



**Town of Surfside
Town Commission Meeting
AGENDA**

**February 10, 2015
7 p.m.**

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

Rule 7.05 Decorum. Any person making impertinent or slanderous remarks or who becomes boisterous while addressing the commission shall be barred from further appearance before the commission by the presiding officer, unless permission to continue or again address the commission is granted by the majority vote of the commission members present. No clapping, applauding, heckling or verbal outbursts in support or opposition to a speaker or his or her remarks shall be permitted. Signs or placards may be disallowed in the commission chamber by the presiding officer. Persons exiting the commission chambers shall do so quietly.

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 (None)

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 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 – Guillermo Olmedillo, Town Manager Page 1 - 12**
January 13, 2015 Regular Commission Meeting Minutes
- B. Budget to Actual Summary as of November 30, 2014 – Guillermo Olmedillo, Town Manager Page 13 - 16**
- *C. Town Manager’s Report – Guillermo Olmedillo, Town Manager Page 17 - 27**
- *D. Town Attorney’s Report – Linda Miller, Town Attorney Page 28 - 32**
- *E. Projects Progress Report – Guillermo Olmedillo, Town Manager Page 33 - 34**
- F. Committee Reports – Guillermo Olmedillo, Town Manager Page 35 - 63**
 - October 30, 2014 Planning and Zoning Board Meeting Minutes
 - November 3, 2014 Tourist Board Meeting Minutes
 - December 15, 2014 Parks and Recreation Committee Meeting Minutes
 - December 15, 2014 Tourist Board Meeting Minutes
 - January 8, 2015 Planning and Zoning Meeting Minutes
 - January 12, 2015 Tourist Board Meeting Minutes

4. Ordinances

(Set for approximately 8:30 p.m.) (Note: Good and Welfare must begin at 8:15)

A. Second Reading Ordinances

- 1. 10% Window for Each Story – Guillermo Olmedillo, Town Manager Page 64 - 68**

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 “ZONING”, AND SPECIFICALLY AMENDING SECTION 90-50 “ARCHITECTURE AND ROOF DECKS” TO MODIFY THE CODE TO REQUIRE A 10% WINDOWS PER FAÇADE OF A SINGLE FAMILY HOME PER STORY; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

(Set for approximately 9:00 p.m.) (Note: Good and Welfare must begin at 8:15)

B. First Reading Ordinances

1. Expanded Polystyrene Ordinance – Mayor Daniel Dietch Page 69 - 76

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING ARTICLE I OF CHAPTER 34 “ENVIRONMENT” AND SPECIFICALLY CREATING SECTION 34-9 “PROHIBITIONS REGARDING SALE OR USE OF EXPANDED POLYSTYRENE FOOD SERVICE ARTICLES BY TOWN CONTRACTORS AND SPECIAL EVENT PERMITTEES” OF THE TOWN OF SURFSIDE CODE OF ORDINANCES; AMENDING CHAPTER 34 “ENVIRONMENT” OF THE TOWN OF SURFSIDE CODE OF ORDINANCES AND SPECIFICALLY AMENDING SECTION 34-78 “DEFINITIONS” AND AMENDING SECTION 34-80 “PROHIBITIONS ON LITTER; CIVIL FINES FOR VIOLATIONS; ENFORCEMENT; APPEALS; LIENS”; 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 N/A p.m.) (Note: Depends upon length of Good and Welfare)

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 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. Proposed Policy and Enforcement Standards for Corner Visibility (Hedges & Fences) on Properties Located at Street Intersections – Guillermo Olmedillo, Town Manager Page 77 - 80**
- B. Participation During Public Meetings – Commissioner Marta Olchyk Page 81 - 83**
- C. Noise from Construction Activities and Special Events – Commissioner Marta Olchyk Page 84 - 111**
- D. Byron Avenue Traffic Congestion/Public Safety Concern – Guillermo Olmedillo, Town Manager Page 112 - 113**
- E. Town Commission and Tourist Board Joint Meeting – Guillermo Olmedillo, Town Manager Page 114**
- F. Ad-Hoc Sustainability Committee – Mayor Daniel Dietch Page 115**
- G. Post Office Parking Lot Garage Update – Guillermo Olmedillo, Town Manager Page 116 - 137**
- H. Point Lake – North Canal Update – Guillermo Olmedillo, Town Manager 138 - 139**

10. Adjournment

Respectfully submitted,



Guillermo Olmedillo
Town Manager

THIS MEETING IS OPEN TO THE PUBLIC. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, ALL PERSONS THAT ARE DISABLED; WHO NEED SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THIS MEETING BECAUSE OF THAT DISABILITY SHOULD CONTACT THE OFFICE OF THE TOWN CLERK AT 305-861-4863 EXT. 226 NO LATER THAN FOUR DAYS PRIOR TO SUCH PROCEEDING.

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
Town Commission Meeting
MINUTES
January 13, 2015
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 7:02 P.M.

B. Roll Call of Members

Town Clerk Sandra Novoa called the roll with the following members present: Mayor Dietch, Commissioner Karukin, Commissioner Olchyk and Commissioner Cohen. Vice Mayor Tourgeman was absent due to personal family health concerns.

On behalf of the community the Mayor extended best wishes to Vice Mayor Tourgeman and his family.

Commissioner Cohen asked for a moment of silence to reflect on all the tragedies and difficulties parts of the world are dealing with.

C. Pledge of Allegiance

Assistant to the Town Manager John Di Censo led the Pledge of Allegiance

**D. Oath of Office of Town Manager Guillermo Olmedillo – Sandra Novoa, CMC,
Town Clerk**

E. Mayor and Commission Remarks – Mayor Daniel Dietch

Mayor Dietch welcomed the new Town Manager Guillermo Olmedillo and Commissioner Olchyk wished him the best of luck.

Commissioner Karukin said due to business he will not be able to attend the next Commission Meeting in February.

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

Linked were Item 9C Solicitation of Sponsorship/Donations and Item 9D Harding Avenue Business District Bench Sponsorship

Commissioner Karukin would like to put on the March agenda for discussion Phase II of the Charter Review and asked if the Commission would be interested in doing so. The Commission agreed to put the item on the March agenda for discussion.

G. Community Notes – Mayor Daniel Dietch

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

H. Legislative Update – Fausto Gomez, Gomez Barker Associates, Inc.

2. Quasi-Judicial Hearings (None)

3. Consent Agenda

Commissioner Karukin pulled item 3B – Budget to Actual and item 25; page 26 Pay by Phone Parking.

Mayor Dietch pulled item 9, page 20 Seawall Project

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

A. Minutes – Sandra Novoa, CMC, Town Clerk

December 9, 2014 Regular Commission Meeting Minutes

B. Budget to Actual Summary as of October 31, 2014 – Donald Nelson, Finance Director

***C. Town Manager's Report – Guillermo Olmedillo, Town Manager**

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

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

F. Committee Reports – Guillermo Olmedillo, Town Manager

- August 19, 2014 Pension Board Minutes

- November 17, 2014 Parks and Recreation Committee Minutes

G. Proposed Agreement with Miami Dade State Attorney's Office to Prosecute Criminal Municipal Ordinances – Chief of Police David Allen

A RESOLUTION OF THE TOWN COMMISSION FOR THE TOWN OF SURFSIDE, FLORIDA AUTHORIZING THE TOWN MANAGER OF THE TOWN OF SURFSIDE TO EXECUTE AN AGREEMENT WITH THE MIAMI-DADE STATE ATTORNEY'S OFFICE TO PROSECUTE CRIMINAL MUNICIPAL ORDINANCE VIOLATIONS IN SURFSIDE; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Approved on consent.

H. Miami Dade County Sea Level Rise Task Force Recommendations Support – Mayor Daniel Dietch

A RESOLUTION OF THE TOWN OF SURFSIDE, FLORIDA, SUPPORTING THE MIAMI-DADE SEA LEVEL RISE TASK FORCE RECOMMENDATIONS AND URGING THE BOARD OF MIAMI-DADE COUNTY COMMISSIONERS TO IMPLEMENT SUCH RECOMMENDATIONS; ENCOURAGING OTHER MIAMI-DADE COUNTY MUNICIPALITIES TO JOIN THE TOWN OF SURFSIDE IN THEIR SUPPORT FOR THE MIAMI-DADE SEA LEVEL RISE TASK FORCE; DIRECTING THE TOWN CLERK TO TRANSMIT A COPY OF THIS RESOLUTION TO THE MAYOR AND COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, THE MIAMI-DADE COUNTY LEAGUE OF CITIES, INC. AND MUNICIPALITIES IN MIAMI-DADE COUNTY; AND PROVIDING FOR AN EFFECTIVE DATE.

