

BAL HARBOUR VILLAGE COUNCIL MEETING MINUTES
REGULAR MEETING – APRIL 16, 2013

The Regular Meeting of the Bal Harbour Village Council was held on Tuesday, April 16, 2013, 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 7:04 p.m. by Mayor Rosenfield. The following were present:

Mayor Jean Rosenfield
Assistant Mayor Joni D. Blachar¹
Councilwoman Patricia Cohen
Councilman Martin Packer
Councilman Jaime M. Sanz

Jay R. Smith, Interim 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 led by Judy Cannon, Village Consultant.

3. AGENDA: REQUEST FOR DELETIONS/ADDITIONS: Mr. Smith requested that Tab J be deleted from the agenda.

A motion was offered by Assistant Mayor Blachar and seconded by Councilman Packer to delete Tab J from the Agenda. The motion carried (5-0).

A moment of silence was observed, for the victims of the Boston Marathon Bombing.

4. SPECIAL PRESENTATIONS:

Statement of Appreciation - Dr. Martin Karp, Miami-Dade County Public School Board Vice Chair: Dr. Karp thanked the Village for its partnership with Miami Dade County Public Schools, the contribution to the Pride campaign, and for supporting the bond referendum. He discussed plans for the Ruth K. Broad K-8 School.

Officer of the Month for March 2013: Captain Greg Roye presented Officer Christopher DeStefano with a plaque, recognizing him as Officer of the month, for March 2013.

Officer of the Year for 2012: Chief Michael Daddario presented Sergeant Jack Young with a plaque, recognizing him as Officer of the Year for 2012.

¹ Assistant Mayor Blachar left the meeting prior to Discussion of Architectural Review Board.

Assistant Mayor Blachar left the meeting.

Statement of Appreciation - Dr. Martin Karp, Miami-Dade County Public School Board Vice Chair: This item was discussed earlier in the meeting.

Beach Renourishment Update - Brian Flynn, Miami-Dade County: Mayor Rosenfield reported that Brian Flynn was unable to attend, since he was in the hospital.

Mayor Rosenfield reported on a meeting she and Mr. Smith attended with Debbie Wasserman Schultz, the Army Corps of Engineers, and area Mayors, for an update on beach renourishment. Mr. Smith reported that the contract was in place to start the Village's renourishment project in August 2013.

Assistant Mayor Blachar returned to the meeting.

Mr. Flynn will provide an update at the next meeting.

Solid Waste Service Update - John Lawson, Choice Environmental: Mr. Lawson reported that he addressed the issue of the containers that needed to be replaced, as well as his staff's handling of them. He noted that the timing schedule was resolved, with the Admiralty and Carlton buildings.

Councilman Sanz discussed the lateness of the trucks and reported that they were still missing the garbage at 284-286 Bal Bay Drive. Mr. Lawson will look into that.

Mr. Smith will discuss a problem at the Bal Harbour 101 building with Mr. Lawson.

Beth Berkowitz - 10160 Collins Avenue, reported the following problems on the west side of Collins Avenue: garbage trucks parking on one property and dragging trash from other buildings to the parked truck, no schedule, garbage out all day due to missed pickup locations, and garbage trucks running over the grass and breaking the sprinkler system.

Mr. Smith will meet with Mr. Lawson to review the complaints. Mayor Rosenfield noted that if the complaints continued, the contract would need to be reviewed. Mr. Smith thought that Choice had been responsive, in correcting the problems reported.

Proposal for a Traveling Nurse Program at Ruth K. Broad Bay Harbor K-8 Center - Dr. Leslie Rosenfeld, City of Miami Beach Education Liaison: ***Julia Magnani - Ruth K. Broad Bay Harbor K-8 Center PTSA President***, discussed the need for a nurse at the school and the efforts by the City of Miami Beach to assist.

