



**Town of Surfside
Town Commission Meeting
AGENDA**

September 17, 2013

7 p.m.

Town Hall Commission Chambers - 9293 Harding Ave, 2nd Floor
Surfside, FL 33154

1. Opening

- A. Call to Order
- B. Roll Call of Members
- C. Pledge of Allegiance
- D. Mayor and Commission Remarks – Mayor Daniel Dietch
- E. Agenda and Order of Business Additions, deletions and linkages
- F. Community Notes – Mayor Daniel Dietch

2. Quasi-Judicial Hearings – Page 1-12

Please be advised that the following items on the Agenda are Quasi-Judicial in nature. If you wish to object or comment upon an item, please complete a Public Speaker's Card indicating the agenda item number on which you would like to comment. You must be sworn in before addressing the Town Commission and you may be subject to cross-examination. If you refuse to submit to cross-examination, the Town Commission will not consider your comments in its final deliberation. Please also disclose any Ex-Parte communications you may have had with any Commission member. Town Commission members must also do the same.

A. Request of Owner of Property located at 8859 Carlyle Avenue

The applicant at 8859 Carlyle Avenue is requesting a side setback variance.

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, CONSIDERING THE APPLICATION OF 8859 CARLYLE AVENUE TO PERMIT A SIDE SET BACK VARIANCE FROM THE REQUIREMENTS OF SECTION 90-45 OF THE TOWN OF SURFSIDE CODE OF ORDINANCES TO ALLOW THE EXISTING SINGLE FAMILY HOME TO ADD AN ADDITION TO THE FIRST FLOOR AND ADD A SECOND STORY TO THE EXISTING SINGLE FAMILY HOME; PROVIDING FOR AN EFFECTIVE DATE.

3. Consent Agenda (Set for approximately 7:30 p.m.)

All items on the consent agenda are considered routine or status reports by the Town Commission and will be approved by one motion. Any Commission member may request, during item 1E Agenda and Order of Business, that an item be removed from the Consent Agenda and discussed separately.

Recommended Motion: To approve all consent agenda items as presented below.

** Denotes agenda items as “must haves” which means there will be significant impacts if the item is not addressed tonight. If these items have not been heard by 10 p.m., the order of the agenda will be changed to allow them to be heard.*

A. Minutes – July 23, 2013 Special Commission Meeting Minutes Page 13-28

August 5, 2013 Special Commission Meeting Minutes

August 13, 2013 Regular Commission Meeting Minutes

**B. Budget to Actual Summary as of June 30, 2013 – Donald Nelson, Finance Director
Page 29-31**

***C. Town Manager’s Report – Michael P. Crotty, Town Manager Page 32-56**

***D. Town Attorney’s Report – Linda Miller, Town Attorney Page 57-60**

***E. Projects Progress Report – Calvin, Giordano and Associates, Inc. Page 61-63**

F. Committee Reports – Michael P. Crotty, Town Manager (Note: Vice Mayor Karukin has requested that Committee minutes appear on the Consent Agenda. The most recent approved minutes have been included) Page 64-73

- July 15, 2013 Parks and Recreation Committee Minutes
- July 25, 2013 Planning and Zoning Board Minutes

G. Florida Department of Transportation (FDOT) Sidewalk Café Lease Agreement (Revision) – Duncan Tavares, TEDACS Director Page 74-101

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA REQUESTING THAT THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) GRANT THE TOWN A PUBLIC PURPOSE LEASE ON A1A/HARDING AVENUE FROM 94RD STREET TO 96TH STREET, WHERE THE TOWN PROPOSES TO ISSUE PERMITS FOR SIDEWALK CAFES; AUTHORIZING TOWN OFFICIALS TO TAKE ALL STEPS NECESSARY TO CARRY OUT THE TERMS OF THIS RESOLUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

H. Approval for Payment of Emergency Repairs to the A/C Units at Town Hall to Smart Air Systems Inc. – Joseph Kroll, Public Works Director Page 102-107

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, RATIFYING AFTER THE FACT THE EXPENDITURE TO SMART AIR SYSTEMS, INC. IN THE AMOUNT OF \$9,459.00 FOR THE EMERGENCY REPAIR OF THE CENTRAL AIR CONDITIONING UNITS LOCATED AT TOWN HALL; PROVIDING FOR APPROVAL; PROVIDING FOR AN EFFECTIVE DATE.

I. Fiber Optic Cable – Daniel Dietch, Mayor Page 108-110

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA (TOWN) AFFIRMING SUPPORT FOR THE INSTALLATION OF FIBER OPTIC CABLE FOR PUBLIC USE IN THE FLORIDA EAST COAST RAIL CORRIDOR; URGING ALL MUNICIPALITIES OF MIAMI-DADE COUNTY TO SUPPORT THE INSTALLATION OF FIBER OPTIC CABLE FOR PUBLIC USE IN THE FLORIDA EAST COAST RAIL CORRIDOR; PROVIDING FOR APPROVAL AND AUTHORIZATION; PROVIDING FOR AN EFFECTIVE DATE.

J. Constitution Week Proclamation – Mayor Daniel Dietch Page 111-112

K. Childhood Cancer Awareness Month Proclamation – Mayor Daniel Dietch Page 113-114

L. Golden Veterans Parade 50th Anniversary Commemoration – Mayor Daniel Dietch Page 115-117

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA (“TOWN”); EXPRESSING SUPPORT FOR THE NOVEMBER 8, 2013 MIAMI-DADE COUNTY MILITARY AFFAIRS BOARD “GOLDEN VETERANS PARADE 50TH ANNIVERSARY COMMEMORATION” COMMEMORATING THE 50TH ANNIVERSARY OF THE VIETNAM WAR; PROVIDING FOR AUTHORIZATION; PROVIDING FOR AN EFFECTIVE DATE.

4. Ordinances

(Set for approximately N/A p.m.) (Note: Good and Welfare must begin at 8:15)

A. Second Readings (Ordinances and Public Hearing)

(Set for approximately 8:00 p.m.) (Note: Good and Welfare must begin at 8:15)

B. First Reading Ordinances

1. **Ordinance Amending Future Land Use Element of the Comprehensive Plan**
– Nancy E. Stroud, Esq., Special Land Use Counsel [SET FOR TIME
CERTAIN AT 8:00PM] Page 118-123

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE FUTURE LAND USE ELEMENT OF THE TOWN OF SURFSIDE COMPREHENSIVE PLAN BY AMENDING POLICY 1.1 TO DELETE PUBLIC SCHOOLS AS A USE IN POLICY 1.1 MODERATE DENSITY RESIDENTIAL/TOURIST LAND USE CATEGORY; ADDING POLICY 10.6 TO PROVIDE FOR LAND DEVELOPMENT REGULATIONS THAT ALLOW REASONABLE RELIEF FOR RELIGIOUS USES AND MAP FLU-8; PROVIDING A SEVERABILITY CLAUSE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.

2. **Veterinary Clinics – Sarah Sinatra, Town Planner Page 124-131**

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 “ZONING” OF THE TOWN OF SURFSIDE CODE OF ORDINANCES AND SPECIFICALLY AMENDING SECTION SEC. 90-41(d) “REGULATED USES” ADDING VETERINARY OFFICE AS A CONDITIONAL USE; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.

5. Resolutions and Proclamations

(Set for approximately 8:30 p.m.) (Note: Depends upon length of Good and Welfare)

A. Community Rating System Consultant CRS Max – Rosendo Prieto, Building official Page 132-135

A RESOLUTION OF THE TOWN OF SURFSIDE, FLORIDA AUTHORIZING THE TOWN ADMINISTRATION TO RETAIN COMMUNITY RATING SYSTEM MAX CONSULTANTS (CRS MAX), INC. TO ASSIST THE TOWN IN REESTABLISHING ITS PARTICIPATION IN THE NATIONAL FLOOD INSURANCE PROGRAM'S COMMUNITY RATING SYSTEM; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO EXECUTE AN AGREEMENT FOR RETENTION OF CRS FOR CONSULTING SERVICES; AUTHORIZING THE APPROPRIATION AND EXPENDITURE FROM THE 2013/2014 FISCAL YEAR BUDGET NOT TO EXCEED \$15,000 FROM THE BUILDING SERVICES DEPARTMENT IN THE GENERAL FUND; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.

B. Five Year Parks and Recreation Capital Plan – Tim Milian, Parks and Recreation Director Page 136-140

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA ("TOWN") ACCEPTING THE PARKS AND RECREATION DEPARTMENT FIVE-YEAR CAPITAL PLAN; APPROVING THE PRIORITIES SET WITHIN THE CAPITAL PLAN; AND AUTHORIZING THE TOWN MANAGER TO TAKE NECESSARY ACTION TO COLLECT VOLUNTARY PROFFERS ASSOCIATED WITH THE CAPITAL PLAN; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.

C. Awning and Sign Code Update – Sarah Sinatra, Town Planner Page 141-144

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA ("TOWN") APPROVING CALVIN-GIORDANO & ASSOCIATES, INC. (CGA) WORK AUTHORIZATION NO. 73 (UPDATING AWNINGS AND SIGN CODE, CGA PROPOSAL NO. 13-5932) IN A TOTAL AMOUNT NOT TO EXCEED \$15,000; PROVIDING FOR AUTHORIZATION, PROVIDING FOR AN EFFECTIVE DATE.

6. Good and Welfare (Set for approximately 8:15 p.m.)

Public comments for subjects or items not on the agenda. Public comment on agenda items will be allowed when agenda item is discussed by the Commission.

7. Town Manager and Town Attorney Reports

Town Manager and Town Attorney Reports have been moved to the Consent Agenda – Item 3.

All items on the Consent Agenda are considered routine or status reports by the Town Commission and will be approved by one motion. Any Commission member may request, during item 1E Agenda and Order of Business, that an item be removed from the consent agenda and discussed separately.

8. Unfinished Business and New Business

9. Mayor, Commission and Staff Communications

- A. **Awards, Presentations and Recognition Meetings** – Commissioner Joe Graubart Page 145
- B. **Town Commission “Liaison” “Ex-Officio”** – Commissioner Marta Olchyk Page 146-147
- C. **Comparison of Code Compliance Processes “Notice of Violation” vs. “Civil Citation” for Enforcement of Town Code** – Joe Damian, Code Compliance Director Page 148-164
- D. **Town Manager Performance Evaluation** – Mayor Daniel Dietch Page 165-172

10. Adjournment

Respectfully submitted,



Michael P. Crotty
Town Manager

THIS MEETING IS OPEN TO THE PUBLIC. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, ALL PERSONS ARE DISABLED; WHO NEED SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THIS MEETING BECAUSE OF THAT DISABILITY SHOULD CONTACT THE OFFICE OF THE TOWN CLERK AT 305-893-6511 EXT. 226 NO LATER THAN FOUR DAYS PRIOR TO SUCH PROCEEDING. HEARING IMPAIRED PERSONS MAY CONTACT THE TDD LINE AT 305-893-7936.

IN ACCORDANCE WITH THE PROVISIONS OF SECTION 286.0105, FLORIDA STATUTES, ANYONE WISHING TO APPEAL ANY DECISION MADE BY THE TOWN OF SURFSIDE COMMISSION, WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING OR HEARING, WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSE, MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE WHICH RECORD SHALL INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

AGENDA ITEMS MAY BE VIEWED AT THE OFFICE OF THE TOWN CLERK, TOWN OF SURFSIDE TOWN HALL, 9293 HARDING AVENUE. ANYONE WISHING TO OBTAIN A COPY OF ANY AGENDA ITEM SHOULD CONTACT THE TOWN CLERK AT 305-861-4863. A COMPLETE AGENDA PACKET IS ALSO AVAILABLE ON THE TOWN WEBSITE AT www.townofsurfsidefl.gov

TWO OR MORE MEMBERS OF OTHER TOWN BOARDS MAY ATTEND THIS MEETING.

THESE MEETINGS MAY BE CONDUCTED BY MEANS OF OR IN CONJUNCTION WITH COMMUNICATIONS MEDIA TECHNOLOGY, SPECIFICALLY, A TELEPHONE CONFERENCE CALL. THE LOCATION 9293 HARDING AVENUE, SURFSIDE, FL 33154, WHICH IS OPEN TO THE PUBLIC, SHALL SERVE AS AN ACCESS POINT FOR SUCH COMMUNICATION.



Town of Surfside Commission Communication

Agenda Item #: 2A
Agenda Date: August 13, 2013
Subject: Watson Side Setback Variance
From: Sarah Sinatra Gould, AICP, Town Planner

Background: The applicant and property owner, James Watson, is requesting a side setback variance from the Town of Surfside Code for the property at 8859 Carlyle Avenue. The owner is proposing an addition to the first floor and adding a second story to his existing single family home. The property is located within the Residential Single Family H30B zoning district.

Analysis: Section 90-45 of the Town of Surfside Code requires the second story side setbacks to be a minimum of five feet, with an average setback of seven and a half feet. The proposed second story meets the side setback of five feet, but it does not provide an average setback of seven and a half feet.

The average setback means that on the second floor of the home, 50% of each side wall is required to have an additional five foot setback. This home is only 15 feet wide, due to the fact that the lot is only 25 feet wide. Requiring the average setback will result in portions of the second floor addition being five feet wide, which is unfeasible.

The lot was initially platted in 1925 and the existing home was constructed in 1936. Therefore, the lot was subdivided somewhere between 1925 and 1936. This lot is 25 feet in width and 2,812.50 square feet in area. The lot is considered non-conforming, however, since the lot is already developed, the addition of a second story will not increase the non-conformity and the only variance required for the addition is for the average side setback.

Existing Home



Location Map



Variance Criteria

(1) Special conditions and circumstances exist which are peculiar to the land, structure, or building involved, and which are not applicable to other lands, structures, or buildings in the same zoning district;

This property was developed in 1936 and subdivided to a 25 foot lot between 1925 and 1936. There are no other 25 foot single family lots within the Town, which makes this lot unique.

(2) The special conditions and circumstances do not result from the actions of the applicant or a prior owner of the property;

The existing single family home, built in 1936, meets the required five foot side setback. It was subdivided and is only a 25 foot lot, resulting in a home that is 15 feet in width. The subdivision of the lot provides a special condition to this property.

(3) Literal interpretation of the provisions of the Town Code deprives the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Town Code and results in unnecessary and undue hardship on the applicant;

The side setback requirement creates an undue hardship on the property owner. The intention of this setback requirement is to prevent "McMansions" whereby the second floor provides the same square footage as the first floor. In this case, the homeowner is not proposing to develop the second floor over the same footprint as the first floor. The plans indicate that there will be approximately 21 linear feet, or 315 square feet, of the first story that will not be covered by the second story. If the literal interpretation of the code were to be followed, the home would need additional setbacks for a portion of the second floor, which would render the addition impractical.

(4) The hardship has not been deliberately or knowingly created or suffered to establish a use or structure which is not otherwise consistent with the Town of Surfside Comprehensive Plan or the Town Code;

The hardship is a result of the lot being subdivided to a substandard size lot, prior to the Town's Comprehensive Plan or Town Code being adopted.

(5) An applicant's desire or ability to achieve greater financial return or maximum financial return from his property does not constitute hardship;

Granting of the variance is not intended to assist the applicant in achieving greater financial return, rather the applicant wishes to expand his home for more livable space. Currently, the home has 741 square feet. He is proposing 1,631 square feet. He has indicated that there are no comparable properties, which has led to difficulty acquiring an appraisal of the property. The granting of the variance may ease his ability to refinance, if he so chooses.

(6) *Granting the variance application conveys the same treatment to the applicant as to the owner of other lands, buildings, or structures in the same zoning district;*

The granting of the variance is specific to the conditions within this lot. This is 25 foot lot that was developed in 1936 and is the only lot in the Town with this condition. The home's first floor setbacks meet today's code requirements, however, the proposed second floor setbacks do not meet the code due to the requirement of a 7.5 foot average side setback.

(7) *The requested variance is the minimum variance that makes possible the reasonable use of the land, building, or structure; and*

The requested variance is the minimum needed to build the second story addition.

(8) *The requested variance is in harmony with the general intent and purpose of the Town of Surfside Comprehensive Plan and the Town Code, is not injurious to the neighborhood or otherwise detrimental to the public safety and welfare, is compatible with the neighborhood, and will not substantially diminish or impair property values within the neighborhood.*

The proposed addition is generally consistent with the intent of the Comprehensive Plan and the Town of Surfside Code. The existing structure, as well as the proposed addition is compatible with the neighborhood. The proposed aesthetics of the home will not diminish or impair property values within the neighborhood.

Recommendation: The Planning and Zoning Board reviewed the application at the July 25, 2013 meeting and unanimously recommended approval to the Town Commission. Staff also recommends the Town Commission approve the variance request.

Budget Impact: The value of the home will be increased, which will increase the property taxes paid to the Town.

Growth Impact: This will allow a second story to be constructed on a single family home.

Staff Impact: Staff's time was funded through cost recovery.



Sarah Sinatra Gould, AICP, Town Planner



Michael Crotty, Town Manager

RESOLUTION NO. 13-Z-___

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, CONSIDERING THE APPLICATION OF 8859 CARLYLE AVENUE TO PERMIT A SIDE SET BACK VARIANCE FROM THE REQUIREMENTS OF SECTION 90-45 OF THE TOWN OF SURFSIDE CODE OF ORDINANCES TO ALLOW THE EXISTING SINGLE FAMILY HOME TO ADD AN ADDITION TO THE FIRST FLOOR AND ADD A SECOND STORY TO THE EXISTING SINGLE FAMILY HOME; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the property, 8859 Carlyle Avenue is located within the Residential Single Family H30B Zoning District; and

WHEREAS, the Applicant is proposing an addition to the first floor and is proposing to add a second story to the existing single family home; and

WHEREAS, the average setback means that on the second floor of the home, fifty percent (50%) of each side wall is required to have an additional five foot setback; and

WHEREAS, Section 90-45 of the Town of Surfside Code of Ordinances requires the second story setbacks to be a minimum of five (5) feet, with an average setback of seven and a half (7 1/2) feet in the H30B Zoning District; and

WHEREAS, the existing single family home is only fifteen (15) feet wide, due to the fact that the lot is only twenty-five (25) feet wide; and

WHEREAS, the property was developed and subdivided to a twenty-five (25) foot lot between 1925 and 1936; and

WHEREAS, the lot is considered non-conforming, however, since the lot is already developed, the addition of a second story will not increase the degree of non-conformity; and

WHEREAS, these renovations allow for special conditions and circumstances for this peculiar land, structure or building involved, which are not applicable to other lands, structures, or buildings; and Section 90-36 of the Town of Surfside Code of Ordinances provides for variance application and review (See Attachment "A" Memorandum from Town Planner, Sarah Sinatra Gould, AICP, Town Planner); and

WHEREAS, the Town Staff recommends approval of the side setback variance; and

WHEREAS, the Planning and Zoning Board reviewed the application on July 25, 2013 and unanimously recommended approval of the application to the Town Commission and the

Town Planner recommended approval of the side setback Variance. (See Attachment "B" Town of Surfside Planning & Zoning Board Resolution No. 13-Z-03)

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

Section 1. Recitals. That the above and foregoing recitals are true and correct and are incorporated herein by reference.

Section 2. Variance. That the Town Commission finds the requested variance from the minimum side setback requirement of Section 90-45 of the Town of Surfside Code of Ordinances meets/does not meet the variance criteria set forth in Section 90-36 of the Town of Ordinances and adopts the Variance with all the conditions as stated in the Planning and Zoning Resolution No. 13-Z-03.

Section 3. Effective Date. This resolution becomes effective upon adoption.

PASSED AND ADOPTED this _____ day of _____, 2013

Motion by Commissioner _____, second by Commissioner _____.

FINAL VOTE ON ADOPTION

Commissioner Joseph Graubart _____
Commissioner Michelle Kligman _____
Commissioner Marta Olchyk _____
Vice Mayor Michael Karukin _____
Mayor Daniel Dietch _____

Daniel Dietch, Mayor

ATTEST:

Sandra Novoa
Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE TOWN OF SURFSIDE ONLY:



Linda Miller, Town Attorney

ATTACHMENT "B"

TOWN OF SURFSIDE PLANNING & ZONING BOARD RESOLUTION NO. 13-Z- 03

A RESOLUTION OF THE TOWN OF SURFSIDE, FLORIDA PLANNING & ZONING BOARD CONSIDERING THE APPLICATION OF 8859 CARLYLE AVENUE TO PERMIT A SIDE SET BACK VARIANCE FROM THE REQUIREMENTS OF SECTION 90-45 OF THE TOWN OF SURFSIDE CODE OF ORDINANCES TO ALLOW THE EXISTING SINGLE FAMILY HOME TO ADD A SECOND STORY; PROVIDING FOR RECOMMENDATION OF APPROVAL; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 90-45 of the Town of Surfside Code of Ordinances requires the second story setbacks to be a minimum of five (5) feet, with an average setback of seven and a half (7 1/2) feet in the H30B Zoning District; and

WHEREAS, the property, 8859 Carlyle Avenue, is located within the Residential Single Family H30B Zoning District; and

WHEREAS, the existing single family home is only fifteen (15) feet wide, due to the fact that the lot is only twenty-five (25) feet wide; and

WHEREAS, the average setback means that on the second floor of the home, fifty (50%) percent of each side wall is required to have an additional five (5) foot setback; and

WHEREAS, Section 90-36 of the Town of Surfside Code of Ordinances provides for variance application and review; and

WHEREAS, the property was developed in 1936 and subdivided to a twenty-five (25) foot lot between 1925 and 1936, these renovations allow for special conditions and circumstances for this peculiar land, structure or building involved, which are not applicable to other lands, structures, or buildings; and

WHEREAS, the Town Staff recommends approval of the side setback variance; and

WHEREAS, the Planning and Zoning Board recommend approval of the side setback variance.

NOW THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING BOARD OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

Section 1. Recitals. That the above and foregoing recitals are true and correct and are incorporated herein by reference.

Section 2. Variance. That the Planning and Zoning Board find the requested variance from the minimum side setback requirement of Section 90-45 of the Town of Surfside Code of Ordinances meets the variance criteria set forth in Section 90-36 of the Town of Surfside Code of Ordinances. (See also Attachment "A" Memorandum from Town Planner, Sarah Sinatra Gould, AICP, Town Planner.)

Section 3. Approval. The Planning and Zoning Board recommend approval of this variance.

Section 4. Effective Date. This resolution becomes effective upon adoption.

PASSED AND ADOPTED this 25th day of July, 2013

Motion by Planning and Zoning Board Member Glynn
Second by Planning and Zoning Board Member Castellanos

FINAL VOTE ADOPTION

Member, Armando Castellanos	<u>yes</u>
Member, Jennifer Dray	<u>Absent</u>
Member, Carli Koshal	<u>yes</u>
Vice Chair, Peter Glynn	<u>yes</u>
Chair, Lindsay Lecour	<u>yes</u>

L. Lecour
Lindsay Lecour, Chair

ATTEST:

[Signature]
Sandra Nova, CMC
Town Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR
THE TOWN OF SURFSIDE ONLY:**

[Signature]
Linda Miller, Town Attorney



ATTACHMENT "A"

MEMORANDUM

To: Planning and Zoning Board
Thru: Michael Crotty, Town Manager
From: Sarah Sinatra Gould, AICP, Town Planner
CC: Linda Miller, Interim Town Attorney
Date: July 25, 2013
Re: Watson Variance
Project #: 08-1763.16

The applicant and property owner, James Watson, is requesting a side setback variance from the Town of Surfside Code for the property at 8859 Carlyle Avenue. The owner is proposing an addition to the first floor and adding a second story to his existing single family home. The property is located within the Residential Single Family H30B zoning district.

Request

Section 90-45 of the Town of Surfside Code requires the second story side setbacks to be a minimum of five feet, with an average setback of seven and a half feet. The proposed second story meets the side setback of five feet, but it does not provide an average setback of seven and a half feet.

The average setback means that on the second floor of the home, 50% of each side wall is required to have an additional five foot setback. This home is only 15 feet wide, due to the fact that the lot is only 25 feet wide. Requiring the average setback will result in portions of the second floor addition being five feet wide, which is unfeasible.

The lot was initially platted in 1925 and the existing home was constructed in 1936. Therefore, the lot was subdivided somewhere between 1925 and 1936. This lot is 25 feet in width and 2,812.50 square feet in area. The lot is considered non-conforming, however, since the lot is already developed, the addition of a second story will not increase the non-conformity and the only variance required for the addition is for the average side setback.

Existing Home



Location Map



Variance Criteria

(1) Special conditions and circumstances exist which are peculiar to the land, structure, or building involved, and which are not applicable to other lands, structures, or buildings in the same zoning district;

This property was developed in 1936 and subdivided to a 25 foot lot between 1925 and 1936. There are no other 25 foot single family lots within the Town, which makes this lot unique.

(2) The special conditions and circumstances do not result from the actions of the applicant or a prior owner of the property;

The existing single family home, built in 1936, meets the required five foot side setback. It was subdivided and is only a 25 foot lot, resulting in a home that is 15 feet in width. The subdivision of the lot provides a special condition to this property.

(3) Literal interpretation of the provisions of the Town Code deprives the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Town Code and results in unnecessary and undue hardship on the applicant;

The side setback requirement creates an undue hardship on the property owner. The intention of this setback requirement is to prevent "McMansions" whereby the second floor provides the same square footage as the first floor. In this case, the homeowner is not proposing to develop the second floor over the same footprint as the first floor. The plans indicate that there will be approximately 21 linear feet, or 315 square feet, of the first story that will not be covered by the second story. If the literal interpretation of the code were to be followed, the home would need additional setbacks for a portion of the second floor, which would render the addition impractical.

(4) The hardship has not been deliberately or knowingly created or suffered to establish a use or structure which is not otherwise consistent with the Town of Surfside Comprehensive Plan or the Town Code;

The hardship is a result of the lot being subdivided to a substandard size lot, prior to the Town's Comprehensive Plan or Town Code being adopted.

(5) An applicant's desire or ability to achieve greater financial return or maximum financial return from his property does not constitute hardship;

Granting of the variance is not intended to assist the applicant in achieving greater financial return, rather the applicant wishes to expand his home for more livable space. Currently, the home has 741 square feet. He is proposing 1,631 square feet. He has indicated that there are no comparable properties, which has led to difficulty acquiring an appraisal of the property. The granting of the variance may ease his ability to refinance, if he so chooses.

(6) Granting the variance application conveys the same treatment to the applicant as to the owner of other lands, buildings, or structures in the same zoning district;

The granting of the variance is specific to the conditions within this lot. This is 25 foot lot that was developed in 1936 and is the only lot in the Town with this condition. The home's first floor setbacks meet today's code requirements, however, the proposed second floor setbacks do not meet the code due to the requirement of a 7.5 foot average side setback.

(7) The requested variance is the minimum variance that makes possible the reasonable use of the land, building, or structure; and

The requested variance is the minimum needed to build the second story addition.

(8) The requested variance is in harmony with the general intent and purpose of the Town of Surfside Comprehensive Plan and the Town Code, is not injurious to the neighborhood or otherwise detrimental to the public safety and welfare, is compatible with the neighborhood, and will not substantially diminish or impair property values within the neighborhood.

The proposed addition is generally consistent with the intent of the Comprehensive Plan and the Town of Surfside Code. The existing structure, as well as the proposed addition is compatible with the neighborhood. The proposed aesthetics of the home will not diminish or impair property values within the neighborhood.

Results

Staff recommends approval of the side setback variance.

Exhibits

1. Application
2. Site Plan



**Town of Surfside
Special Town Commission
MINUTES
July 23, 2013
7:00 p.m.**

Town Hall Commission Chambers - 9293 Harding Ave, 2nd Floor
Surfside, FL 33154

1. Opening

A. Call to Order

Mayor Dietch called the meeting to order at 7:11 P.M.

B. Roll Call of Members

Town Clerk Sandra Novoa called the roll with the following members present: Mayor Dietch, Commissioner Kligman, Commissioner Olchyk and Commissioner Graubart. Vice Mayor Karukin was absent.

C. Pledge of Allegiance

Chief David Allen led the Pledge of Allegiance

2. Discussion of Fiscal Year 2013/14 Budget – Michael P. Crotty, Town Manager and Donald Nelson, Finance Director

Town Manager Crotty gave a summary of the program modifications submitted for each of the various sections of the proposed budget.

A. GENERAL FUNDS

(1) Feeder School Donations (Legislative)

Commissioner Graubart made a friendly amendment that the proposed amount per school be allocated if needed and approved by the Commission. Mayor Dietch indicated the city is very generous with its schools and said there are many community based organizations such as the PTA and Kiwanis that support our schools. Commissioner Graubart made a motion to approve and Commissioner Kligman seconded. The item remains status quo (tie vote) with Mayor Dietch and Commissioner Olchyk in opposition.

(2) Commissioner Discretion Donation (Legislative)

Item amended to read that a pool of \$5,000 be budgeted. Remains status quo 2-2 and Mayor Dietch reserves the right to come back to this item.

(3) Citizens Survey (Legislative)

Motion to approve \$5,000.00 made by Commissioner Kligman and seconded by Commissioner Olchyk. Motion approved 3-1 with Commissioner Graubart voting in opposition.

(4) Legal Assistant (Town Attorney)

Commissioner Kligman made a motion to reject and was seconded by Commissioner Olchyk. Motion carried with all voting in favor to reject the legal assistant position.

(5) Grant Writing Service (Executive)

Commissioner Kligman made a motion to approve and was seconded by Commissioner Graubart. Motion passed 4-0 with all voting in favor.

(6) Employee Educational Assistance (Executive)

Commissioner Graubart made a motion to accept the “no” and Commissioner Olchyk seconded. All voted in favor to accept motion and item remains status quo.

(7) Zoning Code Update (Planning & Code)

Motion to reject made by Commissioner Olchyk and seconded by Commissioner Kligman. Mayor Dietch is supportive in engaging more community involvement on zoning and planning issues. Motion carried to reject 3-1 with Mayor Dietch voting in opposition.

(8) ERP Project Management (Finance –IT)

Commissioner Kligman made a motion to approve and was seconded by Commissioner Graubart. Motion carried 4-1 with all voting in favor.

(9) Live Video Streaming (Finance – IT)

Commissioner Kligman made a motion to approve and was seconded by Commissioner Olchyk. Motion carried 4-0 with all voting in favor.

(10)SCALA Upgrade (Finance – IT)

Commissioner Kligman made a motion to accept and was seconded by Commissioner Olchyk. Motion carried 4-0 with all voting in favor.

(11) Neighborhood Resource Officer (Public Safety)

Commissioner Graubart suggested that since there are two new positions in Public Safety, that only one be considered this year and asked Police Chief David Allen for his recommendation. Chief Allen explained the duties of a Neighborhood Resource Officer and said public feedback indicated they would like to see more police presence. Commissioner Graubart made a motion to approve and was seconded by Commissioner Kligman. Motion passed 3-0 with all in favor. Commissioner Olchyk was absent from the dais.

(12)Public Service Aide (Public Safety)

Commissioner Graubart made a motion to defer this item to the next fiscal year 2014/2015 and was seconded by Commissioner Kligman. Motion passed 3-0 with all in favor. Commissioner Olchyk was absent from the dais.

(13)Replace Flooring (Public Safety)

Commissioner Kligman made a motion to approve and was seconded by Commissioner Graubart. Motion carried 3-0 with all voting in favor. Commissioner Olchyk was absent from the dais.

(14)Community Center Outdoor Fitness Equipment (Parks & Recreation)

Commissioner Graubart shared some emails he received from residents in support of this item. Tim Milian Parks and Recreation Director, presented photos and description of the equipment and was in favor of this project. Commissioner Graubart made a motion to accept. Mayor Dietch made a friendly amendment that the item goes before the Parks and Recreation Committee for approval before including in the budget. Commissioner Graubart accepted and the motion was seconded by Commissioner Kligman. Motion passed 4-0 with all voting in favor.

(15)Bus Service to Mount Sinai Medical Center (Non-Dept)

Commissioner Kligman made a motion to approve and was seconded by Commissioner Graubart. Motion carried 4-0 with all voting in favor.

There was some discussion regarding the millage rate and how to reduce costs to keep the millage rate down. The millage rate will be finalized at the Budget Meeting September 26, 2013 when the final budget will be voted on.

In discussing how to reduce the town's costs, Commissioner Kligman asked for a report on total consulting fees and professional services and what they have accomplished. The report will be emailed to the Commissioners for their review.

Commissioner Kligman also mentioned the increased costs each year for health insurance and asked what was being negotiated. Yamileth Slate-McCloud, Human Resources Director explained the process to the Town Commission.

3. ENTERPRISE FUNDS

(1) Combination Backhoe/Front End Loader (Water & Sewer)

(2) Replacement of Commercial Containers Phase I (Solid Waste)

(3) Vacuum Truck Services (Stormwater)

Commissioner Graubart made a motion to approve items (1), (2) and (3) and was seconded by Commissioner Olchyk. Motion carried 4-0 with all voting in favor.

4. Public Comments

No one from the public wished to speak

5. Adjournment

There being no further business to come before the Commission, the meeting adjourned at 9:03 p.m.

Accepted this _____ day of _____, 2013

Daniel Dietch, Mayor

Attest:

Sandra Novoa, CMC
Town Clerk



**Town of Surfside
Town Commission Special Meeting
MINUTES
August 5, 2013
7 p.m.**

Town Hall Commission Chambers - 9293 Harding Ave, 2nd Floor
Surfside, FL 33154

1. Opening

A. Call to Order

Mayor Dietch called the meeting to order at 7:01 P.M.

B. Roll Call of Members

Town Clerk Sandra Novoa called the roll with the following members present: Mayor Dietch, Vice Mayor Karukin, Commissioner Kligman, Commissioner Olchyk and Commissioner Graubart.

Welcome and Opening Remarks – Mayor Daniel Dietch

C. Discussion Items:

1. Legislative History of Sight Triangle/Hedges Regulations
2. Staff Reports Including Street Curb (bump-outs) and Corner Alternatives
3. Policy Discussion on: Continued Enforcement; Resolution of Existing Fines/Penalties (Special Master vs. Administrative Mitigation Policy); and Possible Code Amendments

D. Report on Current Regulation and Enforcement Efforts– Joe Damien, Code Compliance Director

Code Enforcement Director Joe Damian gave a PowerPoint presentation to the Town Commission. He explained there were several complaints regarding safety and the obstruction of visibility at various intersections. The complaints were investigated and proved to be valid. Photos were shown of corner hedges and other landscaping not in compliance and how it obstructed visibility when entering a corner vs. landscaping in compliance. For a better understanding of code requirements for site triangles, a diagram was viewed and explained how landscaping could be planted to meet code.

E. Presentation on Regulations Sight Triangles (Florida Green Book) – Jeff Cohen, PE, Assistant Chief Miami Dade County Traffic Engineering Division

Mr. Cohen cited from the Florida Department of Transportation rules and regulations book how important site distance is when approaching a corner and that inadequate safety measures do result in serious crashes. Mr. Cohen also explained the different

types of site triangles and how non-compliance landscaping hinders visibility and creates a critical life safety issue. The Commission had questions regarding the town of Surfside's minimum hedge height, minimum parking distance from corner and stop signs. Mr. Cohen said these calculations will be worked out and presented to the Commission.

Commissioner Kligman believed that more education of ordinances was needed and there was not proper consistency of enforcement of the code. She also felt that those who were cited and are now in compliance should have their fines mitigated by the Special Masters and released of liens.

The Commission discussed the release of liens and fines regarding residents who are now in compliance and residents who are still non-compliant, the town's process in issuance of civil notices, as well as the town's administrative costs.