Approved on consent.

Pulled Items:

-3B Budget to Actual – Commissioner Karukin noted that on the report our reserves had dipped and wanted to know if there was a plan to bring it back up. Finance Director Nelson gave a positive update on the item.

-9 Seawall Project – Mayor Dietch gave an update and advised of programs available for residents to have their seawalls repaired

-25 Pay by Phone for Parking. Town Manager Olmedillo said this is a pilot program which is being looked into.

After all pulled items were discussed Commissioner Karukin made a motion to approve the pulled items. The motion received a second from Commissioner Olchyk and all voted in favor with Vice Mayor Tourgeman absent.

4. Ordinances

A. Second Reading Ordinances

B. First Reading Ordinances

1. Permitted Uses on Business District –Vice Mayor Eli Tourgeman/ Sarah Sinatra, Town Planner

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 LIMITATIONS OF USES IN THE BUSINESS DISTRICT; 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.

As a courtesy to Vice Mayor Tourgeman, Mayor Dietch suggested the item be deferred as Vice Mayor Tourgeman is absent and is not able to speak on the issue. However he would like to give the citizens who attended this evening the opportunity to speak.

Commissioner Olchyk made a motion for discussion and then to vote. The motion received a second from Mayor Dietch after passing the gavel.

Public speakers:

-Michael Stevens and Teddy Stevens both spoke against the ordinance and feel the restrictions are illegal and the town should not be able to deny a business to open because one of the same type is already there on the same block.

-Richard Finuarb is against the ordinance and said the market should determine which kind of business should open.

-Donald Kahn is also opposed to the ordinance. He said this issue was brought up before, discussed in depth and then voted down.

Commissioner Karukin said he was not in favor of the ordinance and gave reasons he was opposed. Commissioner Olchyk agrees with Commissioner Karukin. Commissioner Cohen and Mayor Dietch expressed their views and both were not in favor of the ordinance.

Commissioner Olchyk made a motion not to proceed with the item. The motion received a second from Commissioner Karukin and all voted in favor with Vice Mayor Tourgeman absent.

5. Resolutions and Proclamations

A. Resolution to Purchase a New Solid Waste Truck – Joseph Kroll, Public Works Director

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, TO APPROVE THE PURCHASE OF A 2016 MACK TRUCK WITH A 25 YARD REAR LOADER; TRANSFERRING FUND BALANCE (RESERVES) FROM THE GENERAL FUND BALANCE TO SOLID WASTE FUND ACCOUNT NO. 403-4000-534-64.10 APPROPRIATING THE FUNDS IN THE SOLID WASTE FUND; AMENDING THE TOWN'S BUDGET FOR FISCAL YEAR 2014/2015; PROVIDING FOR APPROVAL AND AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Manager Olmedillo presented the item.

Commissioner Karukin made a motion for discussion. The motion received a second from Commissioner Cohen.

Public Works Director Kroll gave the pros and cons on the issue.

Commissioner Karukin made a motion to approve. The motion received a second from Commissioner Cohen and all voted in favor with Vice Mayor Tourgeman absent.

6. Good and Welfare

Mayor Dietch opened the meeting to Good and Welfare.

Public Speakers:

-Former Commissioner Joe Graubart spoke about zoning and frontage and how the new hotels going up will affect the breezes and cast shadows to neighboring residences. He presented a petition and said we are becoming a concrete canyon. He further stated he believed that Mayor Dietch has given the key to the city to the developers.

-Jeffery Platt said he believed that the town has made no effort in forming a Standing Beach Committee. He would like to see better standards for the town and beaches and feels the town has ignored the situation on the beach. He questions the future agenda of the town as it appears they are letting developers do whatever they want. He further stated that the town does not want a Standing Beach Committee because it has been generously paid to ignore it.

-Jeffery Platt also spoke about the last few Commission Meetings where the most important item on the agenda was left for last. At the last Commission meeting because of time of almost 11:00 p.m. some speakers could not address the Commission because there was no longer a quorum and the meeting had to adjourn. He suggested that the sand issue be moved up on the agenda to after Good and Welfare so all the residents in attendance do not have to wait till 11:00 p.m. to be heard.

-Jeffery Platt spoke about the new face book page the town now has which he thinks is very selective. He wrote a post on face book and it was deleted by the temporary Town Manager. He received an email from the Town Manager stating his post was deleted as it seemed unprofessional especially coming from the Sand Committee Chair but he invited Mr. Platt to come in and discuss the matter. Mr. Platt took offense to the deletion and wanted to know if the face book was “selective journalism.”

-Glyn Taylor said he believes the Commission has focused more on money and the developers rather than what is best for its citizens. He is very disappointed in the Commission and feels they have been deceptive and their actions have been offensive and said it is time for a recall of the Mayor.

-Martin Listowsky said he received two parking violations and did not know there was a time restriction for parking as no signs are posted.

-Deborah Cimadevilla spoke and was very expressive when she said she has been lied to, deceived, manipulated and managed by the Mayor. She received a call from the temporary Town Manager who told her that he was advised that no further action will be taken on the sand issue. She holds the Mayor responsible for not doing better for the town.

-Peter Neville fully agrees with Ms. Cimadevilla and said it is a disgrace as to what has happened to our beach. He holds the Mayor responsible as the Mayor had said the sand in question would be moved to the dunes and instead it was spread out over the beach. He also mentioned the terrible traffic problem that exists and how more difficult it will become with the approval of the Jewish school. He also said that Joe Graubart was right in his comments.

-Tina Paul said she has voiced her opinions many times at these meetings. The construction noise even on a Saturday morning is horrible. She will not go to Surfside beach anymore because it is horrible. The traffic situation is terrible. She feels the Commission has wrecked the town in the last three years. The audience stood in agreement with Ms. Paul.

-Norma Parron said at the last meeting when trash pickup was discussed she was told that her building would be exempt from the new system at this time. She said the minutes did not reflect that and she would like that in writing even though she feels the Commission doesn't always stand by what they say. Town Clerk Sandra Novoa said the minutes are a summary not verbatim but the video will be reviewed and the minutes will be amended to reflect what was indicated to Ms. Parron. If it is not in the minutes the Mayor asked that a letter be sent to the condo association reflecting the exemption.

-Elizabeth Marti spoke and had a video which showed residents who could not attend the meeting this evening but wanted to voice their opinions. The video reflected citizens expressing much disappointment of the beach sand. The video also reflected the Commission stating there would be a resolution.

No one else wishing to speak the Mayor closed Good and Welfare.

Commissioner Karukin said he would not address the sand issue at this time as it is on the agenda as Item 9F. He addressed Mr. Graubart's issue of massing and frontage and said the Commission did take subsequent actions and reduced the maximum frontage to what it was in pre 2008 code and did try to resolve that problem. Regarding Mr. Platt's issue about the face book page, he said municipality sponsored social media have certain guidelines which he is not familiar with and feels in a town such as Surfside we do not have the proper IT infrastructure to deal with this.

Commissioner Cohen thanked all for their comments and feel what they said was in the spirit of the best interest of Surfside. He said this is his first time as a public servant and he too wants what is best for the town. He did not agree with the indications that the Commission was attracting new developers to come in but the economic market is why developers are looking here as neighboring towns have little or no more room for development. We cannot tell people who to sell their land to.

Commissioner Olchyk wanted it known that the regular hours of the meeting are up to 11:00 p.m. If the meeting is to go over there has to be a motion made. She has made it very clear to the Mayor that the order of the agenda should be such to have important discussion items at the beginning as at 11:00 p.m. she will be leaving the meeting. She further said she has served the community for several years always to be fair and with the best interest of the town. She wished someone would have taken her place on the Commission this year. On many issues she has done her own research and gotten as much information as she could before casting a vote. Whether one agrees or disagrees with her views, she feels respect should be given her for putting in the hours working for the community as no one else wants to, and then she has to be exposed to being criticized and hard language. She further stated that she lives on the beach next to a construction site and has to contend with the noise everyday and traffic and her hands are tied as there is nothing she can do about it. She said she loves Surfside and only wants what is best for the town. As to the beach there are different points of views and from what she has

observed there are many people enjoying the beach. She personally has spoken to many knowledgeable people on the issue and was told the sand is not an issue as presented. The Commission has listened to all the experts in the agencies regarding the sand, and did what they were proposed to do.