Dr. Leslie Rosenfeld - Representing the City of Miami Beach Manager, discussed the City of Miami Beach agreement with the County Public Schools, which included an initiative for health services in the public schools. She noted that three (North Beach Elementary - Miami Beach, Treasure Island Elementary - North Bay Village, and Ruth K. Broad Elementary - Bay Harbor) of the eight schools in Miami Beach's feeder pattern did not

have health services, which were provided to the other schools by the Children's Trust. She requested that the Village consider partnering with them, to provide a nurse for Ruth K. Broad Elementary. She noted that Bay Harbor and Surfside had already joined the initiative and participation would be requested from North Bay Village, at their May meeting. Dr. Rosenfeld reported that the cost for a full-time nurse would be approximately \$65,000.00. She discussed the possibility of the Miami Beach Chamber of Commerce receiving a grant to fund a nurse, which they would know by next month. She explained that if the grant was not received, then the money from the municipalities would be used, but if the grant was received, then the money would still be requested from the municipalities for the second year. She reported that the shared portion for the three municipalities would be \$21,666.00, so the Village's contribution would be \$7,222.00 (for a full time nurse shared between the three schools).

Councilman Packer and Assistant Mayor Blachar questioned why three schools were not included in the health program. Dr. Rosenfeld noted that the Trust had not provided an answer to that. Assistant Mayor Blachar felt that the School Board or the Children's Trust should cover the expense. She offered to contact the Children's Trust to find out why Bay Harbor Elementary wasn't covered and to also involve Dr. Martin Karp. She spoke against approving money for the nurse.

Mayor Rosenfield didn't know how a shared nurse with two other schools would work. She thought that the salary was high and suggested exploring partnerships with hospitals, for a doctor or nurse.

Dr. Rosenfeld reported that they had met with hospitals, community clinics, etc., but explained that they didn't have the authority to bring anybody into the public schools, since it had to go through the Children's Trust. She noted that the salary, with fringe and benefits, was provided by the Children's Trust.

Mayor Rosenfield clarified that if a grant wasn't received, then the money committed now would be for the first year. She thought that if a grant was received for the first year, then the program should be evaluated and the money for the second year could be requested.

Dr. Rosenfeld clarified that they were not asking for the money now, but were asking for a commitment for the funds.

Assistant Mayor Blachar suggested that the item wait until May, to see if the grant would be received. She spoke in favor of allowing time to check with the Children's Trust, to see why those three schools were not included.

Dr. Rosenfeld clarified that each municipality had agreed to the funding, contingent to Bal Harbour's participation. She noted that Surfside and Bay Harbor had already agreed to the funding.

A motion was offered by Councilman Packer and seconded by Councilwoman Cohen to commit \$7,200.00.

Tamara Oppenheimer – Ruth K. Broad Bay Harbor K-8 Center PTSA Vice President (8942 Irving Avenue, Surfside), discussed the need for nursing services. She reported that many of the schools did not have nurses, because the Children's Trust ran out of funds.

Anamarie Kelly - 77 Camden Drive, spoke in favor of approval.

Councilman Sanz discussed the numerous amounts given to the school, for other items. He would also like the answers to the questions.

Dina Cellini, 211 Bal Cross Drive, spoke in favor of approval, but suggested that the money only be spent, if the grant was not received. If the grant was received, then she suggested that they come back to ask for the money. She spoke in favor of finding out the answers to the questions.

Dr. Rosenfeld explained that the Children's Trust would determine the nurse's schedule.

The motion carried (3-2), with Assistant Mayor Blachar and Councilman Sanz voting no.

Update on Executive Search for Village Manager:

Councilwoman Cohen left the meeting.

Merrett Stierheim, Village Consultant – Cannon Stierheim Productivity Management Teamwork, reported that the Council interviewed the six top candidates individually and recommended that the Council vote for their selection of a manager, at the meeting.

Councilwoman Cohen returned to the meeting.

Mr. Stierheim discussed the process to score the candidates, with first place receiving five points, second place receiving three points, and third place receiving one point, to determine the top choice. He discussed the importance of selecting the manager and not procrastinating.