- F. Public Comments** - Mayor Dietch opened the meeting for public comments. Residents - Marina Siniabia, George Espinel, Stefan Lott, Gisela Santiago, Maria Amieva, Julia Magnan, Dan Loredo, Norma Parron, Mark Corentin, Angela McBride, German Previsdomini, Jose Fuentes, Clara Diaz Leal, Jason Schatz, Salvador Levy, Brett Ellis, Aline Ellis, and Randi MacBride spoke individually about the current code requirements. Comments were made regarding the fines and accrual of which they were not aware. They had concerns about hedge heights and the loss of privacy which landscaping provides as well as the loss of value of the home when their yards are decreased because hedges are set back and lowered. They suggested that code changes should be looked at in different ways such as in scale to lot size and to meet the special needs of homeowners as well as the public. Alternative suggestions were given such as "corner bumps or planters. For safety issues, more four way stop signs and more enforcement of speed limits and drivers going through stop signs.

Mayor Dietch closed the Public Comments.

G. Staff Recommendations and Action on Discussion Items

The Commission had questions regarding the issuance of fines and its accrual. Director Damien explained the process of non-compliance notices to residents and eventually a civil fine notice. Commissioner Graubart clarified the use of the word "selective" enforcement of non-compliant residents.

1. A motion was made by Vice Mayor Karukin to release all liens related to code sections 90.92 and section 90.52. Commissioner Graubart made a friendly amendment to read "release liens and fines to those that have complied and to release liens and fines to those who have not complied once cost recovery has been paid not to exceed \$591.40." The amendment was accepted by Vice Mayor Karukin. The motion received a second by Commissioner Kligman. Motion carried with all voting in favor.

2. A motion was made by Mayor Dietch that a Workshop be scheduled prior to October 1, 2013 with Town and County. The Workshop is to include Engineer Dept., Police, Code Compliance, Town Attorney, Public Works, Town Planner and Administration, together with the County. Preliminary options are to be presented at the October Town Commission Meeting. The motion was seconded by Commissioner Kligman. All voted in favor.

Commissioner Kligman made a motion to look at the process that the Town is currently using (notice and civil notifications) and present recommendations during the September Town Commission Meeting. The motion was seconded by Commissioner Graubart and all voted in favor.

H. Adjournment

There being no further business to come before the Commission, the meeting adjourned at 10:27 p.m.

Accepted this ____ day of _____, 2013

Daniel Dietch, Mayor

Attest:

Sandra Novoa, CMC
Town Clerk



**Town of Surfside
Town Commission Meeting
MINUTES
August 13, 2013
7 p.m.**

Town Hall Commission Chambers - 9293 Harding Ave, 2nd Floor
Surfside, FL 33154

1. Opening

A. Call to Order

Mayor Dietch called the meeting to order at 7:06 P.M.

B. Roll Call of Members

Town Clerk Sandra Novoa called the roll with the following members present: Mayor Dietch, Vice Mayor Karukin and Commissioner Graubart. Commissioner Kligman and Commissioner Olchyk were absent.

C. Pledge of Allegiance

Chief David Allen led the Pledge of Allegiance

D. Mayor and Commission Remarks – Mayor Daniel Dietch

Commissioner Graubart made a friendly reminder that with the start of schools to drive extra carefully and if possible to help our schools by donating supplies.

E. Agenda and Order of Business Additions, deletions and linkages

F. Community Notes – Mayor Daniel Dietch

Mayor Dietch announced the upcoming community events which can be found on the Town's website.

2. Quasi-Judicial Hearings

A. Request of Owner of Property located at 8859 Carlyle Avenue

The applicant at 8859 Carlyle Avenue is requesting a side setback variance.

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, CONSIDERING THE APPLICATION OF 8859 CARLYLE AVENUE TO PERMIT A SIDE SET BACK VARIANCE FROM THE REQUIREMENTS OF SECTION 90-45 OF THE TOWN OF SURFSIDE CODE OF ORDINANCES TO ALLOW THE EXISTING SINGLE FAMILY HOME TO ADD AN ADDITION TO THE FIRST FLOOR

AND ADD A SECOND STORY TO THE EXISTING SINGLE FAMILY HOME; PROVIDING FOR AN EFFECTIVE DATE.

Town Manager Michael P. Crotty requested to defer the item to the September 17, 2013 Regular Town Commission meeting at 7:00 P.M.

Commissioner Graubart made a motion to defer the item. The motion received a second from Vice Mayor Karukin and all voted in favor.

3. Consent Agenda (Set for approximately 7:30 p.m.)

Vice Mayor Karukin made a motion to approve the consent agenda minus the pulled items. The motion received a second from Commissioner Graubart and all voted in favor.

A. Minutes – July 16, 2013 Regular Commission Meeting Minutes

Vice Mayor Karukin made a correction to item 9A. Charter Review Committee Process - To change the word “**Mayor**” Mark Imberman to “**Commissioner**” Mark Imberman.

B. Budget to Actual Summary as of May 31, 2013 – Donald Nelson, Finance Director
Commissioner Graubart asked Don Nelson, Finance Director to present the item.

Donald Nelson, Finance Director presented the item and stated that the Town’s revenues and expenditures are on track.

Vice Mayor Karukin asked how restricted funds are tracked. Town Manager Michael P. Crotty asked Director Nelson to explain how the parking trust fund is accounted for. Commissioner Graubart requested that a quarterly or semi-annual update be submitted regarding developers proffers.

***C. Town Manager’s Report (Points of Light) – Michael P. Crotty, Town Manager**

Item A3, page 32 – Duncan Tavares, TEDACS Director stated that the Electric Car Charging Stations are in the process of getting quotes from electricians and once they received them it will take sixty (60) days for implementation.

Item A7, page 34 – Tim Milian, Parks and Recreation Director gave a Powerpoint presentation on a proposed Skate Park. This would be a joint project with the City of Miami Beach and was favorably reviewed at the Parks and Recreation July Meeting. Commissioner Graubart requested more information regarding safety issues.

Item B6, page 41 – Town Manager Michael P. Crotty gave an update on traffic study

Item C1, page 41 – Town Manager Michael P. Crotty stated that the 95th Street End Project will begin on Wednesday, August 21, 2013.

Item C4, page 44 – Chris Giordano explained that the Water/Sewer/Storm Drainage project is near completion and waiting engineers final review for approval.

Item C5, page 46 – Chris Giordano gave update on seawall project.

Item C6, page 46 – Joseph Kroll, Public Works Director gave update with DOT with reference to the 96th Street crosswalk at Harding, and crossing light at Byron projects.

Item C12, page 50 – Tim Milian, Parks and Recreation Director spoke about the Surfside Tennis Center renovation and presented the Town Commission with a Powerpoint presentation. Regulation of usage and fee structure would be reviewed when renovations are done.

Item C13, page 52 – Chris Giordano gave update on the Viscaya drainage system project.

Item E2, page 54 – Vice Mayor Karukin clarified that the actual review must begin in January 2014 not in November 2013.

Item E5, page 55 – Joint Commission and Planning and Zoning Board Meeting to be announced.

Item F1, page 55 – Town Attorney Linda Miller stated that the Town will meet the Spiaggia representative and will provide a follow up status to the Town Commission in September.

Item F2A, page 55 – Rosendo Prieto spoke about the FEMA National flood Insurance status and presented a Powerpoint to the Town Commission. Mayor Dietch asked about the town's vulnerability and where we are at getting a discount.

Item F3A, page 57 – Workshop meeting regarding code compliance and site triangles will be tentatively scheduled for early November

Item F5A, page 59 – Mayor Dietch gave update on beach concessions and expressed he was not in favor of private concessions and said that signs indicating no tents on beaches should be enforced.

***D. Town Attorney's Report** – Linda Miller, Town Attorney

***E. Projects Progress Report** – Calvin, Giordano and Associates, Inc.

F. Committee Reports – Michael P. Crotty, Town Manager (*Note: Vice Mayor Karukin has requested that Committee minutes appear on the Consent Agenda. The most recent approved minutes have been included*)

- June 17, 2013 Parks and Recreation Advisory Committee Minutes
- June 27, 2013 Planning and Zoning Board Meeting Minutes
- July 1, 2013 Tourist Board Meeting Minutes
- July 11, 2013 Tourist Board Workshop Minutes

G. Appointment of Special Masters – Linda Miller, Town Attorney

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA (“TOWN”), RATIFYING FIRST TIME APPOINTMENTS OF SPECIAL MASTERS; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE

Approved on consent

H. Florida Department of Transportation (FDOT) Sidewalk Café Lease Agreement (Revision) – Duncan Tavares, TEDACS Director

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA REQUESTING THAT THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) GRANT THE TOWN A PUBLIC PURPOSE LEASE ON A1A/HARDING AVENUE FROM 94RD STREET TO 96TH STREET, WHERE THE TOWN PROPOSES TO ISSUE PERMITS FOR SIDEWALK CAFES; AUTHORIZING TOWN OFFICIALS TO TAKE ALL STEPS NECESSARY TO CARRY OUT THE TERMS OF THIS RESOLUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Manager Michael P. Crotty requested to defer the item to the September 17, 2013 Regular Town Commission meeting at 7:00 P.M.

Commissioner Graubart made a motion to defer the item. The motion received a second from Vice Mayor Karukin and all voted in favor.

I. Reformation of Current Student Loan System – Commissioner Michelle Kligman

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA (“TOWN”) AFFIRMING SUPPORT FOR THE MIAMI-DADE COUNTY BOARD OF COMMISSIONERS RESOLUTION NO. R-637-13 URGING THE U.S. CONGRESS AND THE U.S. DEPARTMENT OF EDUCATION TO REFORM THE CURRENT STUDENT LOAN SYSTEM; URGING THE U.S. CONGRESS TO RESTORE THE 3.4 PERCENT (3.4%) INTEREST RATE ON SUBSIDIZED FEDERAL STUDENT LOANS; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Manager Michael P. Crotty requested to withdraw the item.

Commissioner Graubart made a motion to withdraw the item. The motion received a second from Vice Mayor Karukin and all voted in favor.

Vice Mayor Karukin made a motion to approve the pulled items from the consent agenda. The motion received a second from Commissioner Olchyk and all voted in favor.

4. Ordinances

(Set for approximately 8:15 p.m.) (Note: Good and Welfare must begin at 8:15)

A. Second Readings (Ordinances and Public Hearing)

1. Deferred Retirement Option Plan (“DROP”) – Yamileth Slate-McCloud, Human Resources Director and Michael P. Crotty, Town Manager

AN ORDINANCE AMENDING THE CODE OF THE TOWN OF SURFSIDE; RELATING TO THE RETIREMENT PLAN FOR EMPLOYEES OF THE TOWN OF SURFSIDE; AMENDING SECTION 2-193 OF THE CODE TO PERMIT ALL MEMBERS ELIGIBLE FOR NORMAL RETIREMENT TO PARTICIPATE IN THE DROP; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

Town Clerk Sandra Novoa read the title of the ordinance.

Town Manager Michael P. Crotty presented the item to the Town Commission.

Mayor Dietch opened the Public Hearing. No one wishing to speak, Mayor Dietch closed the Public Hearing.

Commissioner Graubart made a motion to approve. The motion received a second from Vice Mayor Karukin. The motion carried 3-0.

Hardpack Easement – Linda Miller, Interim Town Attorney

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 SECTION 90-60 “CONSTRUCTION ADJACENT TO BULKHEAD LINES” SUBSECTION 90-60.1 OF THE TOWN OF SURFSIDE CODE OF ORDINANCES REQUIRING NO PERMIT SHALL BE ISSUED FOR THE REPAIR, EXTENSION, ALTERATION OR REPLACEMENT OF ANY HABITABLE, FULLY-ENCLOSED STRUCTURE EAST OF THE OCEAN BULKHEAD LINE; NO PERMIT SHALL BE ISSUED FOR THE CONSTRUCTION OF ANY HABITABLE, FULLY ENCLOSED STRUCTURE CLOSER THAN 20 FEET TO THE WEST OF THE OCEAN BULKHEAD LINE; ALL PROPERTIES EAST OF THE OCEAN BULKHEAD LINE WILL BE REQUIRED TO PROVIDE AN ACCESS EASEMENT TO THE TOWN GRANTING THE PERPETUAL USE OF THE HARDPACK TO THE PUBLIC; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Clerk Sandra Novoa read the title of the ordinance.

Commissioner Graubart made a motion for discussion and the motion received a second by Vice Mayor Karukin. Town Planner Sarah Sinatra presented the item to the Town Commission.

Commissioner Graubart wanted more clarification about the amended sentence which reads “.... new development provides an impact on public safety” and inquired who determines who is creating an “impact.” Town Planner Sinatra reported that the ordinance that the Commission has includes highlighted and underlined areas which indicate amendments to the first reading. Vice Mayor Karukin believed no habitual structure could be build east of the bulkhead and the ordinance as presented was incorrect. Town Planner Sinatra said he was correct and it would be amended to read “properties east of Collins Avenue.” After some discussion, Mayor Dietch and Vice Mayor Garukin asked the ordinance to be amended to reflect the correct language.

The ordinance was amended to read as follows:

ALL PROPERTIES EAST OF COLLINS AVENUE UPON WHICH REDEVELOPMENT OR EXPANSION OF HABITABLE, FULLY ENCLOSED STRUCTURES, REQUIRE A PERMIT FROM THE TOWN, SHALL BE REQUIRED TO PROVIDE AN ACCESS EASEMENT TO THE TOWN GRANTING THE PERPETUAL USE OF THE HARDPACK TO THE PUBLIC; PROVIDED THAT THE DEVELOPMENT CREATES AN IMPACT ON PUBLIC SAFETY AND THAT THE NEED FOR THE EASEMENT IS PROPORTIONAL TO THE IMPACT CREATED. THE HARDPACK IS DEFINED AS THE SAND ROAD WEST OF THE EROSION CONTROL LINE USED BY PUBLIC SAFETY VEHICLES; EACH ACCESS EASEMENT AGREEMENT SHALL BE IN A FORM ACCEPTABLE TO THE TOWN MANAGER AND APPROVED AS TO LEGAL SUFFICIENCY BY THE TOWN ATTORNEY AND SHALL CONTAIN A SIGNED AND SEALED BOUNDARY SURVEY AND LEGAL DESCRIPTION OF THE EASEMENT AREA,

Mayor Dietch opened the Public Hearing.

Louis Cohen spoke on the item.

No one else wishing to speak on the item, Mayor Dietch closed the Public Hearing.

Commissioner Graubart made a motion to approve the friendly amendment. The motion received a second from Vice Mayor Karukin and all in favor.

2. **Trellises** – Sarah Sinatra, Town Planner

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 “ZONING” SPECIFICALLY SECTION 90-19 “SINGLE-FAMILY AND TWO-FAMILY DEVELOPMENT PROCESS” TO ADD “TRELLISES” LOCATED IN THE REAR OR INTERIOR SIDE YARD TO ITEMS NOT SUBJECT TO PLANNING & ZONING BOARD REVIEW; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Clerk Sandra Novoa read the title of the ordinance.

Commissioner Graubart made a motion to approve. The motion received a second by Vice Mayor Karukin. Motion passed with all in favor.

3. **Required Carport Standards** – Sarah Sinatra, Town Planner

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 “ZONING”, AND SPECIFICALLY AMENDING SECTION 90-58 “CARPORT CANOPIES” FOR CONSISTENCY WITH DRIVEWAY REGULATIONS AND CONSTRUCTION STANDARDS; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Clerk Sandra Novoa read the title of the ordinance.

Vice Mayor Karukin made a motion to approve. The motion received a second from Commissioner Graubart. All voted in favor.

4. **Metal Roofs** – Sarah Sinatra, Town Planner

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 “ZONING” SPECIFICALLY SECTION 90-50 “ARCHITECTURE AND ROOF DECKS” TO EXCLUDE METAL ROOFS FROM PLANNING & ZONING BOARD REVIEW; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE

Town Clerk Sandra Novoa read the title of the ordinance.

Vice Mayor Karukin made a motion to approve. Motion received a second from Commissioner Graubart. All voted in favor.

(Set for approximately N/A p.m.) (Note: Good and Welfare must begin at 8:15)

B. First Reading Ordinances

5. Resolutions and Proclamations

(Set for approximately N/A p.m.) (Note: Depends upon length of Good and Welfare)

6. Good and Welfare (Set for approximately 8:15 p.m.)

Public Speaker Peter Neville spoke on tourism and suggested that Surfside consider having a sister city. Mr. Neville expressed the need for a better library.

Public Speaker Martin Oppenheimer asked the Commission to support the updating and remodeling of tennis courts.

Vice Mayor Karukin spoke about the Library and he hopes that with the second floor of the Community Center something can be done.

7. Town Manager and Town Attorney Reports

Town Manager and Town Attorney Reports have been moved to the Consent Agenda – Item 3.

All items on the Consent Agenda are considered routine or status reports by the Town Commission and will be approved by one motion. Any Commission member may request, during item 1E Agenda and Order of Business, that an item be removed from the consent agenda and discussed separately.

8. Unfinished Business and New Business

9. Mayor, Commission and Staff Communications

A. Awards, Presentations and Recognition Meetings – Commissioner Joe Graubart
Commissioner Graubart made a motion to bring this item back at the next Commission meeting. Vice Mayor Karukin seconded the motion and all voted in favor.

B. PACE Program – Town Manager Michael P. Crotty
Vice Mayor Graubart nominated Mayor Dietch to serve as board member for PACE. Mayor Dietch accepted the nomination.

- C. Veterinary Clinics – Sarah Sinatra, Town Planner [TIME CERTAIN 7:30 PM]**
Town Planner Sarah Sinatra presented the item to the Town Commission. David Carmona, DVM gave a Power Point presentation with facts and statistics supporting the need for veterinary services for the community.

Mayor Dietch opened the meeting for public comments. Public speakers Joe Corderi, Ana Fidlay, Walter Javier, Walter Lugo, Janet Shichman, Orit Mimoun, Noreen Clav, Nicole Gitzen, all spoke in favor and felt this was a needed service in the community. Dr. Cursin although not opposed, would like more details and information before moving forward. Mayor Dietch closed the public comments.

Due to a family commitment, Commissioner Kligman was unable to attend the meeting and requested that no action be taken as she would like to part of the discussion. Commissioner Graubart made a motion to honor and accept Commissioner Kligman's request to defer. The motion was seconded by Mayor Dietch. Motion carried 2-1 with Vice Mayor Karukin in opposition.

10. Adjournment

There being no further business to come before the Commission, the meeting adjourned at 10:23 p.m.

Accepted this ____ day of _____, 2013

Daniel Dietch, Mayor

Attest:

Sandra Novoa, CMC
Town Clerk

**TOWN OF SURFSIDE, FLORIDA
MONTHLY BUDGET TO ACTUAL SUMMARY
FISCAL YEAR 2012/2013**

AS OF

June 30, 2013

75% OF YEAR EXPIRED (BENCHMARK)

Agenda Item #

Page

1 of 3

Agenda Date: September 17, 2013

GOVERNMENTAL FUNDS	ACTUAL	ANNUAL BUDGETED	% BUDGET
GENERAL FUND			
REVENUE	\$ 8,224,437 *	\$11,198,285	73%
EXPENDITURES	7,857,599 A-1	\$11,198,285	70%
Net Change in Fund Balance	366,838		
Fund Balance-September 30, 2012 (audited)	5,266,374 A		
Fund Balance-June 30, 2013 (Reserves)	\$ 5,633,212		
RESORT TAX (TEDAC SHARE)			
REVENUE	\$ 136,922 *	\$304,661	45% B
EXPENDITURES	205,158	\$304,661	67%
Net Change in Fund Balance	(68,236)		
Fund Balance-September 30, 2012 (audited)	171,496		
Fund Balance-June 30, 2013 (Reserves)	\$ 103,260		
POLICE FORFEITURE/CONFISCATION			
REVENUE	\$ 13,110	\$162,490	8% C
EXPENDITURES	36,570	\$162,490	23%
Net Change in Fund Balance	(23,459)		
Fund Balance-September 30, 2012 (audited)	122,272		
Fund Balance-June 30, 2013 (Reserves)	\$ 98,813		
TRANSPORTATION SURTAX			
REVENUE	\$ 141,464 *	\$287,862	49% D
EXPENDITURES	132,947	\$287,862	46%
Net Change in Fund Balance	8,517		
Fund Balance-September 30, 2012 (audited)	122,302		
Fund Balance-June 30, 2013 (Reserves)	\$ 130,819		
CAPITAL PROJECTS			
REVENUE	\$ 25,294	\$707,467	4%
EXPENDITURES	243,366	\$707,467	34%
Net Change in Fund Balance	(218,072)		
Fund Balance-September 30, 2012 (audited)	132,783		
Fund Balance-June 30, 2013 (Reserves)	\$ (85,289) E		

NOTES:

- * Many revenues for June, 2013 are received in subsequent months (timing difference) and are recorded on a cash basis in the month received.
- A. Includes \$2,000,000 available for hurricane/emergencies. The balance of \$3,266,374 is unassigned fund balance (reserves).
- A-1. Includes Town's annual General Fund pension contribution of \$473,991 & Davis Settlement.
- B. Timing Difference - June Resort Tax revenues are received in July, 2013.
Total Resort Tax Revenues of \$382,907 were received thru May, 2013 (\$136,922 to TEDAC, \$245,985 to the General Fund).
- C. Forfeiture revenue fluctuates widely.
- D. Timing Difference - June, 2013 CITT revenues are received in September, 2013.
- E. Capital Projects fund includes mobilization expense for the 95th Street End project. (awaiting developer's contributions)

ENTERPRISE FUNDS

ACTUAL	ANNUAL BUDGETED	% BUDGET
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WATER & SEWER

REVENUE	\$ 2,041,225	\$3,070,859	66%
EXPENDITURES	2,105,713	\$3,070,859	69%
Change in Net Assets	(64,488)		
Unrestricted Net Assets-September 30, 2012 (audited)	(2,949,483)		
Loan Proceeds *Subsequent to FY 2012 Close	7,339,928		
Restricted Net Assets-Renewal & Replacement	1,017,776		
Unrestricted Net Assets-June 30, 2013 (Reserves)	\$ 5,343,733 ^F		
Capital Project Expenses to date for Water & Sewer	\$ 5,917,267	\$5,464,014	108%

MUNICIPAL PARKING

REVENUE	\$ 765,345	\$852,286	90%
EXPENDITURES	714,607	\$916,344	78%
Change in Net Assets	20,151		
Unrestricted Net Assets-September 30, 2012 (audited)	1,258,325		
Unrestricted Net Assets-June 30, 2013 (Reserves)	\$ 1,278,476		
Capital Project Expenses to date for Municipal Parking	\$ 270,801	\$451,188	60%

SOLID WASTE

REVENUE	\$ 723,008	\$1,267,303	57%
EXPENDITURES	908,466	\$1,267,303	72%
Change in Net Assets	(185,457)		
Unrestricted Net Assets-September 30, 2012 (audited)	228,437		
Unrestricted Net Assets-June 30, 2013 (Reserves)	\$ 42,980		

STORMWATER

REVENUE	\$ 376,904	\$505,000	75%
EXPENDITURES	283,036	\$505,000	56%
Change in Net Assets	93,867		
Unrestricted Net Assets-September 30, 2012 (audited)	(161,489)		
Restricted Net Assets-Renewal & Replacement	266,140		
Unrestricted Net Assets-June 30, 2013 (Reserves)	\$ 198,518		
FDEP Grant	112,500	\$512,500	22%
Capital Project Expenses to date for Storm Water	\$ 649,518	\$728,781	89%

NOTES:(con't)

F. The reserves balance of \$5,343,733 is the result of a subsequent receipt of the State Revolving Loan payment #1 of \$4,151,234 on October 4, 2012 after the fiscal year closing of September 30, 2012, State Revolving Loan payment #2 of \$3,188,694 received on April 2, 2013, it also includes \$651,144 for rate stabilization, and \$1,017,776 for renewal and replacement.


Donald G. Nelson, Finance Director


Michael P. Crotty, Town Manager

**ATTACHMENT

Town of Surfside
Fund Balance (Reserves)
June 30, 2013

FUND	9/30/2010	9/30/2011	9/30/2012	6/30/2013
General	\$ 3,163,038	\$ 4,256,315	\$ 5,266,374	\$ 5,633,212
Resort Tax	179,035	184,867	171,496	103,260
Police Forfeiture	71,825	117,889	122,272	98,813
Transportation Surtax	416,500	239,760	122,302	130,819
Capital	4,888,357 *	399,754	132,783	(85,289)
Water & Sewer	2,108,920	2,692,379	(1,931,707)	5,343,733
Parking	2,043,034	1,385,581	1,258,325	1,278,476
Solid Waste	82,210	207,462	228,437	42,980
Stormwater	194,564	342,240	104,651	198,518
Total	\$ 13,147,483	\$ 9,826,247	\$ 5,474,933	\$ 12,744,522

4,201,479 *

\$ 8,946,004

*Committed to Capital Project (Community Center)



Town of Surfside

**TOWN MANAGER'S REPORT
September 2013**

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Town of Surfside

Town Hall Commission Chambers - 9293 Harding Ave, 2nd Fl
Surfside, FL 33154

TOWN MANAGER'S REPORT September 2013

A. COMMUNITY PROGRAMS/INITIATIVES/ENHANCEMENTS

1. Sister Cities: Mayor Daniel Dietch

Current Status: The concept of Surfside entering into Sister City relationships with other towns/cities was first discussed within the Administration due to the success of such programs in Surfside's neighboring communities of Miami Beach and Sunny Isles Beach. The idea was recently proposed at the August, 2013 Town Commission meeting by resident Peter Neville as an initiative the Tourist Board might consider given the advent of the revitalization of the Town's tourism economy. Becoming a Sister City (or Town Twinning) creates a broad-based relationship and partnership between two communities nationally or internationally. Traditionally this relationship requires a cooperative agreement between the two towns that often promotes cultural and commercial ties. Possible programs could be established with communities such as Newtown, CT, given the established relationship created by the gift of Ruth the Turtle, with those that have an historical tourism connection (i.e. Canada), as well as with towns based on the heritage of Surfside's population (e.g. those in Israel, Latin and South America). The Tourist Board will discuss this concept at their September 10, 2013 meeting. The Town Commission will be provided more details on this concept for review and discussion as Staff researches the details and pros/cons of establishing such relationships.

2. Electric Car Charging Station: Mayor Daniel Dietch

Current Status: The Parking Division of the Police Department is working with Car Charging on the installation of the station. Arrangements have been made with FPL to install a separate meter at the station's location - an expense to be incurred by Car Charging. The vendor is coordinating an install date with the chosen firm the week of September 9th. The station will be installed at the Town Hall parking lot. The Commission will be notified upon receipt of notice of the installation date.

3. Bullying Program: Commissioner Michelle Kligman

Current Status: The bullying program was held on January 16, 2013 in the Community Center. The event consisted of an informative session that included an expert panel in the control of bullying with a question and answer session and a showing of the movie *Bully*. The event was a great success with approximately 100 people in attendance. Commissioner Kligman proposed a robust program that incorporates surrounding communities and the School Board to further this program. A resolution defining this effort was approved by the Town Commission during the February 12, 2013 Commission meeting. The resolution along with an outline for implementing the program was introduced to the

Parks and Recreation Committee during their March 18, 2013 meeting. Summer camp staff received the bully training during the summer camp in-service training on June 8, 2013. Staff is currently working with the same agency to provide a workshop on anti-bullying for all part time and full time Parks and Recreation staff. The bully training program is set for September 19, 2013 at 6:00 pm in the Community Center. Staff will also research the possibility of holding a youth anti-bully program. This will be an ongoing process and updates will be provided monthly.

4. Mt. Sinai Bus Route: Commissioner Michelle Kligman

Current Status: Following the Town Manager and TEDACS Director meeting with the Jewish Community Services (JCS) team on May 30, 2013 regarding transportation options and related costs, JCS staff prepared a bus proposal. This information will be presented to the Town Commission in the FY 13/14 budget process. A subsequent meeting on June 24, 2013 explored further partnership options to mutually benefit Town residents and JCS clients. A Program Modification addressing transportation to Mount Sinai in conjunction with JCS has been included in the proposed FY 13/14 budget. In the interim, JCS conducted outreach meetings with all Police Department shifts to inform them of their services available to seniors. Being aware of the benefits of the Surf-Bal-Bay Program, police officers can pass on information to residents/seniors that they interact with during their daily community involvement/activities. The Town will continue to inform Surfside residents of the program through the Gazette. Up to \$12,500 is allocated in the proposed FY 13/14 budget to address this transportation need. Staff continues working toward identifying the level of need and transportation options. Possible partnership with JCS is continuing to be explored. Once the FY 13/14 budget is adopted and level of funding availability is known, Staff will prepare proposals for the Commission's consideration. Prior to incurring transportation costs, authorization of the Town Commission will be received.

5. Joint Skate Park with City of Miami Beach

Current Status: Initial contact was made with Miami Beach officials on May 31, 2013 regarding a joint skate park project located south of the Tennis Center and discussions have begun with the Town's Parks and Recreation Committee. A meeting with Miami Beach officials and Town Representatives was held on July 11, 2013. The meeting was positive in nature and Miami Beach is on board with the Town researching the possibility of building a skate park as a joint venture between Miami Beach and the Town of Surfside. At this time Miami Beach has a possible \$400,000 for the project along with the 2 lots of land. The project was presented to the Parks and Recreation Committee during the July 15, 2013 meeting and was supported by the Committee. Staff work on the project continues including finalizing a proposal for partnership with Miami Beach; options for park development and operation; and community outreach. Also, Bay Harbor Islands officials have expressed an interest in the skate park partnership and possible participation.



Approximate 9000 sqft site identified as a possible location for a joint partnership with Miami Beach for developing a skate park located south of the Town's tennis facility (87th Terrace).

6. MAST Academy – Miami-Dade County Public Schools Maritime and Science Technology Academy (FIU Biscayne Bay Campus)

Current Status: Miami-Dade County Public School District is currently in the process of finalizing the startup of a District operated secondary program in environmental sciences at the FIU Biscayne Bay Campus (3000 NE 151st Street, North Miami) for School Year 13/14.

Mayor Daniel Dietch and the Town Manager received a briefing on June 18, 2013 from County School District officials on the start-up of the Environmental Science Program and longer range plans to fund and permanently establish a facility. Commissioner Michelle Kligman also received a briefing from the Superintendent's Office on the proposal.

In a number of locations through the County, municipalities partner with the School District to invest in educational opportunities for its residents particularly as it relates to MAST academies. On September 9th, Surfside and Miami-Dade County School District will host an information meeting at Town Hall regarding the Environmental Sciences at Florida International University (FIU), located at 3000 NE 151 Street in North Miami. The meeting will take place in the Commission Chambers. The agenda and meeting information has been posted on the Town's website under Town News. Elected Officials and staff from Bal Harbour and Bay Harbor Islands have been invited to attend the September 9th meeting to hear about this opportunity to expand educational opportunities for local students. A follow-up written report on the September 9th meeting will be sent to the Commission prior to the September 17th Commission meeting.

7. Town-wide Traffic Study Public Outreach

Current Status: The proposal for the outreach/education process on the Town-wide Traffic Study was presented to the Commission at the May 15, 2013 meeting. The first outreach meeting was held June 25, 2013 in the Commission Chambers. Approximately 10 residents attended. Another outreach

meeting is planned; however, in order to receive more input, a different approach is necessary. Staff will work with the traffic engineer to consider such a meeting following the budget hearings. Also, this subject might be better addressed as the Town considers the use of citizen surveys.

B. DOWNTOWN BUSINESS DISTRICT AND TOURISM

1. Harding Avenue Streetscape Plan - (Item to be discussed at the September 17th Meeting)

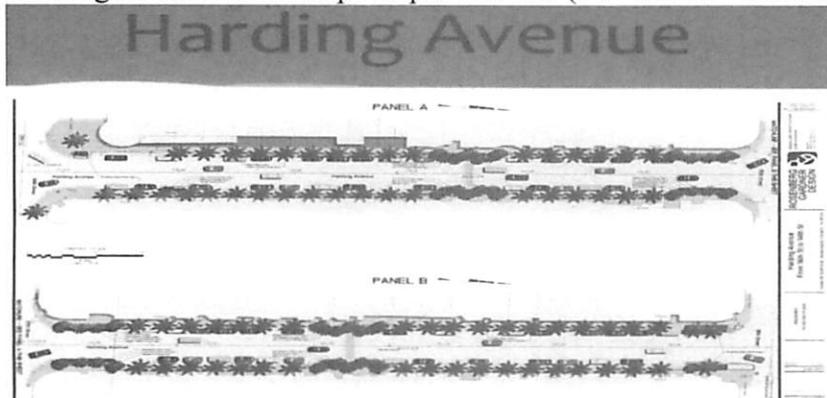
Current Status: On June 11, 2013, the Commission approved the Harding Avenue Streetscape Plan in the amount of \$839,770. The Plan provides for the installation of sixty-nine lighted Medjool palms (existing palms to be relocated to other locations in the Town). Other features of the Plan include the establishment of eight pocket parks complemented by a \$65,000 landscaping budget. The pocket parks will include benches and new trash/recycling cans.

The architects and Staff met with FDOT District Secretary Gus Pego on July 3, 2013 to review plans and discuss FDOT permitting requirements.

Permit applications were turned into FDOT on July 18, 2013. A response was received with questions for clarification on items outlined for the Town and design engineer to respond back. Town staff and the design engineering staff met to organize the Town's response letter on the week of August 25th. A meeting is scheduled with FDOT officials on September 9, 2013 to answer any other questions or concerns FDOT may have before issuing the permit. In addition, a tree relocation permit was applied for from Miami-Dade County on August 28, 2013. This permit should be approved by September 13, 2013, allowing the contractor to start relocating the trees from Harding Avenue to various locations throughout the Town. **This item will be "pulled" and an update will be provided at the Commission meeting.**

Pre-construction meetings continue, to go over any updated information and to finalize our approach before starting the project. The last pre-con meeting was held on September 5, 2013 which involved a discussion on the meeting with FDOT for September 9th. Anticipated start up for this project is by the end of September.

Harding Avenue streetscape improvements (94th and 96th Streets):



2. Abbott and 94th Street Lot Improvements

Current Status: In December, 2010, Lynx Construction was awarded a contract for design build services for 222 95th Street (Post Office Lot) for design and construction of the new parking lot. At the June 14, 2011 meeting, the Town Commission approved FTE Engineering Inc. to do a Parking Lot Improvement Study for all six (6) municipal parking lots. The purpose of this study was to analyze each of the Town's parking lots, recommend improvements, prioritize the recommendations and provide an engineering estimate of what the improvements would cost.