Commissioner Karukin said one of the first things Commissioner Olchyk did when elected into office the first time was to try to establish a beach management committee. The committee would not only look at sand but escarpment, lounge chairs and various items. The Commission has not forgotten this committee but it is not an easy task to do.

Mayor Dietch thanked everyone for expressing their views even though it is not always easy to listen to people being unsatisfied. He welcomed anyone to meet with him to try to understand the complexities the town faces. He said there is nothing dishonest here. No one on the Commission stands for impropriety or corruption. The Mayor further explained that the town needed a future plan to grow as a few years ago they were near bankruptcy and would not be able to give its residents the quality of services they were used to.

7. Town Manager and Town Attorney Reports

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

8. Unfinished Business and New Business

9. Mayor, Commission and Staff Communications

A. Dish with the Commish – Commissioner Barry Cohen

Commissioner Cohen explained his idea of the community having the opportunity to meet informally once a month with a member of the Commission at a restaurant to exchange their views. The Commission agreed with the idea.

B. Department Director Salaries – Mayor Daniel Dietch

Town Manager Guillermo Olmedillo presented the item.

Commissioner Karukin made a motion to approve. The motion received a second from Commissioner Cohen and all voted in favor with Vice Mayor Tourgeman absent.

Commissioner Olchyk noted she was not happy with all the increases given as she felt some were not justified. She has been assured by the new Town Manager that in the future increases will be given only on merit.

C. Solicitation of Sponsorships/Donations – Commissioner Barry Cohen
[Linked to Item 9D]

Commissioner Cohen presented the item. The Town Attorney was asked to work with Commissioner Cohen to explore the idea and bring it back to the Commission.

D. Harding Avenue Business District Bench Sponsorship – Duncan Tavares, TEDACS Director [*Linked to item 9C*]

Commissioner Karukin was not in favor as it would be defacing our beautiful park benches which were costly. Commissioner Olchyk will not support the issue.

Commissioner Karukin made a motion not to proceed. The motion received a second from Commissioner Cohen and all voted in favor with Vice Mayor Tourgeman absent.

E. Post Office Parking Lot Update – John Di Censo, Assisting the Town Manager

Town Manager Guillermo Olmedillo presented the item.

Commissioner Olchyk made a motion to support the Town Manager's recommendation to explore the issue. The motion received a second from Commissioner Cohen and all voted in favor with Vice Mayor Tourgeman absent.

F. Town Commission Approved Sand Action – Town Manager Guillermo Olmedillo

Manager Olmedillo gave an update stating that the cost of moving the sand to the dunes is substantially higher than what was previously quoted. He also said the reports from the experts testing the sand said there was no health hazard. He further stated that shifting the sand to the dunes would then kill the existing vegetation and it would be costly to replace the plants. He explained what has been done to date but wanted all to be aware of the costs. He is recommending no further action.

Public Speakers:

-Norma Parron said she viewed a video as to what the sand looked like before and it was white beautiful sand. What has been put down now is poor quality sand mixed with dirt and the feel under your feet is coarse and the look dirty. She further said the Mayor said it would be resolved and they have been let down.

-Jeffrey Platt who was Chair of the Beach Committee and attended many meetings said it was approved by the Commission to go with their recommendation that the Surf Club fill be removed from the beach. He was then advised that the Temporary Town Manager said that a unilateral decision had been made by a town official (name not provided) that no action will be taken. He would like to know who is running the town. If the Commission does not have the authority to take action then it is time for them to step down. He also presented items he picked up on the beach.

-Renee Tischler gave a review of what transpired and has been happening. She asked why all the plants have died at the Surf Club. Something is very wrong and should be fixed.

-Elizabeth Cimadevilla reiterated what was said previously and also said the numbers presented about the quality of beach sand don't lie. She is questioning why she ever believed in the Commission and they should stand by the resolution passed and the citizens deserve a clean beach.

-George Kousoulas spoke on sand quality and State standards and prior renourishment of the beach. He said we need to take a better look at what has been put on the beach.

-Michelle Kligman former Commissioner said the town has spent money and the citizens have spent their own money on this issue. She feels the issue has been very poorly managed from the beginning. A commitment was made to its residents and now the rug has been pulled out from under them. You need to honor your word or lose credibility as this community has been misled.

-Sharon Goldberg spoke about lead level content which she feels is high and said there is no safe level of lead especially among children.

-Clara Diaz-Leal said there is no reason for this to redone as this issue was resolved and approved and not on the agenda to be voted on again. This has to be fixed so we can focus on other bigger issues facing Surfside such as parking.

No one else wishing to speak the Mayor closed the public discussion.

Commissioner Karukin agreed that this was very poorly handled from the very beginning. Regarding the resolution he thought it was a done deal until informed by a resident. His understanding is that the prior reports and costs given are no longer valid and what he voted on of \$158,000 would now be very much higher. He further stated that the report from Land Science said the evidence shows that the sand is not a health hazard and if this issue is now about cosmetics he does not feel spending the amount of money needed to move it is a good idea. He feels if the developers want to pay for it he has no problem. As to the comment on transparency he said the town has posted just about all documents regarding the sand issue. He also said a beach management committee has to now include the sand.

Commissioner Cohen spoke regarding legal aspects and if a developer is responsible if lead has seeped into the sand. He said that whoever knew or should have known that lead could seep into the sand is the party that is liable and should fix it. The developers said they would fix it but it was not a contract. However there has been a change in circumstance and now it will cost significantly more.

Commissioner Olchyk said she agreed that the issue was mishandled. From what they were told 8-10 months ago is different from what is being presented now. The quality of the sand is still vague as expert reports say there is no health hazard but residents perceive this differently and she is

not sure if this is the priority in this case. Before voting on the issue she would like to review more facts especially the basis for the new estimates presented. She has always been told that the developer would take care of any problem but now the burden is on the town. She does believe the developers are responsible for some of the issues they are facing now. The Commission was not aware of all the facts that the Sand Committee brought to their attention. Mistakes have been made and in order not to have them repeated she would like to better review the issue more deeply before voting.

Mayor Dietch said clearly this issue has not been managed well. It has been awful for the Commission as well as residents. He understands the frustration, emotion and passion of the residents. He asked if anyone had new or further information on the issue to let them know. The toxicology reports they have received say the sand is not a health hazard. He said the goal is to have a beach free from chemical and physical contamination and safe for residents and visitors. The Town Lobbyist stated earlier in his report that there would not be beach renourishment again for about two years. DEP and the Surf Club have been working together in sifting the sand removing any contamination. He responded to the concerns of the residents and said the town has not ignored the issue but has been working for the town.

Town Manager Guillermo Olmedillo said as if one puts their request in writing they will make the public records requested available to them. Regarding the cost increase he asked staff to research the cost of moving the sand and after speaking with people who work in that field, they came back with a figure approximately six times more than what was given in September. As to the developer he said he will go back and look at the record for any conditions in the development order that may address this issue. If there was an action that caused harm or damage to the town then perhaps legal can tell us what we can do. He suggested meeting with the developer and discussing the issue once we have a firm figure as to the cost.

Commissioner Olchyk left the meeting at 10:58 p.m. The Mayor asked for a motion to extend the meeting.

Commissioner Karukin made a motion to extend the meeting thirty minutes. The motion received a second from Commissioner Cohen and all voted in favor with Commissioner Olchyk absent for the vote.

In order to move forward, public speaker Monica Grandeze suggested that residents make a list of their questions to present to the town in a week. The Mayor suggested a special commission meeting with the residents and the Surf Club and Chateau to address their questions and concerns. He asked the Town Manager to present at that meeting the costs that may be involved.

G. Styrofoam/Expanded Polystyrene Policy – Mayor Daniel Dietch

The Town Manager was directed to develop a policy on the issue. Public Speaker Michael DeFilipp spoke and said the styrofoam is in our waters, beaches, greenery and it is not biodegradable and should be dealt with as Miami Beach has now banned it. He mentioned other municipalities that are now discussing it and adopting new restrictions.

