a basketball hoop in the front yard was more dangerous with kids running after the ball into the street, but pointed out that was allowed in the Ordinance.

Assistant Mayor Blachar explained that exception was made in the Ordinance, because a hard surface was required to play basketball. She noted that she didn't see swing sets in

the front yards of any other communities. She voiced concern about safety and aesthetics.

Dr. Lelchuk pointed out that the acceptable community standard was to have a swing set in the back yard, not the front yard.

Dina Cellini, 211 Bal Cross Drive, spoke in favor of a compromise that if swing sets were allowed in the front yards, then they should be camouflaged.

Assistant Mayor Blachar reported that the Village Park would be renovated and other areas in the neighborhood would be looked at, for possible playgrounds.

A motion was offered by Mr. Sobel and seconded by Dr. Lelchuk to notify the Council that the RAC wishes the Ordinance to be withdrawn from consideration by the Council.

Mr. Holder suggested that the item be tabled, instead of eliminated. Mr. Sobel explained that the Council could still consider the Ordinance in the future, even if it was withdrawn now.

Dr. Lelchuk suggested that the Ordinance be amended to allow the swing sets, as long as they were concealed from the street.

Assistant Mayor Blachar noted that the Village was collecting email addresses from residents, but explained that all email addresses collected would be public record.

Eli Freund, 130 Park Drive, spoke against high fences and in favor of low ones, to be able to see the homes. He didn't think a high fence would make it safer, since kids could go out to the street through the driveway. He pointed out that most of the people who spoke were against the Ordinance.

Sandra Dunn, 208 Park Drive, questioned if the Ordinance would apply to a temporary sukkah. Assistant Mayor Blachar advised that it would not.

Jana Falic, 150 Harbour Way, noted that the majority of the people spoke against the Ordinance and didn't want to be told how high the fence needed to be in the front yard. She suggested that the Committee have something signed by the majority of the residents, to determine what should be done.

Dr. Lelchuk pointed out that those residents in attendance were against the Ordinance, but there were other residents not in attendance. He clarified that the Committee would make a recommendation to the Council and the Council would decide what to do.

Abe Sher, 174 Park Drive, pointed out that kids would play in the front yard, regardless of whether or not there was a swing set. He noted that there were already Code sections that addressed appearance and safety issues.

Mr. Holder spoke in favor of withdrawing the Ordinance. He agreed that high hedges were a security issue, due to the lack of visibility. Assistant Mayor Blachar spoke against withdrawing the Ordinance.

The motion was approved (3-1), with the roll call vote as follows: Mr. Holder yes; Dr. Lelchuk

yes; Mr. Sobel yes; Assistant Mayor Blachar no; and Mr. Gold absent.

A motion was offered by Dr. Lelchuk and seconded by Assistant Mayor Blachar that the proposed Ordinance be amended to say that while the RAC is not in favor of recreational equipment in the front yards, if they are placed there then they need to be hidden by an appropriate (as defined by the Village Attorney) hedge and for the Village Attorney to also look at the correct definition of front yard (in regards to waterfront properties).

Yankee Andrusier, 150 Camden Drive, requested that if the Committee approved the amendment, then it should also ban all basketball hoops and tennis courts.

Paul Hamburger, 118 Camden Drive, discussed the difficulty on his lot of having a larger front yard than the back yard. He spoke against a huge hedge in the front of the house and voiced concern with the proposed amendment. He spoke in favor of common sense prevailing and addressing the issue, if it became a problem. He pointed out that people needed to attend the meetings to be heard.

Daniel Goldfarb, 59 Camden Court, discussed the loss of space in front of the houses, since the garages had to be side facing, etc.

Assistant Mayor Blachar explained that Bal Harbour was beautiful because it had rules and they were trying to maintain the neighborhood's beauty.

The motion tied (2-2), with the roll call vote as follows: Mr. Holder no; Dr. Lelchuk yes; Mr. Sobel no; Assistant Mayor Blachar yes; and Mr. Gold absent.

6. REQUEST FOR APPROVAL OF PROPOSAL TO REMOVE DYING FIGUS TREE AT HARBOUR WAY AND PARK DRIVE: Mr. Treppeda requested approval of \$1,700.00 for Landscaping Associates, Inc. to remove and grind the roots for a Ficus tree along the Park Drive wall (south of the Harbour Way exit).

Mr. Sobel requested that Brickman Group (landscapers for the Gated Area) be notified that they were either careless or overpriced, when they bid for the project.

A motion was offered by Mr. Holder and seconded by Mr. Sobel to accept the bid from Landscaping Associates for \$1,700.00.

Mr. Holder withdrew his motion. Mr. Sobel withdrew his second.

A motion was offered by Mr. Holder and seconded by Mr. Sobel to approve up to \$1,700.00 for the bid from Landscaping Associates, unless a lower bid was received. The motion carried (4-0).

7. ANNOUNCEMENT OF NEXT MEETING DATE:

A motion was offered by Assistant Mayor Blachar and seconded by Mr. Sobel to cancel the meeting scheduled for December 4, 2012. The motion carried (4-0).

It was the consensus of the Committee to schedule the next meeting for March 12, 2013.

8. OTHER BUSINESS:

Sybillie Holder, 24 Bal Bay Drive, requested that a holiday bonus be collected for the security guards.