Examples of improvements to date include:



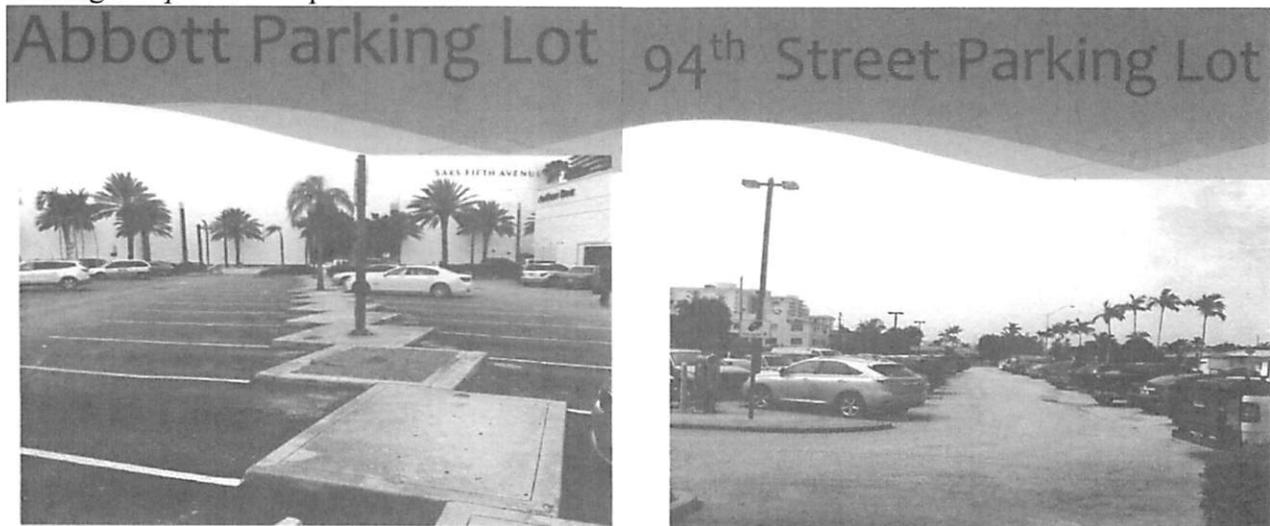
At the May 15, 2013 Commission meeting, maintenance improvements (Lynx Construction) were approved. However, the landscaping component was not approved. A landscaping plan with reduced costs was presented at the July 16th Commission meeting and approved by the Commission (Luke's

Landscaping). The cost of maintenance improvements and landscaping for the two parking lots total \$145,181.18. The landscape material will be of the variety that can be transplanted should one or both of these sites ultimately be the site of a parking structure.

Renovation began on the 94th and Abbott parking lots on August 5, 2013 with concrete removal to make room for trees and shrubs designed for specific locations. It was a coordinating effort between Luke's Landscaping, Lynx Construction and Town staff as well as the Parking Division. It involved concrete removal, planting trees, installing irrigation and pressure washing the wall and sidewalks to prepare for painting. This was done with minimal lot closure or disruption along with some night time scheduling. On the weekend of September 6th, the 94th Street Parking lot was closed for the final portion of this project to seal coat and strip the lot and paint the wall and sidewalks. However, due to rain, the improvements were delayed a week.

The Abbott Parking lot is about 75% complete with all trees, plantings and irrigation in. The wall has been patched, fixed and primed. Seal coating, stripping, painting of the wall and sidewalks are scheduled for the weekend of September 20th.

Parking lots *prior* to improvements:



3. Downtown Vision Project: Commissioner Michelle Kligman

Current Status: DVAC will meet on September 10, 2013 to review the possibility of allowing veterinary clinics in the downtown district. An update on the BID process and Streetscape timeline will also be presented at this meeting.

4. Sidewalk Ordinance Implementation

Current Status: The amended sidewalk lease agreement with FDOT will be presented to the Town Commission at the September Commission meeting. The ordinance will be rolled out as

part of the Town's business licensing process in the Fall to coincide and complement the Harding Avenue Business District Streetscape Greenway.

5. Starbucks

Current Status: Starbucks opened for business on August 12, 2013, located at the former Condotti Men's Clothing Store site. Welcome to our first national tenant in a very long time. Item completed.

6. Parking Structure Feasibility Study

Current Status: The completed study was issued to the DVAC Parking Subcommittee (which includes members appointed by the Town Commission and the Town Manager) on March 8, 2013 for the March 20, 2013 meeting. Rich and Associates and C3TS/Stantec presented to the committee and public in attendance and the meeting was broadcast over Channel 77. The committee unanimously voted in favor of moving the study on to the Planning and Zoning Board (April 3, 2013) and Town Commission (April 9, 2013).

At the April 9, 2013 meeting, the Commission acknowledged receipt of the March, 2013 Parking Structure Feasibility Study. The Commission tasked Staff to develop a public outreach and educational process to move the Study forward in order to ensure all stakeholders have been informed and involved prior to the Commission proceeding with its action on the Study.

Staff began the outreach/education process on the Parking Structure Feasibility Study. At the May, 2013 DVAC meeting, the committee members were asked to be prepared to share their ideas/suggestions on the community outreach/vision process. At the June 24, 2013 DVAC meeting, the committee members provided ideas/suggestions on the community outreach/vision process. The item was also discussed at the two BID Property Owners/Business Operators meetings held on June 26, 2013. The Town Manager is finalizing a report to the Town Commission addressing the first 120 days of employment. This report will include strategic objectives going forward and will include an approach and recommendation regarding the overall issue of parking and the outreach on the Parking Structure Feasibility Study.

7. Five Year Tourism Strategic Plan

Current Status: The Tourist Board accepted the report at their meeting on August 5, 2013. This report will be presented to the Town Commission with the minutes from that meeting at the October 2013 meeting.

C. INFRASTRUCTURE AND UTILITIES

1. 95th Street End Project

Current Status: The project started on August 22, 2013 with the installation of the storm drain and infiltration ditch along the north side of 95th Street with a connection to the FDOT storm

drain. A permit was issued by Miami-Dade County to relocate two 35 ft. Madjool palms from the south side of 95th which will be replanted at the end of the project. Eight new Madjool palms will be planted. The existing trees were a different height so all of the new plantings will now match. The two Madjool palms were relocated to the 94th Street Parking lot area which is at the southern end of the Harding Avenue Street Scape project. The trees were moved on August 12, 2013. The finalization of the paver colors and manufacturer should be complete by September 11, 2013. Curbing for the north side of 95th is scheduled for the week of September 9th. Construction meetings are held with 9501 and Spiaggia representatives to keep them informed of the progress and to discuss and concerns or problems they may have during this project.

The permit process is moving forward for the second phase which entails work from the bulkhead east to the hard-pack.

2. North Force Main/Building Better Communities Bond Program

Current Status: There is both progress and pushback on this effort to obtain funding for this critically important second sewage disposal alternative for Surfside, Bal Harbour and Bay Harbor Islands. Miami-Dade County WASD has retained the firm of Hazen and Sawyer to study the situation at the North Dade Regional Plant and the 163rd Street force main. This is recognition that something needs to be done that will resolve the issue which we keep top of their minds. The negatives are that specific projects which would facilitate acceptance of our sewage are not listed in the draft settlement agreement with EPA and FDEP. Surfside was represented in a community meeting held by WASD September 27, 2012 and our concerns were placed on the record, Mayor Daniel Dietch, Donald Nelson and the former Town Manager also attended a meeting held at WASD on October 25, 2012 in which the draft settlement agreement was further discussed. A new resolution was approved by the Board of County Commissioners that gave specific direction to the County Administration to consider innovative municipal projects as they prioritized the Building Better Communities bond funding. This amendment was written by the former Town Manager and supported by County Commissioner Sally Heyman. Finally, the risks inherent in the Virginia Key plant (where our sewage is treated) and the new force main under Government Cut have been documented in the Miami Herald.

In a conversation with Doug Yoder, Assistant WASD Director who is handling the negotiations with EPA and DEP, it was learned that an environmental group has filed a lawsuit which questions the advisability of upgrading shoreline sewer plants that may go underwater if global warming raises sea level. Therefore WASD is looking at the alternative of an inland plant at a higher elevation. There is a long way to go on this issue.

At the May 21, 2013 County Commission meeting, the County adopted a resolution regarding the Federal Consent Decree. Commissioner Heyman again expressed support for recognition of funding efforts of municipal governments in upgrading sanitary facilities. Bob McSweeney, PE of CGA represented the Town at this meeting. However, since the County Commission action

on the Consent Decree was a resolution, no public comment was received. The following is a summary of the long established Town talking points on this issue which were to be presented:

1. There should be recognition for communities that have made substantial investment to combat I&I. Rate increases should be discounted for communities which took initiative to reduce the I&I utilizing their own funds. Surfside has expended \$23 million on their utilities with the goal of reducing the I&I by 90%.
2. Lift stations – Surfside has fixed its own, as has Miami Beach. Surfside's sewage flows through upgraded lift stations with acceptable NAPOT reports. Again, communities which showed initiative should not be punished by these rate increases.
3. Support for Commissioner Heyman's position: "Any Building Better Communities water and/or sewer project in which a municipality has put forth an innovative financing plan shall not be adjusted as to priority in this analysis and in fact, shall be accelerated if possible. Further, the analysis requested of the Mayor shall include the implication for any recommended adjustments in dollars or timing in the Building Better Communities Bonds as to allocation of water and sewer permits for new or updated construction projects. Said analysis shall be done in a format that clearly demonstrates how the proposed adjustments impact the construction industry and job creation."
4. There should be recognition for building permits issuance and utilization of County capacity to offset County costs/ burden by developers. This burden should not be placed solely on the wholesale customers such as the Town of Surfside.

On May 29, 2013, Town Manager Michael Crotty discussed with Commissioner Heyman establishing a meeting to follow-up on sanitary sewer issues identified in this POL. The Commission will be provided updates.

On July 11, 2013, Town representatives met with Miami Beach officials regarding the agreement with Miami Beach on sanitary sewer services they provide to the Town. Issues identified during the preparation of the new agreement with Miami Beach may identify additional issues to assist in the Town's discussions with Miami-Dade. Miami Beach will be encouraged to partner with the Town and our adjoining communities as we approach Miami-Dade regarding the possibility of a north force main. This enhancement would be a significant "back-up" for Miami Beach. Once the negotiations are concluded with Miami Beach, Bob McSweeney, CGA Director of Engineering Construction, will prepare a report outlining the Town's efforts in upgrades/improvements to its sanitary sewer system and issues in support of our talking points listed above which will serve as the basis for discussions with the County.

Finally, a meeting was held with DERM on August 29th to discuss the Town's successful compliance with the terms of the 2007 Consent Agreement as a result of the Town's \$23.6M Water/Sewer/Storm Drainage Project. Town staff discussed with DERM representatives the contemplated north force main project; benefits to be derived and possible approaches to achieve this objective. Miami Beach officials will be approached to discuss the north force main project and determine their interest in participating with the County in this dialogue.

3. Water/Sewer/Storm Drainage Project and Collins Avenue Force Main Project

Current Status: The following report on the Water/Sewer/Storm Drainage Project is a compilation of CGA and Staff input:

The Water/Sewer/Storm Drainage Project commenced on August 15, 2011 in the southern sector of the Town (Phase I). The project involves water main/water service replacements, lining or replacement of the gravity sewer mains and sewer lateral replacements, rehabilitation of the sewer pump stations, and improvements to the stormwater collection system including three (3) new storm drainage pump stations. Phase I-III are now all substantially complete. All of the sewer mains have been lined and the TV crews have now completed the post construction video which is being reviewed for approval by Town staff and CGA Engineers. The final lift of asphalt installation commenced February 25, 2013. The paving subcontractor began in the south end of Town and has completed all available areas (Town is working with FDOT for the required restoration on FDOT roadways). The permanent pavement marking and stripping is occurring as the asphalt has set a minimum of 21 days. The Contractor has completed all punch list items within private property and is now finalizing the pump station and roadway punch list. Sanitary pump stations are substantially complete and off of the bypass pumps. The electricians are now troubleshooting new issues regarding the automated controls on the sanitary pump stations. The drainage pump stations have passed all electrical inspections and FPL has provided power. The Contractor has substantially completed all work on the drainage pump stations and passed structural and electrical inspection. The close-out of all pump stations will include completing punch list items, full training of Town staff on operation and maintenance (O&M) and the contractor will provide O&M manuals. A project close out meeting was held on July 8, 2013.

Both Surfside and the Village of Bal Harbour are currently utilizing the newly installed Collins Avenue force main with no operational issues. CGA continues to assist the Town Manager in negotiating with Bal Harbour a resolution of the design costs for the force main.

Partial refinancing of the project has been completed to reduce the interest costs and provide funding for additional utility main replacements, and other costs within the original scope. A comprehensive status report for the project was provided in the August 14, 2012 Commission agenda package and authority was granted to complete the project within a total budget of \$23.635M. Retainage will continue to be held and will only be released after all work is completed including the punch list.

Funding Summary –

<u>Funding Status:</u>	<u>Amount</u>	<u>Amount Received</u>
FDEP Grant	\$873,500	\$873,500
FDEP Grant	\$125,000	\$12,500 **
FDEP Grant	\$100,000	\$100,000
FDEP State Revolving Fund Loan*	\$9,312,881	\$4,792,023 ***

BBC Bond	\$859,000	\$787,335
TOTAL	\$11,270,381	\$5,691,858

*This loan has the potential of \$2-\$3 Million being forgiven by the State

*Partial Reimbursement #2 is in process for \$3.188MM bringing total requested to \$7.896M

**Reimbursements currently being processed by FDEP

*****The State of Florida has reduced the interest rate from 2.12% to 1.87% fixed over the life of the loan. This will save approximately \$200,000 of interest cost**

Sanitary Pump Station Outreach Meetings

Meetings were held on May 20, 2013 with neighbors in the area of the 89th and 93rd Street Pump Stations. Based on input received, the final restoration/landscaping plans have been modified to incorporate suggestions received - primarily landscaping suggestions to provide enhanced buffering. Finally, this was an opportunity to express the Town's appreciation to the residents for their incredible patience as this challenging project draws to conclusion.

Project Closeout Meeting

The community meeting on the closeout of the Water/Sewer/Storm Drainage Project was held on July 8, 2013. The meeting included:

- * Report by the consulting engineers on the scope of the project; benefits to be derived from the improvements including operational, financial and environmental; and what the project will mean long-term for the Town and residents.
- * Response to the inquiries and concerns expressed by residents regarding the functioning of the drainage system following the recent three major rainfalls which occurred prior to the new system pumps being operational and the contributing factor of the limited functioning of the FDOT 's drainage system along Harding Avenue.
- * Opportunity for residents to identify any remedial action or restorations to property/right-of-ways still to be accomplished as the Town closes out the project.

The CGA Projects Report in the Commission agenda packet contains additional information on the water/sewer/storm drainage project and the Commission was provided a report on September 6th containing a "punch list" of unresolved items and issues relating to sewer agreements/regulatory issues.

4. Seawall Project

Current Status: The seawall design project was awarded to Calvin, Giordano & Associates with the commitment that the grant application cost would not be paid until a grant in the amount of not less than \$250,000 was made available. The design work is finalized. As a result of Hurricane Sandy, the

seawall at Carlyle and 88th Street is near collapse, endangering the Town's \$250,000 investment in the new storm water pump station. A recommendation to declare the project an emergency was made to the Town Commission during the November 13, 2012 meeting. Based on authority granted at the November 13, 2012 Town Commission meeting, Staff applied for the emergency permit from Miami-Dade County and received budgetary quotes from Palm Beach Marine (\$60,000), BK Marine (\$88,000) and Shoreline Foundation, Inc. (\$92,000). Permits will be received prior to September 24, 2013 for all seawalls. A Notice to Proceed will be issued immediately thereafter. FIND presentations were made on June 21, 2013 with final grant approvals being made in July, 2013 and funds become available October 1, 2013. The Surfside seawall project received 41.09 points which exceeds the required 35 points for funding.

More detailed information on seawall repairs is in the monthly report of CGA contained in the Commission agenda packet.

5. Beach Management

Current Status: Hurricane Sandy and high full moon tides and wind caused significant erosion on our beach. Due to the storm, Surfside lost up to 75 feet of beach (with nearly 25 feet returning by natural drift of sand) and was one of the least damaged segments of beach countywide. Staff has begun work on many fronts to ensure that various agencies with authority and funding initiate a re-nourishment program. A meeting was held with Miami Dade County staff on December 20, 2012 and the County accepted responsibility for coordinating the re-nourishment. Town Staff will be kept updated as Miami-Dade County moves forward with any re-nourishment project.

Congresswoman Debbie Wasserman Shultz sponsored a Coastal Community Roundtable on April 4, 2013. Governmental representatives from Miami-Dade and Broward Counties heard presentations from U.S. Army Corps of Engineers in Jacksonville, Florida. Of local interest, Corps representatives presented an overview of the sand re-nourishment project scheduled in Bal Harbour (Contract G: August, 2013 Award and start date at the conclusion of Sea Turtle Season). After this project, compatible sand sources for re-nourishment will be depleted.

The Corps will begin an outreach through the summer pertaining to their planned sand source study (Contract J: tentative date August, 2014). The study will attempt to locate compatible sand (non-County borrow area) for future projects.

Discussions were held on the long delayed Bypass project at Port Everglades and the legal issues and challenges associated with the use of foreign sand (i.e. Bahamas) for domestic projects. Also, the Town has been approached about possible coordination with Miami Beach on their dune restoration initiative.

A presentation on beach re-nourishment and the sand source study was scheduled for the September 17, 2013 Commission meeting. Unfortunately, Brian Flynn Special Projects Administrator, Miami-Dade County DERM (responsible for sand/beach re-nourishment) is

unable to attend due to a medical reason which has him on leave for an undetermined return time. Brian will be rescheduled as soon as he is available.

Plans for the dune re-nourishment project in April, 2014 are still a work in progress. Staff continues to coordinate this effort with Lee Gotlieb.

6. Collins Avenue Sidewalk Utility Box Repairs: Commissioner Marta Olchyk

Current Status: All of the trip hazards have been corrected with the exception of two (2) FPL boxes both located directly in front of the Surf Club on 90th and Collins Avenue. FPL has been contacted to make the necessary repairs and they will be correcting these trip hazards. FPL has been working on the utility box repairs and has hired a contractor to address the repairs subject to a FDOT permit. The Public Works Department is coordinating the repairs with FPL and FDOT to ensure proper completion.

7. Pedestrian Crosswalk at Harding Avenue and 96th Street

Current Status: This FDOT experiment in modifying pedestrian behavior by requiring a three light alternative has been an issue of concern. A meeting was held with FDOT District Engineer Gus Pego and he agreed to study going back to the original crosswalk. This will slow eastbound traffic on 96th Street making a right turn to Harding Avenue southbound, however, that is a more desirable consequence than leaving the current dangerous unauthorized pedestrian movement. A meeting was held with Mr. Pego on July 3, 2013 regarding the history of the pedestrian crossing at 96th/Harding.

Public Works Director Joseph Kroll, also met with the Town's Traffic Consultant, Jeff Maxwell of Calvin, Giordano, and Associates to discuss the aforementioned traffic issue. Mr. Maxwell was able to provide his findings for Harding Avenue and 96th Street crosswalk as follows:

Potential Crosswalk at 96th Street/Harding Avenue – South Leg of the Intersection: The intersection of Harding Avenue/96th Street currently provides pedestrian crosswalks on the north, east, and west approaches. The south leg of the intersection does not provide a pedestrian crosswalk. Westbound traffic is prohibited from turning left onto Harding Avenue (southbound) and would therefore not present a conflict with the proposed pedestrian crosswalk. Eastbound traffic allows for dual eastbound to southbound right-turn movements. This will present a conflict with the proposed pedestrian movement on the south side of the intersection during the eastbound through movement green phase. For this reason, it will be necessary to provide a dedicated pedestrian phase for the proposed pedestrian movement on the south side of the intersection. It will very likely result in the deterioration of the intersection traffic Levels of Service since the cycle time will need to be allocated for an exclusive pedestrian phase. This will be the primary disadvantage of the proposed crosswalk facility. If a pedestrian crosswalk is installed on the south leg of the intersection, pedestrians on the south side of 96th Street wishing to cross Harding Avenue will no longer need to crossover to the north side of 96th Street. This will be the primary advantage of the proposed crosswalk facility.

[Note: In the July 3, 2013 meeting with FDOT District Secretary Gus Pego, Mr. Pego essentially reiterated the comments provided by Traffic Engineer Jeff Maxwell. He further indicated that installing the crosswalk in the south crosswalk, the traffic would backup substantially on 96th Street increasing the likelihood of turns onto Abbott Avenue thus increasing traffic into the residential areas].

A follow-up meeting with FDOT will be scheduled.

8. Town Hall Parking Lot(s) and Parking Solutions

Current Status: At the April 9, 2013 Commission meeting, issues associated with Town Hall Parking Lot(s) and parking issues/solutions were discussed.

In order to understand the magnitude of improvements to the existing conditions, a design build proposal was requested from Lynx Construction Management for discussion purposes. This proposal included design, surveying, permitting, construction, etc. The cost estimate was based on a design to accommodate existing operations (Town Hall, Public Works and Police needs). The design build proposal was \$425,441.

It is recommended that no action be taken on this design build proposal. The ultimate parking solution for this area needs to be part of the overall analysis going forward as the Town considers the proposed improvements to the Community Center (second floor option). Also, there has been discussion on relocating all or a portion of the Public Works operation and/or vehicles.

The proposed FY 13/14 budget presented to the Commission provides a proposal/funding to initiate the planning of Community Center improvements.

Staff will determine appropriate maintenance actions to minimize the impacts of the dirt parking areas in the parking area south of Town Hall until permanent improvements are made.

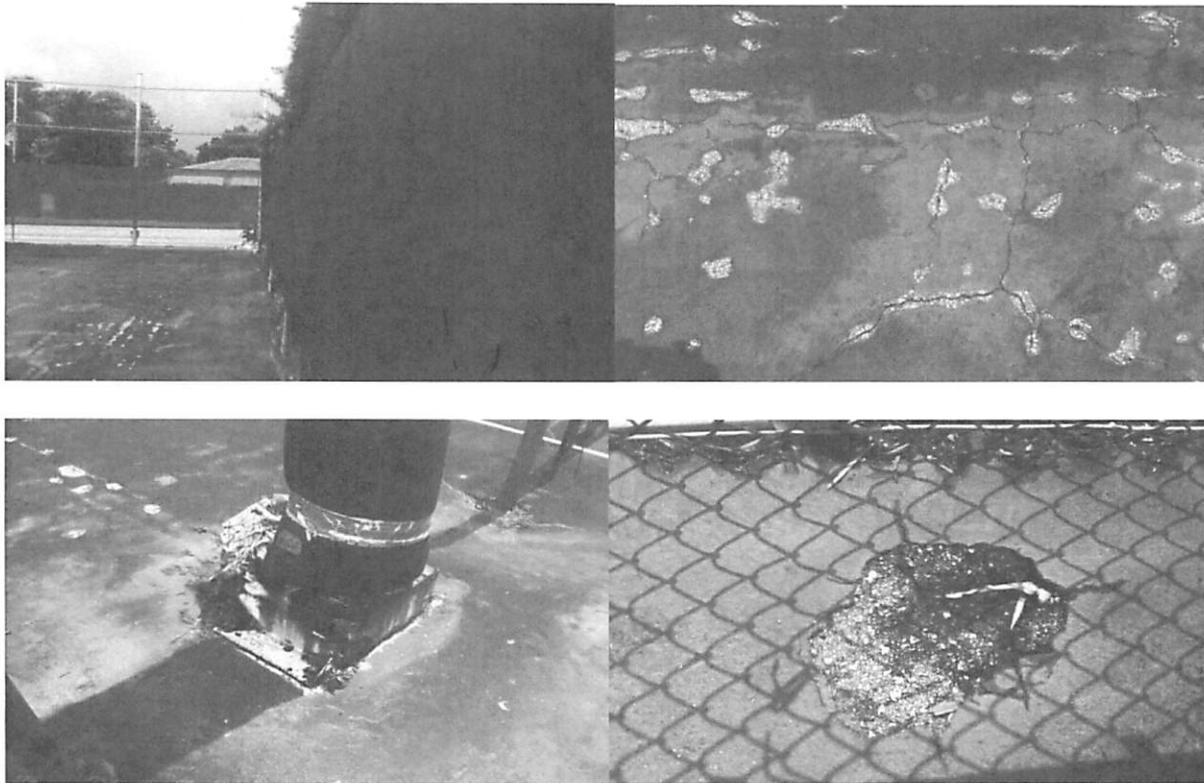
9. Community Center Expansion: Second Floor Addition: Vice Mayor Karukin

Current Status: During the December 17, 2012 Parks and Recreation Committee meeting, the second floor of the Community Center was listed by the Committee as the top priority for the Parks and Recreation Infrastructure Plan. The FY 13/14 proposed budget contains \$100,000 funding from voluntary proffers to undertake conceptual planning and design of projects including the second story addition to the Community Center. This funding is subject to the Commission approving a Five Year Capital Parks and Recreation Plan. The Resolution adopting the Five Year Capital Parks and Recreation Plan is on the September 17 Commission agenda.

10. Tennis Facility

Current Status: At the July 15, 2013 Parks and Recreation Committee meeting, the Committee recommended that the improvements to the tennis facility be ranked as the #2 priority with implementation beginning in FY 13/14, (#1 priority being the second floor addition to the Community Center). The improvements (court surface, lighting and fencing) are estimated to cost \$255,000. The Committee moved up the tennis facility on its priority list due to the deteriorating condition of the court surface and overall condition of the supporting infrastructure including lights.

Photos of the existing condition of tennis court surface, light poles and fence/screening to be addressed in FY 13/14:



Following the Commission approval of the Five Year Parks and Recreation Capital Plan, the Town will receive in excess of \$400,000 during FY 13/14 from voluntary proffers. Staff is currently finalizing a report containing a recommendation and funding strategy for the project. The Parks and Recreation Committee could review the proposed project as early as its September meeting. It is planned that a proposal for the total renovation of the Tennis Center will be provided to the Commission at its October 8, 2013 meeting.

11. Biscaya Drainage Investigation

Current Status: Around the same time of the completion of the Water/Sewer/Storm Drainage Upgrade Project, Surfside experienced a two week period of high intensity short duration rainstorms in conjunction with spring high tides. A result of the newly sealed sanitary sewer system which did not allow excess rainfall to flow into the sanitary sewer system, the flooding during these high tide-high intensity storms increased the duration of temporary flooding on Biscaya Island.

A neighborhood meeting was held at Town Hall on June 5, 2013 to discuss the drainage issues on Biscaya Island. The meeting began with a discussion regarding the current Water/Sewer/Storm Drainage Project and an explanation that the drainage portion of the project was being funded by FDEP in order to improve water quality entering Biscayne Bay, and was not solely a service/performance project. It was also explained that the added work performed on Biscaya Island with regard to improving the existing drainage conditions was the correction of major deficiencies in curb and driveway elevations, improve the roadway profile, and service and clean the existing storm water catch basins. Also, the drainage system (catch basins and culverts) was again inspected the week of June 5, 2013 to ensure that the system was not damaged during construction. The residents provided input from and discussions regarding potential solutions including the construction of a drainage pump station, outfall upsizing and other alternatives ensued. At the conclusion of the meeting, Staff directed the Town/CGA to schedule meetings with the permitting agencies having jurisdiction to discuss possible modifications which would increase the level of drainage service to the island.

The Town held one meeting and one teleconference to date with Miami Dade RER (DERM) and SFWMD, respectively. The outcome of the Town's meeting with the County resulted in the County agreeing to be receptive to SFWMD's decision on waiving water quality treatment, and if so the County would most likely recommend a variance to the County's requirement to provide water quality as well. This is promising news should the Town decide to move forward with the design, permitting and construction required to upsize the current drainage outfall(s) on Biscaya Island.

On July 12, correspondence was delivered to Biscaya Drive residents informing them of the status of the Town's efforts/investigation of drainage conditions and solutions. CGA has presented cost estimates and awaits direction from the Commission.

A Staff/Engineering report will be presented to the Commission at its October 8 meeting outlining cost estimates and options.

12. Street Signs Replacement

Current Status: This item has been deferred until the final costs of the water/sewer/storm drainage project are known. It does not appear that enough funds will be available for this project. A final report will be provided to the Commission upon closeout of the project.

D. PLANNING, ZONING AND DEVELOPMENT

1. The Shul Project

Current Status: An application in sufficient form to start the Design Review Group (DRG) process was received and the first meeting was held on August 22, 2012. A second Design Review Group meeting was held on February 13, 2013 and a third was held on March 28, 2013. A meeting took place with Stanley Price representing the Shul, former Town Manager and Town Attorney Linda Miller on March 1, 2013 to further refine the voluntary proffers including an alternative to a Payment In Lieu of Taxes (PILOT). A DRG meeting occurred on July 18, 2013 and additional comments were discussed. A meeting is scheduled on September 12, 2013 between the Shul and Town representatives to continue the dialogue.

2. Tracking Development Orders

Current Status: Project management tracking will be an integral part of obtaining software for project tracking, departmental interfacing/sharing of critical information (i.e. Code Department and Building Department) and overall management of special/development projects and asset management. On May 30, 2013, a meeting was held to identify and discuss Enterprise Resource Planning (ERP – systems integration of internal and external management of information across the entire Town organization) requirements for upgrades for FY 13/14. This will include a project tracking component. A follow-up meeting was held with Staff on June 7, 2013. Funds are included in the FY 13/14 budget to move ERP forward. Also, four project management tracking schedules have been completed and the remaining tracking schedules will be completed prior to FY 13/14 budget adoption. Thanks to Sarah Sinatra for undertaking this effort. Staff will continue to review and update the status.

3. Massing and Zoning Discussion: Vice Mayor Karukin

Current Status: At its May 15, 2013 meeting, the Town Commission directed the Town Manager to set up a Joint Workshop with the Planning and Zoning Board to discuss zoning issues. Those issues were clarified at the July 25, 2013 Planning and Zoning Board meeting and the Manager announced that the public is encouraged to provide comments regarding the zoning code on a form provided on the website.

Vice Mayor Karukin clarified his concerns in a July meeting with the Town Attorney and Staff and these specific issues have been discussed at the August Planning and Zoning Board meeting. The Planning and Zoning Board has asked staff to look at side setbacks as a percentage of the lot width to increase the current setbacks, removing the side setback requirement, require parking below grade, requiring building lengths to be no greater than 150 with 30 feet of separation, explore breezeways and consider building platforms no greater than 30 or 40 feet in height without a break similar to the conditions at the Surf Club. These issues will be discussed again at the September Planning and Zoning Board meeting.

4. Solar Panels and TV Antennas (Dishes)

Current Status: Solar panels are becoming less expensive to install and more cost effective as technology advances. TV antennas (dishes) are proliferating where some buildings have as many as ten facing main streets causing visual clutter and excess wiring. Both devices are a part of urban life, however, guidelines need to be developed. Therefore this matter was sent to the Planning and Zoning Board for discussion during their January 31, 2013 meeting. This item will be discussed at either the future Joint Workshop or as a discussion item on a future Planning and Zoning Board agenda.

E. TOWN COMMISSION

1. Legislative Priorities

Current Status: The Legislative Session ended on May 3, 2013. Fausto Gomez updated the Commission at the July 16, 2013 Commission meeting on the session pertaining to new legislation affecting municipalities and the status of the Town's legislative priorities adopted on January 15, 2013. His written report was submitted to the Commission on June 4, 2013.

In the Fall, the Commission will begin to prepare its list of legislative priorities for 2014.

2. Charter Amendment Schedule

Current Status: The Town Commission during the February 12, 2013 meeting determined to initiate the Charter review process no later than August, 2013. On January 15, 2013, the Town Commission adopted Resolution No. 2013-2126 which certified and declared the results of the election held on November 6, 2012 wherein all three Charter Amendments were adopted by the voters. On January 15, 2013, the Town Commission adopted Resolution No. 2013-2126 which certified and declared the results of the election held on November 6, 2012. Per the ballot language, the Town must commence Charter Review within the first (12) months after adoption of the Resolution.

3. Election Site

Current Status: On April 15, 2013, the Town Clerk notified the Miami-Dade Elections Department that the Town is considering changing the polling location permanently to the Community Center starting with the March 2014 election. Miami-Dade responded that they would look into this issue after the May 14, 2013 County wide election. The Miami Dade County Elections Department visited the Community Center on May 23, 2013. Staff awaits their findings.

4. Town Commission/Planning and Zoning Board Joint Meetings

Current Status: The Town Clerk will finalize a date for the zoning joint workshop with the Planning and Zoning Board and announce the date at the September 17, 2013 Commission meeting.

F. TOWN DEPARTMENTS

1. Town Attorney

- a. Options to Mitigate Inadequate Number of Parking Spaces at Multi-family Establishments along the Collins Avenue Corridor: Mayor Daniel Dietch

Current Status: It has been determined by the Building Official that the Spiaggia Condominium is sixteen (16) usable spaces short from its required number of spaces due to the design of the parking facility which makes certain spaces unusable. The Building Official and the Town Attorney's office are preparing an agreement with the Spiaggia Condominium Board to resolve the situation. A report should be completed by October 1, 2013.

2. Building Department

- a. FEMA National Flood Insurance Program

Current Status: The final house slated for remedial work is presently under contract and the required flood vents have been ordered. This particular structure, 1355 Biscaya Drive, had presented some unexpected challenges for both the design professionals as well as the contractor which created considerable time delays. The principal challenge of this project is the way in which the supporting structure was designed and built. In order to accommodate the additions, the substructure created virtually inaccessible pockets that need to be opened to allow the free flow exit of flood water from under the house. All of those pending issues have been addressed. Completion of this project will officially close the present CAV.

A resolution is being presented to the Commission at its September, 2013 meeting to retain the services of CRS Max a consulting firm that specializes in maximizing the potential of a community's application to the CRS program. Their services revolve around identifying the existing conditions of each community and thereby providing programmatic solutions needed to attain the highest possible entry score into the CRS program. CRS Max references have been contacted and the return responses have been overwhelmingly favorable.

Ross Prieto successfully completed the CFM certification exam on August 23 and is presently licensed as the Town's certified flood manager. This certification will allow Ross to manage the Town's flood hazard program under the NFIP.

- b. Imaging Town Documents

Current Status: The Building Department continues its daily scanning of current documents during the day and at the end of each day. Document files are being reviewed and organized on an ongoing daily basis.

c. Forty Year Building Certification - Collins and Harding Avenues

Current Status: Collins Avenue mailings have been completed and the focus has been turned to Harding Avenue. To date three properties have been issued letters of violation for non-compliance, four properties have had their letters of violation placed on temporary hold awaiting response. In these cases the owners have responded and requested a short extension. One code sanctioned exemption was granted and one property has come into full compliance including final payment. At this time there are six total properties under the ninety day notice for which we are awaiting response. Steady progress is being made in the area of 40 year building certification.

3. Code Compliance Department

a. Code Compliance Priorities Workshop

Current Status: A workshop was held on April 17, 2013 with the Mayor and Town Commission at which time Staff provided a presentation, including historical information on the prior Ad-Hoc Code Enforcement Committee's recommendations. The report included commonly occurring or reported violations in the single-family, multi-family residential districts, and business district. Recommendations were provided on priorities in each district and discussion was held, including public comments. Each Elected Official was provided a priority worksheet to be submitted to Staff in order to assist in establishing priority and policy direction for code enforcement. Staff analyzed the information submitted by the Commission and included a written report, along with a Commission Communication in the June 11, 2013, Commission meeting agenda packet. Due to the number of items on the agenda and the anticipated length of the meeting to discuss code enforcement issues, this item was deferred. At the August 13, 2013, Town Commission meeting, the Administration received direction to present their updated report and recommendations at the November, 2013 Town Commission meeting. The September 17th Commission agenda includes a report on code compliance process – Notice of Violation v. Civil Citation.

b. Residential Home Based Businesses

Current Status: At the direction of the Mayor and Town Commission, enforcement of the Local Business Tax Receipt and Certificate of Use provisions was stayed for Home Based Businesses for FY12/13, until such time as code compliance priorities are established. A Staff follow-up report from the April 17, 2013 Code Compliance Workshop was provided to the Town Commission on June 11, 2013, but deferred. Additional discussion, recommendations and options will be provided at the November, 2013 Town Commission meeting.

c. Short Term Rentals

Current Status: Options/recommendations on short term rentals have been included in the Code Compliance Report that was provided, but deferred, at the June 11, 2013, Town Commission meeting as part of the follow-up to the April 17, 2013 Code Compliance Workshop. This item should be

incorporated in the Code Compliance priorities discussion at the November, 2013 Town Commission meeting.

d. Sight Triangle (Hedges) and Corner Visibility

Current Status: On August 20, 2013, Staff met with Miami-Dade County Traffic Engineer and looked at several intersections in the single family residential neighborhood. After much discussion, the County's position was that the Florida Green Book was the required minimum standard for all municipalities. County staff recommended adoption of same into our Town Code. Based on the discussions, it appears that compliance with Green Book requirements may not be easily attainable Town-wide, as many corner properties (due to limited width of easements and lack of sidewalks) may not be able to meet the minimum standards. These minimum standards include multiple "sight triangle" scenarios, some that address minimum sight clearances immediately after stop signs, as well as others that address visibility clearances that are related to cross traffic which are based on speed limits. It was also confirmed that many property owners have planted hedges and shrubs in the easement (in many cases, right up to the curb) that also hinder visibility. It was recommended that the most easily achievable resolution to compliance was to cut the hedges and shrubs back. Additional issues were also identified by County staff, such as the traffic circle at 95th & Byron, 4-way stop signs, stop sign locations, and speed limit signs, some of which may have been placed without County review or authorization. The Administration will meet internally in order to provide direction to Planning and Zoning, Public Works, Police and Code Compliance with regard to preparation of materials for the Town Commission's review, along with the Administration's recommendation in October 2013.