H. Beach Sand Quality Regulations – Linda Miller, Town Attorney
Attorney Miller introduced Jane Graham who presented the item.

Mayor Dietch called for a three minute break.

Commissioner Karukin wanted to clarify what the ordinance will contain and what will be a separate document. George Kousoulas gave some insight and what may also be included in the proposed ordinance.

Commissioner Karukin made a motion to accept the recommendation. The motion received a second from Commissioner Cohen and all voted in favor with Commissioner Olchyk absent for the vote and Vice Mayor Tourgeman absent.

Commissioner Karukin made a motion to extend the meeting fifteen minutes. The motion received a second from the Mayor after passing the gavel. All voted in favor with Commissioner Olchyk absent for the vote and Vice Mayor Tourgeman absent.

I. Landscape RFP – John Di Censo, Assisting the Town Manager

Commissioner Karukin made a motion to defer to February 10, 2015. The motion received a second from the Commissioner Cohen and all voted in favor with Commissioner Olchyk absent for the vote and Vice Mayor Tourgeman absent.

J. Automated Electronic Check Signatures – John Di Censo, Assisting the Town Manager

Commissioner Karukin made a motion to defer to February 10, 2015. The motion received a second from the Commissioner Cohen and all voted in favor with Commissioner Olchyk absent for the vote and Vice Mayor Tourgeman absent.

K. Memorandum to Town Commission re Joint Meeting with Tourist Board – Duncan Tavares, TEDACS Director

Dates for availability for a joint meeting were discussed.

10. Adjournment

The meeting adjourned at 11:29 p.m.

Accepted this _____ day of _____, 2015

Daniel Dietch, Mayor

Attest:

Sandra Novoa, CMC
Town Clerk

**TOWN OF SURFSIDE, FLORIDA
MONTHLY BUDGET TO ACTUAL SUMMARY
FISCAL YEAR 2014/2015**

AS OF

11/30/2014

17% OF YEAR EXPIRED (BENCHMARK)

Agenda Item #

Page

1 of 3

Agenda Date: February 10, 2015

GOVERNMENTAL FUNDS	ACTUAL	ANNUAL BUDGETED	% BUDGET
<i>GENERAL FUND</i>			
REVENUE	\$ 2,745,915	\$12,040,318	23%
EXPENDITURES	2,286,442	\$12,040,318	19%
Net Change in Fund Balance	459,473		
Fund Balance-September 30, 2014 (Unaudited)	6,340,661 A		
Fund Balance-November 30, 2014 (Reserves)	<u>\$ 6,800,134</u>		
<i>RESORT TAX (TEDAC SHARE)</i>			
REVENUE	\$ 15,708 B	\$635,465	2%
EXPENDITURES	27,936	\$634,465	4%
Net Change in Fund Balance	(12,228)		
Fund Balance-September 30, 2014 (Unaudited)	183,753		
Fund Balance-November 30, 2014 (Reserves)	<u>\$ 171,525</u>		
<i>POLICE FORFEITURE/CONFISCATION</i>			
REVENUE	\$ 2	\$90,300	0%
EXPENDITURES	10,316	\$90,300	11%
Net Change in Fund Balance	\$ (10,314)		
Fund Balance-September 30, 2014 (Unaudited)	159,588		
Fund Balance-November 30, 2014 (Reserves)	<u>\$ 149,274</u>		
<i>TRANSPORTATION SURTAX</i>			
REVENUE	\$ (18,503)	\$197,000	-9%
EXPENDITURES	16,516	\$197,000	8%
Net Change in Fund Balance	(35,019)		
Fund Balance-September 30, 2014 (Unaudited)	406,231		
Fund Balance-November 30, 2014 (Reserves)	<u>\$ 371,212</u>		
<i>CAPITAL PROJECTS</i>			
REVENUE	\$ (199,972)	\$1,249,322	-16%
EXPENDITURES	103,176	\$1,249,322	8%
Net Change in Fund Balance	(303,148)		
Fund Balance-September 30, 2014 (Unaudited)	736,197		
Fund Balance-November 30, 2014 (Reserves)	<u>\$ 433,049</u>		

NOTES:

* Many revenues for October 2014 & November 2014 are received in subsequent months (timing difference) and are recorded on a cash basis in the month received. November 2014 revenue accounts include the reversal of revenues that are for the prior fiscal year.

A. Includes \$2,000,000 available for hurricane/emergencies. The balance of \$4,340,661 is unassigned fund balance (reserves).

B. Resort Tax Revenues for November 2014 are received in December 2014, the (Total collected through November 2014 is \$219,525) (\$15,708 is for TEDAC and \$203,817 is the General Fund).

ENTERPRISE FUNDS

ACTUAL

ANNUAL BUDGETED	% BUDGET
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WATER & SEWER

REVENUE	\$ 271,192	\$2,909,908	9%
EXPENDITURES	441,914	\$2,909,908	15%
Change in Net Position	(170,722)		
Unrestricted Net Position-September 30, 2014 (Unaudited)	(3,373,441)		
Restricted Net Position	1,260,776 C1		
Capital Project Expenses to date for Water & Sewer	0	\$0	
Unrestricted Net Position-November 30, 2014 (Reserves)	<u>\$ (2,283,387) C2</u>		

MUNICIPAL PARKING

REVENUE	\$ 149,000	\$1,062,878	14%
EXPENDITURES	207,514	\$1,062,878	20%
Change in Net Position	(58,514)		
Unrestricted Net Position-September 30, 2014 (Unaudited)	1,091,943		
Capital Project Expenses to date for Municipal Parking	-	\$0	
Unrestricted Net Position-November 30, 2014 (Reserves)	<u>\$ 1,033,429</u>		

SOLID WASTE

REVENUE	\$ 237,034	\$1,261,360	19%
EXPENDITURES	225,797	\$1,261,360	18%
Change in Net Position	11,237		
Unrestricted Net Position-September 30, 2014 (Unaudited)	128,493		
Unrestricted Net Position-November 30, 2014 (Reserves)	<u>\$ 139,730</u>		

STORMWATER

REVENUE	\$ 41,510	\$505,000	8%
EXPENDITURES	120,528	\$505,000	24%
Change in Net Position	(79,018)		
Unrestricted Net Position-September 30, 2014 (Unaudited)	2,914,434		
Restricted Net Position	347,140 C3	\$0	
Capital Project Expenses to date for Storm Water	-		
Unrestricted Net Position-November 30, 2014 (Reserves)	<u>\$ 3,182,556</u>		

NOTES:(con't)

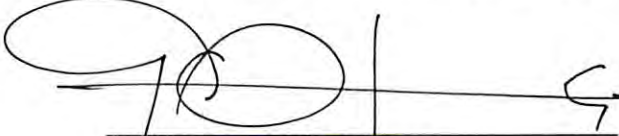
C1. The Restricted Net Position of \$1,260,776 includes \$1,017,776 for renewal and replacement, and \$243,000 for State Revolving Loan reserves.

C2. The reserves balance of (\$2,283,387) is the result of a change in current net position as of November 2014 of (\$170,722), net position as of September 30, 2014 of (\$3,373,441) includes \$651,144 for rate stabilization, plus Restricted Net Position of \$1,260,776.

C3. The Restricted Net Position of \$347,140 includes \$266,140 for renewal and replacement, \$81,000 for State Revolving Loan reserves.