Councilman Sanz questioned if the top six candidates were researched through Google. Mr. Stierheim advised that they were. He clarified that before a contract was presented, a credit and criminal background check, etc. would be done.

The Council discussed the interview process.

It was the consensus of the Council to vote at the meeting, based on Mr. Stierheim's recommendation.

Mrs. Horvath distributed the ballots to the Council.

Steve Greenberg – 9800 Collins Avenue, suggested that the background check be done, before the vote, and to have the vote at the next meeting.

Brian Mulheren - 10245 Collins Avenue, agreed that the criminal/background check should be done before the vote.

Dina Cellini - 211 Bal Cross Drive, voiced disappointment in Mr. Stierheim's process and thought that a committee of residents should have also interviewed the candidates, as well as an informal reception for the residents to meet the top candidates.

Mr. Stierheim explained the Council's responsibility in the Charter, to select the manager.

Assistant Mayor Blachar discussed the public's support for Mr. Stierheim to do the search. She suggested that a meet and greet be done, after the manager was selected.

Councilwoman Cohen read that Mr. Stierheim had also presented an option to vote for the top two candidates, schedule a meet and greet, and then select the manager.

Mayor Rosenfield noted that the Council had already agreed to vote.

Councilman Sanz was okay with voting, but questioned the selection if he found out something he didn't like about the person.

Mr. Weiss clarified that the direction was to select a top candidate, authorize Mr. Stierheim to finish up the checks, report back to the Council about the checks, and for Mr. Stierheim and Mr. Weiss to negotiate a contract. He added that if they were unable to reach an agreement with the top candidate, then they would go to the second candidate for the same process. He clarified that the Council had the option to change their mind, prior to the contract being approved.

Councilman Sanz questioned if Mr. Weiss had any business with any of the candidates. Mr. Weiss disclosed that he knew Mr. Hebert and Mr. Alexander. Mr. Stierheim disclosed that he knew Mr. Alexander, Mr. Spence, and Mr. Rose, but that didn't have any impact on the process.

Mayor Rosenfield reported that she was never pressured from Mr. Weiss or Mr. Stierheim on the candidates. Councilman Sanz noted that he just wanted it disclosed to the public.

Mrs. Horvath read the results of the ballots, with Mr. Alexander chosen as the first selection, Mr. Hebert chosen as the second selection, and Mr. Rabun chosen as the third selection.

A motion was offered by Assistant Mayor Blachar and seconded by Councilman Packer for Mr. Stierheim to complete the background check and to negotiate a contract with Steven Alexander, going to the second selection if the first selection failed, and going to the third selection if the second selection failed. The motion carried (5-0).

Neil Alter - 9801 Collins Avenue, requested Mr. Alexander's qualifications.

It was the consensus of the Council to schedule a meet and greet with Mr. Alexander.

Mayor Rosenfield reviewed Mr. Alexander's resume, which would be placed on the Village's web site.

5. CONSENT AGENDA:

Assistant Mayor Blachar requested that Tab E be removed.

Brian Mulheren, 10245 Collins Avenue, requested that Tab G be removed.

Approval was requested for the following remaining items:

Tab D: January 15, 2013 Regular Council Meeting minutes

Tab F: Resort Tax Committee Recommendations:

Summer Reading Program	Up to	\$ 5,000.00
Museum Partnership		\$30,000.00
Independence Day Fireworks Display		\$18,150.00

Tab H: \$17,819.17 in Water/Sewer Funds for Change Order #4 to the Water Meter Replacement Project

A motion was offered by Assistant Mayor Blachar and seconded by Councilman Sanz to approve Tabs D, F, and H on the Consent Agenda. The motion carried (5-0).

Tab E – Motion Approving Recommendations of the Gated Residential Section Advisory Committee: Approval was requested for the following items recommended by the RAC:

- 1.) Landscaping Improvements Up to \$12,600.00
- 2.) Security Enhancements
 - Internet Connectivity to Security System \$100.00 monthly
 - Additional Staffing Trial for One Month Up to \$1,400.00
 - Fence/Landscaping for Bal Bay Drive Exit Gate Up to \$2,500.00
- 3.) Ordinance Recommendation
 - Prohibiting commercial photo/video shoots within the Gated Residential Section

Mr. Smith requested that the item be amended, to allow for a three-month trial period of the Internet Connectivity to Security Systems, for evaluation purposes.