4. Finance Department

a. Five Year Financial Plan: Mayor Daniel Dietch

Current Status: The 2013 Five Year Financial Plan has been a priority project for the Town Administration and the Finance Department. A final draft of the 2013 Financial Plan is scheduled to be completed by September 9th. A significant portion of the work product from the 2013 Financial Plan is provided in the FY 13/14 Budget message including financial impact of approved development plans; resort tax revenues; building permit fees; fund balance and ad valorem revenue percentages (residential v. commercial). The **final** plan will be presented to the Commission prior to the second budget public hearing scheduled for September 26.

b. Online Bill Pay: Vice Mayor Michael Karukin

Current Status: The online payment by credit card of the water, sewer and storm water utility bill by residential and commercial customers was implemented as part of the water bill that was mailed in mid-June, 2013.

The online bill pay went live on the website as of July 1, 2013. Notifications are received from SunTrust Bank Merchant Services every morning for accounts that have been paid. Finance Staff is

completing the process to implement the e-check payment process with SunTrust to facilitate the process online.

c. Certificate of Use (CU) /Local Business Tax Receipt (LBTR)

Current Status: Only one business did not comply for FY 12/13. Failure to respond resulted in that business being brought before for Special Master processing. This is the highest level of compliance ever achieved in Surfside history. New renewal packages have been mailed and 18 businesses have already renewed for FY 2013-2014.

d. Tourist/Resort Tax Audit

Current Status: Only several businesses have not complied. The Finance Director is working with the businesses to ensure compliance with the Auditors' requests so that the audits could continue. These businesses may go through the Code Compliance process in time for the next Special Master hearing. The completed audit reports are in the process of being reviewed by the Finance and TEDACS Departments.

5. Parks and Recreation

a. Beach Concessions

Current Status: The lease agreement with the State of Florida and Miami-Dade County was presented to the County Recreation and Cultural Affairs Committee on September 10, 2012 and moved forward to the Board of County Commissioners on October 2, 2012. The lease application and documents were prepared by Miami-Dade County and submitted to the State for approval. On May 15, 2013 the County received correspondence from by the State regarding to the lease agreement. The State informed the County that Florida Statute 161.201 allows the County to police the beach and enter into a management agreement with the Town of Surfside. The Town Manager, Town Attorney and the Parks and Recreation Director met with John Ripple, Beach Operations and Maintenance Supervisor and Kevin Kirwin, Assistant Director for Operations from Miami Dade County on May 20, 2013 to move the process forward. Currently the County attorney's office is completing a review of the statute. Following legal review, Town and County staff will work to prepare an agreement which would provide the Town with the legal authority to regulate beach concessions. The County is anticipating a September, 2013 start date to review a beach management agreement with the Town. In the interim, the County will be responsible for beach management issues.

b. Five Year Parks and Recreation Capital Plan

Current Status: The Surf Club developer agreed to provide \$400,000 to fund projects included in the Plan and the Chateau developer agreed to add \$200,000 for a total of \$600,000. With \$600,000 in voluntary proffers to the Parks and Recreation capital budget, an initial meeting with the Parks and Recreation Committee to develop a Capital Plan was held on December 17, 2012. During the

December 17, 2012 Parks and Recreation Committee meeting, the second floor of the Community Center was listed by the Committee as the top priority for the Parks and Recreation Infrastructure Plan. The Parks and Recreation Committee approved its recommended Five Year Parks and Recreation Plan. During the July 15, 2013 Parks and Recreation Committee meeting, it was suggested by the Parks and Recreation Director and approved by the Committee to move the Tennis Center repairs up from item number 3 to item number 2. The FY 13/14 proposed budget includes funding from voluntary proffers to begin the conceptual planning/design of the FY 13/14 projects listed in the Five Year Capital Plan. Voluntary proffer payments will be received once the Commission approves a Five Year Parks and Recreation Capital Plan. The Resolution approving the Five Year Parks and Recreation Plan will be considered by the Commission at the September meeting.

c. Pool Tot Lot Repairs - Community Center

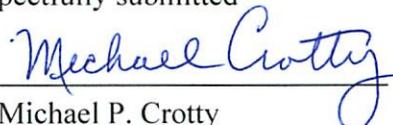
Current Status: Funtraptions, the original contractor for the Community Center water playground, is no longer in business and not available for any warranty work or repairs. At the completion of the project, a 10 percent retainer fee was held back by the Town until full satisfaction was met with the water play structure. The retainer (\$22,600) will be utilized to cover the cost of repairs of warranty items that need to be addressed. Naumann Nature Scapes, Inc. has been on site at various times since January 28, 2013 reviewing the water playground operations and the water playground pool blue prints. Naumann Nature Scapes, Inc. has provided an itemized list of work to be completed on a priority level. This proposal was presented to the Town Commission during the May 15, 2013 meeting and a resolution was passed to have the work completed. Phase I of the work began on May 9, 2013 with the removal of the Sand Dollar play feature for repairs. The Sand Dollar has been reinstalled and Phase II of the repairs has been completed to include hardware replacement, rust removal, clear coat repair and solenoid repairs. Work continues to move forward and the water playground continues to remain open. Progress reports on the work being performed will be updated on this report.

6. Public Works

a. Sidewalk Staining to Match Colors

Current Status: The project is almost complete with the only item being touch-up work on two driveway entrances along Collins Avenue. These drives were scheduled to be addressed the week of September 9th when the contractor (Lynx Construction) works on the Abbott and 94th Street parking lots.

Respectfully submitted

by: 
Michael P. Crotty
Town Manager



TOWN OF SURFSIDE
Office of the Town Attorney
 MUNICIPAL BUILDING
 9293 HARDING AVENUE
 SURFSIDE, FLORIDA 33154-3009
 Telephone (305) 993-1065

TO: Town Commission

FROM: Linda Miller, Town Attorney 

CC: Michael P. Crotty, Town Manager
 Sarah Johnston, Assistant Town Attorney

DATE: September 17, 2013

SUBJECT: Office of the Town Attorney Report for September, 2013

This Office attended/ prepared and/or rendered advice for the following Public Meetings:

August 13, 2013	Town Commission Meeting
August 26, 2013	Parks & Receptions Meeting
August 29, 2013	Planning & Zoning Meeting
September 9, 2013	First Budget Hearing for FY 2013/2014
September 10, 2013	Tourist Board Meeting
September 10, 2013	DVAC Meeting
September 16, 2013	Parks & Recreation Meeting

Ordinances prepared, reviewed and/or revised for the following:

- Comp Plan Text Amendment.
- Veterinary Office.

Resolutions prepared and Agreements reviewed and/or revised for the following:

- Variance 8859 Carlyle Avenue.
- Adopting Tentative Levying of a Millage Rate FY 13/14.
- Adopting the Final Annual Budget FY 13/14.
- Smart Air After-The-Fact.
- Fiber Optic Cable for Public Use.

- FDOT – Sidewalk Agreement Addendum.
- CRS Agreement.
- Parks & Recreation 5-year plan.
- FDOT – Addendum to Landscaping Maintenance Agreement.
- Golden Veterans Parade 50th Anniversary.
- Proclamation Constitution Week September 17th – 23rd.
- Proclamation Childhood Cancer Awareness Month.

Town Manager:

- Continued research and review for Charter Review Board.
- Continued follow-up issues regarding commercial parking and construction sites.
- On-going review of Shul plans.
- Continued follow-up for preparation of massing and zoning issues.
- Continued follow-up with Code Enforcement regarding sight triangles/hedges.
- Continued follow-up on issues regarding regulating beach concession.
- Collaborate on 9501 Collins Avenue proffer.
- Research ownership of alleys.
- Research on Board/Commission member(s) attending other board/commission meetings.
- Review of conditions of approval on all ongoing projects.
- Continued follow-up Spiaggia parking space requirements.

Town Clerk:

- Research and review of time for meetings.
- Opined on Notice requirements.
- Review updated ethics law requirements.
- Review election/ballot notice requirements.
- Review and follow-up for public records law.

August 29, 2013 Planning and Zoning Board Agenda:

- 9389 Byron Avenue – request to convert his garage.
- 9217 Dickens Avenue – request to build a patio addition.
- 9476 Harding Avenue – request to install a permanent sign.
- 9472 Harding Avenue – request to install a permanent sign.
- Discussion on wall frontage and side setbacks in H120.
- Research permitted and special use provisions.

Building Department/Code Enforcement/Planning:

- Continued followed up with Building Official regarding FEMA for follow-up for CAV response.
- Continued follow-up meetings with Code Enforcement regarding sight triangle hedges violations.
- Research Florida Green Book standards.

- Collaboration on parking alleys updates and information.
- Collaboration on purchasing guidelines for retention of services.
- Research and review development permit language.

Human Resources Department:

- Review job description for Assistant Town Attorney.

Finance Department:

- Collaboration on finalizing the Agenda for First Budget Hearing and TRIM Reso.

Parks and Recreation:

- Review of Beach Management Agreement (Concession) with Miami-Dade County
- Continued follow-up and review of Parks & Recreation Department policy and procedures.
- Collaboration on research and review of 5-year plan.
- Review of beach furnishings operations & maintenance.
- Review for update of P.U.P. Park Rules and Guidelines.

Tourist Bureau/Downtown Vision Advisory Board/Tourist Board:

- Continued follow-up re: post Tourist Board requests.
- Follow-up policy for Ethics Policy.
- Continued assistance with Downtown Vision Project continuing issues including creation of a Business Improvement District; research various municipalities in preparation for revisions to draft ordinance.
- Continued research on Impact Fees implementation.
- Research and update for social media.
- Continued Research on DVAC Committee Rules & Procedure.
- Reviewed Deco Bike Agreement.
- Reviewed and researched Endlessly Organic Agreement.

Public Works:

- Debris contract research.
- Assisted with Vendor Agreement Provision Language.
- Smart Air Contract and preparation resolution.

Police Department:

- Continued follow-up and research applicability of Florida Statute and Red Light Camera process.
- Assisted with Hold Harmless Release Form for Police Training.
- Research and review Commercial Parking Rules & Procedures.

Litigation:

Currently, the Town has **only one outstanding matter** and legal representation is provided by the Florida Municipal Insurance Trust (“FMIT”).

Pieter Bakker vs. Town Of Surfside, a municipal corporation of the State of Florida and Young Israel Of Bal Harbour, Inc. In The Circuit Court Of The Eleventh Judicial Circuit In And For Miami-Dade County, Florida Case No. 12-17783 CA04 (“State Court Matter”). On May 30, 2012, Pieter Bakker filed a complaint against the Town. The complaint alleges counts against the Town which include contract zoning, charter violations, and a request for a writ of certiorari to quash Resolution 12-Z-2078 approving a Site Plan Application to permit Young Israel to build a synagogue on 9580 Abbott Avenue. Mr. Bakker filed a Motion to Abate which has not been ruled on by the Court. This “State Court Matter” is pending before Judge Beth Bloom.

Matters Pending Final Dismissal:

In Re Forfeiture Of \$18,155.00 U.S. Currency; 2012 Honda Civic The Court granted the Town’s Motion for Summary Judgment against Barrocas. The vehicle and cash in the amount of \$18,155 is forfeited to the use of the Town.

Josefina Lopez vs. Town of Surfside and Florida Department of Transportation. Case No. 13-08398CA31, Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida. Plaintiff, Lopez filed a complaint alleging on May 18, 2009 while walking on the sidewalk located at 9140 Collins Avenue, she stepped into an uneven jagged crack in the sidewalk concrete and injured herself. On September 3, 2013, the Plaintiff filed a **Notice of Dropping the Town of Surfside as party Defendant.**

Special Matters: Continued monitoring of new case law and legislation on Federal, State, and County levels.



TOWN OF SURFSIDE
 PROJECTS PROGRESS REPORT
 CALVIN, GIORDANO & ASSOCIATES, INC.
 September, 2013

1. **Planning and Community Development** – Planning and Community Development – In August 2012, the Shul submitted a site plan application for an expansion. Staff met with the applicant to discuss the review comments and the applicant resubmitted the plans on January 25, 2013. Staff held Development Review Group meetings on February 13, 2013, March 28, 2013 and July 18, 2013. Once all of the outstanding comments are addressed, a Development Impact Committee meeting will be scheduled, which is anticipated in October. The Planning department has prepared graphics and text relating to the length of buildings for discussion at the August Planning and Zoning Board meeting. If directed, staff will prepare an ordinance to be heard at the October Town Commission meeting. Planning Staff has also prepared a spreadsheet for each development project to continually track the conditions of approval. This spreadsheet identifies the department responsible for the item and confirmation of completion. Staff continues to answer approximately 80 zoning questions monthly and reviews permit applications.

2. **Information Technology & TV Broadcasts** - The mail server has been up and running without interruption for 379 days. The last downtime was for routine maintenance and occurred on July 11, 2012. IT is awaiting delivery for upgrades to the chamber room broadcasting equipment including wireless microphones. IT has provided quotes for surveillance cameras for the Police Department to place around the town and is awaiting approval. Triad Security installed two new video cameras at the Community Center, per the Chief's request. The software demo for vehicle license plate reading has been installed for the police department. The replacement check printer for Sungard has been put on hold by the finance department. IT has placed an order for a memory upgrade for the firewall to support more VPN sessions for the police department. The IT staff continues to receive approximately 300 support requests monthly via phone and email.

3. **Public Utilities / Engineering** – The Water/Sewer/Storm Drainage Project commenced on August 15, 2011 in the southern sector of the Town (Phase I). The project involves water main/water service replacements, lining or replacement of the gravity sewer mains and sewer lateral replacements, rehabilitation of the sewer pump stations, and improvements to the stormwater collection system including three (3) new storm drainage pump stations. Phase I-III are now all substantially complete. All of the sewer mains have been lined and the TV crews have now completed the post construction video which is being reviewed for approval by Town Staff and CGA Engineers. The final lift of asphalt installation commenced February 25, 2013. The paving subcontractor began in the south end of Town and has completed all available areas (Town is working with FDOT for the required restoration on FDOT roadways). The permanent pavement marking and stripping is occurring as the

asphalt has set a minimum of 21 days. The Contractor has completed all punch list items within private property and is now finalizing the pump station and roadway punch list. Sanitary pump stations are substantially complete and off of the bypass pumps. The electricians are now troubleshooting new issues regarding the automated controls on the sanitary pump stations. The drainage pump stations have passed all electrical inspections and FPL has provided power. The Contractor has substantially completed all work on the drainage pump stations and passed structural and electrical inspection. The close-out of all pump stations will include completing punch list items, full training of Town staff on operation and maintenance (O&M) and the contractor will provide O&M manuals. A project close out meeting was held on July 8, 2013 at 7:00pm.

Both Surfside and the Village of Bal Harbour are currently utilizing the newly installed Collins Avenue force main with no operational issues. CGA continues to assist the Town manager in negotiating with Bal Harbour a resolution of the design costs for the force main or arbitrations will begin.

Partial refinancing of the project has been completed to reduce the interest costs and provide funding for additional utility main replacements, and other costs within the original scope. A comprehensive status report for the project was provided in the August 14, 2012 Commission Agenda package and authority was granted to complete the project within a total budget of \$23.635 Million. Retainage will continue to be held and will only be released after all work is completed including the punch list.

Funding Summary –

<u>Funding Status:</u>	<u>Amount</u>	<u>Amount Received</u>
FDEP Grant	\$873,500	\$873,500
FDEP Grant	\$125,000	\$12,500 **
FDEP Grant	\$100,000	\$100,000
FDEP State Revolving Fund Loan*	\$9,312,881	\$4,792,023 ***
BBC Bond	\$859,000	\$787,335
TOTAL	\$11,270,381	\$5,691,858

*This loan has the potential of \$2-\$3 Million being forgiven by the State.

*Partial Reimbursement #2 is in process for \$3.188MM bringing total requested to \$7.896MM

**Reimbursements currently being processed by FDEP

***The State of Florida has reduced the interest rate from 2.12% to 1.87% fixed over the life of the loan. This will save approximately \$200,000 of interest cost

4. **Neighborhood Improvements** – CGA Staff completed the traffic computer modeling of the Town’s roadway system as an element of the Town-wide traffic calming study. The initial traffic counts to complete the traffic study occurred in September, 2012. A number of the counts were finalized in late October due to construction activities. These counts are incorporated in the Draft Traffic Study Report that was discussed at the April 9, 2013 meeting. As authorized by the Town Commission, staff held public meetings on June 25, 2013 with an attendance of 10 residents. CGA will work with the Town Manager to schedule the second public meeting.

5. **Emergency Management** - CGA finalized all revisions to the Town’s Emergency Operations Plan (EOP) and submitted it on Friday, March 29, 2013. Onsite training occurred on Friday May 3, 2013. This project is completed.

6. **Emergency Seawall Repair at 88th & Carlyle** - Miami Dade County RER (Formerly DERM) has completed the Biological Opinion (BO). The results of the BO were submitted to the Town and CGA has incorporated the BO permit requirements into our final plans. The final plans have been submitted for final permits. The US Army Corps of Engineers (USACE) permit was obtained in late February 2013 and the FDEP permit was obtained in April 2013. The SFWMD and RER final permits have been received.

7. **Town-Owned Seawall Repair** - The 90% plans were submitted to the Florida Inland Navigation District (FIND) Commissioner Spencer Crowley, III, who represents Miami Dade County on the FIND Board. The project received a favorable response from the Commissioner and we submitted our project for funding. CGA presented the project to FIND on June 21, 2013. FIND has published the rankings and the presentation was awarded 41.09 points (required 35 to obtain funding). The environmental survey for benthic resources was performed in May & August 2013, the plans have been finalized to reflect the findings. Simultaneously, while we are applying for the FIND funding we have obtained the FDEP permit and expect the USACE permit to come the week of September 16, 2013. The final permits from Miami Dade County DRER are being processed and will be completed by September 24, 2013.



TOWN OF SURFSIDE

MUNICIPAL BUILDING
9293 HARDING AVENUE
SURFSIDE, FLORIDA 33154-3009

PARKS AND RECREATION ADVISORY COMMITTEE MEETING

7:00 pm
Monday July 15, 2013
Community Center
9301 Collins Avenue

MINUTES

1. Roll Call of Committee Members

The meeting was called to order by Retta Logan (Vice Chair) at 7:10pm. A quorum was established.

In attendance: Veronica Lupinacci, Eliana Salzhauer, Tim Milian, Parks and Recreation Director, Interim Town Attorney, Linda Miller, Interim Assistant Town Attorney, Sarah Johnston, Town Manager, Michael Crotty, Marta Olchyk, Commission Liaison, Daniel Dietch, Michael Karukin, Barbara McLaughlin, Frantza Duval, Recording Clerk.

2. Approval of minutes from 6/17/13

Retta Logan made a motion to approve the minutes, Veronica Lupinacci seconded the motion. The motion passed unanimously.

3. 4th of July Recap

Tim Milian advised that 714 people attended the 4th of July event through the Community Center as opposed to 998 from last year. Overall the event was good. There was positive feedback from the music. There was a 20 minute firework show. There were very few incidents on the beach this year.

Parks and Recreation ran out of the glow sticks that were given, which were a great idea. Eliana Salzhauer also commended Parks and Recreation on the towel and bag giveaways. She thought it was excellent.

Marta Olchyk thought the event was good, but her only concern is the cost spent on the fireworks. She suggests that we get together with Bal Harbour to do one show on 96th Street. Eliana Salzhauer agrees with Marta's idea.

Daniel Dietch suggests that we should initiate conversation with Bal Harbor regarding the idea.

4. P&R 5 Year Capital up date

Tim advised that the priority list has been submitted. Tim recommends that the Tennis Center be moved to item number two (2) and the Park to item number three (3).

The Tennis center is in dire need of renovation.

The second floor of the community center will still remain the first priority.

Tim Milian advised that the total cost to renovate the Tennis Court is \$255,000, (with the building) which would include major resurfacing, fencing, and lighting.

Eliana Salzhauer wants to see more programs with the court and Veronica Lupinacci.

Tim advised that once the renovations are done the Town can submitted a RFQ and bring in a tennis program.

Surfclub is providing money to Parks and Recreation, but they are doing away with their tennis courts.

Eliana Salzhauer advised that at the 96th Street Park there are no benches for kids to sit and eat. Tim Milian advised that they will visit it when they do renovations for the park, which is item number three on the priority list.

Michael Crotty advised that between now and April the Town will receive \$500,000 from proffers from the 5 Year Capital Plan.

FY 13/14 – The Design of Community Center 2nd floor and Tennis Center

FY 15/16 – 96th Street Park

Tim Milian advised that it needs to be worked out so that both of the major facilities (Community Center and the Park) are not closed at the same time.

Veronica Lupinacci advised that there are a few things that can be done at the park now, such as parking.

Tim Milian advised that there is proposition to do a joint venture with Miami Beach (\$400,000) for a skate park, which is located south of 87th Terrace.

The skate park would be open to both Surfside and Miami Beach residents.
The land belongs to Miami Beach and would come with a mutual agreement.

Tim Milian advised that through his research of other municipalities he was able to get an idea of what the cost of the skate park would be. He advised that the cost of the Sunny Isles skate park was \$550, 000, which is all inclusive.

Veronica Lupinacci advised that it is a great way to alleviate the issues at the park. Eliana Salzhauer advised that it should have a bathroom facility. Everyone agrees with the skate park. Tim advised that Skate Park is Miami Beach property and we wouldn't have to worry about it. Staffing hasn't been determined on whether it would be through Surfside or Miami Beach.

5. August Meeting Date

The next meeting will be on August 26, 2013.

6. Community Input

Eliana Salzhauer advised that the Town use to have the Beach Club, where residents could rent chairs for the beach at a cost. She would like to see the program come back. Tim Milian advised that we have no functioning umbrellas so we would need to purchase it. He also advised that we have chairs that would chairs are not new, so even if we run them down now we would eventually need to purchase new ones. It would need to be a budgeted item and would need to be discussed to the Town Committee.
Eliana Salzhauer wants it included in the budget.

Tim Milian will to report back to the Committee with the startup cost for this idea.

Michael Karukin advised that for the next 4th of July event that we should have dunk tank of the Commissioners.

7. Meeting Adjournment

Retta Logan made a motion to adjourn the meeting, Veronica Lupinacci seconded the motion. The motion passed unanimously. The meeting ended at 7:54pm.

There being no further business to come before the Committee, the meeting adjourned at
7:54 p.m.

Accepted this 26 day of August, 2013

Ketta Logan
Member (Print)

[Signature]
Signature

Approved as amended

Attest:

[Signature]
Frantza Duval
Recording Clerk

Town Planner Sarah Sinatra presented the item to the Planning and Zoning Board and recommends approval.

Chair Lecour opened the public hearing.

Olha Sperkalz speaking on behalf of Bohdanna Popel, asked if their property next door, or neighboring properties will lose value. Town Planner Sinatra indicated that there are several second story homes in the neighborhood and the variance requested is consistent with the neighborhood. Neither Town Planner Sinatra nor members of the Commission could comment on appraisal.

Vice Chair Peter Glynn made a motion to grant pending the variance is approved by the Town Commission. The motion received a second by Board Member Castellanos. Motion passed with all voting in favor.

5. PLANNING AND ZONING APPLICATIONS:

A. Request of the Owner of Property located at 8810 Garland Avenue

The applicant is requesting to build a screen porch.

Town Planner Sarah Sinatra presented the item to the Board.

Applicant spoke in favor of the item.

Vice Chair Glynn made a motion to approve with staff recommendations there be a 20 foot rear setback to meet code requirements. The motion received a second from Board Member Castellanos and all voted in favor.

B. Request of the Owner of Property located at 500 94 Street

The applicant is requesting to build a masonry wall.

Town Planner Sarah Sinatra presented the item to the Board.

Board Member Koshal made a motion to approve with the following conditions:

1. provide landscaping in front of the wall;
2. reduce the length of the wall by two feet;
3. paint wall to match the house.

The motion received a second from Vice Chair Glynn and all voted in favor.

C. Request of the Owner of Property located at 8939 Abbott Avenue

The applicant is requesting to install a shed in their back yard

Town Planner Sarah Sinatra presented the item to the Board.

Board Member Castellanos made a motion to approve and received a second from Vice Chair Glynn. All voted in favor.

D. Request of the Owner of Property located at 1356 Biscaya Drive

The applicant is requesting to renovate an existing garage.

Town Planner Sarah Sinatra presented the item to the Board.

Board Member Castellanos made a motion to approve and received a second from Vice Chair Glynn. All voted in favor.

E. Request of the Owner of Property located 8859 Carlyle Avenue.

The applicant is requesting to build a second story addition.

**** Item was discussed after item 4A****

Town Planner Sarah Sinatra presented the design item.

Board Member Koshal made a motion to approve with a condition of adding moderate landscape buffers on either side of the property. The motion received a second from Board Member Castellanos and all voted in favor.

6. ORDINANCES:

A. Trellises

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 "ZONING" SPECIFICALLY SECTION 90-19 "SINGLE-FAMILY AND TWO-FAMILY DEVELOPMENT PROCESS" TO ADD "TRELLISES" LOCATED IN THE REAR OR INTERIOR SIDE YARD TO ITEMS NOT SUBJECT TO PLANNING & ZONING BOARD REVIEW; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Planner Sarah Sinatra presented the item.

Vice Chair Glynn made a motion to approve. The motion received a second from Board Member Koshal and all voted in favor.

B. Metal Roofs

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 "ZONING" SPECIFICALLY SECTION 90-50 "ARCHITECTURE AND ROOF DECKS" TO EXCLUDE METAL ROOFS FROM PLANNING & ZONING BOARD REVIEW; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE

Town Planner Sarah Sinatra presented the item.

Vice Chair Glynn asked if there were guidelines as to color. Town Planner Sinatra said she would review the ordinance and modify the language if necessary. Vice Chair made a motion to approve with condition that metal roof color be consistent with neighborhood. The motion received a second from Board Member Castellanos and all voted in favor.

C. Carports

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 “ZONING”, AND SPECIFICALLY AMENDING SECTION 90-58 “CARPORT CANOPIES” FOR CONSISTENCY WITH DRIVEWAY REGULATIONS AND CONSTRUCTION STANDARDS; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Planner Sarah Sinatra presented the item.

Vice Chair Glynn made a motion to approve. The motion received a second from Board Member Castellanos and all voted in favor.

D. Hardpack Easement

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 SECTION 90-60 “CONSTRUCTION ADJACENT TO BULKHEAD LINES” SUBSECTION 90-60.1 OF THE TOWN OF SURFSIDE CODE OF ORDINANCES REQUIRING NO PERMIT SHALL BE ISSUED FOR THE REPAIR, EXTENSION, ALTERATION OR REPLACEMENT OF ANY HABITABLE, FULLY-ENCLOSED STRUCTURE EAST OF THE OCEAN BULKHEAD LINE; NO PERMIT SHALL BE ISSUED FOR THE CONSTRUCTION OF ANY HABITABLE, FULLY ENCLOSED STRUCTURE CLOSER THAN 20 FEET TO THE WEST OF THE OCEAN BULKHEAD LINE; ALL PROPERTIES EAST OF THE OCEAN BULKHEAD LINE WILL BE REQUIRED TO PROVIDE AN ACCESS EASEMENT TO THE TOWN GRANTING THE PERPETUAL USE OF THE HARDPACK TO THE PUBLIC; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Planner Sarah Sinatra presented the item.

After some discussion whether this should be voluntary, mandatory or retroactive, Board Member Koshal made a motion to approve subject to the outcome of a legal research regarding the legality of requesting property owners to provide an access easement before permit is granted. The Ordinance and report from legal is to be discussed at the August Regular Town Commission meeting. The motion received a second from Vice Chair Glynn and all voted in favor.

7. DISCUSSION ITEMS:

A. Veterinary clinics

Town Planner Sarah Sinatra presented the item and indicated that the Code does not permit this service. The discussion is to introduce the idea of this type of business and possibly changing the code. She stated that she received four (4) emails from businesses in opposition.

Public Speaker David Carmona, DVM gave a Power Point presentation with facts and statistics supporting the need for veterinary services for the community.

Public Speaker Joe Corderi spoke in favor of the item and would like to see this service in the town.

The Board discussed the item and is receptive to such a service but have concerns regarding where this type of service can be placed with a defined space (yard) for walking the dogs, access to and exiting the business as well as noise and odors.

Public Speaker Juan C. Valdes spoke in favor and alternate locations for businesses.

Town Manager Michael P. Crotty asked if the Board could make a recommendation and present it to the Commission for discussion at the next Commission meeting August 13, 2013.

The consensus from the Board was to recommend this item to the Town Commission for approval.

B. Schedule Continuous Wall Frontage workshop

Town Planner Sarah Sinatra said they are ready to put this on the next agenda and some of the items on the future agenda which tie into this may be addressed at a joint meeting with the Commission.

8. FUTURE AGENDA ITEMS:

A. Capital Improvement Element update

B. Sign Code

C. Satellite Dishes

D. Solar Panels

D. Dimensions of parking spaces

E. Pyramiding effects of setbacks

F. Side setbacks as a percentage of lot frontage

Town Manager Michael P. Crotty indicated that the public would have a chance to give input on zoning code changes by participating in a survey on the town website. A joint workshop meeting will be set up in September which will allow time for surveys to be analyzed.

Commissioner Joe Graubart spoke about the amount of paperwork being generated and indicated that a couple of years ago there were joint committee meetings and by doing so it could move things along more quickly. Commissioner Graubart also spoke on Sign Code.

Chair Lindsay Lecour would like items a; c; and d. brought back soon and items e. and f. discussed at the joint meeting.

9. PERMITS ISSUED AND REVENUE REPORT FOR JUNE 2013.

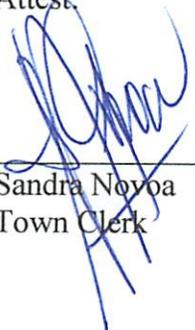
10. ADJOURNMENT.

There being no further business to come before the Planning and Zoning Board, the meeting adjourned at 8:40p.m.

Accepted this 29th day of August, 2013


Chair Lindsay Lecour

Attest:


Sandra Noyva
Town Clerk



Town of Surfside Commission Communication

Agenda Item # 3G

Agenda Date: August 13, 2013

Subject: Florida Department of Transportation (FDOT) Sidewalk Café Lease Agreement (Revision)

Background: The Town Commission authorized the Administration to enter into a Sidewalk Café Lease agreement with FDOT, for the operation of sidewalk cafés in the Surfside Business District on Harding Avenue, at the January 15, 2013 meeting (Attachment A).

The approved resolution and lease agreement identified the area under consideration as A1A/Harding Avenue from 93rd Street to 96th Street. The revised documents accompanying this memorandum have been amended to identify the area under consideration as A1A/Harding Avenue from 94th Street to 96th Street.

The original submission in January also included a Second Addendum to Lease Agreement that has subsequently been denied by FDOT. This Second Addendum has been removed from the documents presented with this memorandum for ratification. FDOT has their standard lease agreement (as provided) and will not authorize any additions or alterations - including the afore mentioned Second Addendum. This standard lease agreement is the same one presently operating in Miami Beach, Bay Harbor Islands and Sunny Isles. The Second Addendum (see Attachment A), attached by the Town, further clarified the responsibility of the sidewalk and accompanying indemnification. FDOT will not enter into an agreement with the Town that includes this as it is not part of their standard operational procedure on sidewalk café lease agreements.

The delay in having the Town Commission address these revised documents is due to the amount of time FDOT has taken to review the originals and advise Staff of their required alterations for subsequent approval. The new Town Manager and Building Official have also reviewed the associated Ordinance and have been briefed on the entire process and its components.

Analysis: The ratification of this revised five year lease agreement will allow the Town to provide a process to legally permit sidewalk cafes to existing and future restaurants while providing appropriate processes for application, approvals and monitoring of sidewalk café

use as mandated by the FDOT. Once ratified, Town Staff will conduct courtesy/educational visits with each business through the summer and early fall to review the Ordinance and application process. All impacted businesses will be required to file the relevant application. Individual surveys will be produced by the Town, per establishment application, to identify the placement of every item allowed within the applicable sidewalk boundaries. Failure to submit an application will put the continuation of the use of the sidewalk by that business at risk.

Staff is cognizant of the impending implementation of the Harding Avenue Greenway, set to begin within the next month (pending FDOT permit approval), and will work with each establishment to ensure that the application process is completed without requiring any revisions due to the new landscape design.

Budget Impact: While the initiation of this program will result in added revenues to the Town via Sidewalk Café permit fees, the charges are in direct relation to the anticipated administrative processing costs. An eighty dollar (\$80) one-time initial application cost, two hundred and fifty dollar (\$250) one-time charge for the Town to produce a rendering (survey) of the sidewalk use that will include the approved placement of tables and seating etc., and a fifteen dollar (\$15) per square foot annual fee will be required. Twenty percent (20%) of the per square foot annual permit fee will go to the FDOT as part of their lease agreement with the Town. This is the same percentage that FDOT requires from other jurisdictions to review and approve each individual permit and will compensate FDOT for their review. Thus, subsequent annual renewals will be part of the Certificate of Use process and will not incur any additional fees, other than the per square foot rent, if the sidewalk usage remains the same as in the original permit application.

Staff Impact: Existing staff will manage the application and permitting process as well as Ordinance compliance and the FDOT Lease Agreement. The Sidewalk Café Permit process will be blended into the annual Certificate of Use and Local Business Tax Receipt requirements to create a single, seamless application process for the business community.

Recommendation: The Administration recommends that the Town Commission ratify this revised FDOT Sidewalk Café Lease Agreement to bring the Town into compliance with FDOT's regulations.



TEDACS Director
Duncan Tavares



Town Manager
Michael P. Crotty

RESOLUTION NO. 13-2035

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA REQUESTING THAT THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) GRANT THE TOWN A PUBLIC PURPOSE LEASE ON A1A/HARDING AVENUE FROM 93RD STREET TO 96TH STREET, WHERE THE TOWN PROPOSES TO ISSUE PERMITS FOR SIDEWALK CAFES; AUTHORIZING TOWN OFFICIALS TO TAKE ALL STEPS NECESSARY TO CARRY OUT THE TERMS OF THIS RESOLUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside (the "Town") is a waterfront community located in Miami-Dade County; and

WHEREAS, one of the Town's main thoroughfare is Harding Avenue and the Town believes a designated sidewalk café zone will enhance aesthetics and encourage pedestrian activity along a major corridor in the Town; and

WHEREAS, the Florida Department of Transportation ("FDOT") requires the Town and FDOT to enter into a Public Purpose Lease and addendums as described below in order for the Town to issue sidewalk café permits within the FDOT right of way; and

WHEREAS, it is in the best interests of the Town to permit sidewalk cafés so that the public may enjoy Surfside's natural beauty, and to encourage increased pedestrian activity within the downtown business district and to provide to the public the convenience of dining outdoors while using the business areas of the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and incorporated into this Resolution by this reference.