 Donald G. Nelson, Finance Director



 Guillermo Olmedillo, Town Manager

**ATTACHMENT

**Town of Surfside
Fund Balance (Reserves)**

FUND	11/30/2014			9/30/2014			11/30/2014		
	9/30/2012	9/30/2013	9/30/2014	9/30/2014	9/30/2014	9/30/2014	9/30/2014	9/30/2014	9/30/2014
General	\$ 5,266,374	\$ 5,304,042	\$ 6,340,661	\$ 6,340,661	\$ 6,800,134				
Resort Tax	171,496	94,497	183,753	183,753	171,525				
Police Forfeiture	122,272	138,143	159,588	159,588	149,274				
Transportation Surtax	122,302	131,475	406,231	406,231	371,212				
Capital	132,783	255,263	736,197	736,197	433,049				
Water & Sewer	(1,931,707)	(5,261,333)	(3,373,441)	(3,373,441)	(2,283,387)				
Parking	1,258,325	1,066,574	1,091,943	1,091,943	1,033,429				
Solid Waste	228,437	227,274	128,493	128,493	139,730				
Stormwater	104,651	2,520,512	2,914,434	2,914,434	3,182,556				
Total	\$ 5,474,933	\$ 4,476,447	\$ 8,587,859	\$ 8,587,859	\$ 9,997,522				

TOWN OF SURFSIDE, FLORIDA

**STATEMENT OF NET POSITION
PROPRIETARY FUNDS**

SEPTEMBER 30, 2013

	Business-type Activities - Enterprise Funds				Totals
	Water and Sewer	Municipal Parking	Sanitation	Stormwater Utility	
Assets					
Current Assets					
Cash and cash equivalents	\$ 38,012	\$ 189,725	\$ 271,463	\$ --	\$ 499,200
Accounts receivable, net	647,746	15,661	80,505	96,705	840,617
Due from other funds	--	916,291	--	2,860,408	3,776,699
Due from other governments	--	--	7,105	--	7,105
Prepaid items	17,180	2,950	6,575	885	27,590
Total Current Assets	<u>702,938</u>	<u>1,124,627</u>	<u>365,648</u>	<u>2,957,998</u>	<u>5,151,211</u>
Noncurrent Assets					
Investments	5,873	--	--	--	5,873
Restricted cash and cash equivalents	1,906,402	--	--	1,526,621	3,433,023
Capital Assets					
Construction in progress	22,426,000	--	--	2,962,873	25,388,873
Land	--	1,358,011	--	--	1,358,011
Infrastructure	1,273,252	1,427,934	--	267,828	2,969,014
Equipment	157,215	468,019	378,200	--	1,003,434
	23,856,467	3,253,964	378,200	3,230,701	30,719,332
Less: accumulated depreciation	(1,299,278)	(894,544)	(312,432)	(100,278)	(2,606,532)
Total Capital Assets, Net	<u>22,557,189</u>	<u>2,359,420</u>	<u>65,768</u>	<u>3,130,423</u>	<u>28,112,800</u>
Total Noncurrent Assets	<u>24,469,464</u>	<u>2,359,420</u>	<u>65,768</u>	<u>4,657,044</u>	<u>31,551,696</u>
Total Assets	<u>25,172,402</u>	<u>3,484,047</u>	<u>431,416</u>	<u>7,615,042</u>	<u>36,702,907</u>
Liabilities					
Current Liabilities					
Accounts payable	407,449	29,678	28,006	23,365	488,498
Accrued liabilities	50,857	10,604	17,980	2,849	82,290
Due to other funds	3,776,699	--	--	--	3,776,699
Due to other governments	69,838	--	--	--	69,838
Interest payable	183,502	--	--	61,167	244,669
Retainage payable	355,474	--	--	36,485	391,959
Current portion note payable	--	80,000	--	--	80,000
Current portion of revenue bonds payable	410,055	--	--	136,685	546,740
Current portion of state revolving loan payable	158,987	--	--	52,996	211,983
Compensated absences	2,101	727	6,791	39	9,658
Customer deposits	188,664	6,860	8,611	--	204,135
Total Current Liabilities	<u>5,603,626</u>	<u>127,869</u>	<u>61,388</u>	<u>313,586</u>	<u>6,106,469</u>
Noncurrent Liabilities					
Net OPEB obligation	11,341	3,636	15,864	2,573	33,414
Compensated absences	18,917	6,548	61,122	353	86,940
Revenue bonds payable	7,781,967	--	--	2,656,641	10,438,608
State revolving loan payable	5,282,895	--	--	1,760,966	7,043,861
Total Noncurrent Liabilities	<u>13,095,120</u>	<u>10,184</u>	<u>76,986</u>	<u>4,420,533</u>	<u>17,602,823</u>
Total Liabilities	<u>18,698,746</u>	<u>138,053</u>	<u>138,374</u>	<u>4,734,119</u>	<u>23,709,292</u>
Deferred Inflows of Resources					
Unearned revenue	18,839	6,860	8,611	--	34,310
Net Position					
Net investment in capital assets	10,474,213	2,279,420	65,768	13,271	12,832,672
Restricted for renewal and replacement	1,017,776	--	--	266,140	1,283,916
Restricted for loan reserve	243,000	--	--	81,000	324,000
Unrestricted	(5,261,333)	1,066,574	227,274	2,520,512	(1,446,973)
Total Net Position	<u>\$ 6,473,656</u>	<u>\$ 3,345,994</u>	<u>\$ 293,042</u>	<u>\$ 2,880,923</u>	<u>\$ 12,993,615</u>

The accompanying notes are an integral part of these financial statements.



Town of Surfside

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

**TOWN MANAGER'S REPORT
FEBRUARY 2015**

COMMUNITY PROGRAMS / INITIATIVES / ENHANCEMENTS

1. Bus Service - Multi-jurisdictional Study – Bus Service Improvements and Operational Efficiencies

This initiative has been stymied by Miami-Dade Transit (MDT) due to other County priorities and lack of staff. We cannot move forward without MDT's cooperation.

In an effort to get this initiative moving, the Town Manager met with Commissioner Sally Heyman on December 22 to seek her assistance in getting MDT to prioritize this initiative. Outreach to the County continues to occur in an effort to facilitate this initiative.

2. Citizen Survey

This item is earmarked for the March 10, 2015 Town Commission agenda.

3. Film Ordinance

Based on Town Commission feedback at the December 9 meeting, a Film Community discussion meeting is set for February 11, 2015 at 7 pm. This date allows for the Miami Dade Film Commissioner Sandy Lighterman to attend and inform the residents on County and State efforts. The meeting is posted on the Town website, in the February Gazette, and included in the weekly website e-blasts. Flyers were distributed in the Biscaya neighborhood where the issue of filming seems to be an ongoing matter.

4. Miami-Dade Design (Climate Resiliency, Sustainability and Mitigation) Charrette Group 2

The follow up meeting is presently on hold due to the unavailability of participants. More information will be provided to the Town Commission when it becomes available. The Town Manager and the Town Attorney's Office attended the webinar "Preparing Florida for the Future: Opportunities for Resilience in Local Communities", which was hosted by the Southeast Florida Regional Climate Change Compact.

5. Local Government Academy

This program would provide an opportunity to learn how each Town department and the Town Commission work together to achieve the Town's mission. In other municipalities the program is annual and comprises of 8 (+/-) consecutive weekly sessions similar to the existing Surfside Police Academy. This item will be addressed with the Town Manager and more detailed information will be provided to the Commission as part of the FY 15/16 budgetary review process.

DOWNTOWN BUSINESS DISTRICT and TOURISM

6. Sidewalk Ordinance Implementation

On October 29, 2014, Courtesy Notices were issued to both landlords and restaurateurs providing for a 15 day period to apply for and begin the approval process for sidewalk cafés. To date, sidewalk café applications have been received from nine restaurateurs. In the following weeks, Civil Violation Notices will be issued to those who have not made application, and require that they cease and desist operating on the sidewalk. Failure to comply with the timelines in said Notices will include civil penalties and may result in sidewalk café furnishings and equipment to be removed by the Town.

The master plan showing the overall available café space has been completed and is being reviewed for final approval. Some concerns have been raised as to the safe distances required between the seating areas and parked vehicle access. These issues are under consideration.

7. Parking Structure Feasibility Study

At the May meeting, the Commission approved the proposal of Lambert Advisory to assist in the process of evaluating the Public Private Partnership (P3) recommendation contained in the parking solution report for the Post Office site. The initial work to be undertaken includes necessary economic/market analysis to ultimately determine feasibility of a P3 and identification of strategic opportunities to ensure a successful P3.

An appraisal of the Post Office property was completed and a survey of the Post Office parking lot is being completed.

Staff has met with the owner of the Post Office building to discuss a long term lease of his property. The Town Manager made it clear the Town is only interested in Post Office and parking exclusively. The owner has been advised that the land use designation of that property is public buildings and anything other than a post office will require a change to the Town's comprehensive plan.