A motion was offered by Assistant Mayor Blachar and seconded by Councilwoman Cohen to approve Tab E, as amended. The motion carried (5-0).

Tab G – Motion Approving Purchase of a Sewer Line Grinder:

Approval was requested for \$30,500.00, to purchase a grinder from JWC, for Pump Station #1. Mr. Smith explained that the grinder was needed to grind diapers, wipes and bags that were caught in the pumps.

Brian Mulheren – 10245 Collins Avenue, questioned the need for a sewer grinder and spoke in favor of educating residents.

Peter Kunen, Craig A. Smith & Associates, explained that the grinder was for the pump station in the gated section, but clarified that the items could be coming from anywhere in the Village.

Mr. Smith will provide information on the public channel, to educate residents.

Mayor Rosenfield suggested that a mailing be sent to residents that costs may rise, due to items such as this.

Mr. Mulheren questioned if grinders were needed for the other stations. Mr. Kunen reported that there was already one at another pump station.

Councilman Packer questioned how the items were getting through the home piping. Mr.

Kunen noted that the home systems may be able to accommodate those items.

A motion was offered by Councilman Packer and seconded by Councilman Sanz to approve Tab G.

Councilwoman Cohen spoke in favor of educating the residents.

Neil Alter – 9801 Collins Avenue, spoke in favor of an educational flyer for residents, in addition to a letter to the building managers.

The motion carried (5-0).

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: None.

Resolutions/Public Hearings: None.

7. ORDINANCES FIRST READING/PUBLIC INPUT: None.

8. RESOLUTIONS: None.

9. REPORTS:

A. VILLAGE MANAGER:

Quarterly Financial Update - Christopher Wallace, Finance Director: Mr. Wallace reviewed the quarterly report, included in the agenda.

Anamarie Kelly Stoppa - 77 Camden Drive, questioned if there was a specific contingency fund for the Department of Justice (DOJ) investigation of the forfeiture fund. Mr. Smith advised that there wasn't, but noted that contingency funds were available. Mr. Wallace thought that if any amount was owed, it could be handled in the current budget. Mr. Weiss reported that the Village was working with the DOJ, but hadn't been provided with an amount owed yet.

David Kwiat - 10185 Collins Avenue, requested clarification of the figures and the percentages. Mr. Wallace reviewed the percentages.

Neil Alter – 9801 Collins Avenue, requested the rate of return on money that was placed aside for pension payouts. Mr. Wallace thought that it was approximately 30% (FY2012) for the General Employee Retirement fund.

Beth Berkowitz - 10160 Collins Avenue, requested clarification on the excess benefit plan shown in the report. Mr. Wallace explained that the excess benefit plan was set up only for Alfred Treppeda, at \$4,500.00 monthly, from the general fund.

Councilman Sanz questioned if the Village had the money to give the federal government, if they asked for \$5 million. Mr. Wallace advised that the Village did.

Dina Cellini – 211 Bal Cross Drive, clarified that there would be a yearly line item in the general fund of \$54,000.00, for Alfred Treppeda. Mr. Wallace agreed.

Ms. Cellini questioned if the Village would have any recourse towards a pension plan, if the federal government determined illegal activity that was traced to previous employees of the Village. Mr. Weiss explained that there were certain circumstances when a pension could be forfeited.

Ms. Cellini questioned when the budget revision ordinance would be presented, to show the police costs that the Village would absorb, which were previously funded by the forfeiture fund. Mr. Smith expected to have the ordinance in May.

Request for Approval of a Beer & Wine License for Palace Cafe: This item was deleted from the agenda earlier in the meeting.

Discussion of Vehicle Lease for the Public Works Director: Mr. Smith requested approval for a lease (\$400 monthly) for a new vehicle for the Public Works Director.