Section 2. Approval of Attached Lease Agreement and Addendums. The Town Commission approves the Town entering into a lease agreement with FDOT as detailed in the

attached State of Florida Lease Agreement (Exhibit "A"), State of Florida Addendum to Lease Agreement (Exhibit "B"), and Town of Surfside Second Addendum to Lease Agreement (Exhibit "C").

Section 3. Authorization of Town Officials. The Town Manager and Town Attorney are hereby authorized to take all steps necessary to complete the execution of the terms of this Resolution.

Section 4. Effective Date. This Resolution shall take effect immediately upon adoption.

Motion by Vice Mayor Karukin, Second by Commissioner Kligman.

PASSED AND ADOPTED this 15 day of January 2013

FINAL VOTE ON ADOPTION

Commissioner Michelle Kligman

yes

Commissioner Joseph Graubart

no

Commissioner Marta Olchyk

yes

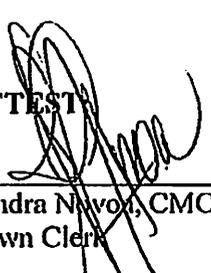
Vice Mayor Michael Karukin

yes

Mayor Daniel Dietch

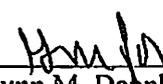
yes

ATTEST


Sandra Nyvon, CMC
Town Clerk


Daniel Dietch, Mayor

APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:


Lynn M. Dannheisser, Town Attorney

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LEASE AGREEMENT

675-060-33
RIGHT OF WAY
OGC - 08/09
Page 1 of 6

ITEM/SEGMENT NO.: 2495611
MANAGING DISTRICT: Six
F.A.P. NO.: N/A
STATE ROAD NO.: A1A
COUNTY: Miami-Dade
PARCEL NO.: 4228

THIS AGREEMENT, made this _____ day of _____, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, (hereinafter called the Lessor), and TOWN OF SURFSIDE at 9293 Harding Avenue, Surfside, Florida 33154 (hereinafter called the Lessee).

WITNESSETH:

In consideration of the mutual covenants contained herein, the parties agree as follows:

1. **Property and Term.** Lessor does hereby lease unto Lessee the property described in Exhibit "A", attached and made a part hereof, for a term of _____ beginning _____ and ending _____. This lease may be renewed for an additional _____ term at Lessee's option, subject to the rent adjustment as provided in Paragraph 3 below. Lessee shall provide Lessor 120 days advanced written notice of its exercise of the renewal option.

If Lessee holds over and remains in possession of the property after the expiration of the term specified in this Lease, or any renewals of such term, Lessee's tenancy shall be considered a tenancy at sufferance, subject to the same terms and conditions as herein contained in this Lease.

This Lease is subject to all utilities in place and to the maintenance thereof as well as any other covenants, easements, or restrictions of record.

This Lease shall be construed as a lease of only the interest, if any, of Lessor, and no warranty of title shall be deemed to be given herewith.

2. **Use.** The leased property shall be used solely for the purpose of use of sidewalk for sidewalk cafe. If the property is used for any other purpose, Lessor shall have the option of immediately terminating this Lease. Lessee shall not permit any use of the property in any manner that would obstruct or interfere with any transportation facilities.

Lessee will further use and occupy the leased property in a careful and proper manner, and not commit any waste thereon. Lessee will not cause, or allow to be caused, any nuisance or objectionable activity of any nature on the property. Lessee will not use or occupy said property for any unlawful purpose and will, at Lessee's sole cost and expense, conform to and obey any present or future ordinances and/or rules, regulations, requirements, and orders of governmental authorities or agencies respecting the use and occupation of the leased property.

Any activities in any way involving hazardous materials or substances of any kind whatsoever, either as those terms may be defined under any state or federal laws or regulations, or as those terms are understood in common usage, are specifically prohibited. The use of petroleum products, pollutants, and other hazardous materials on the leased property is prohibited. Lessee shall be held responsible for the performance of and payment for any environmental remediation that may be necessary, as determined by the Lessor, within the leased property. If any contamination either spread to or was released onto adjoining property as a result of Lessee's use of the leased property, the Lessee shall be held similarly responsible. The Lessee shall indemnify, defend, and hold harmless the Lessor from any claim, loss, damage, costs, charge, or expense arising out of any such contamination.

3. **Rent.** Lessee shall pay to Lessor as rent, on or before the first day of each rent payment period, the sum of _____ plus applicable tax, for each N/A of the term. If this Lease is terminated prior to the end of any rent payment period, the unearned portion of any rent payment, less any other amounts that may be owed to Lessor, shall be refunded to Lessee. Lessee shall pay any and all state, county, city, and local taxes that may be due during the term hereof, including any real property taxes. Rent payments shall be made payable to the Florida Department of Transportation and shall be sent to Right of Way Administration, 1000 NW 111th Ave, Rm 6105-B, Miami, Florida 33172. Lessor reserves the right to review and adjust the rental fee biennially and at renewal to reflect market conditions. Any installment of rent not received within ten (10) days after the date due shall bear interest at the highest rate allowed by law from the due date thereof, per Section 55.03(1), Florida Statutes. This provision shall not obligate Lessor to accept late rent payments or provide Lessee a grace period.

4. **Improvements.** No structures or improvements of any kind shall be placed upon the property without the prior written approval of the District Secretary for District Six of Lessor. Any such structures or improvements shall be constructed in a good and workmanlike manner at Lessee's sole cost and expense. Subject to any landlord lien, any structures or improvements constructed by Lessee shall be removed by Lessee, at Lessee's sole cost and expense, by midnight on the day of termination of this

Lease and the leased property restored as nearly as practical to its condition at the time this Lease is executed. Portable or temporary advertising signs are prohibited.

Lessee shall perform, at the sole expense of Lessee, all work required in the preparation of the leased property for occupancy by Lessee, in the absence of any special provision herein contained to the contrary; and Lessee does hereby accept the leased property as now being in fit and tenantable condition for all purposes of Lessee.

Lessor reserves the right to inspect the property and to require whatever adjustment to structures or improvements as Lessor, in its sole discretion, deems necessary. Any adjustments shall be done at Lessee's sole cost and expense.

5. Maintenance. Lessee shall keep and maintain the leased property and any building or other structure, now or hereafter erected thereon, in good and safe condition and repair at Lessee's own expense during the existence of this Lease, and shall keep the same free and clear of any and all grass, weeds, brush, and debris of any kind, so as to prevent the same from becoming dangerous, inflammable, or objectionable. Lessor shall have no duty to inspect or maintain any of the leased property or buildings, and other structures thereon, during the term of this Lease; however, Lessor shall have the right, upon twenty-four (24) hours notice to Lessee, to enter the leased property for purposes of inspection, including conducting an environmental assessment. Such assessment may include: surveying; sampling of building materials, soil, and groundwater; monitoring well installations; soil excavation; groundwater remediation; emergency asbestos abatement; operation and maintenance inspections; and, any other actions which may be reasonable and necessary. Lessor's right of entry shall not obligate inspection of the property by Lessor, nor shall it relieve the Lessee of its duty to maintain the leased property. In the event of emergency due to a release or suspected release of hazardous waste on the property, Lessor shall have the right of immediate inspection, and the right, but not the obligation, to engage in remedial action, without notice, the sole cost and expense of which shall be the responsibility of the Lessee.

6. Indemnification. (select applicable paragraph)

Lessee is a Governmental Agency

To the extent provided by law, Lessee shall indemnify, defend, and hold harmless the Lessor and all of its officers, agents, and employees from any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by Lessee, its agents, or employees, during the performance of the Lease, except that neither Lessee, its officers, agents, or employees will be liable under this paragraph for any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by the Lessor or any of its officers, agents, or employees during the performance of the Lease.

When the Lessor receives a notice of claim for damages that may have been caused by the Lessee, the Lessor will immediately forward the claim to the Lessee. Lessee and the Lessor will evaluate the claim and report their findings to each other within fourteen (14) working days and will jointly discuss options in defending the claim. After reviewing the claim, the Lessor will determine whether to require the participation of Lessee in the defense of the claim or to require that Lessee defend the Lessor in such claim as described in this section. The Lessor's failure to promptly notify Lessee of a claim shall not act as a waiver of any right herein to require the participation in or defense of the claim by Lessee. The Lessor and Lessee will each pay its own expenses for the evaluation, settlement negotiations, and trial, if any.

Lessee is not a Governmental Agency

Lessee shall indemnify, defend, save, and hold harmless Lessor, its agent, officers, and employees, from any losses, fines, penalties, costs, damages, claims, demands, suits, and liabilities of any nature, including attorney's fees, (including regulatory and appellate fees), arising out of or because of any acts, action, neglect, or omission by Lessee, or due to any accident, happening, or occurrence on the leased property or arising in any manner from the exercise or attempted exercise of Lessee's rights hereunder whether the same regards person or property of any nature whatsoever, regardless of the apportionment of negligence, unless due to the sole negligence of Lessor.

Lessee's obligation to indemnify, defend and pay for the defenses or at Lessor's option, to participate, and to associate with the Lessor in the defense and trial of any claim and any related settlement negotiations, shall be triggered by the Lessor's notice of claim for indemnification to Lessee. Lessee's inability to evaluate liability or its evaluation of liability shall not excuse Lessee's duty to defend and indemnify within seven days after such notice by the Lessor is given by registered mail. Only an adjudication or judgment after the highest appeal is exhausted specifically finding the Lessor solely negligent shall excuse performance of this provision by Lessee. Lessee shall pay all costs and fees related to this obligation and its enforcement by Lessor. Lessor's failure to notify Lessee of claim shall not release Lessee of the above duty to defend.

7. Insurance. Lessee at its expense, shall maintain at all times during the term of this Lease, public liability insurance protecting Lessor and Lessee against any and all claims for injury and damage to persons and property, and for the loss of life or property occurring in, on, or about the property arising out of the act, negligence, omission, nonfeasance, or malfeasance of Lessee, its employees, agents, contractors, customers, licensees, and invitees. Such insurance shall be carried in a minimum amount of not less than one million dollars (\$ 1,000,000.00) for bodily injury or death to any one person or any number of persons in any one occurrence and not less than one million dollars (\$ 1,000,000.00) for property damage, or a combined coverage of not less than two million dollars (\$ 2,000,000.00). All such policies shall be issued by companies licensed to do business in the State of Florida and all such policies shall contain a provision whereby the same cannot be

anceled or modified unless Lessor is given at least sixty (60) days prior written notice of such cancellation or modification. Lessee shall provide Lessor certificates showing such insurance to be in place and showing Lessor as additional insured under the policies. If self-insured or under a risk management program, Lessee represents that such minimum coverage for liability will be provided for the leased property.

Lessor may require the amount of any public liability insurance to be maintained by Lessee be increased so that the amount thereof adequately protects Lessor's interest. Lessee further agrees that it shall during the full term of this Lease and at its own expense keep the leased property and any improvements thereon fully insured against loss or damage by fire and other casualty. Lessee also agrees that it shall during the full term of this Lease and at its own expense keep the contents and personal property located on the leased property fully insured against loss or damage by fire or other casualty and does hereby release and waive on behalf of itself and its insurer, by subrogation or otherwise, all claims against Lessor arising out of any fire or other casualty whether or not such fire or other casualty shall have resulted in whole or in part from the negligence of the Lessor.

8. Eminent Domain. Lessee acknowledges and agrees that its relationship with Lessor under this Lease is one of landlord and tenant and no other relationship either expressed or implied shall be deemed to apply to the parties under this Lease. Termination of this Lease for any cause shall not be deemed a taking under any eminent domain or other law so as to entitle Lessee to compensation for any interest suffered or lost as a result of termination of this Lease, including any residual interest in the Lease, or any other facts or circumstances arising out of or in connection with this Lease.

Lessee hereby waives and relinquishes any legal rights and monetary claims which it might have for full compensation, or damages of any sort, including special damages, severance damages, removal costs, or loss of business profits, resulting from Lessee's loss of occupancy of the leased property, or any such rights, claims, or damages flowing from adjacent properties owned or leased by Lessee as a result of Lessee's loss of occupancy of the leased property. Lessee also hereby waives and relinquishes any legal rights and monetary claims which it might have for full compensation, or damages of any sort as set out above, as a result of Lessee's loss of occupancy of the leased property, when any or all adjacent properties owned or leased by Lessee are taken by eminent domain proceedings or sold under the threat thereof. This waiver and relinquishment applies whether this Lease is still in existence on the date of taking or sale; or has been terminated prior thereto.

9. Miscellaneous.

a. This Lease may be terminated by Lessor immediately, without prior notice, upon default by Lessee hereunder, and may be terminated by either party, without cause upon thirty (30) days prior written notice to the other party.

b. In addition to, or in lieu of, the terms and conditions contained herein, the provisions of any Addendum of even date herewith which is identified to be a part hereof is hereby incorporated herein and made a part hereof by this reference. In the event of any conflict between the terms and conditions hereof and the provisions of the Addendum(s), the provisions of the Addendum(s) shall control, unless the provisions thereof are prohibited by law.

c. Lessee acknowledges that it has reviewed this Lease, is familiar with its terms, and has had adequate opportunity to review this Lease with legal counsel of Lessee's choosing. Lessee has entered into this Lease freely and voluntarily. This Lease contains the complete understanding of the parties with respect to the subject matter hereof. All prior understandings and agreements, oral or written, heretofore made between the parties and/or between Lessee and the previous owner of the leased property and landlord of Lessee are merged in this Lease, which alone, fully and completely expresses the agreement between Lessee and Lessor with respect to the subject matter hereof. No modification, waiver, or amendment of this Lease or any of its conditions or provisions shall be binding upon Lessor or Lessee unless in writing and signed by both parties.

d. Lessee shall not sublet the property or any part thereof, nor assign this Lease, without the prior consent in writing of the Lessor; this Lease is being executed by Lessor upon the credit and reputation of Lessee. Acceptance by Lessor of rental from a third party shall not be considered as an assignment or sublease, nor shall it be deemed as constituting consent of Lessor to such an assignment or sublease.

e. Lessee shall be solely responsible for all bills for electricity, lighting, power, gas, water, telephone, and telegraph services, or any other utility or service used on the property.

f. This Lease shall be governed by the laws of the State of Florida, and any applicable laws of the United States of America.

g. All notices to Lessor shall be sent to the address for rent payments and all notices to Lessee shall be sent to:
9293 Harding Avenue, Surfside, Florida 33154

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, the day and year first above written.

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

TOWN OF SURFSIDE
Lessee (Company Name, if applicable)

By: _____
District Secretary

BY: _____

Gus Pego, P.E.
Print Name

Roger M. Carlton
Print Name

Attest: _____

Title: Town Manager

Name/Title: Executive Secretary

Attest: _____ (SEAL)

LEGAL REVIEW:

Print Name

District Counsel

Title: _____

Alicia Trullillo, Esq
Print Name

ADDENDUM

This is an Addendum to that certain Lease Agreement between DO NOT SIGN - SEE ADDENDUM ATTACHED

and the State of Florida Department of Transportation dated the _____ day of _____, _____.
In addition to the provisions contained in said Agreement, the following terms and conditions shall be deemed to be a part thereof pursuant to Paragraph 9 (b) of said Agreement:

DO NOT SIGN - SEE ADDENDUM ATTACHED

**STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION**

Lessee (Company Name, if applicable)

By: _____
District Secretary

BY: _____

Print Name

Print Name

Attest: _____

Title: _____

Name/Title: _____

Attest: _____ (SEAL)

LEGAL REVIEW:

Print Name

District Counsel

Title: _____

Print Name

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
ADDENDUM TO LEASE AGREEMENT

Item/Seg No.: 2495611
Sec/Job No. 87060
SR No.: A1A
County: Miami-Dade
Parcels No.: 4228

This Addendum made this _____ day of _____ 2013, is an Addendum to the Lease Agreement dated _____ between the Town of Surfside (Lessee), and the Florida Department of Transportation (Lessor).

In addition to the provisions contained in said Lease Agreement, the following terms, conditions and/or amendments shall be deemed to be a part thereof pursuant to Paragraph 9(b) of said Lease Agreement:

1. Where the provisions of this Addendum conflict with the provisions of the Lease Agreement, this Addendum shall control. Except as otherwise agreed herein all other terms of the Lease Agreement shall remain in full force and effect.
2. The Lessor does hereby lease unto Lessee the FDOT sidewalks for State Road A1A/Harding Avenue from 93rd street to 96th Street located in the Town of Surfside for purposes of the operation of sidewalk cafes.
3. Sidewalk Café Permit approval process:

The Lessor does hereby agree that Lessee shall be permitted to issue permits to portions of the leased property to such third parties for purposes of the operation of a sidewalk café, but only to users who apply for, and are granted, a sidewalk café permit ("Permittees") issued by the Lessee, in accordance and compliance with the Lessee's Ordinance No. _____, guidelines and procedures for sidewalk cafés, FDOT's applicable regulations (as same may be amended from time to time), and any and all administrative regulations.

Upon the issuance of a sidewalk permit by Lessee to a Permittee, the Lessee shall submit a Sidewalk Café Supplement, in the form attached hereto as Exhibit "A-1", for approval by Lessor. Upon approval by Lessor, any such Supplement shall be incorporated to and constitute an addendum to the Lease Agreement ("Supplement Addendum").

In addition, the Lessee shall:

- a) Submit evidence of any sidewalk café permit site plan modification to Lessor within fifteen (15) days from the date that such modification is granted to a Permittee;

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
ADDENDUM TO LEASE AGREEMENT

Item/Seg No.: 2495611
Sec/Job No. 87060
SR No.: A1A
County: Miami-Dade
Parcels No.: 4228

- b) Submit a Supplement Addendum to Lessor for each sidewalk café permit renewal by no later than October 15th of each calendar year.

4. Rent:

Paragraph 3 of the Lease Agreement is modified as follows:

Rent calculation. The Lessee and Lessor have agreed to a rent of 20% of the sidewalk café annual permit fee (or permit renewal fee, as the case may be) in accordance with the Lessee's ordinance Sec. 18-90 (1) as set forth in appendix A of said ordinance. The rent payable for the leased property is to be calculated on a per square footage basis, in accordance with the sidewalk café permit area described in each Supplement Addendum and sidewalk café permit granted by the Lessee.

Rent shall be paid annually as follows:

- a) Permits issued subsequent to October 1st of each calendar year shall be due and payable within thirty (30) days from the date the sidewalk café permit is issued by the Lessee to the Permittee and shall be pro-rated accordingly;
- b) Renewal permits shall be due and payable on or before November 1st of each calendar year.

The annual rental for each permit issued shall be based on the Lessee's permit year, to wit: October 1st to September 30th of each calendar year, and any rental pro-rations shall be based on this time period.

For purposes of any Supplement Addendum, the commencement date shall be deemed to be the date of the issuance of the sidewalk café permit by the Lessee.

Late fees or charges of any kind may be classified as additional rent if not paid when demanded, and may be included in any statutory notices served on the Lessee for non-payment of rent.

Lessor reserves the right to review and adjust the rent rate every two (2) years, and at renewal, to reflect market conditions.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
ADDENDUM TO LEASE AGREEMENT

Item/Seg No.: 2495611
Sec/Job No. 87060
SR No.: A1A
County: Miami-Dade
Parcels No.: 4228

5. Maintenance:

Paragraph 5 of the Lease Agreement is modified as follows:
Notwithstanding anything contained in Paragraph 5 of the Lease Agreement, Lessor will be responsible for any structural repairs to the leased property not resulting from damage caused by Lessee, Permittee, or their respective employees, agents, guests or invitees. Lessee shall be responsible for maintenance of the leased property, including but not limited to, proper cleaning, upkeep and housekeeping of the leased property at its expense and for restoration repairs resulting from affixing items to the sidewalk surface.

6. Indemnification.

Paragraph 6 of the Lease Agreement is modified as follows:

Notwithstanding anything contained in Paragraph 6 of the Lease Agreement, Lessee shall indemnify Lessor, to the extent provided by law and subject to the limitations as provided in Section 768.28, F.S.

7. Insurance:

In addition to the provisions of paragraph 7 of the Lease Agreement:

Lessee does hereby agree that any sidewalk café permit issued to a Permittee shall include a provision requiring the Permittee, at its expense, to maintain, at all times during the Permit term, public liability insurance protecting Lessor and Lessee against any and all claims for injury and damage to persons and property, and for the loss of life or property occurring in, on, or about the permit area arising out of the act, negligence, omission, nonfeasance, or malfeasance of Permittee, its employees, agents, contractors, customers, licensees, and invitees. Such insurance shall be carried in a minimum than One million dollars (\$1,000,000.00) for bodily injury or death to any one person or any number of persons in any one occurrence and not less than One million dollars (\$1,000,000.00) for property damage, or a combined coverage of not less than two million dollars (\$2,000,000.00).

All such policies shall be issued by companies licensed to do business in the State of Florida and all such policies shall contain a provision whereby the same cannot be canceled or modified unless Lessor is given at least sixty (60) days

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
ADDENDUM TO LEASE AGREEMENT

Item/Seg No.: 2495611
Sec/Job No. 87060
SR No.: A1A
County: Miami-Dade
Parcels No.: 4228

prior written notice of such cancellation or modification. Lessee shall provide Lessor certificates showing such insurance to be in place and showing Lessor as additional insured under the policies.

8. Paragraph 9 of the Lease Agreement is modified to include the following provision:

h. Lessee agrees to regularly inspect the premises to ensure compliance with the provisions of the sidewalk permits and Lessee's Ordinance No. 2008-3601; Lessee's administrative guidelines and procedures for sidewalk cafés; and FDOT's applicable regulations.

IN WITNESS WHEREOF, the parties have executed this Addendum to the Lease Agreement as of this _____ day of _____ 2012.

On behalf of Lessee
TOWN OF SURFSIDE

On behalf of Lessor
STATE OF FLORIDA
DEPARTMENT OF
TRANSPORTATION

By: _____
Roger M. Carlton
Town Manager

By: _____
Gus Pego P.E.
District Secretary

Witness: _____

Attest: _____

Name/Title

Executive Secretary

Witness: _____

Name/Title

Attest: _____

LEGAL REVIEW:

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
ADDENDUM TO LEASE AGREEMENT

Item/Seg No.: 2495611
Sec/Job No. 87060
SR No.: A1A
County: Miami-Dade
Parcels No.: 4228

Alicia Trujillo, Esq.
District Chief Counsel

SECOND ADDENDUM TO LEASE AGREEMENT

Between

THE TOWN OF SURFSIDE, FLORIDA

And

FLORIDA DEPARTMENT OF TRANSPORTATION

For

LEASE OF SIDEWALKS IN SURFSIDE BETWEEN 93rd STREET AND 96th STREET AND
HARDING AVENUE

This Second Addendum to the Lease Agreement, dated _____ (the "Effective Date"), is made by and between the TOWN OF SURFSIDE, Florida, a Florida municipal corporation (hereinafter referred to as the "LESSEE"), and FLORIDA DEPARTMENT OF TRANSPORTATION, AN AGENCY OF THE STATE OF FLORIDA ("LESSOR"). This SECOND ADDENDUM, the Addendum to the Lease Agreement between Lessee and Lessor dated _____, and the Lease Agreement shall collectively be referred to herein as the "Agreement". In the event of any conflict between this second Addendum, the Lease Agreement, and the Addendum to the Lease Agreement, it is agreed that this Second Addendum shall control.

PARAGRAPH 6. INDEMNIFICATION. To the extent allowable by law, Lessee shall indemnify and hold harmless the Lessor and all of its officers, agents, and employees from any claim, loss, cost, charge or expense arising out of any act, error, omission, or negligent act by Lessee, its agents or employees, during the performance of the Lease with regard to the subject of this lease- to wit: the sidewalks only, except that neither Lessee, its officers, agents or employees will be liable under this paragraph for any claim, loss, cost, damage, charge or expense arising out of any act error, omission, or negligent act of any of its officers, agents, or employees during the performance of the Lease. With regard to property that is not the subject of this Lease, and to the extent allowable by law, Lessor shall indemnify and hold harmless the Lessee and all of its officers, agents, and employees from any claim, loss, cost, charge or expense arising out of any act, error, omission, or negligent act by Lessee, its agents or employees, during the performance of the Lease.

IN WITNESS WHEREOF, the parties hereby execute this Agreement on the date first stated above.

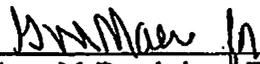
ATTEST:

TOWN OF SURFSIDE, FLORIDA

Sandra Novoa, TOWN Clerk

By: _____
Roger Carlton, Town Manager

APPROVED AS TO FORM AND LEGALITY



Lynn M. Dannheisser, Town Attorney

ATTEST:

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

Secretary
Please type name of Secretary

By: _____
Gus Pego, District Secretary

Date: _____

LEGAL REVIEW:

District Counsel

RESOLUTION NO. 13-___

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA REQUESTING THAT THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) GRANT THE TOWN A PUBLIC PURPOSE LEASE ON A1A/HARDING AVENUE FROM 94RD STREET TO 96TH STREET, WHERE THE TOWN PROPOSES TO ISSUE PERMITS FOR SIDEWALK CAFES; AUTHORIZING TOWN OFFICIALS TO TAKE ALL STEPS NECESSARY TO CARRY OUT THE TERMS OF THIS RESOLUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside (the “Town”) is a waterfront community located in Miami-Dade County; and

WHEREAS, one of the Town’s main thoroughfare is Harding Avenue and the Town believes a designated sidewalk café zone will enhance aesthetics and encourage pedestrian activity along a major corridor in the Town; and

WHEREAS, the Florida Department of Transportation (“FDOT”) requires the Town and FDOT to enter into a Public Purpose Lease and addendum as described below in order for the Town to issue sidewalk café permits within the FDOT right of way; and

WHEREAS, it is in the best interests of the Town to permit sidewalk cafés so that the public may enjoy Surfside’s natural beauty, and to encourage increased pedestrian activity within the downtown business district and to provide to the public the convenience of dining outdoors while using the business areas of the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and incorporated into this Resolution by this reference.

Section 2. Approval of Attached Lease Agreement and Addendum. The Town Commission approves the Town entering into a lease agreement with FDOT as detailed in the

attached State of Florida Lease Agreement (Exhibit "A") and the State of Florida Addendum to the Lease Agreement (Exhibit "B").

Section 3. Authorization of Town Officials. The Town Manager and Town Attorney are hereby authorized to take all steps necessary to complete the execution of the terms of this Resolution.

Section 4. Effective Date. This Resolution shall take effect immediately upon adoption.

Motion by _____, Second by _____.

PASSED AND ADOPTED this _____ day of _____, 2013

FINAL VOTE ON ADOPTION

Commissioner Michelle Kligman	_____
Commissioner Joseph Graubart	_____
Commissioner Marta Olchyk	_____
Vice Mayor Michael Karukin	_____
Mayor Daniel Dietch	_____

Daniel Dietch, Mayor

ATTEST:

Sandra Novoa, CMC
Town Clerk

APPROVED AS TO FORM AND LEGALITY FOR THE USE AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:



Linda Miller, Town Attorney

EXHIBIT A

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LEASE AGREEMENT

575-060-33
RIGHT OF WAY
OGC - 08/09
Page 1 of 5

ITEM/SEGMENT NO.: 2495611
MANAGING DISTRICT: Six
F.A.P. NO.: N/A
STATE ROAD NO.: A1A
COUNTY: Miami-Dade
PARCEL NO.: 4228

THIS AGREEMENT, made this _____ day of _____, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, (hereinafter called the Lessor), and TOWN OF SURFSIDE at 9293 Harding Avenue, Surfside, Florida 33154 (hereinafter called the Lessee).

WITNESSETH:

In consideration of the mutual covenants contained herein, the parties agree as follows:

1. **Property and Term.** Lessor does hereby lease unto Lessee the property described in Exhibit "A", attached and made a part hereof, for a term of Five (5) years beginning 10/1/2013 and ending 9/30/2018. This Lease may be renewed for an additional Five (5) years term at Lessee's option, subject to the rent adjustment as provided in Paragraph 3 below. Lessee shall provide Lessor 120 days advanced written notice of its exercise of the renewal option.

If Lessee holds over and remains in possession of the property after the expiration of the term specified in this Lease, or any renewals of such term, Lessee's tenancy shall be considered a tenancy at sufferance, subject to the same terms and conditions as herein contained in this Lease.

This Lease is subject to all utilities in place and to the maintenance thereof as well as any other covenants, easements, or restrictions of record.

This Lease shall be construed as a lease of only the interest, if any, of Lessor, and no warranty of title shall be deemed to be given herewith.

2. **Use.** The leased property shall be used solely for the purpose of use of sidewalk for sidewalk cafe. If the property is used for any other purpose, Lessor shall have the option of immediately terminating this Lease. Lessee shall not permit any use of the property in any manner that would obstruct or interfere with any transportation facilities.

Lessee will further use and occupy the leased property in a careful and proper manner, and not commit any waste thereon. Lessee will not cause, or allow to be caused, any nuisance or objectionable activity of any nature on the property. Lessee will not use or occupy said property for any unlawful purpose and will, at Lessee's sole cost and expense, conform to and obey any present or future ordinances and/or rules, regulations, requirements, and orders of governmental authorities or agencies respecting the use and occupation of the leased property.

Any activities in any way involving hazardous materials or substances of any kind whatsoever, either as those terms may be defined under any state or federal laws or regulations, or as those terms are understood in common usage, are specifically prohibited. The use of petroleum products, pollutants, and other hazardous materials on the leased property is prohibited. Lessee shall be held responsible for the performance of and payment for any environmental remediation that may be necessary, as determined by the Lessor, within the leased property. If any contamination either spread to or was released onto adjoining property as a result of Lessee's use of the leased property, the Lessee shall be held similarly responsible. The Lessee shall indemnify, defend, and hold harmless the Lessor from any claim, loss, damage, costs, charge, or expense arising out of any such contamination.

3. **Rent.** Lessee shall pay to Lessor as rent, on or before the first day of each rent payment period, the sum of _____ plus applicable tax, for each N/A of the term. If this Lease is terminated prior to the end of any rent payment period, the unearned portion of any rent payment, less any other amounts that may be owed to Lessor, shall be refunded to Lessee. Lessee shall pay any and all state, county, city, and local taxes that may be due during the term hereof, including any real property taxes. Rent payments shall be made payable to the Florida Department of Transportation and shall be sent to Right of Way Administration, 1000 NW 111th Ave, Rm 6105-B, Miami, Florida 33172. Lessor reserves the right to review and adjust the rental fee biennially and at renewal to reflect market conditions. Any installment of rent not received within ten (10) days after the date due shall bear interest at the highest rate allowed by law from the due date thereof, per Section 55.03(1), Florida Statutes. This provision shall not obligate Lessor to accept late rent payments or provide Lessee a grace period.

4. **Improvements.** No structures or improvements of any kind shall be placed upon the property without the prior written approval of the District Secretary for District Six of Lessor. Any such structures or improvements shall be constructed in a good and workmanlike manner at Lessee's sole cost and expense. Subject to any landlord lien, any structures or improvements constructed by Lessee shall be removed by Lessee, at Lessee's sole cost and expense, by midnight on the day of termination of this

Lease and the leased property restored as nearly as practical to its condition at the time this Lease is executed. Portable or temporary advertising signs are prohibited.

Lessee shall perform, at the sole expense of Lessee, all work required in the preparation of the leased property for occupancy by Lessee, in the absence of any special provision herein contained to the contrary; and Lessee does hereby accept the leased property as now being in fit and tenable condition for all purposes of Lessee.

Lessor reserves the right to inspect the property and to require whatever adjustment to structures or improvements as Lessor, in its sole discretion, deems necessary. Any adjustments shall be done at Lessee's sole cost and expense.

5. Maintenance. Lessee shall keep and maintain the leased property and any building or other structure, now or hereafter erected thereon, in good and safe condition and repair at Lessee's own expense during the existence of this Lease, and shall keep the same free and clear of any and all grass, weeds, brush, and debris of any kind, so as to prevent the same from becoming dangerous, inflammable, or objectionable. Lessor shall have no duty to inspect or maintain any of the leased property or buildings, and other structures thereon, during the term of this Lease; however, Lessor shall have the right, upon twenty-four (24) hours notice to Lessee, to enter the leased property for purposes of inspection, including conducting an environmental assessment. Such assessment may include: surveying; sampling of building materials, soil, and groundwater; monitoring well installations; soil excavation; groundwater remediation; emergency asbestos abatement; operation and maintenance inspections; and, any other actions which may be reasonable and necessary. Lessor's right of entry shall not obligate inspection of the property by Lessor, nor shall it relieve the Lessee of its duty to maintain the leased property. In the event of emergency due to a release or suspected release of hazardous waste on the property, Lessor shall have the right of immediate inspection, and the right, but not the obligation, to engage in remedial action, without notice, the sole cost and expense of which shall be the responsibility of the Lessee.

6. Indemnification. (select applicable paragraph)

Lessee is a Governmental Agency

To the extent provided by law, Lessee shall indemnify, defend, and hold harmless the Lessor and all of its officers, agents, and employees from any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by Lessee, its agents, or employees, during the performance of the Lease, except that neither Lessee, its officers, agents, or employees will be liable under this paragraph for any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by the Lessor or any of its officers, agents, or employees during the performance of the Lease.

When the Lessor receives a notice of claim for damages that may have been caused by the Lessee, the Lessor will immediately forward the claim to the Lessee. Lessee and the Lessor will evaluate the claim and report their findings to each other within fourteen (14) working days and will jointly discuss options in defending the claim. After reviewing the claim, the Lessor will determine whether to require the participation of Lessee in the defense of the claim or to require that Lessee defend the Lessor in such claim as described in this section. The Lessor's failure to promptly notify Lessee of a claim shall not act as a waiver of any right herein to require the participation in or defense of the claim by Lessee. The Lessor and Lessee will each pay its own expenses for the evaluation, settlement negotiations, and trial, if any.

Lessee is not a Governmental Agency

Lessee shall indemnify, defend, save, and hold harmless Lessor, its agent, officers, and employees, from any losses, fines, penalties, costs, damages, claims, demands, suits, and liabilities of any nature, including attorney's fees, (including regulatory and appellate fees), arising out of or because of any acts, action, neglect, or omission by Lessee, or due to any accident, happening, or occurrence on the leased property or arising in any manner from the exercise or attempted exercise of Lessee's rights hereunder whether the same regards person or property of any nature whatsoever, regardless of the apportionment of negligence, unless due to the sole negligence of Lessor.

Lessee's obligation to indemnify, defend and pay for the defenses or at Lessor's option, to participate, and to associate with the Lessor in the defense and trial of any claim and any related settlement negotiations, shall be triggered by the Lessor's notice of claim for indemnification to Lessee. Lessee's inability to evaluate liability or its evaluation of liability shall not excuse Lessee's duty to defend and indemnify within seven days after such notice by the Lessor is given by registered mail. Only an adjudication or judgment after the highest appeal is exhausted specifically finding the Lessor solely negligent shall excuse performance of this provision by Lessee. Lessee shall pay all costs and fees related to this obligation and its enforcement by Lessor. Lessor's failure to notify Lessee of claim shall not release Lessee of the above duty to defend.