8. Five Year Tourism Strategic Plan

A joint meeting date of the Town Commission and Tourist Board was set for Monday March 9, 2015, however at the February 2 Tourist Board meeting, one member is no longer available on that date. Once a new date is set, the agenda will include the proposed changes to the Resort Tax Ordinance, Board governance and composition, policies and procedures as well as ethics. The Town

Administration is looking for Town Commission availability on the presented dates in the February 10, 2015 agenda. (**Action Item**)

Holiday Lights: At the December 15, 2014 Tourist Board Meeting the Board voted to have the downtown Harding Avenue tree lights remain on until February 16, 2015. The Tourist Board voted to extend the period through to the end of April at their February 2, 2015 meeting due to requests from the resident and business communities.

Mobile App: Staff is working with the vendor on having the app operational within the first quarter of 2015.

Sister Cities: This initiative was addressed by the Board at their February 2, 2015 meeting. The Board voted not to move forward with this initiative. The Commission could decide to add this to the FY15/16 budget process as a Town Commission initiative. **Item Completed.**

Benches: At the meeting on January 13, 2015 the Town Commission opposed moving forward with sponsorship of the downtown benches. Item completed.

Mom & Pop Grant / Sign Code Compliance: Applications for Commissioner Sally Heyman's County grant program for small businesses were hand delivered to every business in Surfside's downtown. Staff is working with those businesses impacted from the recent adopted changes to the Town's sign code ordinance to apply for this grant to assist with procuring new signs. Staff has also provided each business with information on State backed loans for small businesses through ourmicrolending.com.

INFRASTRUCTURE AND UTILITIES

9. Seawall Project

Per the direction of the Commission, a report was scheduled for the September Commission meeting recommending a plan to address seawall deficiencies within available resources. However, due to the length of other agenda items, this item was delayed until the October meeting. Again, the item was deferred from the October meeting and was finally heard at the November 6, 2014 Special Commission Meeting. At this meeting the Commission directed CGA to contract with PAC COMM, INC to complete the seawalls listed as "Option 5". Option 5 included the following seawalls:

1. Carlyle Ave and 88th St
2. End of 88th St on Isles of Biscaya
3. 95th St and Bay Drive
4. Froude Ave and 88th St
5. Surfside Park

CGA presented Option #5 to the FIND board and received approval to proceed. Contract documents were transmitted to the Contractor in January. They are currently issuing bonds and insurance documents. A Notice to Proceed (NTP) will be issued in February 2015. The preparation work commenced in January and the construction barge is anticipated to arrive in February 2015. The project is scheduled to complete within 160 days from NTP.

10. Town Hall Improvements

Town Hall

The A/C replacement is about 75% complete. The new chiller unit is installed on the roof as well as all of the piping. A new electric service had to be installed to accommodate the new chiller system. We had a three-week wait time for FPL to connect the new service, which is now complete. The air handler units have been delivered to Town Hall and are scheduled to be installed on the roof by the second week of February.

Finally, the remediation and replacement part of the inside (Commission Chambers, Code Compliance Office, Police Chief's Office and the Training Room) will begin when the A/C is completed possibly by the end of March.

PLANNING, ZONING AND DEVELOPMENT

11. Historic Preservation

The Miami-Dade Historic Preservation Board (Board) has recently designated 9149 Collins Avenue and 9340 Collins Avenue as historic.

Miami-Dade County's Office of Historic Preservation has issued a moratorium on permits for the following addresses: 9016 Collins, 9024 Collins, 9025 Harding, 9033 Harding, 9040 Collins, 9048 Collins, 9056 Collins, 9064 Collins. A designation hearing has been deferred on these properties until March 2015. The condominium board of 9241 Collins, Seaside Terrace, requested historic designation from the County, which will be heard by the Board in February. This property currently has a moratorium on building permits.

Miami-Dade County Commissioner Sally Heyman has sponsored an ordinance which relates to Historic Preservation and passed first reading on the December 2, 2014. This ordinance proposes to amend section 16A-10 of the Miami-Dade County Code as it pertains to owner-initiated petitions for historic designation. The proposed amendments will require at least 75 percent of unit owners in a condominium or cooperative property to join a petition to initiate an historical designation proceeding. A public hearing to consider the ordinance has been rescheduled by the Chairman for the Metropolitan Services Committee meeting on Wednesday, February 11, 2015 at 2:00 p.m. The meeting will take place in the County Commission Chambers located in the Stephen P. Clark Building, 111 NW 1st Street, 2nd Floor.

12. Land Development Regulations – Block between Harding and Collins Avenues

At the September 30, 2013, Joint Planning and Zoning and Town Commission meeting, there was a discussion about the block between Collins and Harding Avenues and the high interest in redevelopment of this corridor. In an effort to stay ahead of the new construction, there was interest from both boards to prepare criteria to help guide future development into the desired development pattern. Based on that, a budget item was included for an analysis and preparation of zoning criteria which includes the following:

- Preparation of new zoning criteria and comparison of existing conditions
- A review of green book traffic engineering standards as well as Miami-Dade County and FDOT as it relates to mid-block accessibility, walkways, pedestrian activity
- Impacts to existing buildings and strategies for potential non-conformities such as if there is a modification to an existing building, under what circumstances would the entire development need to be brought up to the proposed code
- Consistency of new criteria with comprehensive plan, including the 1989 Comprehensive Plan, which provided for a study of this corridor
- Consistency of new criteria with other sections of the zoning code such as off-street parking, signs, accessory structures, conditional uses, landscaping
- Requirements for open space in terms of landscaping, public space
- Coordination with legal in terms of vested rights, reduced density or intensity resulting from new zoning criteria
- Design criteria for pedestrian walkways

At the June 2014 Planning and Zoning meeting, the Board voted unanimously to establish this as a top priority. This project was funded in the FY 14/15 budget. The work authorization with CGA was approved on November 6, 2014. Work has commenced and an initial discussion with the Planning and Zoning Board will occur on February 18, 2015.

13. Ten Year Water Supply Plan

The Town is required to update its Ten Year Water Supply Plan including identifying any alternate water supply sources and analyzing/updating data from our current supplier. Funds for this project have been included in the FY 14/15 Budget. Work Authorization No. 89 – Ten Year Water Supply Plan has been executed with CGA in the amount of \$7,466.92. This will be scheduled for the March, 2015 Planning and Zoning Board meeting and first reading by the Commission in April.

TOWN DEPARTMENTS

Building Department

14. FEMA National Flood Insurance Program (NFIP)

The follow-up visit date is pending and has not been determined.

15. Community Rating System (CRS)

The community verification visit has been tentatively scheduled for mid-February 2015 and we are preparing required documentation of activities to support the Town's application.

16. Forty Year Building Certification for Collins, Harding, Abbott Avenues and Surfside Blvd.

The 40 Year Building Certification Program is progressing as follows:

Reported certifications: 122 in present case file

Completed certifications: 43

Time extensions granted: 2

Exempt from Certification: 3

Vacant commercial properties: 9

Sent to Code Enforcement for non-compliance: 8

150 day repair order: 7

On hold: 4

Inspections: 1

17. Development Projects

The Chateau: Coastal is scheduled to continue to work on foundation piles and waterproof with two large concrete pours on the north end of the project.

The Surf Club: Coastal is scheduled to complete both remaining sky mat pours this month.

The Marriott: Miller is scheduled to complete the 1000 yard pool deck concrete pour this month.

18. Document Scanning

The scanning program continues to collect funds through its expired permit outreach effort. The fees collected under this project should fully fund the scanning program drawing no funds from the Building Services Department's budget. The sale of the scanner is pending.

Code Department

19. Sight Triangle (Hedges) and Corner Visibility

On November 18, 2014, the Town Commission adopted, on second reading, an ordinance amending the corner visibility provisions (hedges and sight triangles). A policy and enforcement standards will be provided at the February 10, 2015 Commission meeting. **(Action Item)**

Finance Department

20. Enterprise Resource Planning – (ERP)

ERP is a business management software that allows an organization to use a system integration of internal and external management of information across the entire Town organization and departments. Project goals are to find a qualified vendor that will meet the Town's enterprise-wide operational needs for all departments and one vendor be responsible for all project requirements. The conversion of existing data to a new system is a priority.

Department Heads have reviewed the functional requirements and a draft of the RFP is currently being reviewed. The RFP is planned to be released in February, 2015. Implementation of the ERP has been funded for the initial amount of \$100,000 in the 2014-15 budget. The final cost will be determined based on vendor responses to the RFP.