Assistant Mayor Blachar was okay with using the funds in the budget for that, but would need to check with the Village Attorney. Mr. Sobel clarified that Mrs. Holder had suggested a voluntary donation by the residents.

Mr. Holder spoke in favor of collecting a voluntary donation, but suggested that the mailing be paid for from the money collected.

Doug Rudolph, 212 Bal Bay Drive, suggested checking with the Village Attorney, to see if security funds could be used.

Mr. Holder suggested a bonus amount the same as last year.

Assistant Mayor Blachar clarified that the Village Attorney would be asked if the Committee could make a donation for a holiday bonus, from the security funds.

Mr. Sobel spoke in favor of the same bonus amount as last year, plus five percent. He agreed that the Village Attorney needed to approve that a holiday gift could be given to the guards, similar to prior years, from the security contingency fund.

Mr. Holder spoke against using the security contingency funds for that and spoke in favor of a voluntary donation by the residents.

A motion was offered by Mr. Sobel and seconded by Assistant Mayor Blachar to ask the Village Attorney to approve the legitimacy of giving a holiday bonus (from the security contingency fund) to the guards as done in the past, at the prior rate plus five percent. The motion failed (1-3), with the roll call vote as follows: Mr. Holder no; Dr. Lelchuk yes; Mr. Sobel no; Assistant Mayor Blachar no; and Mr. Gold absent.

Mr. Sobel spoke against a mandatory process and in favor of a voluntary gift.

Mr. Holder spoke in favor of using the same process as the prior year. Mr. Sobel questioned who would handle the money. Mr. Holder questioned if the Village would distribute the money.

A motion was offered by Mr. Sobel and seconded by Mr. Holder to ask the Village Attorney if the Village could send out letters for voluntary gifts, accept the money, distribute the money, and be reimbursed the cost of the mailing from the donations.

Nina Rudolph, 212 Bal Bay Drive, spoke in favor of the holiday bonus being part of the budget.

Dina Cellini, 211 Bal Cross Drive, spoke in favor of a holiday bonus, from the budgeted assessment funds.

Mr. Holder thought that the amount collected through a voluntary program would be more

than the budget.

Assistant Mayor Blachar discussed matching the amount given to the guards last year. Mr. Sobel explained that the guards received different amounts.

Doug Rudolph, 212 Bal Bay Drive, explained that it was done that way in the past because it was handled through the Civic Association. He spoke in favor paying the bonus for the guards out of the budget, based on percentage on how much they worked, etc.

Mr. Sobel discussed using contingency money to pay for the holiday bonuses. Mr. Holder spoke against using contingency money for that.

Mr. Sobel suggested that a line item be placed in next year's budget, for employee bonuses.

The motion failed (1-3), with Mr. Holder voting yes and Mr. Gold absent.

A motion was offered by Mr. Sobel and seconded by Dr. Lelchuk to approve \$4,000.00 from the contingency line item this year for holiday bonuses to the guards, based on their months of service (as determined by the Village Manager), and to request that Chris Wallace (Finance Director) include a line item in next year's budget, for employee bonuses. The motion carried (3-1), with Mr. Holder voting no and Mr. Gold absent.

Sybill Holder, 24 Bal Bay Drive, questioned if Brickman was cleaning the sidewalk next to the gate, since garbage had been there for five days. Mr. Treppeda will look into that.

Mrs. Holder suggested that welcome letters be provided to new residents. Assistant Mayor Blachar spoke in favor of doing something like that.

Mrs. Holder reported that a sea grape tree that fell into the bay (44 Bal Bay Drive), during the Sandy storm, was still there. Mr. Treppeda will notify code enforcement.

Chana Lipskar, 153 Bal Bay Drive, noted that they were all good neighbors and wanted the same thing. She didn't think there would be any problems with the swing sets.

Dina Cellini, 211 Bal Cross Drive, spoke against the new recyclable bins, which were too large and blue. She requested that Choice be notified that the bins were not being placed back on the sides of the houses. Mr. Holder noted that Choice should put the bins back where they found them. Ms. Cellini noted that Choice was not picking up the garbage the same as the Bal Harbour employees did.

Dr. Lelchuk voiced concern that garbage and recyclables were dumped into the same truck, instead of being kept separate. He also discussed problems with Choice taking large items. Mr. Treppeda will look into the issues brought up.

Councilwoman Cohen suggested that the podium be put back in the position where it was.

Assistant Mayor Blachar noted that some homes were being rented out in other communities for filming and she would like to be proactive and prohibit that. Mr. Treppeda noted that no category was provided for a business tax receipt for filming. He will ask the

Village Attorney to look into it. Mr. Sobel thought that commercial activity was prohibited inside the gates and filming would be considered a commercial activity.

A motion was offered by Assistant Mayor Blachar and seconded by Mr. Holder for the Village Attorney to clarify that commercial activity was prohibited inside the gates and, if it wasn't prohibited, to expand the Code to prohibit filming there. The motion carried (4-0).

9. ADJOURN: There being no further business, *a motion was offered by Assistant Mayor Blachar and seconded by Mr. Sobel to adjourn. The motion carried (4-0) and the meeting was adjourned at 9:48 p.m.*

Attest:



Assistant Mayor Joni D. Blachar



Ellisa L. Horvath, MMC, Village Clerk