7. Insurance. Lessee at its expense, shall maintain at all times during the term of this Lease, public liability insurance protecting Lessor and Lessee against any and all claims for injury and damage to persons and property, and for the loss of life or property occurring in, on, or about the property arising out of the act, negligence, omission, nonfeasance, or malfeasance of Lessee, its employees, agents, contractors, customers, licensees, and invitees. Such insurance shall be carried in a minimum amount of not less than one million dollars (\$ 1,000,000.00) for bodily injury or death to any one person or any number of persons in any one occurrence and not less than one million dollars (\$ 1,000,000.00) for property damage, or a combined coverage of not less than two million dollars (\$ 2,000,000.00). All such policies shall be issued by companies licensed to do business in the State of Florida and all such policies shall contain a provision whereby the same cannot be

canceled or modified unless Lessor is given at least sixty (60) days prior written notice of such cancellation or modification. Lessee shall provide Lessor certificates showing such insurance to be in place and showing Lessor as additional insured under the policies. If self-insured or under a risk management program, Lessee represents that such minimum coverage for liability will be provided for the leased property.

Lessor may require the amount of any public liability insurance to be maintained by Lessee be increased so that the amount thereof adequately protects Lessor's interest. Lessee further agrees that it shall during the full term of this Lease and at its own expense keep the leased property and any improvements thereon fully insured against loss or damage by fire and other casualty. Lessee also agrees that it shall during the full term of this Lease and at its own expense keep the contents and personal property located on the leased property fully insured against loss or damage by fire or other casualty and does hereby release and waive on behalf of itself and its insurer, by subrogation or otherwise, all claims against Lessor arising out of any fire or other casualty whether or not such fire or other casualty shall have resulted in whole or in part from the negligence of the Lessor.

8. Eminent Domain. Lessee acknowledges and agrees that its relationship with Lessor under this Lease is one of landlord and tenant and no other relationship either expressed or implied shall be deemed to apply to the parties under this Lease. Termination of this Lease for any cause shall not be deemed a taking under any eminent domain or other law so as to entitle Lessee to compensation for any interest suffered or lost as a result of termination of this Lease, including any residual interest in the Lease, or any other facts or circumstances arising out of or in connection with this Lease.

Lessee hereby waives and relinquishes any legal rights and monetary claims which it might have for full compensation, or damages of any sort, including special damages, severance damages, removal costs, or loss of business profits, resulting from Lessee's loss of occupancy of the leased property, or any such rights, claims, or damages flowing from adjacent properties owned or leased by Lessee as a result of Lessee's loss of occupancy of the leased property. Lessee also hereby waives and relinquishes any legal rights and monetary claims which it might have for full compensation, or damages of any sort as set out above, as a result of Lessee's loss of occupancy of the leased property, when any or all adjacent properties owned or leased by Lessee are taken by eminent domain proceedings or sold under the threat thereof. This waiver and relinquishment applies whether this Lease is still in existence on the date of taking or sale; or has been terminated prior thereto.

9. Miscellaneous.

a. This Lease may be terminated by Lessor immediately, without prior notice, upon default by Lessee hereunder, and may be terminated by either party, without cause upon thirty (30) days prior written notice to the other party.

b. In addition to, or in lieu of, the terms and conditions contained herein, the provisions of any Addendum of even date herewith which is identified to be a part hereof is hereby incorporated herein and made a part hereof by this reference. In the event of any conflict between the terms and conditions hereof and the provisions of the Addendum(s), the provisions of the Addendum(s) shall control, unless the provisions thereof are prohibited by law.

c. Lessee acknowledges that it has reviewed this Lease, is familiar with its terms, and has had adequate opportunity to review this Lease with legal counsel of Lessee's choosing. Lessee has entered into this Lease freely and voluntarily. This Lease contains the complete understanding of the parties with respect to the subject matter hereof. All prior understandings and agreements, oral or written, heretofore made between the parties and/or between Lessee and the previous owner of the leased property and landlord of Lessee are merged in this Lease, which alone, fully and completely expresses the agreement between Lessee and Lessor with respect to the subject matter hereof. No modification, waiver, or amendment of this Lease or any of its conditions or provisions shall be binding upon Lessor or Lessee unless in writing and signed by both parties.

d. Lessee shall not sublet the property or any part thereof, nor assign this Lease, without the prior consent in writing of the Lessor; this Lease is being executed by Lessor upon the credit and reputation of Lessee. Acceptance by Lessor of rental from a third party shall not be considered as an assignment or sublease, nor shall it be deemed as constituting consent of Lessor to such an assignment or sublease.

e. Lessee shall be solely responsible for all bills for electricity, lighting, power, gas, water, telephone, and telegraph services, or any other utility or service used on the property.

f. This Lease shall be governed by the laws of the State of Florida, and any applicable laws of the United States of America.

g. All notices to Lessor shall be sent to the address for rent payments and all notices to Lessee shall be sent to:
9293 Harding Avenue, Surfside, Florida 33154

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, the day and year first above written.

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

TOWN OF SURFSIDE
Lessee (Company Name, if applicable)

By: _____
District Secretary

BY: _____

Gus Pego, P.E.
Print Name

Michael P. Crotty
Print Name

Attest: _____

Title: Town Manager

Name/Title: Executive Secretary

Attest: _____ (SEAL)

LEGAL REVIEW:

Print Name

District Counsel

Title: _____

Alicia Trujillo, Esq
Print Name

ADDENDUM

This is an Addendum to that certain Lease Agreement between DO NOT SIGN - SEE ADDENDUM ATTACHED

and the State of Florida Department of Transportation dated the _____ day of _____, _____.
In addition to the provisions contained in said Agreement, the following terms and conditions shall be deemed to be a part thereof pursuant to Paragraph 9 (b) of said Agreement:

DO NOT SIGN - SEE ADDENDUM ATTACHED

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

By: _____
District Secretary

Print Name

Attest: _____

Name/Title: _____

LEGAL REVIEW:

District Counsel

Print Name

Lessee (Company Name, if applicable)

BY: _____

Print Name

Title: _____

Attest: _____ (SEAL)

Print Name

Title: _____

EXHIBIT B

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
ADDENDUM TO LEASE AGREEMENT

Item/Seg No.: 2495611
Sec/Job No. 87060
SR No.: A1A
County: Miami-Dade
Parcels No.: 4228

This Addendum made this _____ day of _____ 2013, is an Addendum to the Lease Agreement dated _____ between the Town of Surfside (Lessee), and the Florida Department of Transportation (Lessor).

In addition to the provisions contained in said Lease Agreement, the following terms, conditions and/or amendments shall be deemed to be a part thereof pursuant to Paragraph 9(b) of said Lease Agreement:

1. Where the provisions of this Addendum conflict with the provisions of the Lease Agreement, this Addendum shall control. Except as otherwise agreed herein all other terms of the Lease Agreement shall remain in full force and effect.
2. The Lessor does hereby lease unto Lessee the FDOT sidewalks for State Road A1A/Harding Avenue from 94th street to 96th Street located in the Town of Surfside for purposes of the operation of sidewalk cafes.
3. Sidewalk Café Permit approval process:

The Lessor does hereby agree that Lessee shall be permitted to issue permits to portions of the leased property to such third parties for purposes of the operation of a sidewalk café, but only to users who apply for, and are granted, a sidewalk café permit ("Permittees") issued by the Lessee, in accordance and compliance with the Lessee's Ordinance No. _____, guidelines and procedures for sidewalk cafés, FDOT's applicable regulations (as same may be amended from time to time), and any and all administrative regulations.

Upon the issuance of a sidewalk permit by Lessee to a Permittee, the Lessee shall submit a Sidewalk Café Supplement, in the form attached hereto as Exhibit "A-1", for approval by Lessor. Upon approval by Lessor, any such Supplement shall be incorporated to and constitute an addendum to the Lease Agreement ("Supplement Addendum").

In addition, the Lessee shall:

- a) Submit evidence of any sidewalk café permit site plan modification to Lessor within fifteen (15) days from the date that such modification is granted to a Permittee;

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
ADDENDUM TO LEASE AGREEMENT

Item/Seg No.: 2495611
Sec/Job No. 87060
SR No.: A1A
County: Miami-Dade
Parcels No.: 4228

- b) Submit a Supplement Addendum to Lessor for each sidewalk café permit renewal by no later than October 15th of each calendar year.

4. Rent:

Paragraph 3 of the Lease Agreement is modified as follows:

Rent calculation. The Lessee and Lessor have agreed to a rent of 20% of the sidewalk café annual permit fee (or permit renewal fee, as the case may be) in accordance with the Lessee's ordinance Sec. 18-90 (1) as set forth in appendix A of said ordinance. The rent payable for the leased property is to be calculated on a per square footage basis, in accordance with the sidewalk café permit area described in each Supplement Addendum and sidewalk cafe permit granted by the Lessee.

Rent shall be paid annually as follows:

- a) Permits issued subsequent to October 1st of each calendar year shall be due and payable within thirty (30) days from the date the sidewalk café permit is issued by the Lessee to the Permittee and shall be pro-rated accordingly;
- b) Renewal permits shall be due and payable on or before November 1st of each calendar year.

The annual rental for each permit issued shall be based on the Lessee's permit year, to wit: October 1st to September 30th of each calendar year, and any rental pro-rations shall be based on this time period.

For purposes of any Supplement Addendum, the commencement date shall be deemed to be the date of the issuance of the sidewalk café permit by the Lessee.

Late fees or charges of any kind may be classified as additional rent if not paid when demanded, and may be included in any statutory notices served on the Lessee for non-payment of rent.

Lessor reserves the right to review and adjust the rent rate every two (2) years, and at renewal, to reflect market conditions.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
ADDENDUM TO LEASE AGREEMENT

Item/Seg No.: 2495611
Sec/Job No. 87060
SR No.: A1A
County: Miami-Dade
Parcels No.: 4228

5. Maintenance:

Paragraph 5 of the Lease Agreement is modified as follows:
Notwithstanding anything contained in Paragraph 5 of the Lease Agreement, Lessor will be responsible for any structural repairs to the leased property not resulting from damage caused by Lessee, Permittee, or their respective employees, agents, guests or invitees. Lessee shall be responsible for maintenance of the leased property, including but not limited to, proper cleaning, upkeep and housekeeping of the leased property at its expense and for restoration repairs resulting from affixing items to the sidewalk surface.

6. Indemnification.

Paragraph 6 of the Lease Agreement is modified as follows:

Notwithstanding anything contained in Paragraph 6 of the Lease Agreement, Lessee shall indemnify Lessor, to the extent provided by law and subject to the limitations as provided in Section 768.28, F.S.

7. Insurance:

In addition to the provisions of paragraph 7 of the Lease Agreement:

Lessee does hereby agree that any sidewalk café permit issued to a Permittee shall include a provision requiring the Permittee, at its expense, to maintain, at all times during the Permit term, public liability insurance protecting Lessor and Lessee against any and all claims for injury and damage to persons and property, and for the loss of life or property occurring in, on, or about the permit area arising out of the act, negligence, omission, nonfeasance, or malfeasance of Permittee, its employees, agents, contractors, customers, licensees, and invitees. Such insurance shall be carried in a minimum than One million dollars (\$1,000,000.00) for bodily injury or death to any one person or any number of persons in any one occurrence and not less than One million dollars (\$1,000,000.00) for property damage, or a combined coverage of not less than two million dollars (\$2,000,000.00).

All such policies shall be issued by companies licensed to do business in the State of Florida and all such policies shall contain a provision whereby the same cannot be canceled or modified unless Lessor is given at least sixty (60) days

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
ADDENDUM TO LEASE AGREEMENT

Item/Seg No.: 2495611
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SR No.: A1A
County: Miami-Dade
Parcels No.: 4228

prior written notice of such cancellation or modification. Lessee shall provide Lessor certificates showing such insurance to be in place and showing Lessor as additional insured under the policies.

8. Paragraph 9 of the Lease Agreement is modified to include the following provision:

h. Lessee agrees to regularly inspect the premises to ensure compliance with the provisions of the sidewalk permits and Lessee's Ordinance No. 2008-3601; Lessee's administrative guidelines and procedures for sidewalk cafés; and FDOT's applicable regulations.

IN WITNESS WHEREOF, the parties have executed this Addendum to the Lease Agreement as of this _____ day of _____ 2012.

On behalf of Lessee
TOWN OF SURFSIDE

On behalf of Lessor
STATE OF FLORIDA
DEPARTMENT OF
TRANSPORTATION

By: _____
Michael P. Crotty
Town Manager

By: _____
Gus Pego P.E.
District Secretary

Witness: _____

Name/Title

Attest: _____
Executive Secretary

Witness: _____

Name/Title

Attest: _____

LEGAL REVIEW:

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
ADDENDUM TO LEASE AGREEMENT

Item/Seg No.: 2495611
Sec/Job No. 87060
SR No.: A1A
County: Miami-Dade
Parcels No.: 4228

Alicia Trujillo, Esq.
District Chief Counsel



Town of Surfside Commission Communication

Agenda Date: September 17, 2013

Subject: Approval for payment of emergency repairs to the Air Conditioning units at Town hall to Smart Air Systems Inc.

Background: There are 5 Air Conditioning units which are located on the roof of Town Hall that cool the building, 3 of those units had developed holes in the condenser pans due to corrosion and age of the units. During the continuous rain events in August, water would accumulate in the pan area of the Air Conditioners and leak down thru the roof in three locations (Commission Chambers, training room and code compliance office). In a few days, the accumulation of water in the Air conditioner pans had saturated the roof area, carpet and floors in the Chambers, Police training room and the Code Compliance offices. With the water came a tremendous amount of clean up and replacement of ceiling tiles to keep these rooms operational for previously scheduled activities/ meetings. We placed large containers throughout the leak points to catch as much water as possible because these rooms are heavily utilized. In addition, the training room was being used for a Police Training class where officers from all parts of the County were here for training as well as Commission and budget meetings in the Chambers. To avoid any further possible damage to the building ceiling tiles, electrical/Technical wiring and carpet a swift decision was made. These circumstances prevented waiting till the next Commission meeting. Public Works called in their maintenance contractor Smart Air to get a solution and a fix to this problem.

Analysis: The Town currently has Smart Air on a yearly maintenance agreement for the Town's Air Conditioner units. After their inspection of the units, it was determined that the drip pans under the condensers were rusted and leaking when it would rain. To fix this problem, they proposed to re-install metal lining over the corroded areas of the pans and coat with an epoxy to make it water tight again. This would be the most efficient way to proceed with this. The only other fix would be to replace the units, which are not due to be replaced until 2015 for one and 2016 for the other two. To avoid any further damage to the roof and ceiling we moved forward with repairs. The Public Works Director, Joseph S. Kroll addressed these repairs with the Town Manager Michael Crotty because the cost of repairs exceeded our expenditure limit and would need Commission approval. Mr. Crotty gave us the permission to proceed due to the severity and to avoid any further damage and cost that could occur to the building if it was not addressed now.

Budget Impact: Funding for this emergency repair work will come from General Fund Building maintenance account in the amount of \$9459.00.

Staff Impact: Public Works did oversee this project.

Recommendation: Staff recommends the Town Commission adopt a resolution to pay Smart Air Systems Inc. \$9,459.00 for emergency repairs to the Air Conditioner Units at Town hall.



Joseph Krroll, Public Works Director



Michael P. Crotty, Town Manager

RESOLUTION NO. 13 - _____

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, RATIFYING AFTER THE FACT THE EXPENDITURE TO SMART AIR SYSTEMS, INC. IN THE AMOUNT OF \$9,459.00 FOR THE EMERGENCY REPAIR OF THE CENTRAL AIR CONDITIONING UNITS LOCATED AT TOWN HALL; PROVIDING FOR APPROVAL; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Smart Air Systems, Inc. (“Smart Air”) has a maintenance service agreement to provide air conditioning service and repair with the Town of Surfside; and

WHEREAS, after a few days of heavy rain, the roof was leaking in Town Hall including the Town Commission Chambers, the Police Training Room, and the Code Compliance Office; and

WHEREAS, the Town of Surfside staff discovered three of the air conditioning condenser units located on the roof of Town Hall were leaking as a result of corrosion; and

WHEREAS, the required repairs were outside the scope of services provided in the existing maintenance service agreement with Smart Air; and

WHEREAS, due to the exigent circumstances, Smart Air was authorized to proceed at a cost of the emergency central air conditioning repair project in the amount of \$9,459.00 (See Invoice attached hereto as Exhibit “A”).

WHEREAS, Smart Air was able to respond immediately and conduct the repairs over the weekend and the air conditioning system in Town Hall is currently operating efficiently.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA,

Section 1. Recitals. That the above and foregoing recitals are true and correct, and are incorporated herein by reference.

Section 2. Purchase Order Approved. The Smart Air Systems, Inc. Invoice (attached as Exhibit “A”) is hereby approved after-the-fact.

Section 3. Effective Date. This Resolution shall be effective immediately from adoption hereof.

PASSED and **ADOPTED** on this _____ day of September 2013.

Motion by Commissioner _____, second by Commissioner _____.

FINAL VOTE ON ADOPTION

Commissioner Joseph Graubart _____
Commissioner Michelle Kligman _____
Commissioner Marta Olchyk _____
Vice Mayor Michael Karukin _____
Mayor Daniel Dietch _____

Daniel Dietch, Mayor

ATTEST:

Sandra Novoa, CMC
Town Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE TOWN OF SURFSIDE ONLY:**



Linda Miller, Town Attorney



1731 Banks Rd
 Margate, FL 33063
 Phone: (954) 968-1288
 Fax: (954) 968-5509

Invoice

Date: 8/9/2013
 Invoice No.: 35282

EXHIBIT "A"

Bill to: Surfside Town Hall
 9293 Harding Avenue
 Surfside, FL 33154

Service at: Surfside Town Hall
 9293 Harding Avenue
 Surfside, FL 33154

Customer ID: 11399

Description: Work Order 31965 Repairs
 CONDENSER DRIP PAN COATING OF (3) UNITS

Reference: Work Order 31965

PQ Number:

Customer Notes:

Item	Description	Quantity	Unit Price	Amount
As Quoted & Agreed	Final Billing	1.00	\$10,209.00	\$10,209.00
			Subtotal	\$10,209.00

*STAFF OVERTIME
 20 HRS / 3 DAYS \$750.00*

Thank you for using Smart Air Systems
 All invoices which are not paid within NET 30 days will accumulate a Service Charge of 1 1/2% interest PER MONTH, commencing on the 31st day and continuing until the funds are received in SMART AIR SYSTEMS, INC. office.

Subtotal:	\$10,209.00
Sales Tax:	\$0.00
Total Due:	\$10,209.00

Handwritten signature and date: 8/21/13 #19459.00

July 9, 2013

Joseph Kroll
Town of Surfside Town Hall
9293 Harding Ave.
Surfside, FL 33154



RE; CONDENSER DRIP PAN COATING

Dear Joseph,

Smart Air Systems, Inc. is pleased to provide you with this proposal to supply all labor and material to repair the units at the above mentioned location.

Total cost to coat (1) unit is:.....\$4,167.00
Total cost to coat (3) units is:.....\$10,209.00

This proposal includes the following:

- Remove and dispose of the unit per EPA Regulations.
- Clean the existing drip pans in the compressor compartment.
- Mechanically abrade drip pans as needed prior to fast set protective coating application.
- Repair metal substrate as needed prior to fast set protective coating application.
- Apply fast set coating system over the properly prepared drip pans.
- Haul away debris from coating application.
- Work to be performed on nights and weekends if required.

This proposal does not include:

- Any mechanical repairs.
- Anything not stated above.

Warranty:

- Warranties on all parts and materials are limited to manufacturer's warranties.

Payment Terms:

- Payment is due in net 30. All invoices not paid in net 30 days will accumulate a service charge of 1.5% interest per month (18% annum), commencing on the 31st day and continuing until the funds are received.

If this proposal meets with your approval, please issue your purchase order to my attention or sign and return a copy of this letter as your authorization to proceed. If you have any questions or concerns regarding this proposal please feel free to contact me at (954) 968-1288.

We thank you for the opportunity to be of service.

Sincerely,

Mike Meekins
Mike Meekins
Smart Air Systems, Inc.
CAC056916

ACCEPTED BY: _____

TITLE: _____

PUBLIC WORKS DIRECTOR

DATE: _____

7-17-13



**Town of Surfside
Town Commission Meeting
September 17, 2013
7:00pm**

Town Hall Commission Chambers - 9293 Harding Avenue, 2nd Floor
Surfside, FL 33154

RESOLUTION COVER MEMORANDUM

Title: Fiber Optic Cable

Submitted By: Daniel Dietch, Mayor

Objective: That the Surfside Town Commission approve the enclosed Resolution supporting the installation of fiber optic cable for public use in the Florida East Coast Rail Corridor.

Consideration: Planning is often best accomplished by working together with other units of government for mutual benefits. In addition, proper planning often requires looking beyond the next year or election cycle. For example, Surfside recently demonstrated its ability to plan for its future by placing approved conduit at each intersection to allow for future utility upgrades with minimum disruption. Similarly, the Treasure Coast Regional Planning Council recently passed a resolution supporting the installation of fiber optic cable for public use in the Florida East Coast Rail Corridor. This work will coincide with the All Aboard Florida project and allow for the installation of fiber optic infrastructure that can be accessed in the future with minimum disruption. The enclosed Resolution will join Surfside with the Treasure Coast Regional Planning Council so that we may advocate together for proper communications planning and coordination for the benefit of future generations.

RESOLUTION NO. 13- _____

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA (TOWN) AFFIRMING SUPPORT FOR THE INSTALLATION OF FIBER OPTIC CABLE FOR PUBLIC USE IN THE FLORIDA EAST COAST RAIL CORRIDOR; URGING ALL MUNICIPALITIES OF MIAMI-DADE COUNTY TO SUPPORT THE INSTALLATION OF FIBER OPTIC CABLE FOR PUBLIC USE IN THE FLORIDA EAST COAST RAIL CORRIDOR; PROVIDING FOR APPROVAL AND AUTHORIZATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Treasure Coast Regional Planning Council representing the local governments of Indian River, Martin, Palm Beach, and St. Lucie counties unanimously passed on July 19, 2013 Resolution No. 13-01 to support the installation of fiber optic cable for public use in the Florida East Coast rail corridor; and

WHEREAS, fiber optic technology provides a high speed broadband communication system that is a catalyst to enhance job creation, economic development, healthcare, and education; and

WHEREAS, Southeast Florida does not have fiber optic infrastructure available for public use throughout the region; and

WHEREAS, the All Aboard Florida project is a proposal by Florida East Coast Industries to introduce express passenger rail service between Miami and Orlando follows the Florida East Coast rail corridor; and

WHEREAS, the Florida East Coast rail corridor is an ideal location for the co-location of fiber optic infrastructure because it links most of the urban areas in Southeast Florida; and

WHEREAS, the Town of Surfside urges other Municipalities of Miami-Dade County to support the installation of fiber optic cable for public use in the Florida East Coast rail corridor.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That each of the above stated recitals are hereby adopted, confirmed, and incorporated herein.

Section 2. Approval and Authorization. The Town Commission approves and authorizes the Town Manager and/or his designee to take all actions necessary to implement this Resolution.

Section 3. Direction to the Town Clerk. The Town Clerk is hereby directed to transmit a copy of this Resolution to the Miami-Dade County Municipal Clerks and the Treasure Coast Regional Planning Council.

Section 4. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this _____ day of September, 2013.

Motion by Commissioner _____, second by Commissioner _____.

FINAL VOTE ON ADOPTION

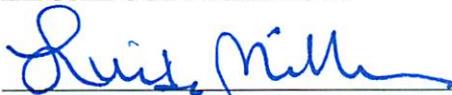
Commissioner Joseph Graubart _____
Commissioner Michelle Kligman _____
Commissioner Marta Olchyk _____
Vice Mayor Michael Karukin _____
Mayor Daniel Dietch _____

Daniel Dietch, Mayor

ATTEST:

Sandra Novoa, CMC
Town Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**



Linda Miller, Town Attorney



**Town of Surfside
Town Commission Meeting
September 17, 2013
7:00 pm**

Town Hall Commission Chambers - 9293 Harding Avenue, 2nd Floor
Surfside, FL 33154

PROCLAMATION COVER MEMORANDUM

Title: Constitution Week Proclamation

Submitted By: Daniel Dietch, Mayor

Objective: That the Surfside Town Commission approve the enclosed proclamation designating the week of September 17 – 23 for the observance of “Constitution Week.”

Consideration: The United States of America functions as a Republic under the Constitution, which is the oldest document still in active use that outlines the self-government of a people. Today, the Constitution stands as an icon of freedom for people around the world.

The tradition of celebrating the Constitution was started many years ago by the Daughters of the American Revolution (DAR). In 1955, the DAR petitioned Congress to set aside September 17-23 annually to be dedicated for the observance of Constitution Week. The resolution was later adopted by the U.S. Congress and signed into Public Law #915 on August 2, 1956 by President Dwight D. Eisenhower. The aims of the celebration are to: 1) emphasize citizens’ responsibilities for protecting and defending the Constitution, preserving it for posterity; 2) inform the people that the Constitution is the basis for America’s great heritage and the foundation for our way of life; and 3) encourage the study of the historical events which led to the framing of the Constitution in September 1787.

I am sponsoring the enclosed proclamation designating the week of September 17 – 23 for the observance of “Constitution Week.” at the request of the South Florida Regents Council, which represents five Chapters of the DAR, from The Florida Keys to the Miami Beach area. The DAR is known as the largest women’s patriotic organization in the world with over 175,000 members with approximately 3,000 chapters in all 50 states and 13 foreign countries.



Proclamation

Whereas, the United States of America functions as a Republic under the Constitution, which is the oldest document still in active use that outlines the self-government of a people; and

Whereas, today, the Constitution stands as an icon of freedom for people around the world; and

Whereas, in 1955, the (DAR) petitioned Congress to set aside September 17-23 annually to be dedicated for the observance of Constitution Week; and

Whereas, Public Law 915 guarantees the issuing of a Proclamation each year by the President of the United States of America designating September 17 through 23 as Constitution Week; and

Whereas, the aims of the celebration are to emphasize citizens' responsibilities for protecting and defending the Constitution, as well as encouraging the study of the historical events which led to the framing of the Constitution in September 1787; and

Whereas, September 17, 2013 marks the two hundred twenty-sixth anniversary of the drafting of the Constitution of the United States of America by the Constitutional Convention; and

*Now, Therefore, I, Daniel Dietch, by virtue of the authority vested in me as Mayor of the Town of Surfside do hereby proclaim the week of September 17 through 23 as **Constitution Week**.*

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the Town to be affixed this 17th day of September, 2013.

*Daniel Dietch, Mayor
Town of Surfside, Florida*

*SEAL Attest
Sandra Novoa, Town Clerk*



**Town of Surfside
Town Commission Meeting
September 17, 2013
7:00 pm**

Town Hall Commission Chambers - 9293 Harding Avenue, 2nd Floor
Surfside, FL 33154

PROCLAMATION COVER MEMORANDUM

Title: Childhood Cancer Awareness Month Proclamation

Submitted By: Daniel Dietch, Mayor

Objective: That the Surfside Town Commission approve the enclosed proclamation designating the month of September as "Childhood Cancer Awareness Month."

Consideration: As you may or may not know, September is National Childhood Cancer Awareness Month and it has been recognized this year with Proclamations from the President of the United States as well as the Governor of Florida.

Unfortunately, finding a cure for childhood cancer requires more research and more funding. The following are a few facts about childhood cancer that you may not be aware of:

- Childhood cancer is the #1 cause of death by disease in children, more than Asthma, Diabetes, Cystic Fibrosis & Pediatric HIV/AIDS combined.
- Less than 5 percent of the federal government's funding for cancer research goes to childhood cancer, and that's only 5 percent for all 12 types of childhood cancers
- Although the cure rate of some of the more common childhood cancers, such as Leukemia, has increased in recent years there has not been much change for the more invasive and aggressive cancers such as brain tumors, Relapsed Neuroblastoma and Rhabdomyosarcoma amongst others.
- The incidence of the more aggressive childhood cancers has steadily increased over the years.
- Every year, approximately 35,000 kids are diagnosed with childhood cancer in the U.S.
- Research shows that on average one in every four elementary schools have a child with cancer and the average high school has two students who are either former or current cancer patients.

At the request of the Mystic Force Foundation, a 501(c)(3) non-profit public charity dedicated to raising awareness and funds for childhood cancer research, I am sponsoring the enclosed proclamation designating the month of September as "Childhood Cancer Awareness Month." Through adoption of the proposed proclamation, Surfside is joining the President of the United States as well as the Governor of Florida in proclaiming the need for greater awareness and funding to continue the research to find a cure for childhood cancer.



Childhood Cancer Awareness Month Proclamation

Whereas, families, caregivers, charities, and research groups across the United States, as well as our National Government are observing the month of September as "Childhood Cancer Awareness Month" to memorialize the young lives that have been taken too soon; and

Whereas, nationally, each year tens of thousands of children face the battle of cancer with incredible bravery and inspiring hope; and

Whereas, according to the American Cancer Society, approximately 13,500 children under age 15 will be diagnosed with cancer in 2013; and

Whereas, childhood cancer is the leading cause of death among children under age 15 according to the most recent statistics provided by the Centers for Disease Control; and

Whereas, although survival rates for some forms of childhood cancers have risen sharply over the past few decades, cure rates for many forms of the disease remain less than 50 percent; and

Whereas, the incidence of childhood cancer is increasing rapidly and crosses the boundaries of racial, ethnic, geographic, or social backgrounds; and

Whereas, the State of Florida recognizes the lasting devastating effects of childhood cancer on the residents of this state; and

Whereas, this month, we honor the children of Florida fighting this disease, their families and caregivers, the researchers, healthcare professionals, concerned citizen advocates, and private philanthropies who collaborate to provide hope and assistance to the children and their families affected by childhood cancer.

*Now, Therefore, the Town of Surfside does hereby extend greetings and best wishes to all observing September 2013 as **Childhood Cancer Awareness Month**.*

In witness thereof I have hereunto set my hand this 17th day of September, 2013.

*Daniel Dietch, Mayor
Town of Surfside, Florida*



**Town of Surfside
Town Commission Meeting
September 17, 2013
7:00pm**

Town Hall Commission Chambers - 9293 Harding Avenue, 2nd Floor
Surfside, FL 33154

RESOLUTION COVER MEMORANDUM

Title: Golden Veterans Parade - 50th Anniversary Commemoration

Submitted By: Daniel Dietch, Mayor

Objective: That the Surfside Town Commission approve the enclosed Resolution supporting the Golden Veterans Parade - 50th Anniversary Commemoration.

Consideration: At the request of Miami-Dade County Commissioner Jose "Pepe" Diaz, Chairman of the Military Affairs Board, Surfside has been asked to support the County's efforts to host the "Golden Veterans Parade – 50th Anniversary Commemoration." The parade is planned as a one-time event, where as a community we will properly welcome back our Vietnam Veterans and all veterans in Miami-Dade County and the entire State of Florida.

This one-time commemorative event was inspired by the Presidential proclamation naming the next 13 years the 50th Anniversary of the Vietnam War, and seeks to honor those veterans who because of anti-war sentiments were never given a proper welcome back reception. The Parade will start at noon on November 8, 2013 down the symbolic Flagler Street into Bayfront Park for a commemorative ceremony and community concert until sunset.

RESOLUTION NO. 13 – _____

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA (“TOWN”); EXPRESSING SUPPORT FOR THE NOVEMBER 8, 2013 MIAMI-DADE COUNTY MILITARY AFFAIRS BOARD “GOLDEN VETERANS PARADE 50TH ANNIVERSARY COMMEMORATION” COMMEMORATING THE 50TH ANNIVERSARY OF THE VIETNAM WAR; PROVIDING FOR AUTHORIZATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, beginning on Memorial Day 2012, the Federal Government initiated a partnership with local governments, private organizations and communities across America to participate in the Commemoration of the 50th Anniversary of the Vietnam War; and

WHEREAS, the Commemoration of the 50th Anniversary of the Vietnam War is a 13-year program to honor and thank the generation of proud Americans who served our country during one of the most challenging missions ever faced by our nation; and

WHEREAS, the Commemoration of the 50th Anniversary of the Vietnam War is a tribute to the valor of more than 3 million servicemen and women who selflessly left their families to serve our country bravely; and

WHEREAS, on November 8, 2013, the Miami-Dade County Military Affairs Board is sponsoring a “Golden Veterans Parade – 50th Anniversary Commemoration” down Flagler Street into Bay Front Park to commemorate the 50th Anniversary of the Vietnam War, and welcome home and remember our Vietnam Veterans; and

WHEREAS, the Town Commission believes it is in the best interest of the Town to support the November 8, 2013 Golden Veterans Parade sponsored by the Miami-Dade County Military Affairs Board.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That each of the above stated recitals are hereby adopted, confirmed, and incorporated herein.

Section 2. Support by the Town of Surfside Town Commission. The Town Commission supports the November 8, 2013 Golden Veterans Parade sponsored by the Miami-Dade County Military Affairs Board.

Section 3. Authorization and Approval. The Town Commission authorizes and approves the Town Manager and/or his designee to take all actions necessary to implement this Resolution.

Section 4. Direction to the Town Clerk. The Town Clerk is hereby directed to transmit a copy of this Resolution to the Miami-Dade County Municipal Clerks and the Miami-Dade Military Affairs Board.

Section 5. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this 17th day of September 2013.

Motion by Commissioner _____, second by Commissioner _____.

FINAL VOTE ON ADOPTION

Commissioner Joseph Graubart _____
Commissioner Michelle Kligman _____
Commissioner Marta Olchyk _____
Vice Mayor Michael Karukin _____
Mayor Daniel Dietch _____

Daniel Dietch, Mayor

ATTEST:

Sandra Novoa, CMC
Town Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**



Linda Miller, Town Attorney



**Town of Surfside
Commission Communication**

To: Town Commission

From: Nancy E. Stroud, Esq., Special Land Use Counsel *NES*

CC: Town Manager, Michael P. Crotty
Town Attorney, Linda Miller
Town Clerk, Sandra Novoa

Agenda Date: September 17, 2013

Subject: Ordinance Amending Future Land Use Element of the Comprehensive Plan

Background: Because of a pending religious use site plan application, the Town planning and legal staffs and special counsel have become aware of two issues with the Town Comprehensive Plan that relate to religious uses. The proposed ordinance amending the Future Land Use Element addresses both issues in order to better protect the Town against any future claim that the Town's Comprehensive Plan violates the Federal Religious Land Use and Institutionalized Persons Act ("RLUIPA").

1. "Equal Treatment" of religious uses. RLUIPA requires that the government treat religious land uses at least equally to other uses of public assembly. There is one land use category of the Future Land Use Map -- Moderate Density Residential/Tourist -- that allows public schools but does not allow other places of public assembly (such as houses of worship). In order to provide equal treatment, the proposed ordinance strikes public school uses from the list of uses allowed in the Moderate Density Residential/Tourist category.
2. "Reasonable relief" provisions. The Town has adopted zoning regulations that provide a type of regulatory relief option under certain defined circumstances so that on a case by case basis it can avoid unintended violations of RLUIPA. This relief option is found in Section 90-99 of the Zoning Code "Religious land use relief procedures." Additionally, Ordinance No. 07-1479 adopted changes to the Zoning Code, including a map for "Public Assembly Places", to address potential RLUIPA issues. The proposed ordinance adds Policy 10.6 to the Future Land Use Element to provide consistency between the Comprehensive Plan and the Zoning Code, including the Public Assembly Places map. This will enable the Town to make more effective use, on a future case by case basis, of the Zoning Code's reasonable relief provisions.

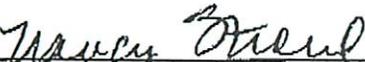
It should be noted that staff has also reviewed the proposed ordinance amending the Future Land Use Element and confirms that it does not violate the Charter provision related to intensity, density and height of proposed development.

Recommendation: Staff recommends that the Commission adopt the proposed ordinance striking "public schools" from the Moderate Density Residential/Tourist Future Land Use category, and adding Policy 10.6 to the Future Land Use Element.