21. Electronic Check Signatures

The procedure that the Town currently has in place for signing Accounts Payable (AP) checks requires the signature of an Elected Official and the Town Manager. The AP checks are processed every two weeks and the average number of checks requiring signatures is one hundred twenty (120). After the town manager signs the checks, an elected official has to be contacted, and whoever is available either has the checks delivered to them or held in Police Dispatch to be picked up.

This procedure is antiquated and very time consuming. It delays timely payment to vendors and needs to be changed.

Staff recommends that the Town transition to electronic check signatures. Elected officials would still be able to review all AP checks, the check register and all back up documents. The only equipment necessary to implement the electronic check signatures is a laser printer and software changes at a cost of \$3,000. **(Action Item)**

Parks and Recreation

22. Beach Management Agreement

Progress on a Town/Miami-Dade County Beach Management Agreement is dependent upon the County receiving specific authorization from FDEP permitting the County to assign certain management responsibilities to local municipalities. The County sent a letter to FDEP on March 17, 2014 requesting a determination that the County can assign maintenance/regulations to local governments. The County once again has received a denial from the State to move forward with this request. Town staff is following up with FDEP to move this item forward.

23. Silver Sneakers Program

Silver Sneakers is the leading fitness program designed specifically for active older adults. It is delivered through a nationwide network of participating fitness locations such as wellness centers, gyms and other facilities. Healthways has been providing innovative health benefits for older adults

for more than two decades. Today more than 65 Medicare health plans offer the program as a benefit to members across the nation. Regular participation in the program has been proven to help older adults manage their health and increase strength, balance and endurance. At the request of the Vice Mayor the Parks and Recreation Department has completed an application to host this National Program. We have listed the Surfside Community Center as the host site. Healthways has provided materials to the Parks and Recreation Department to hand out during the Town's Health and Wellness Program held on January 9, 2015 at the Community Center. The Parks and Recreation Department is in contact with Healthways on a monthly basis to confirm the consideration of hosting the Silver Sneakers Program. Updates will follow. No update to the status has been provided from the Silver Sneakers Program at this time.

24. 96th Street Park Renovation

The number two item on the Parks and Recreation 5 Year Capital Plan, approved by the Town Commission, was the renovation of the 96th Street Park. This item has now moved to the forefront of the 5 year Capital Plan. This was brought before the Town Commission during the October meeting. The Community Center Second Floor Expansion Committee requested and approved a 2 year hold on the second floor project. The recommendation was to consider moving forward with the 96th Street Park renovation. This was an agenda item for the Parks and Recreation Committee in December. The committee at this time is reviewing recommendations on 96th street Park provided to the Town during the 2006 Charrette. The committee met again in January to review the Charrette and Parks and Recreation Department's recommendations and provide a priority list of Items need to be renovated or replaced during the renovation process. The items listed in order are:

1. Green Space/Athletic Field
2. Two age specific playgrounds
3. Building / Pavilion
4. Recreational Basketball Court
5. Minimal field Lighting
6. Landscaping

25. Community Center Concession Agreement

On March 6, 2011, Shaka Jons was assigned the interest, rights, responsibilities and obligations originally held by Surf Café. This was done by a first amendment to the original agreement held by Surf Café. The existing agreement was for a 3 year period and an automatic renewal option of the agreement for 3 years if both parties (Shaka Jons and Town of Surfside) were in agreement to renew. Any changes in the terms, fees or conditions would be done by written amendment to the agreement and with approval of both the Town and Contractor. At this time the Parks and Recreation Department has a mutual beneficial working relationship with Shaka Jons. During this time Shaka Jons has been providing services listed in the original agreement along with additional services requested by the Town. The Parks and Recreation does not feel the need to request any additional term, fees or conditions to the agreement. If Shaka Jons is unable to provide a service, we have the ability to seek outside vendors to provide the needed services. The existing agreement renewal date will be March 6, 2015. Within the existing agreement the Town has a Termination for Default clause. Year to date the Town has collected just over \$21,000 from Shaka Jons in revenue. It is recommended by Staff to move forward with the renewal option effective March 6, 2015 with Shaka Jons.

26. Tri-Town July 4th Celebration

The Parks and Recreation Department had preliminary talks with the Bal Harbour on the possibility of working on a joint Tri-Town July 4th Celebration to be held at 96th street beach. The proposal was presented to the Parks and Recreation Committee during the January 27, 2015 meeting. The Parks and Recreation Committee voted unanimously to keep the Town's existing 4th of July celebration as is. The Committee felt that it was a great idea to have a special event to include Bay Harbor, Bal Harbour and Indian Creek in the future. The recommendation was to possibly have the event include all the parks within the Towns. This item will be followed up by the Parks and Recreation Department moving forward.

Police Department

27. Current Issues

Traffic Issues – Town and Police Department staff met with representatives of the Florida Department of Transportation on December 18 to discuss requests from residents for the installation of traffic signals at 96 Street and Abbott Avenue, 91 Street and Collins Avenue, 92 Street and Harding Avenue, and 90 Street and Harding Avenue. FDOT reviewed and reported that 96 Street and Abbott Avenue, 91 Street and Collins Avenue, and 92 Street and Harding Avenue Town and do not meet the minimum requirements for installation. We are waiting on a response for the other intersections. PD staff and the Town Manager held a community meeting for Byron Avenue residents on January 20, 2015 on traffic issues. A Miami-Dade County Traffic Division representative was also present to answer concerns. PD has a daily detail in place during rush hour as well as temporary road closures for speed enforcement and to control cut through traffic. Future meetings are necessary to determine the preferred options.

Pilot Residential Parking Program – A ninety day pilot residential parking program will be implemented in February for the 9400 and 9500 blocks of Byron Avenue to address parking issues. A community meeting and community survey were conducted in December with overall support from residents living on these two blocks for the project. The program was also advertised in the Gazette and on the Town website. Signage has been installed on the two blocks to restricting parking to these residents only. Parking permits are ready to be picked up by residents of Byron Avenue as of February 3, 2015.

New Equipment – The new four Ford Explorers have arrived and equipment and striping are being installed. The vehicles will be ready for patrol in February.

Pay by Phone Parking – The Parking Department has researched the Pay by Phone System as a payment option for use in Surfside. The Pay by Phone System operates independent of our existing Pay Stations and is an easy and convenient way to pay for parking using a smartphone. Drivers find the system easy to use and appreciate the many user friendly options including the ability to receive

text message reminders before their parking session expires. Drivers simply follow the step-by-step instructions and can add more time from any phone without returning to their vehicle. With the Pay by Phone system there is no receipt to display in the vehicle windshield.

Parking Enforcement Officers will soon be able to use their existing handheld device (AutoCite) or any cell phone/tablet to verify who has paid. Miami-Dade County is in the process of upgrading AutoCite so that the device will be able to work in real time to verify payment from the Pay by Phone System. The County plans to launch this system in March of 2015 and there will be no additional equipment for the Town to purchase or maintain.

When using Pay by Phone, the drivers parking status is displayed on AutoCite and our Parking Enforcement Officers can verify the parking time purchased by entering the license plate number.

There are several companies operating the Pay by Phone system in our area. Most companies charge \$0.35 per transaction and the Town has the option to add that cost to the parking rate. For example, if a driver purchased two (2) hours of parking it would cost them \$2.85 (\$1.25 per hour plus \$0.35 transaction fee). The Town would receive a monthly payment for the number of parking hours purchased and the transaction fees would go to the Pay by Phone company.

The six month pilot program with the Pay By Phone Company will be implemented in March 2015 to see how the system works for the Town. The signs will be provided by the company at no cost to the Town. At the end of the six month period the Town can cancel the service or piggyback off a competitively bid contract that was recently awarded by the Miami Parking Authority. There are no additional costs to the Town for this service.

Mobile DMV – The PD will sponsor a Department of Motor Vehicle event on February 19, 2015, 9:30 am -2:30 pm in the Training Room. Residents may renew or replace their driver's

Public Works

28. Landscape Contract

In 2011 the Town piggy-backed on a landscape contract that the City of Aventura awarded to Luke's Landscape (Luke's) in 2009. The Town terminated its contract with Luke's in January 2015 but asked them to continue providing services on a month-to-month basis and they agreed.

Staff was directed to prepare a new RFP for landscape services but realized that it could potentially result in a 30% increase in pricing over the terminated contract because that contract was based on 2009 pricing from the City of Aventura contract.