A motion was offered by Councilman Packer and seconded by Assistant Mayor Blachar to approve.

Dan Holder - 24 Bal Bay Drive, requested that the Village look into another safety mechanism for the trucks when they backed up, such as a softer sound or the use of a video. Mr. Smith will look into that.

Brian Mulheren – 10245 Collins Avenue, spoke against the Public Works Director having his own vehicle and suggested that he use one of the existing vehicles. He suggested that the Department be reviewed.

Mayor Rosenfield noted that the new Manager would look into that.

Councilwoman Cohen reviewed the list of vehicles for the Public Works Department, which included two spare vehicles. Councilman Packer suggested that the Director use one of the spare vehicles. Assistant Mayor Blachar agreed.

Councilman Packer withdrew his motion and Assistant Mayor Blachar withdrew her second to the motion.

It was the consensus of the Council for the Public Works Director to use one of the spare vehicles.

Neil Alter – 9801 Collins Avenue, didn't think that the Village had to wait for the new manager, since Mr. Smith was capable.

Dina Cellini - 211 Bal Cross Drive, recommended that the Public Works Director use one of the 2012 vehicles as his take home car and for the spare vehicle to be used for the Department's use. Mr. Smith will look into that.

Mr. Holder requested clarification that the Village would look into making the vehicles quieter, when backing up. Mayor Rosenfield agreed that would be looked into.

Update on Executive Search for Village Manager: This item was discussed earlier in the meeting.

B. VILLAGE CLERK:

Lobbyist Registration Report: As of April 16, 2013: The list of lobbyists was provided in the agenda.

Village Special Election – April 23, 2013: Mrs. Horvath encouraged residents to vote on April 23, 2013.

Councilwoman Cohen suggested that information on a special election be mailed in the future and posted on the electrical sign.

Assistant Mayor Blachar spoke in favor of printing the newsletter again.

It was the consensus of the Council to print the newsletter again, instead of just posting it online.

C. VILLAGE ATTORNEY: No items were discussed.

D. MAYOR AND COUNCIL:

Bus Shelter Update – Councilman Sanz: Peter Kunen - Craig A. Smith & Associates, reported that the bus shelters were being fabricated and the first one would be installed around May 20th. He reported that the design needed to be completed, for the shelter sidewalk pavers.

Assistant Mayor Blachar left the meeting.

Mr. Kunen will provide the proposed paver layout, at the May meeting. He anticipated the completion of the shelters at the end of June, not including the pavers.

Discussion of Sidewalk Pavers – Councilwoman Cohen: Councilwoman Cohen discussed the deplorable condition of the sidewalks.

Assistant Mayor Blachar returned to the meeting.

Councilwoman Cohen suggested that the sidewalks and the Bal Harbour signs be looked at, once a new Manager was hired.

Councilwoman Cohen discussed the landscaping in front of the wall, at the bottom of the Haulover Bridge. Mr. Smith reported that the shrubs would be removed and the wall would be pressure cleaned.

Councilman Packer discussed the need to pressure wash the sidewalks regularly.

Leonard Robinson, Director of Public Works, reported that the sidewalks were pressure cleaned twice a year. He added that sidewalk inspections were also conducted and trip/fall areas were patched. Councilwoman Cohen will provide Mr. Robinson with some areas that needed to be addressed.

Assistant Mayor Blachar left the meeting.

Discussion of Architectural Review Board –

Councilwoman Cohen: Councilwoman Cohen discussed the problem with finding good architects to serve on the Board, since they couldn't represent a client in the Village if they served on the Board. Mr. Weiss explained that the Dade County Ethics Code prohibited an architect from presenting a project to the Board, if they were a member. Mr. Weiss noted that the Ordinance may be changed to narrow the duties of the Board, but he wasn't sure if that would make a difference.

Councilman Sanz pointed out that only one person had to resign, in order to represent a client. Councilwoman Cohen didn't think that the Board members should have to resign.

The Council discussed the concept of the Board member using another firm, to present the project to the Board.