Budget Impact: N/A

Growth Impact: N/A

Staff Impact: N/A



Nancy Stroud, Esq.
Special Land Use Counsel



Michael Crotty
Town Manager

ORDINANCE NO. 13 _____

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE FUTURE LAND USE ELEMENT OF THE TOWN OF SURFSIDE COMPREHENSIVE PLAN BY AMENDING POLICY 1.1 TO DELETE PUBLIC SCHOOLS AS A USE IN POLICY 1.1 MODERATE DENSITY RESIDENTIAL/TOURIST LAND USE CATEGORY; ADDING POLICY 10.6 TO PROVIDE FOR LAND DEVELOPMENT REGULATIONS THAT ALLOW REASONABLE RELIEF FOR RELIGIOUS USES AND MAP FLU-8; PROVIDING A SEVERABILITY CLAUSE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside has adopted a Comprehensive Plan pursuant to Chapter 163, Florida Statutes, and adopted its most recent EAR-Based Comprehensive Plan amendments to the Comprehensive Plan in January 2010; and

WHEREAS, pursuant to Section 90.17 of the Town Code, the Planning and Zoning Board is designated as the Local Planning Agency for the Town; and

WHEREAS, the Planning & Zoning Board in its capacity as the Local Planning Agency, has reviewed proposed amendments to the Future Land Use Element of the Comprehensive Plan as substantially contained herein and recommended approval to the Town Commission on _____, 2013 ; and

WHEREAS, the Town Commission has reviewed the recommendation of the Planning and Zoning Board and, after duly noticed public hearings in accordance with the Florida Statutes and the Town Code, finds that this Ordinance is in the best interest and welfare of the residents of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA:

Section 1. Recitals.

The foregoing “Whereas” clauses are hereby ratified and incorporated as the legislative intent of this Ordinance.

Section 2. Recommendation of Approval by the Local Planning Agency.

The Planning and Zoning Board, in its capacity as the Local Planning Agency, has reviewed the proposed amendments to the Town’s Comprehensive Plan and recommends approval by the Town Commission.

Section 3. Amending Policy 1.1 of the Future Land Use Element.

The Town Commission, upon review of the recommendations of the Local Planning Agency and independent review, hereby amends Policy 1.1 of the Future Land Use Element of the Town Comprehensive Plan as follows:

Policy 1.1 – The Town shall maintain, improve and strictly enforce provisions which are consistent with the Future Land Use Map, including the land uses and densities and intensities specified thereon and including the following:

...
Moderate Density Residential/Tourist: up to 58 residential dwelling units per acre or up to 108 hotel units per acre and not more than 40 feet in height. The permitted uses are single family, duplex, and multi-family residential uses, hotels, ~~public schools~~, and parks and open space.

Section 4. Adopting new Policy 10.6 and Map FLU-8 in the Future Land Use Element.

The Town Commission, upon review of the recommendations of the Local Planning Agency and independent review, hereby adopts new Policy 10.6 and Map FLU-8 in the Future Land Use Element as follows:

Policy 10.6 – The Town shall maintain land development regulations that allow reasonable relief from the Town land development regulations or the use restrictions of this Comprehensive Plan in order to address possible unintended violations of the Religious Land Use and Institutionalized Persons Act of 2000 or

the Florida Religious Freedom Restoration Act of 1998. For the purpose of allowing such relief, the land development regulations shall provide that religious land uses may be permitted in the areas of the Town as depicted on Map FLU-8 of this Comprehensive Plan.

Section 5. Severability.

Should any section, paragraph, sentence, clause, phrase or other part of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any portion thereof, other than the part so declared to be invalid.

Section 6. Conflict.

That all Sections or parts of Sections of the Code of Ordinances, all Ordinances or parts of Ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

Section 7. Effective Date.

This Ordinance shall be effective immediately upon passage by the Town Commission on second reading, except that the effective date of the Plan Amendment approved by this Ordinance shall be the date a final order is issued by the Department of Economic Opportunity or Administration Commission finding the Plan Amendment in compliance in accordance with Section 163.3184, Florida Statutes, whichever occurs earlier. The Department of Economic Opportunity notice of intent to find the Plan Amendment in compliance shall be deemed to be a final order if no timely petition challenging the Plan Amendment is filed.

PASSED and ADOPTED on first reading this ____ day of _____, 2013.

PASSED and ADOPTED on second reading this ____ day of _____, 2013.

Daniel Dietch, Mayor

ATTEST:

Sandra Novoa, CMC, Town Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**



Linda Miller, Town Attorney

On Second Reading Moved by: _____

On Second Reading Seconded by: _____

Vote:

Mayor Daniel Dietch	yes _____	no _____
Vice Mayor Michael Karukin	yes _____	no _____
Commissioner Joseph Graubart	yes _____	no _____
Commissioner Michelle Kligman	yes _____	no _____
Commissioner Marty Olchyk	yes _____	no _____



Town of Surfside Commission Communication

Agenda Item #: 4B2
Agenda Date: September 17, 2013
Subject: Veterinary Clinics
From: Sarah Sinatra Gould, AICP, Town Planner

Background: A resident, who is also a veterinarian, has asked staff to look at Section 90-41 of the Code, which states that business offices, except veterinary offices, are permitted in the business district. This provision specifically prohibits all veterinary offices in Town.

Analysis: Staff has reviewed a number of codes, including Coral Gables, Miami Beach, Bay Harbor Islands and Bal Harbour. Of the codes reviewed, only Coral Gables and Miami Beach specifically permit veterinarian clinics. Typically, municipalities that permit veterinary offices require a conditional use or special exception application, which requires the Commission to analyze the specific location requested for the use, and determine if any special conditions should be applied to the use.

Public Meetings: The Planning and Zoning Board heard this topic as a discussion item at their July 25, 2013 meeting. The Board indicated that if an ordinance were prepared, they wished to see additional controls added into the text. These controls include distance separation requirements (500 feet) between veterinary clinics, requiring patient access through the rear of the property and provide an area on the private property for the animals to be walked. The Planning and Zoning Board recommended that the Town Commission discuss this item prior to directing the Town Planner to draft an ordinance.

The Town Commission heard this item at their August 13, 2013 meeting, but due to lack of a full board, a Commissioner requested to take no action on this item until the following Commission meeting.

A Planning and Zoning Board member requested that the item be placed back on the August 29, 2013 Planning and Zoning Board meeting. The Board voted to direct staff to prepare an ordinance for the Town Commission to review at their September 17, 2013 meeting.

Staff Recommendation: If the Town wishes to permit this use, Staff recommends that the use be a Conditional Use, rather than a permitted use. A Conditional Use will allow the Planning and Zoning Board and Town Commission to analyze the use based on the specific location and propose mitigation for any negative effects of the use. In an application for a veterinary clinic, the Town should consider such factors as sound proofing and determining where the animals will be walked.

Budget Impact: N/A

Growth Impact: N/A

Staff Impact: N/A



Sarah Sinatra Gould, AICP, Town Planner



Michael Crotty, Town Manager

Sec. 90-41. Regulated uses.

Applicability and validity of tables. Nothing shall be used to misconstrue or reinterpret the provisions, limitations and allowances made here in.

(a) *Purpose.* Permitted uses are considered to be fundamentally appropriate within the district in which they are located and are deemed to be consistent with the comprehensive plan. These uses are permitted as of right, subject to the required permits and procedures described in this section. Permitted uses require final site plan review and approval for compliance with the standards applicable to a particular permitted use as provided in this zoning code.

(b) *Permits required.* Except as explicitly provided herein, no use designated as a permitted use in this chapter shall be established until after the person proposing such use has applied for and received all required development permits.

(c) *Table—Regulated uses.*

	H30A	H30B	H30C	H40	H120	SD-B40
Office Uses and Professional Services						
Business and professional offices, except veterinary offices	-	-	-	-	-	P
<u>Veterinary office</u>	-	-	-	-	-	<u>CU</u> <u>(24)</u>

(24) Veterinary Office is a facility for the diagnosis and treatment of pet animals.

Pet Animals are defined as dogs, cats, rabbits, guinea pigs, hamsters, mice, ferrets, birds and fish retained for the purposes of being kept as a household pet.

Veterinary offices approved by Conditional Use are subject to the following:

a. Animals shall be walked on the premises in an enclosed area and all waste shall be disposed of immediately.

b. No overnight boarding shall be permitted.

c. Soundproofing shall be required and the noise outside the building shall not exceed that of average daily traffic measured at the lot line.

- d. No odor shall be perceptible at the boundary of the premises.
- e. All waiting rooms and patient areas shall not be visible from the public right of way.
- f. A minimum of 25% of the floor area of the establishment shall provide retail sales located at the front of the establishment.
- g. No grooming shall be permitted.
- h. There shall be a minimum distance separation of 500 feet between veterinary offices.

ORDINANCE NO. 13-_____

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 "ZONING" OF THE TOWN OF SURFSIDE CODE OF ORDINANCES AND SPECIFICALLY AMENDING SECTION SEC. 90-41(d) "REGULATED USES" ADDING VETERINARY OFFICE AS A CONDITIONAL USE; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 90-41 of the Code states that business offices, except veterinary offices, are permitted in the business district; and

WHEREAS, Section 90-41 specifically prohibits all veterinary offices in Town; and

WHEREAS, permitting veterinary offices will require a conditional use application, which will require the Town Commission to analyze the specific location requested for the use, and determine if any special conditions should be applied to the use; and

WHEREAS, the Town Commission recognizes the need to regulate veterinary offices for the health, safety and welfare of the Town; and

WHEREAS, the Town has attempted to create regulations to address the specific needs of the this unique community and continues to amend these regulations to address the placement of veterinary offices as they may best suit the needs of the community; and

WHEREAS, the Town Commission held its first public hearing on September 17, 2013, having complied with the notice requirements required by Florida Statutes; and

WHEREAS, the Planning and Zoning Board, as the local planning agency for the Town, has held a public hearing on September 26, 2013 and recommended approval of the proposed

amendments to the Code of Ordinances and also found the proposed Code amendments to be consistent with the Comprehensive Plan; and

WHEREAS, the Town Commission shall have conducted a second duly noticed public hearing on these regulations as required by law on October 8, 2013.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA:

Section 1. Recitals. The foregoing “WHEREAS” clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

Section 2. Code Amendment. The code of the Town of Surfside, Florida is hereby amended as follows:

Sec. 90-41. Regulated uses.

Applicability and validity of tables. Nothing shall be used to misconstrue or reinterpret the provisions, limitations and allowances made here in.

(a) *Purpose.* Permitted uses are considered to be fundamentally appropriate within the district in which they are located and are deemed to be consistent with the comprehensive plan. These uses are permitted as of right, subject to the required permits and procedures described in this section. Permitted uses require final site plan review and approval for compliance with the standards applicable to a particular permitted use as provided in this zoning code.

(b) *Permits required.* Except as explicitly provided herein, no use designated as a permitted use in this chapter shall be established until after the person proposing such use has applied for and received all required development permits.

(c) *Table—Regulated uses.*

	H30A	H30B	H30C	H40	H120	SD-B40
Office Uses and Professional Services						

Business and professional offices, except veterinary offices	-	-	-	-	-	P
<u>Veterinary office</u>	-	-	-	-	-	<u>CU</u> <u>(24)</u>

(24) Veterinary Office is a facility for the diagnosis and treatment of pet animals.

Pet Animals are defined as dogs, cats, rabbits, guinea pigs, hamsters, mice, ferrets, birds and fish retained for the purposes of being kept as a household pet.

Veterinary offices approved by Conditional Use are subject to the following:

a. Animals shall be walked on the premises in an enclosed area and all waste shall be disposed of immediately.

b. No overnight boarding shall be permitted.

c. Soundproofing shall be required and the noise outside the building shall not exceed that of average daily traffic measured at the lot line.

d. No odor shall be perceptible at the boundary of the premises.

e. All waiting rooms and patient areas shall not be visible from the public right of way.

f. A minimum of 25% of the floor area of the establishment shall provide retail sales located at the front of the establishment.

g. No grooming shall be permitted.

h. There shall be a minimum distance separation of 500 feet between veterinary offices.

Section 3. Severability. If any section, subsection, clause or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

Section 4. Conflict. All sections or parts of sections of the Town of Surfside Code of Ordinances in conflict herewith are intended to be repealed to the extent of such conflict.

Section 5. Inclusion in the Code of Ordinances. It is the intention of the Town Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of Surfside Code of Ordinances, that the sections of this Ordinance may be

renumbered or re-lettered to accomplish such intentions; and the word "ordinance" may be changed to "Section" or other appropriate word.

Section 6. Effective Date. This Ordinance shall be effective ten (10) days after adoption on second reading.

Daniel Dietch, Mayor

Attest:

Sandra Novoa, Town Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**



Linda Miller, Town Attorney

On Final Reading Moved by: _____

On Final Reading Seconded by: _____

Vote:

Mayor Dietch	yes	_____	no	_____
Vice Mayor Karukin	yes	_____	no	_____
Commissioner Graubart	yes	_____	no	_____
Commissioner Kligman	yes	_____	no	_____
Commissioner Olchyk	yes	_____	no	_____



Town of Surfside Commission Communication

Agenda Item # 5A

Agenda Date: September 17, 2013

Subject: Community Rating System consultant CRS Max

Background: The Community Rating System (CRS) allows for communities that adopt and apply floodplain management above and beyond the minimum criteria of the National Flood Insurance Program (NFIP). Any community can apply for rating under the CRS program and if rated are eligible for discounts of their flood insurance premiums. As the Community Assistance Visit (CAV) commentary, including the requisite remedial work are coming to a close, the Town may then progress into the application phase of the CRS program.

CRS Max Consultants specialize in application and acceptance into the CRS program. They have a proven track record of success across the State of Florida and are certified by the Emergency Management Institute, the Insurance Services Office and the Florida Floodplain Managers Association. Their services are centered on guiding municipalities to achieve the highest possible score for the community by developing effective hazard mitigation programs including but not limited to developing floodplain management plans, public outreach projects and grant applications. Once these programs and applications have been completed CRS Max can aid in coordinating between the community, local government and its parent Federal agencies. Based on their experience and success staff recommends the Commission retain the professional services of CRS Max, Inc. which are exempt from the competitive bid procedures pursuant to Section 3-12 (2) of the Town Code.

Analysis: Utilizing the consulting services of CRS Max can aid in maximizing the Towns efforts when applying to CRS program.

Budget Impact: CRS Max proposes that its compensation be based upon the classification it is able to help secure for the Town. The compensation for a class 8 or 9 shall be \$10,000 and for a classification of 7 or less shall be \$15,000. Flood insurance premiums are discounted in increments of 5% for CRS participating communities.

The community rating class and discounts are as follows:

<u>Community Class</u>	<u>Discount</u>
9	5%
8	10%
7	15%
6	20%
5	25%
4	30%
3	35%
2	40%
1	45%

Funds for these services are appropriated in the FY 2013-2014 Budget--Building Services Department (General Fund).

Staff Impact: Existing staff will provide all the needed information for application to the CRS program and all subsequent reporting during the maintenance phases of the program.

Recommendation: Staff recommends a motion to approve an agreement to retain the services of CRS Max Consultants to aid in the application to the CRS program.



Rosendo Prieto, Building Official



Michael P. Crotty, Town Manager

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN OF SURFSIDE, FLORIDA AUTHORIZING THE TOWN ADMINISTRATION TO RETAIN COMMUNITY RATING SYSTEM MAX CONSULTANTS (CRS MAX), INC. TO ASSIST THE TOWN IN REESTABLISHING ITS PARTICIPATION IN THE NATIONAL FLOOD INSURANCE PROGRAM'S COMMUNITY RATING SYSTEM; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO EXECUTE AN AGREEMENT FOR RETENTION OF CRS FOR CONSULTING SERVICES; AUTHORIZING THE APPROPRIATION AND EXPENDITURE FROM THE 2013/2014 FISCAL YEAR BUDGET NOT TO EXCEED \$15,000 FROM THE BUILDING SERVICES DEPARTMENT IN THE GENERAL FUND; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Community Rating System allows for communities to meet and exceed minimum criteria of the National Flood Insurance Program (NFIP) to be eligible for discounts of their flood insurance premiums; and

WHEREAS, the Town is attempting to apply for the discount eligibility and requires assistance from consultants that specialize in applications and acceptance into the Community Rating System; and

WHEREAS, CRS MAX has a proven track record of successfully assisting communities in the State of Florida in applications and acceptance into the Community Rating System; and

WHEREAS, after conducting a good faith review of available sources and the experience and success of CRS MAX, the Town Manager has recommended that, pursuant to Section 3-12(2) of the Town Code, it is in the Town's best interest to retain CRS MAX for professional services described in the Proposal for CRS Program Application Services attached as Exhibit "A" ("Proposal"); and

WHEREAS, the Town Commission has determined that it is in the best interests of the Town to retain CRS MAX for services described in the Proposal.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That each of the above stated recitals are hereby adopted, confirmed and incorporated herein.

Section 2. Authorization to Execute Agreement. The Town Commission hereby authorizes the Town Manager and the Town Attorney to execute the Agreement on behalf of the Town, to execute any required agreements and/or documents to implement the terms and conditions of the Agreement and to execute any extensions and/or amendments to the Agreement, subject to the approval as to form and legality by the Town Attorney.

Section 3. Authorization to Expend Funds. The Town Manager is authorized to expend funds from the FY 2013/2014 Budget of no more than \$15,000 from the Building Services Department in the General Fund to implement the terms and conditions of the Agreement.

Section 4. Effective Date. That this Resolution shall be effective immediately upon adoption.

PASSED and ADOPTED on this ____ day of _____

Motion by _____, second by _____.

FINAL VOTE ON ADOPTION

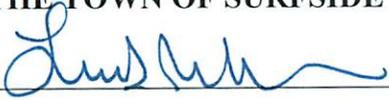
Commissioner Michelle Kligman _____
Commissioner Joseph Graubart _____
Commissioner Marta Olchyk _____
Vice-Mayor Michael Karukin _____
Mayor Daniel Dietch _____

Daniel Dietch, Mayor

ATTEST:

Sandra Novoa, Town Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR
THE TOWN OF SURFSIDE ONLY:**



Linda Miller, Town Attorney



Town of Surfside Commission Communication

Agenda Item # 5B

Agenda Date: September 17, 2013

Subject: Five Year Parks and Recreation Capital Plan

Background: In December 2012, the Parks and Recreation Department along with the Parks and Recreation Committee was requested to develop a Five Year Capital Plan for the Parks and Recreation Department. The Plan was to include the top capital projects and list them in a priority level from highest to lowest. The Capital Plan was listed as a Point of Light to update the process. The Committee reviewed items over the next three months and formulated a priority list in March of 2013 (See attached Plan). This Plan was also required for the Town to proceed moving forward with receiving the voluntary proffers/contributions coming in from the new construction projects.

Analysis: A Five Year Capital Plan will help the Town set priorities; budget and obtain the funds necessary for each project; and have a strategic plan to start and complete each project. At this time, all three (Hawthorne Tot Lot, Tennis Center and 96th Street Park) of the Parks and Recreation facilities are in need of some type of major renovation. It has been well over 20 years since any major renovations have been done to any of the facilities. The changing demographics have led to an increase in usage of the facilities and the need for renovation and acquiring green space. With the Five Year Capital Plan, operational goals can be set along with projected programing needs.

Budget Impact: Funds have been included in the FY 13/14 Budget to start the process of implementing the Five Year Capital Plan to include items number one and two on the priority list. Item one will be to begin the conceptual planning/design of the second floor of the community center and item two will be the renovation of the tennis center. Funds will be provided thru the voluntary proffers.

Recommendation: It is recommended that the Town Commission approve the Resolution approving the Five Year Capital Plan provided by the Parks and Recreation Department and recommended by the Parks and Recreation Committee.

Department Head

Town Manager

Parks and Recreation 5 Year Capital Plan

BACKGROUND:

Why a 5 year plan? This will help the Town to set priorities, budget and obtain the funds necessary for each project and have a strategic plan to start and complete each project. At this time all 3 Parks and Recreation Facilities are in need of some type of major renovation. It's has been well over 15 years since any major improvements have been done to the Parks and Recreation facilities. The ever changing demographics over the years have led to the need for an increase in parks and recreation green space and facilities. With the 5 year plan, operational goals can be set along with projected programming needs.

FUNDING OPTIONS:

1. Issue a General Obligation Bond for long term Parks and Recreation Improvements
2. Owner Financing
3. Bank Qualified Loan

Parks and Recreation 5 Year Capital Plan

Priority Rank	Estimated Cost	Construction Time Frame	Brief Description
Community Center 2nd Floor	\$1.9 million	9-12 months	To provide funds to built a second floor to the existing Community Center. This will help to increase space that is needed to develop additional programs along with the ability for the Parks and Recreation Department to rent out the facility on a daily basis without space limitation.
Renovation of Tennis Center	\$255,000	2 months	Renovation to the existing Tennis Center to include replacing the out dated lighting system, resurfacing the existing courts and updating the Tennis Center building inside and out.
Renovation of 96th Street Park	\$675,000	3-4 months	Renovate 96th street Park to include input from the Parks and Recreation Committee and the information and schematic drawings provided by the Charrette process in 2006.
Renovation of Hawthorne Tot-Lot	\$275,000	1 month	Renovate Hawthorne Tot Lot to include input from the Parks and Recreation Committee and information provided by the Charrette process in 2006.
Abbott Parking Lot Park			To create a park above renovated parking structure of Abbott parking lot.
Acquisition of Property to Create New Parks both Pas- sive and Active	\$2.2 million	1-5 years	Acquisition of properties with in the Town of Surfside and along the border of Surfside and Miami Beach. Properties to include double lot on 8712 Byron Avenue, Miami Beach open lot located at 226 87 ter. With the possible expansion of the Tennis Center and new skate park, and 9540 Bay Drive to include the expansion of 96th Street Park.
Renovation of the Beach Street Ends	\$1.4 million	1-5 years	Redesigning and beautification of the existing beach street ends on 88th, 89th, 92nd, 94th, 95th and 96th street. This will include where possible, the addition of a passive park area or green space.

RESOLUTION NO. 13- _____

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA (“TOWN”) ACCEPTING THE PARKS AND RECREATION DEPARTMENT FIVE-YEAR CAPITAL PLAN; APPROVING THE PRIORITIES SET WITHIN THE CAPITAL PLAN; AND AUTHORIZING THE TOWN MANAGER TO TAKE NECESSARY ACTION TO COLLECT VOLUNTARY PROFFERS ASSOCIATED WITH THE CAPITAL PLAN; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside Parks and Recreation Committee has recommended, for Town Commission approval, the attached Five-Year Capital Plan (attached hereto as Exhibit “A”); and

WHEREAS, the Parks and Recreation Committee reviewed the proposed Capital Projects over three months and formulated a priority list that was voted upon unanimously for recommendation to the Town Commission ; and

WHEREAS, the Five-Year Capital Plan lists and prioritizes the Capital Projects for the Parks and Recreation Department; and

WHEREAS, the Five-Year Capital Plan is necessary for the Town to proceed with collection of voluntary proffers included in the site plan approval of development projects within the Town; and

WHEREAS, an increase in usage of the Parks and Recreation facilities has resulted in an increased need for renovations and acquisition of green space for the Town; and

WHEREAS, the Parks and Recreation Committee and Department request the approval of the attached plan to implement the Five-Year Capital Plan and begin the process of collecting the voluntary proffers; and

WHEREAS, it is in the best interest of the Town of Surfside to approve the Parks and Recreation Department Five-Year Capital Plan.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above and foregoing recitals are true and correct and are incorporated herein by reference.

Section 2. Parks and Recreation Five-Year Capital Plan Approved and Adopted. The Town of Surfside Parks and Recreation Five-Year Capital Plan attached hereto as Exhibit “A” is hereby approved and adopted.

Section 3. Authorization and Implementation. The Town Manager is hereby authorized to take all necessary steps to collect voluntary proffers associated with the approval of the Parks and Recreation Five-Year Capital Plan.

Section 4. Effective Date. This Resolution shall become effective immediately upon its adoption.

Motion by Commissioner _____, Second by Commissioner _____.

PASSED AND ADOPTED this _____ day of September, 2013

FINAL VOTE ON ADOPTION

Commissioner Joseph Graubart _____
Commissioner Michelle Kligman _____
Commissioner Marta Olchyk _____
Vice Mayor Michael Karukin _____
Mayor Daniel Dietch _____

Daniel Dietch, Mayor

ATTEST:

Sandra Novoa, CMC
Town Clerk

**APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**



Linda Miller, Town Attorney



Town of Surfside Commission Communication

Agenda Item #: 5C
Agenda Date: September 17, 2013
Subject: Awnings and Sign Code Update
From: Michael Crotty, Town Manager
Sarah Sinatra Gould, AICP, Town Planner

Background: As the Town is moving forward with the streetscape plan for the downtown area, both the DVAC and the Planning and Zoning Board have requested that the code as it relates to awnings and signs be reviewed and updated. During the last few months the Planning and Zoning Board has reviewed many applications for signs and awnings that have been presented to the Board for review and approval. While most of the applications meet the current code requirements, the Board members would like to see changes to the code that would provide for more design criteria for signs and awnings.

At its August meeting, the Planning and Zoning Board again urged the Commission to proceed with authorizing the necessary professional services to update the sign code and awning provisions.

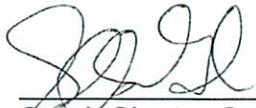
Analysis: The sign code is outdated and does not reflect the vision of either DVAC or the DRB/P&Z Boards.

Recommendation: Staff recommends that the Town Commission approve the attached work authorization so that staff can begin the process of amending the awning and sign code. The proposed code would be reviewed at numerous public hearings, including DVAC, DRB/P &Z and the Town Commission.

Budget Impact: \$15,000 and is included in the FY12-13 budget.

Growth Impact: N/A

Staff Impact: N/A



Sarah Sinatra Gould, AICP, Town Planner



Michael Crotty, Town Manager

RESOLUTION NO. 13 – _____

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA (“TOWN”) APPROVING CALVIN-GIORDANO & ASSOCIATES, INC. (CGA) WORK AUTHORIZATION NO. 73 (UPDATING AWNINGS AND SIGN CODE, CGA PROPOSAL NO. 13-5932) IN A TOTAL AMOUNT NOT TO EXCEED \$15,000; PROVIDING FOR AUTHORIZATION, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Commission has determined a need to begin review of Town Code regulations relating to awnings and signs; and

WHEREAS, the FY 12/13 has budgeted for said review of Town Code regulations for awnings and signs; and

WHEREAS, Town consulting planners CGA have submitted a proposal for said planning consulting services; and

WHEREAS, it is in the best interest of the Town to approve the proposal of CGA in the amount of \$15,000.00 for said consulting planning services.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That each of the above stated recitals are hereby adopted, confirmed, and incorporated herein.

Section 2. Approval and Authorization. The Town Commission approves and authorizes the Town Manager and/or his designee to take all actions necessary to implement the terms and conditions of a work order No. 73 (Update awnings and sign code; CGA Proposal No. 13-5932) in the amount of \$15,000.

Section 3. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this _____ day of September 2013.

Motion by Commissioner _____, second by Commissioner _____.

FINAL VOTE ON ADOPTION

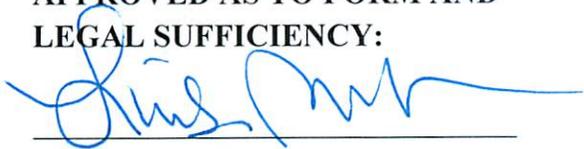
Commissioner Joseph Graubart _____
Commissioner Michelle Kligman _____
Commissioner Marta Olchyk _____
Vice Mayor Michael Karukin _____
Mayor Daniel Dietch _____

Daniel Dietch, Mayor

ATTEST:

Sandra Novoa, CMC
Town Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**



Linda Miller, Town Attorney



**Town of Surfside
Town Commission Meeting
August 13, 2013
7 p.m.**

TOWN COMMISSION MEETING DISCUSSION ITEM MEMORANDUM

Subject: “Awards, Presentations and Recognition Meetings”

Background: The Town has traditionally recognized employees for various reasons; such as longevity, outstanding service and/or performance by presenting those with awards (plaques), certifications or proclamations. The Town does similarly when recognizing residents, students, citizens and organizations that deserve such distinction.

It has come to the attention of the Commission that these ‘ceremonial presentations’ tend to consume a large portion of time; and therefore extend meetings far too long into the night – with many meetings ending very close to midnight. The current situation also puts or pushes important ‘Agenda Items’ to a late hour where they may not get the necessary vetting.

Recommendation: One month following each yearly quarter, the Town Commission Meeting will start at 6:00 PM for these presentations; followed by the Regular Commission Meeting at 7:00 PM as usual. Therefore, special care must be given to scheduling conflicts that may arise, such as: shade or negotiation meetings.

Additional Information: (1) Example: Quarter ending January, February, March – presentations made at the April meeting. (2) Adopting this will allow for family photos, etc.

Approximate Cost: Minimal, same as current; but needs to be ascertained.

Respectfully,

Joe Graubart, Commissioner



TOWN OF SURFSIDE
MUNICIPAL BUILDING
9293 HARDING AVENUE
SURFSIDE, FLORIDA 33154-3009
Telephone (305) 861-4863

TOWN COMMISSION DISCUSSION ITEM MEMORANDUM

From: Commissioner Marta Olchyk
Agenda Item: # 9B
Agenda Date: September 17, 2013
Subject: Town Commission “Liaison” “Ex-Officio”

Background:

I have asked the Office of the Town Attorney to research the definition, role, duties and responsibilities of a Town Commissioner who serves as a “Liaison” or “Ex-officio” member of a Town Board or Committee.

The Town’s Charter, Code of Ordinances, and Committee Rules and Procedures establish that for all Committees/Boards (except for the Pension Board and those Committees/Boards established by the Town Manager) there shall be a non-voting liaison, alternatively referred to as ex-officio member, between each Committee/Board and the Town Commission.

In 2007, the Town Commission approved and adopted the Rules and Procedures for Committees in Resolution No. 2007-1792. The Rules and Procedures for Committees specifically excludes the Personnel Appeals Board, Pension Board, Planning and Zoning Board, Tourist Bureau and any Committee established by the Town Manager. However, for the Board/Committees that are subject to the adopted Resolution, Section 3 of the Rules and Procedures for Committees, the Mayor shall designate one Commissioner as the “Liaison” between each Committee and the Town Commission.

The Town Charter and Code of Ordinances provisions that govern the excluded Personnel Appeals Board, Planning and Zoning Board, and Tourist Bureau establish non-voting Commissioner liaison or ex-officio members.

The definition, role, duties, and responsibilities of a liaison/ex-officio are not defined in the Town Charter or Code of Ordinances and have not been defined by Florida Statute or applicable case law. A definition of liaison from the American Heritage Dictionary of the English

Language was used on Florida AGO 081-42 for an unrelated legal opinion; however this definition is not binding upon the Town. The American Heritage Dictionary of the English Language, Merriam-Webster Dictionary and the Oxford Dictionary all provide definitions of the term but do not specify the role, duties, and responsibilities of a liaison or ex-officio member. The American Heritage Dictionary of the English Language defines “liaison” as, inter alia, an instance or means of communication between bodies, groups or units; a close relationship. Merriam-Webster defines “liaison” as communication for establishing and maintaining mutual understanding and cooperation; one that establishes and maintains communication for mutual understanding and cooperation and defines “ex-officio” as by virtue or because of an office. *See, www.merriam-webster.com*. The Oxford Dictionaries defines “liaison” as communication or cooperation that facilitates a close working relationship between people or organizations; a person who acts as a link to assist communication or cooperation between groups of people and defines “ex-officio” as by virtue of one’s position or status. *See also, www.oxforddictionaries.com*.

Recommendation:

The definition, role, duties, and responsibilities of “Liaison” and “Ex-officio” are not defined in the Town Charter or Code. I recommend this Town Commission discuss the definition, role, duties, and responsibilities as well as clarify the term “Liaison,” and “Ex-officio” for those non-voting Commission members appointed by the Mayor as the “Liaison” or “Ex-Officio” to a Town Committee or Board.



Town of Surfside Commission Communication

Agenda Item # 9C

Agenda Date: September 17, 2013

Subject: Comparison of Code Compliance Processes: "Notice of Violation" vs. "Civil Citation" for Enforcement of Town Codes

Background:

Several members of the Town Commission have recently expressed concerns over the rate and pace at which civil penalties (fines) accrue on Civil Citations that have been issued by the Code Compliance Division. At the August 13, 2013, Town Commission meeting the Mayor and Town Commission directed the Administration to provide a comparison of the Civil Citation procedures currently being used by the Code Compliance Division (pursuant to Town Code) and alternatives that may be available to the Town based on Florida Statutes, and or other Town Code provisions.

Below is a summary of the comparison between enforcement methods currently contained in the Town Code and Florida Statutes that are, or may be available to the Town.

Statutory Authority

Chapter 162 of the Florida Statutes provides municipalities the authority to create administrative boards that may be granted the authority to impose administrative fines and other noncriminal penalties and to provide an equitable, expeditious, effective, and inexpensive method of enforcing any codes and ordinances in force in counties and municipalities, where a pending or repeated violation continues to exist. The intent of the Chapter is to promote, protect, and improve the health, safety, and welfare of the citizens of the counties and municipalities of the state.

A municipality may, at its option, create or abolish by ordinance local government code enforcement boards (or special magistrates). A municipality may, by ordinance, adopt an alternate code enforcement system that gives code enforcement boards or special magistrates designated by the local governing body, or both, the authority to hold hearings and assess fines against violators of the respective county or municipal codes and ordinances. A special magistrate shall have the same status as an enforcement board.

Florida Statutes Chapter 162: Parts I and II

The Florida Statutes provides municipalities and counties two approaches for the enforcement of local ordinances, as well as allowing municipalities to create alternative enforcement methods. The two statutorily provided methods are: 1) under Part I of Chapter 162; and 2) under Part II of Chapter 162.

Part I provides for Notice of Violation (NOV) and Part II provides for a Civil Citation/Civil Violation Notice (CVN). One of the key differences is that under the NOV the daily fine is imposed by a Special Magistrate at a hearing (the Officer issuing the Notice does not determine the amount of the fine), while under the Civil Citation process the officer determines the amount of the fine, which begins accruing after the compliance period expires on the CVN expires.

Chapter 162 Part I: LOCAL GOVERNMENT CODE ENFORCEMENT BOARDS: (ss. 162.01-162.13)

Under the Notice of Violation procedure:

1. A violation is witnessed by an Officer
2. An NOV is generated and sent via Certified Mail
3. The NOV allows for a compliance period (not to exceed 30 days)
4. After the compliance period expires, if compliance is not attained the matter has to be set for hearing before a Special Magistrate.
5. At the hearing the Magistrate has the authority to impose a fine, or may allow additional time for compliance. The Magistrate may also set a new hearing date for a progress report, prior to considering imposition of a fine.
6. If a fine is imposed, it will continue to accrue until compliance is attained, and the Magistrate's Order may provide for a Lien to be filed.
7. If non-compliance continues, the fine will continue to accrue and the lien remains.
8. If and when compliance is attained, the Respondent may request a mitigation hearing.
9. Fines (as may be mitigated) would need to be paid to the Town before any release of lien should be granted.