Mrs. Horvath was looking into if Jaime Schapiro could come back to the Board, since there was an opening.

Anamarie Kelly Stoppa – 77 Camden Drive, discussed her concern that the Board approved the project for 284 Bal Bay Drive. Mr. Weiss explained that the issue that Ms. Stoppa was discussing was not part of the Board's job.

Councilwoman Cohen reviewed the Village Code, which provided for an ex-officio member of the Architectural Review Board.

Councilman Packer noted that he attended the meeting and the Board conformed to the law.

Councilman Sanz also voiced his disappointment that the 284 Bal Bay Drive project was approved.

A motion was offered by Councilman Sanz and seconded by Mayor Rosenfield to designate Councilwoman Cohen as the Ex-Officio Member of the Architectural Review Board. The motion carried (4-0).

Dina Cellini – 211 Bal Cross Drive, requested clarification on amending the Ordinance. Mr. Weiss clarified that the Ordinance could be amended so that a Board member could design a project, but could not present it to the Board and would have to recuse themselves from voting. Ms. Cellini spoke against amending the Ordinance or allowing someone else to present the project for the Board member. Mayor Rosenfield agreed with Ms. Cellini.

Mr. Weiss will review opinions from the Ethics Commission and give the Council a month to

think about whether or not they want to amend the Ordinance.

10. OTHER BUSINESS:

Public Comment:

Ana Marie Kelly Stoppa – 77 Camden Drive, discussed the denial of her gate access remote.

Ms. Stoppa discussed a police car in the gated area and noted that Florida Statute prohibited the police from patrolling there. She noted that the Gated Residential Section Advisory Committee (RAC) did not have the authority to have the Police there.

Ms. Stoppa reported that the Village Police had refused to write a report she requested with her address, because they said she didn't live at that address.

Ms. Stoppa reported that the Bal Harbour Shops had invaded her Facebook page and other residents' Facebook pages, with a video.

Dan Holder - 24 Bal Bay Drive, noted that the RAC had recommended that the traffic laws be strongly enforced in the gated area, which the Council agreed to.

Pierre Crevaux – (lives in Homestead), reported that the Libertarian Party of Miami Dade County issued a resolution asking for the voters to vote no at the April 23rd election. He explained that the Executive Committee of the Party, partially supported by the Whitman Family, requested that the Village Council focus on selling more public lands, instead of placing roadblocks to privatization.

Neil Alter – 9801 Collins Avenue, discussed the safety issue with cars turning right, exiting the Shops on Collins Avenue. He suggested a red light camera, a decoy, a police officer, or a custodian at that location, to monitor it. Mayor Rosenfield reported that the Police issued tickets for people turning there.

Mr. Alter spoke against the taxpayers paying for the gas and depreciation of police vehicles, for the off-duty officers working for the Consultatio project. Chief Daddario reported that per the agreement, the Village would receive \$5 per hour, to defray those costs.

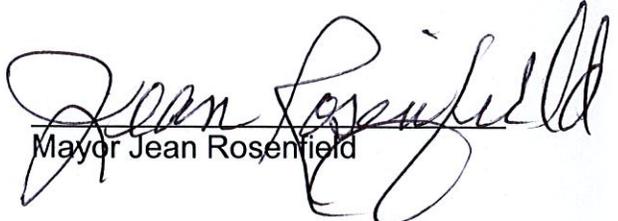
Dina Cellini – 211 Bal Cross Drive, questioned if she was able to place an item on the agenda. Mayor Rosenfield advised that someone making a presentation could be placed on the agenda, but other than that it was not done for residents.

Ms. Cellini thought that the current password for the wireless connection, on the second floor, was inappropriate.

11. ADJOURN: There being no further business, *a motion was offered by Councilman Packer and seconded by Councilman Sanz to adjourn. The motion carried (4-0) and the meeting was adjourned at 10:41 p.m.*

Attest:




Mayor Jean Rosenfield


Ellisa L. Horvath, MMC, Village Clerk