**Chapter 162 Part II: SUPPLEMENTAL COUNTY OR MUNICIPAL CODE OR ORDINANCE
ENFORCEMENT PROCEDURES (ss. 162.21-162.30)**

Under the Civil Citation procedure:

1. A violation is witnessed by an Officer
2. An initial Notice is issued (no fines)
3. The initial Notice allows for a compliance period (not to exceed 30 days)
4. After the compliance period expires, if compliance is not attained a Civil Citation (CVN) is issued and sent via Certified Mail, or hand delivered, or posted on the Property and at Town Hall. No additional time to comply is required.
5. A fine may begin to accrue immediately, and continue on a daily basis, until compliance is attained.
6. If the Respondent disagrees with the Officer's determination that a violation exists, the CVN provides for an appeal period of 20 days from the date of receipt of the CVN. This appeal would be brought to a Special Magistrate for a hearing.
 - a. At the hearing the Magistrate will rule on the validity of the Violation.
 - i. If valid, the Magistrate may rule and confirm the fines that have accrued and provide for a Lien to be imposed. The Magistrate may also toll the fines and allow for additional time to comply, and set a new hearing date for a progress report; or
 - ii. If found invalid the case is dismissed.
7. Fines will continue to accrue until compliance is attained.
8. A notice is sent to the Respondent advising that fines are due, and that a lien will be imposed if the fines remain unpaid and the violations are not corrected.
9. If the violation remains uncorrected and/or the fines are not paid a lien may be imposed.
10. The lien may be foreclosed upon if no action is taken by the Respondent.
11. If and when compliance is attained, the Respondent may submit a request for mitigation.
12. Fines (as may be mitigated) should be paid to the Town before any release of lien should be granted.

Although the Town Code allows the Town discretion to use other legally permitted enforcement mechanisms, the alternative enforcement procedure that has been adopted in the Town Code, and has been historically used for enforcement, is similar to that contained in Part II, of Chapter 162 of the Florida Statutes. That is the procedure currently being used by the Code Compliance Division.

Chapter 15 of the Town Code

The Code Compliance Division substantially follows the Town Code provisions found in Chapter 15. This procedure includes an initial written notice (e.g. Courtesy Notice) with time to comply. The Notice is either posted on the property, hand delivered or sent via first class U.S. Mail. If compliance is not attained, a Civil Citation is issued, which includes: 1) an additional compliance period; 2) provides for a Special Magistrate appeal process (if the violator is disagrees with the Officer's determination); 3) a civil penalty (i.e. a fine) if compliance is not attained within the additional compliance period provided. The Town currently takes an additional step that is not required by Town Code which is to set Special Magistrate hearings for non-compliant Respondents which provides a venue to address their grievances. These hearings also allow the Town to confirm and support their findings by way of a Special Magistrate Order, confirming the fines, imposing a lien, and at times support abatement action.

Pursuant to Town Code the Special Magistrates may have sole discretion on reduction of fines on cases that have been heard by a Magistrate. However, the fines associated with these cases are not originally imposed by the Magistrate, but in accordance to the provisions of the Town Code the fines begin to accrue when the compliance period provided in the Civil Citation expires (if no appeal is filed). At the hearing, the Magistrate does confirm that a default has occurred, confirms the imposition of the fine, and further confirms that a lien may be recorded. The hearing also provides a venue wherein the respondents may have an opportunity to express themselves, if they did not timely file an appeal of the Code Officer's determination.

Additional Enforcement Powers

Town Code Section 15-17 also provides that in addition to the powers and authority given to the special masters, the Town may, in its discretion, exercise any powers given to municipalities or their special masters by the Florida Constitution and Florida Statutes. Alternatively, the Town may choose to enforce compliance for any code violation, depending on issues of health, safety and welfare, through the filing of an action, seeking an injunction in a court of competent jurisdiction or utilizing the procedures set forth in section 15-19.

Section 15-19, provides that the Town may abate a code violation when: 1) voluntary correction by the property owner could not be attained; or 2) a courtesy notice of violation to the property owner has been issued pursuant to Chapter 15 of the Town Code, and the required compliance has not been completed by the date specified; or 3) the violation is considered a public nuisance and subject to summary abatement.

Analysis

With the limited staff and resources available to the Code Compliance Division it is considered that the CVN (citation) process is by far the most effective and efficient manner in which to address code violations in the Town.

The NOV process requires a tremendous amount of work by the code officers, on the front end with little impact to the Respondents. The only “teeth” the process provides rests with a Special Magistrate’s decision at a hearing, which historically occurs only after additional time to comply has been granted. This puts the Officer in a position to do multiple inspections, generate multiple notices, and prepare for hearings, which may all be moot if a violator complies after receiving multiple extensions of time with all the costs, including staff time and resources, borne strictly by the Town.

Some of the questions that need to be addressed as we move forward are:

- How much time should be allowed for compliance?
- Should violators be required to pay a fine for non-compliance, after a reasonable compliance period is provided?
- How much of a fine should be imposed for failure to comply?
- Should that fine run on a daily basis until compliance is attained?
- What course of action should be taken if a violator does not comply after a reasonable amount of time for compliance has been granted?
- Should liens be imposed for failure to comply and pay fines?

The response to these questions should serve to facilitate the discussion and provide insight as to which process is ultimately considered as a primary enforcement tool.

The Code Compliance Division will continue to strive to provide the Town’s residents and business community with a well-balanced code enforcement program and compliance process through a professional, courteous, and stepped approach that focuses on education, information, arriving at mutually agreed upon solutions to compliance, and working with the affected parties in achieving voluntary compliance.

Due to the limited staff, the more direct and efficient methods that are made available to attain these goals, the more cost effective it should be for the Town.

Budget Impact: Costs to create and implement new processes and amend Town Code. Additional staff time to process under new NOV procedures.

Staff Impact: A change to an NOV process would entail employing additional staff time to implement new NOV procedures, plus a revamping of the Division’s procedural processes now in place. Moreover, the Town Code may need to be amended to include the new provisions, or to specify that the additional enforcement methods are being adopted directly from the Florida Statutes.

Conclusion: The Town Commission will hold a meeting in November 2013, specifically addressing Code Compliance. Staff recommends that no interim changes be made in code enforcement procedures prior to this meeting. The November meeting will be a follow-up on the April 17, 2013, Workshop on code issues. Attached is a report that was provided, but deferred, at the June 11, 2013, Commission Meeting addressing code compliance priorities, including input from three Commission members on their individual code priorities. Attached to said report, is an updated compilation of priorities that includes input from a fourth Commission member. This code compliance priorities report, plus this information on enforcement options (Notice of Violation vs. Civil Citation) should serve to facilitate discussions at the November meeting. In order to have a successful code compliance program, it is essential that clear policy be provided on the enforcement priorities; the compliance process; and fines/penalties.



Joe Damien
Code Compliance Director



Michael Crotty
Town Manager



Town of Surfside Commission Communication

Agenda Item

Agenda Date: June 11, 2013

Subject: Code Compliance Priorities Recommendations and Sight Triangle Resolution

The following communication is broken down into two parts, with a general conclusion at the end of the memorandum. The first part involves compliance priorities based on the results of the Code Compliance Workshop, and the second part relates to the corner visibility/sight triangle hedge height issue and the recent discussions that have arisen since enforcement of these provisions were initiated.

CODE COMPLIANCE DIVISION ENFORCEMENT PRIORITIES IN GENERAL

Background:

Recent Code Compliance Workshop Results

At the Code Compliance Workshop held on April 17, 2013, a survey form was provided to the Mayor and Town Commission requesting each member to provide the recommended priority level on a multitude of items in order of importance: 1 for High, 2 for Moderate, 3 for Low, or 4 for None (or minimal).

A compilation and analysis of the three Priority Surveys received revealed that one respondent showed 10 items had been marked as Priority 1, another had 34 items marked Priority 1, and the last had 31 Priority 1 items.

On the following pages are two lists reflecting the average score for each item, in priority order from highest to lowest. One is in listed by priority within the District and the other by priority amongst all Districts. The average was derived by adding the priority numbers from each category and divided by the number of surveys received.

PRIORITIES WITHIN EACH DISTRICT

SINGLE FAMILY DISTRICTS PRIORITIES

High (1.4 and less)

- Trash on Curb
- Sight-Triangle (hedge) visibility

Moderate (1.5-2.4)

- Exterior Surfaces of Houses
- Trash on Yard
- Grass overgrowth
- Stagnant pools/ponds
- Garbage Cans left out at days end
- Hedge Heights (front, rear/side)
- Fence Heights (side/rear)
- Derelict Vehicles or parking on grass
- Boats parked in yards
- POD type storage units
- Chain Link Fences
- Construction without permits
- Garage Sales (unpermitted)
- Barking dogs
- Other Noise

Low (2.5-3.4)

- Roof Surfaces
- Trees/shrubs overhanging R-O-W
- Trees/shrubs overhanging property
- Non-domestic animals kept
- Real Estate Signs
- Garage Sale Signs
- Political Signs
- Boats moored or docked
- Squawking birds
- Bee hives

MULTI-FAMILY DISTRICTS PRIORITIES

High (1.4 and less)

- Overgrowth of Grass
- Short Term Rentals

Moderate (1.5-2.4)

- Exterior Surfaces (paint/clean)
- Overgrowth unto right-of-way
- Construction without permits
- Inadequate or inappropriate parking
- Unpermitted use of POD storage units
- Satellite Dishes (Add-on)

Low (2.5-3.4)

- Housing Standards in interior of units
- Barking dogs
- Other Noise
- Real Estate Signs

BUSINESS DISTRICT PRIORITIES

High (1.4 and less)

- Exterior Surfaces (paint/cleaning)
- Dumpster maintenance
- Alley cleanliness
- Obstructions (chairs, mannequins, pots, signs)
- Sidewalk Café furniture and equipment and expansion
- Deteriorated awnings
- Missing awning, with frame remaining
- Interior Violations (maintenance, sanitary, health & safety)

Moderate (1.5-2.4)

- Area used for staging equipment
- Overgrowth of weeds (at alleys)
- Sweep or pressure clean
- Old signs remaining from prior businesses
- Deteriorated signs
- Window signs
- Electronic Signs
- Installation without permits or approvals
- Illegal signage
- Installation without permits
- Construction without permits
- Parking Lot Maintenance
- Local Business Tax Receipt and Certificate of Use delinquency
- Resort Tax delinquency
- Grease traps

Low (2.5-3.4)

- Roof Tops
- Signs on R-O-W
- Noise, smoke, or other nuisance

PRIORITIES AMONGST ALL DISTRICTS

High (1.4 and less)

SINGLE FAMILY DISTRICTS PRIORITIES

- Trash on Curb
- Sight-Triangle (hedge) visibility

MULTI-FAMILY DISTRICTS PRIORITIES

- Overgrowth of Grass
- Short Term Rentals

BUSINESS DISTRICT PRIORITIES

- Exterior Surfaces (paint/cleaning)
- Dumpster maintenance
- Alley cleanliness
- Sidewalk Obstructions (pots, signs)
- Sidewalk Café furniture & expansion
- Deteriorated awnings
- Missing awning, w/ frame remaining
- Interior Violations (maintenance, sanitary, health & safety)

Moderate (1.5-2.4)

SINGLE FAMILY DISTRICTS PRIORITIES

- Exterior Surfaces of Houses
- Trash on Yard
- Grass overgrowth
- Stagnant pools/ponds
- Garbage Cans left out at days end
- Hedge Heights (front, rear/side)
- Fence Heights (side/rear)
- Derelict Vehicles or parking on grass
- Boats parked in yards
- POD type storage units
- Chain Link Fences
- Construction without permits
- Garage Sales (unpermitted)
- Barking dogs
- Other Noise

MULTI-FAMILY DISTRICTS PRIORITIES

- Exterior Surfaces (paint or clean)
- Overgrowth unto right-of-way
- Construction without permits
- Inadequate or inappropriate parking
- Unpermitted use of POD storage units
- Satellite Dishes (*Add-on*)

BUSINESS DISTRICT PRIORITIES

- Area used for staging equipment
- Overgrowth of weeds (at alleys)
- Sweep or pressure clean
- Old signs remaining from prior businesses
- Deteriorated signs
- Window signs
- Electronic Signs
- Installation without permits or approvals
- Illegal signage
- Installation without permits
- Construction without permits
- Parking Lot Maintenance
- Local Business Tax Receipt and Certificate of Use delinquency
- Resort Tax delinquency
- Grease traps

Low (2.5-3.4)

SINGLE FAMILY DISTRICTS PRIORITIES

- Roof Surfaces
- Trees/shrubs overhanging R-O-W
- Trees/shrubs overhanging property
- Non-domestic animals kept
- Real Estate Signs
- Garage Sale Signs
- Political Signs
- Boats moored or docked
- Squawking birds
- Bee hives

MULTI-FAMILY DISTRICTS PRIORITIES

- Housing Standards in interior of units
- Barking dogs
- Other Noise
- Real Estate Signs

BUSINESS DISTRICT PRIORITIES

- Roof Tops
- Signs on R-O-W
- Noise, smoke, or other nuisance

Analysis:

In accordance with its mission statement, the Code Compliance Division strives to provide the Town's residents and business community with a well-balanced code enforcement program and compliance process through a professional, courteous, and stepped approach that will focus on: 1) educating and informing of the provisions of the Town's Codes and Ordinances; 2) provide a better understanding of the underlying principles behind the laws and the benefits of compliance; 3) assisting the affected parties with arriving at mutually agreed upon solutions to compliance; and 4) working with the affected parties in achieving voluntary compliance. We continue to pursue and advance this mission on a daily basis.

Current Operational Responsibilities: The Division is charged with a myriad of responsibilities with only two staff members. Responsibilities include but are not limited to enforcement of Property Maintenance Standards, Minimum Housing Code, Zoning Code, Florida Building Code, Stop Work Orders on construction without permits, Resort Tax Delinquency and audit avoidance, Local Business Tax Receipt delinquency, and Certificate of Use delinquency, and Lien Searches for open code violations. The Division is also responsible for management and administration of the Special Master process, including but not limited to generation, execution and mailing of Notices to Appear, prosecution at hearings, Order preparation and mailing, engaging Special Masters, and payment processing. Other responsibilities include public education on codes, violation abatement/remediation, (property board-up, lawn cutting, mosquito control, and property clean-up), lien and lien satisfaction preparation, billing for fines and abatement reimbursements, check requests, preparation of settlement agreements.

Because of the measured and stepped approach we have been pursuing, attaining compliance is a slow process. However, if we continue to pursue all cases until compliance is attained, the benefits to the community as a whole will be reaped by all concerned.

Implementation of a More Proactive Program: The time necessary to fully implement a proactive program town-wide, including identifying every single property that may be in violation, will depend on the resources allocated. As such, the more resources the faster the result.

Enforcement in General: No matter the level of resources allocated, or the time required to fully implement any program based thereon, once the program is fully completed a foundation would be established. From that point forward, one can control the level of enforcement, as well as the speed at which results should be attained by adding or decreasing the resources allocated. The key is to make every effort to pursue each and every non-compliant property that is identified for enforcement action until compliance is attained or until all legal recourse is exhausted. In most cases compliance will be attained, and in others the result may be the placement of a lien on the property. The lien may be resolved when the property changes hands or ultimately may be foreclosed upon if the Town chooses. Once a program is established, you have a better opportunity to allocate resources to either increase the number of items you enforce, or control the time which is required to attain compliance.

As to priorities, the Administration recommends continuing its reactive enforcement program, including continuing to respond to complaints from the public. Moreover, if a more proactive enforcement program is considered it is recommended that the top-tier priorities established by the survey, as averaged, be pursued, with the inclusion of two additional items. First and foremost, the Administration, at its discretion should pursue any other issue that is deemed to affect the health, safety and welfare of the community, and secondly pursuit of construction

work without permits should be considered a priority, as the Town has made a commitment to control this issue as a result of the FEMA related situation.

The Administration recommends that enforcement of any code provision include a penalty for non-compliance, only after a measured and stepped approach is provided with a reasonable time for compliance. Anything short of that will result in compliance by those who ultimately choose to take responsibility as members of a community and allowing those who opt not to comply to violate the Town's code. Eventually, if non-compliance becomes an option the effectiveness of the enforcement process will be compromised.

Other Recommendations:

Leaf Blower ordinance should be enforced or amended. If amended to allow same, then all blowing should be from the street towards the property only.

Sight triangle provisions should be enforced or amended. If amended, it should contain clear and unambiguous language for enforcement staff. If any type of relief is allowed to be sought, a clear and definitive process should be provided on a case-by-case basis and should be separated from the enforcement division.

Hedge heights on yards facing streets, waterways or other rights-of-way should be considered for amendment with legislation that gives more flexibility to hedges fronting public rights-of-way (except for sight triangles).

As to neighbor to neighbor disputes (i.e. barking dogs, other noises, dog feces, overhanging trees, hedges, bees) at minimum, consideration should be given to establish a policy not to react to situations that only impact one neighbor, or in the alternative the code provision could be eliminated. The opening section of the Noise Ordinance provides that "The purpose of this division is to control noises and the nuisance thereby created in such a manner as to cause the least hardship or offense to the greatest number of people. With the limited resources available to the Town, we believe this statement reflects the spirit of how enforcement needs to be addressed in these situations.

Permitting requirements as to landscaping, or tree planting (removal or relocation) and other situations wherein the policy or code is not clear and should be clarified or codified.

Any outdated, ambiguous, unclear, or unnecessary code provision should be eliminated or clarified.

Clear direction on enforcement of the white fly provisions should be provided to the Administration.

Coordination between departments especially with Building and Public Works is critical due to the limited resources available to each.

Software for the Code Compliance Division should be revisited to address long term solutions for integration with Finance, Public Works, LBTR, CU, and Building Department functions.

CODE COMPLIANCE ENFORCEMENT OF HEDGES & SIGHT TRIANGLE VISIBILITY

Enforcement of the sight triangle/corner visibility provisions began in November 2011, in response to a complaint received regarding three specific addresses with line-of-sight

obstructions that were deemed by complainants to be dangerous to pedestrians, bicyclists and vehicle operators. A cursory review of other intersections around the Town revealed that there were multiple locations that were, and continue to be in violation of the current Town Code.

Analysis:

Initially, 22 Courtesy Notices issued, with the intent to follow up with the balance of the properties once time and resources would permit. The initial group was each provided with a Notice clearly identifying and including: 1) the problem issue including the language of the Town Code Section, 2) the location of the problem; 3) a diagram, both in plan and elevation delineating the specific code requirements; 4) a request for their cooperation; and 5) that they contact the Town if they had any questions or needed clarification. Each Courtesy Notice was sent via Certified Mail, and residents were given ten days to comply. The Code Compliance Director made himself available and personally met with all parties who contacted him. In March of 2012 a second notice was provided to any property owners whose property remained non-compliant, providing for an additional 7 days to comply. Although the staff continued to meet with the affected parties while attending to other compliance issues there was a definitive group of residents that continued to seek alternatives to compliance citing privacy, children and pet safety, and other issues that were of a higher importance to them.

Eventually, as time permitted the non-compliant cases were pursued. As of early December of 2012, only four properties of the 22 were in compliance. At that time Civil Citations were issued to the non-compliant properties, via certified mail, providing for: 1) an additional ten days to comply; 2) an appeal period of 20 days from receipt of notice; 3) and advising that a \$100 per day civil penalty for failure to comply would ensue at the end of the additional ten day period and if no appeal was filed. Only two property owners took advantage of the appeal process.

After allowing for additional time, in early February of 2012, eight of the cases which remained non-compliant were provided a Notice to Appear to appear before a Special Magistrate on February 27, 2013, and given the opportunity to be heard. The balance would have been scheduled at the next hearing date which is tentatively set for June 20, 2013.

To date, our efforts have resulted in the following:

Courtesy Notices Issued	22	Complied prior to scheduling hearing	5
Compliance Attained Prior to Citation	4	Complied after hearing was scheduled	4
Civil Citations Issued	18	Hearings still to be scheduled	9
Special Master(SM) Hearing Scheduled	8	Cases that remain non-compliant	9
S.M. Continuances Granted	2	Orders with Liens	5
S.M. Hearings Held	6		

At the May 15, 2013 Commission Meeting the Mayor and Town Commission directed the Administration to discontinue enforcement of Sections 90-52 and 90-92 of the Town Code that addresses corner visibility and sight-line obstructions at corner properties within the Town by:

1. ceasing to issue Courtesy Notices and Civil Citations associated therewith;
2. tolling any fines that may be accruing on existing Civil Citations that have already been issued but have yet to be scheduled to be heard by a Special Magistrate; and
3. continuing to toll any fines that have been already been tolled by a Special Magistrate.

Moreover, the Commission sought answers to the following questions related to same:

When compliance has been attained:

1. Does the Administration or the Town Commission have authorization to reduce or waive fines that have accrued from Civil Citations on cases that have been heard by a Special Magistrate?
2. Does the Administration or the Town Commission have authorization to reduce or waive fines that have accrued from Civil Citations on cases that have not been heard by a Special Magistrate?
3. Does the Administration or the Town Commission have authorization to release liens that have been filed associated with Civil Citations on cases that have or have not been heard by a Special Magistrate?

When compliance has not been attained, does the Administration or the Town Commission have authorization to reduce or waive fines and/or release liens associated with the Civil Citations?

Answers to these questions are being addressed by the Town Attorney's Office.

As to the Code Compliance process, the Administration has discontinued enforcement of Town Code Sections 90-52 and 90-92 as directed, and will toll the fines on cases that have yet to be heard by a Special Magistrate but remain in non-complied status.

Pursuant to Town Code the Special Magistrates may have sole discretion on reduction of fines on cases that have been heard by a Magistrate. However, the fines associated with these cases are not originally imposed by the Magistrate, but in accordance to the provisions of the Town Code the fines begin to accrue when compliance period provide in the Civil Citation expires and if no appeal is filed. At the hearing, the Magistrate does confirm that a default has occurred, confirms the imposition of the fine, and further confirms that a lien may be recorded. The hearing also provides a venue wherein the respondents may have an opportunity to express themselves, if they did not timely file an appeal of the Code Officer's determination.

Notwithstanding the outcome of this specific group of cases, it is recommended that careful consideration be given to how enforcement of the Town Code is addressed going forward. As per the direction given to the Code Compliance Division, the Division has gone to great lengths to enforce the Town Codes in a very measured and stepped approach so as not to impose harsh penalties or create a hardship for the Town's residents. Although there has been a lot of debate about the amount of fines that have accrued in certain instances, one must not lose sight that these fines accumulated only because of a lack of compliance that endured for weeks or months on end on the part of the respondents, and not because they were arbitrarily imposed at one time by the Division or the Magistrate. Moreover, the fines did not immediately begin accruing, but did so only after months and months of notices, conversations and discussions.

Enforcement of any code provision without a substantial penalty for non-compliance will only result in compliance by responsible community minded residents and business owners only, leaving those who opt not to comply without any down-side.

Budget Impact: None expected with current staffing levels and available resources.

Staff Impact: Continuing a reactive program should not considerably impact staff, unless there is a substantial increase in demand. A more proactive enforcement program would increase demand on staff both as to number inspections required and clerical work required associated therewith. The number of high-priority items that are chosen for enforcement will have a direct correlation to the amount of time staff and the resources that are available for reactive enforcement.

Conclusion: The Administration will continue to enforce the Town's codes using the same stepped and measured approach towards compliance, including: 1) the Courtesy Notice with time to comply; 2) followed by the Civil Citation (with a 20 day appeal period provision) and additional time to comply, but with imposition of a daily fine at the end of the compliance period; and 3) then followed by the scheduling of a hearing to allow for a venue at which the respondents may be heard by a third party Special Magistrate. The Administration will also adhere to the Town Commission's directive on priorities. If no clear direction is provided we will continue to pursue a more reactive enforcement program and prioritize and pursue code violations at the discretion of the Town Manager and/or his designee(s) keeping violations that may affect the health, safety and welfare of the community as a high priority.

Department Head

Town Manager

BUSINESS DISTRICT PRIORITIES						
	Mayor Dierch	Michelle Klugman	Comm. Graubart	Comm. Olchyk		Mean
Exterior Property Maintenance						
Exterior Surfaces (paint/cleaning)	1	1	1	1		1
Roof Tops	3	2	4	2		3
Rear At Alley						
Dumpster maintenance	1	1	2	1		1
Alley cleanliness	1	1	1	1		1
Area used for staging equipment	2	2	3	2		2
Overgrowth of weeds (at alleys)	1	1	4	2		2
Sidewalks						
Obstructions (chairs, mannequins, pots, signs)	1	1	2	2		2
Sidewalk Café furniture and equipment and expansion	1	1	1	2		1
Signs on R-O-W	2	2	3.5	3		3
Sweep or pressure clean	1	1	3	2		2
Signs						
Old signs remaining from prior businesses	1	1	4	1		2
Deteriorated signs	1	1	4	3		2
Window signs	1	1	4	3		2
Electronic Signs	1	1	4	2		2
Installation without permits or approvals	1	1	4	1		2
Awnings						
Deteriorated awnings	1	1	2	3		2
Missing awning, with frame remaining	1	1	1	2		1
Illegal signage	1	1	4	3		2
Installation without permits	1	1	4	1		2
Other						
Construction without permits	1	2	4	1		2
Noise, smoke, or other nuisance	2	3	4	3		3
Parking Lot Maintenance	2	2	2	3		2
Local Business Tax Receipt and Certificate of Use	1	2	4	2		2
Resort Tax delinquency	1	1	4	2		2
Interior Violations (maintenance, sanitary, health & sa	1	2	1	1		1
Grease traps	1	2	3	1		2

MULTI-FAMILY DISTRICTS PRIORITIES						
	Mayor Dierch	Michelle Kligman	Comm. Graubart	Comm. Olchyk		Mean
Exterior Property Maintenance						
Exterior Surfaces (paint or pressure	2	1	2	2		2
Overgrowth of Grass	2	1	1	3		2
Overgrowth unto right-of-way	2	1	3	1		2
Interior Property Maintenance (Rentals)						
Housing Standards in interior of units	2	2	4	2		3
Other						
Construction without permits	1	2	2	3		2
Inadequate or inappropriate parking	1	2	4	2		2
Barking dogs	2	3	3	2		3
Other Noise	2	4	4	4		4
Real Estate Signs	2	3	4	4		3
Unpermitted use of POD storage units	1	2	4	4		3
Short Term rentals	1	1	1	3		2
Satellite Dishes		2				

SINGLE FAMILY DISTRICTS PRIORITIES						
	Mayor Dierch	Michelle Klign	Comm. Graub	Comm. Olchyk		Mean
Exterior Property Maintenance						
	2	1	4	2		2.3
Roof Surfaces	2	3	4	2		2.8
Trash on Curb	1	1	2	3		1.8
Trash on Yard	2	1	3	3		2.3
Grass overgrowth	2	1	4	2		2.3
Stagnant pools/ponds	1	1	4	3		2.3
Garbage Cans left out at days end	1	3	1	3		2
Trees/shrubs overhanging R-O-W	2	3	4	2		2.8
Trees/shrubs overhanging property	2	3	4	3		3
Non-domestic animals kept	2	3	4	2		2.8
Zoning						
Hedge Heights (front, rear/side)	2	1	3	2		2
Fence Heights (side/rear)	2	1	4	2		2.3
Derelict Vehicles or parking on grass	1	1	4	3		2.3
Sight-Triangle (hedge) visibility	1	1	1	3		1.5
Real Estate Signs	2	3	4	2		2.8
Garage Sale Signs	2	3	4	2		2.8
Political Signs	2	3	4	2		2.8
Boats parked in yards	1	2	2	1		1.5
Boats moored or docked	2	3	4	2		2.8
POD type storage units	1	2	4	4		2.8
Chain Link Fences	2	1	4	4		2.8
Other						
Construction without permits	1	2	2	1		1.5
Garage Sales (unpermitted)	1	2	4	3		2.5
Barking dogs	2	3	1	2		2
Squawking birds	2	3	4	2		2.8
Other Noise	2	2	3	4		2.8
Bee hives	2	3	4	4		3.3



**Town of Surfside
Town Commission Meeting
September 17, 2013
7:00 pm**

Town Hall Commission Chambers - 9293 Harding Avenue, 2nd Floor
Surfside, FL 33154

DISCUSSION ITEM MEMORANDUM

Title: Town Manager Performance Evaluation

Submitted by: Daniel Dietch, Mayor

Objective: To conduct a performance evaluation of the Town Manager in accordance with Section 4 of his Employment Agreement.

Consideration: In accordance with the Town Manager's Employment Agreement, which is enclosed, the Town Commission is obligated to conduct a formal performance evaluation in a format acceptable to a majority of the Town Commission after six, twelve, and twenty-four months of service. For the purposes of his Employment Agreement, the anniversary date is March 27th. As the Town Manager is approaching his six month anniversary, the Town Commission is obligated to conduct this performance evaluation. Accordingly, enclosed for your consideration is a proposed performance evaluation form. If this form is acceptable as is, I ask that it be used for the Town Managers performance evaluation. If there are changes that you desire, I ask that you be prepared to discuss them at the Commission Meeting so that the form can be amended for our use. My goal is that the performance evaluation be conducted and that feedback on his performance can be provided no later than the November Commission Meeting.

enclosures



Town of Surfside

TOWN MANAGER PERFORMANCE EVALUATION

Evaluation Period: March 27, 2013 to September 27, 2013

Each member of the Town Commission should complete this evaluation form, sign it in the space below, and return it to the Town Clerk.

The deadline for submitting this performance evaluation is 5:00pm on Friday, October 18, 2013.

Evaluations will be summarized and included on the Town Commission Meeting agenda for discussion on November 12, 2013

Prepared by: _____

Signature: _____

Date Submitted: _____

INSTRUCTIONS

This evaluation form contains ten categories of evaluation criteria. Each category contains a statement to describe a behavior standard in that category. For each statement, use the following scale to indicate your rating of the Town Manager’s performance.

- 5 = Excellent** (almost always exceeds the performance standard)
- 4 = Above average** (generally exceeds the performance standard)
- 3 = Average** (generally meets the performance standard)
- 2 = Below average** (usually does not meet the performance standard)
- 1 = Poor** (rarely meets the performance standard)

Any item left blank will be interpreted as a score of “3 = Average”

This evaluation form also contains a provision for entering narrative comments, including an opportunity to enter responses to specific questions and an opportunity to list any comments you believe appropriate and pertinent to the rating period. Please type your responses or write legibly.

Leave all pages of this evaluation form attached. Initial each page. Sign and date the cover page. On the date space of the cover page, enter the date the evaluation form was submitted. All evaluations presented prior to the deadline identified on the cover page will be summarized into a performance evaluation to be presented by the Town Commission to the Town Manager as part of the agenda for the meeting indicated on the cover page.

PERFORMANCE CATEGORY SCORING

1. INDIVIDUAL CHARACTERISTICS

- _____ Diligent and thorough in the discharge of duties, “self-starter”
- _____ Exercises good judgment
- _____ Displays enthusiasm, cooperation, and will to adapt
- _____ Mental and physical stamina appropriate for the position
- _____ Exhibits composure, appearance and attitude appropriate for executive position

Add the values from above and enter the subtotal _____ ÷ 5 = _____ score for this category

2. PROFESSIONAL SKILLS AND STATUS

_____ Maintains knowledge of current developments affecting the practice of local government management

_____ Demonstrates a capacity for innovation and creativity

_____ Anticipates and analyzes problems to develop effective approaches for solving them

_____ Willing to try new ideas proposed by governing body members and/or staff

_____ Sets a professional example by handling affairs in a fair and impartial manner

Add the values from above and enter the subtotal _____ ÷ 5 = _____ score for this category

3. RELATIONS WITH THE TOWN COMMISSION

_____ Carries out directives of the Town Commission as a whole as opposed to those of any one member or minority group

_____ Sets meeting agendas that reflect the guidance of the Town Commission and avoids unnecessary involvement in administrative actions

_____ Disseminates complete and accurate information equally to all Town Commission members in a timely manner

_____ Assists by facilitating decision making without usurping authority

_____ Responds well to requests, advice, and constructive criticism

Add the values from above and enter the subtotal _____ ÷ 5 = _____ score for this category

4. POLICY EXECUTION

_____ Implements Town Commission policy and/or direction in accordance with the letter and intent of the Town Commission

_____ Supports the actions of the Town Commission after a decision has been reached, both inside and outside the organization

_____ Understands, supports, and enforces Surfside’s laws, policies, and ordinances

_____ Reviews ordinance and policy procedures periodically to suggest improvements to their effectiveness

_____ Offers workable alternatives to the Town Commission for changes in law or policy when an existing policy or ordinance is no longer practical

Add the values from above and enter the subtotal _____ ÷ 5 = _____ score for this category

5. REPORTING

_____ Provides regular information and reports to the Town Commission concerning matters of importance to the local government

_____ Responds in a timely manner to requests from the Town Commission for special reports

_____ Takes the initiative to provide information, advice, and recommendations to the Town Commission on matters that are non-routine and not administrative in nature

_____ Reports produced by the manager are accurate, comprehensive, concise and written to their intended audience

_____ Produces and handles reports in a way to convey the message that affairs of the organization are open to public scrutiny

Add the values from above and enter the subtotal _____ ÷ 5 = _____ score for this category

6. CITIZEN RELATIONS

_____ Responsive to requests from citizens

_____ Demonstrates a dedication to service to the community and its citizens

_____ Develops relationships and demonstrates skillful engagement with the news media

_____ Meets with and listens to members of the community to discuss their concerns and strives to understand their interests

_____ Gives an appropriate effort to maintain citizen satisfaction with Town services

Add the values from above and enter the subtotal _____ ÷ 5 = _____ score for this category

7. STAFFING

_____ Recruits and retains competent personnel for staff positions

_____ Applies an appropriate level of supervision to improve any areas of substandard performance

_____ Stays accurately informed and appropriately concerned about employee relations

_____ Professionally manages the compensation and benefits plan

_____ Promotes training and development opportunities for employees at all levels of the organization

Add the values from above and enter the subtotal _____ ÷ 5 = _____ score for this category

8. SUPERVISION

_____ Encourages Departments Directors to make decisions within their jurisdictions with minimal Town Manager involvement, yet maintains general control of and accountability for operations by providing the right amount of communication to the staff

_____ Instills confidence and promotes initiative in subordinates through supportive rather than restrictive controls for their programs while still monitoring operations at the department level

_____ Develops and maintains a friendly and informal relationship with the staff and work force in general, yet maintains the professional dignity of the Town Manager’s office

_____ Sustains or improves staff performance by evaluating the performance of staff members at least annually, setting goals and objectives for them, periodically assessing their progress, and providing appropriate feedback

_____ Encourages teamwork, innovation, and effective problem-solving among the staff members

Add the values from above and enter the subtotal _____ ÷ 5 = _____ score for this category

9. FISCAL MANAGEMENT

_____ Prepares a balanced budget to provide services at a level directed by the Town Commission

_____ Prepares a budget and budgetary recommendations in an intelligent and accessible format

_____ Makes the best possible use of available funds, conscious of the need to operate efficiently and effectively

_____ Ensures actions and decisions reflect an appropriate level of responsibility for financial planning and accountability

_____ Appropriately monitors and manages fiscal activities of the organization

Add the values from above and enter the subtotal _____ ÷ 5 = _____ score for this category

10. COMMUNITY

_____ Takes administrative responsibility for addressing the difficult issues facing the Town

_____ Develops and champions sound policy recommendations to avoid unnecessary controversy

_____ Cooperates with neighboring communities and the county

_____ Helps the Town Commission address future needs and develop adequate plans to address long term trends

_____ Cooperates with other regional, state and federal government agencies

Add the values from above and enter the subtotal _____ ÷ 5 = _____ score for this category

NARRATIVE EVALUATION

What would you identify as the Town Manager’s strength(s), expressed in terms of the principle results achieved during the rating period?

What performance area(s) would you identify as most critical for improvement?

What constructive suggestions or assistance can you offer the Town Manager to enhance performance?

What other comments do you have for the Town Manager (e.g., priorities, expectations, goals or objectives for the next six months)?