Staff recommends that the Town delay issuing a new landscape RFP and restore the original contract with Luke's. This is a cost savings measure that will not affect any of the services currently being provided. The original contract with Luke's expires June 2016 and staff will prepare a new landscape RFP to be issued in the spring of 2016. **(Action Item)**

Town Clerk

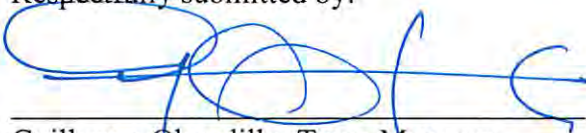
29. Electronic Comments during Commission Meetings

Staff was asked to research methods of allowing residents who are unable to attend Commission meetings to participate electronically.

Staff surveyed fifteen (15) local municipalities and only two (2) allow electronic comments. One municipality requires comments to be submitted 48 hours prior to the meeting and the other reads the comments live but do not respond.

After researching the options, Staff concluded that this will place a burden on the length of the Town Commission meetings, in addition, a staff member would need to be assigned to receive, review and read the comments/questions into the record. The Administration also has concerns about the anonymous nature of this form of communication. Staff does not recommend moving forward with this item.

Respectfully submitted by:




Guillermo Olmedillo, 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: Guillermo Olmedillo, Town Manager
 Jane Graham, Assistant Town Attorney

DATE: February 10, 2015

SUBJECT: Office of the Town Attorney Report for February, 2015

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

January 13, 2015 – Town Commission Meeting
 January 21, 2015 – Beach Sand Quality Regulations Discussion Meeting
 January 22, 2015 – Design Review Group Meeting
 January 27, 2015 – Parks and Recreation Committee Meeting
 January 29, 2015 – Planning and Zoning and Design Review Board Meeting
 February 2, 2015 – Tourist Board Meeting

Ordinance for Second Reading:

- 10% Windows

Ordinance for First Reading:

- Beach Sand Quality Regulations
- Styrofoam/Expanded Polystyrene Policy

Town Commission/Town Manager:

- Research and prepare memorandum on public participation and Commission participation in Town meetings
- Research and prepare ordinance on Beach Sand Quality Regulations. Confer with experts, state and county agency representatives, and members of the public on the issue. Organized and attended public meeting for interested parties to review the draft ordinance.
- Research and draft ordinance on Polystyrene Foam (Styrofoam)
- Participated in webinar “Preparing Florida for the Future: Opportunities for Resilience in Local Communities,” hosted by Southeast Florida Climate Change Compact
- Review and research Florida Statutes and Town Rules of Procedure for Public Meeting
- Follow up on Point Lake/North Canal – ownership of submerged lands
- Review for revisions to variance criteria
- Parking – Research Florida Statutes 287.057(4)-(6) – Public-Private Partnerships
- Research short-term rentals and preemption
- Follow up with Miami-Dade County Attorneys regarding Miami-Dade County ordinances on historic preservation including Commissioner Sally Heyman’s additional sponsorship of an ordinance to require at least 75 percent of unit owners in a condominium or cooperative property to join a petition to initiate an historical designation proceeding. A public hearing to consider the ordinance has been set for Wednesday, February 11, 2015 at 2:00 p.m. at the County Commission Chambers located in the Stephen P. Clark Building, 111 NW 1st Street, 2nd Floor.

Town Clerk:

- Notice requirements
- Zoning in Progress notice requirements
- Public Records Management training
- Follow up with Ethics Training for elected officials
- Follow up with Miami-Dade County notification regarding March 2016 Election

January 29, 2015 Planning and Zoning and Design and Review Board:

Design Review Board Applications:

- A. 9024 Harding Avenue – After the Fact Carport
- B. 8834 Froude Avenue – Garage Conversion
- C. 9217 Bay Drive – Garage Conversion
- D. 9472 Byron Avenue – Garage Conversion
- E. 9482 Harding – Sign for Nikki’s Beachhouse Boutique
- F. 9455 Harding – Sign for Provence Touch
- G. 8858 Froude Avenue – Addition
- H. 9181 Abbott Avenue – New Single Family Home
- I. 8842 Hawthorne Avenue – Addition & renovation
- J. 8811 Emerson Avenue – New Single Family Home [Item Deferred]
- K. 8712 Byron Avenue – New Single Family Home [Item Deferred]
- L. 8718 Byron Avenue – New Single Family Home [Item Deferred]
- M. 8726 Byron Avenue – New Single Family Home [Item Deferred]

Planning and Zoning Discussion items:

- A. Corridor Analysis Update
- B. Practical Difficulty Variance Language
- C. Future Agenda Items

Building Department/Code Enforcement:

- Review master plan for sidewalk café accessible route
- Follow up with Code Enforcement for on-going settlement of cases
- Research and draft memorandum on noise restrictions, emergencies and construction and special events

Finance Department:

- Follow up and analysis for Grant Writing, VOIP and ERP proposal/agreements
- Participated in staff workshop on Enterprise Resource Planning Software

Human Resources:

- Review Agreement for Human Resources and Police Department for electronic live scan

fingerprinting

Parks and Recreation:

- Continued analysis for follow-up to FDEP for beach concession and jurisdiction of beach management
- Review policy for Parks and Recreation for health and safety of patrons
- Review and analyze concession contract for Community Center

Tourist Bureau/Downtown Vision Advisory Board/Tourist Board:

- Post Office - Public-Private Partnership discussions and review
- Review Resort tax compliance
- Research and analysis of solicitation of sponsorships/donations and bequests to the Town
- Follow-up review for amendment to film ordinance
- Review and research social media policies of Miami-Dade municipalities

Public Works:

- Follow up with City of Miami Beach (“CMB”) regarding CMB–Surfside Sewage Conveyance Services Agreement
- Revise draft Maintenance Agreement for pavers for Grand Beach

Police Department:

- Review the PayByPhone Agreement

Florida Municipal Insurance Trust (“FMIT”) investigates claims and provides legal representation for the Town on the following claims/lawsuits:

1. On September 1, 2013, a resident was walking on the north-most sidewalk in the 200 block of 93rd Street when she tripped on a raised portion of the sidewalk and fell to the ground. The Surfside Police Incident Report indicates the resident sustained a contusion on her right elbow and abrasions to her chin and both knees. Settlement negotiations ongoing.
2. Julien Deleon - Equal Employment Opportunity Commission (EEOC) Charge #510-2014-05171. Mr. Deleon has filed a Notice of Charge of Discrimination against the Town.

3. Asya Yakobson alleges injuries and vehicle damage occurred on November 18, 2014. She alleges her car was hit by a Surfside police vehicle. The police vehicle was driven by an employee of a car repair dealer who was returning the police vehicle to Town Hall. FMIT is investigating the claim.
4. Donald McGavern vs. Surfside, State of Florida Office of the Judge of Compensation Claims, OJCC Case NO. 14-007583RJH. Claimant, McGavern filed an appeal of a denial of his Workers' Compensation Claim. Discovery is on-going.
5. Pieter Bakker vs. Town of Surfside, a municipal corporation of the State of Florida and Young Israel of Bal Harbour, Inc. On May 30, 2012, Pieter Bakker filed a complaint in State Court against the Town which alleges counts against the Town including 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. On September 30, 2013, the Court ordered this matter to be transferred to the Appellate Division. Petitioner, Mr. Bakker filed an Amended Petition for Writ of Certiorari and De Novo Complaint and a Motion for Summary Judgment. The Court has issued an Order dismissing the Amended Petition for Writ of Certiorari without prejudice. Petitioner, Pieter Bakker has filed a Third Amended Petition for Writ of Certiorari. Surfside has filed a Motion To Dismiss Third Amended Petition For Writ Of Certiorari.

Special Matters:

- Continued monitoring of new case law and legislation on Federal, State, and County.
- Participated in St. Thomas University School of Law Pro Bono & Public Service career fair.



TOWN OF SURFSIDE
 PROJECTS PROGRESS REPORT
 CALVIN, GIORDANO & ASSOCIATES, INC.
 February, 2015

1. **Planning and Community Development** – The Miami-Dade Historic Preservation Board designated 9149 Collins Avenue, Seaway Villas and 9340 Collins Avenue, Bougainvillea Apartments as historic structures. However, a condominium owner at the Seaway Villas has requested an appeal of the designation. An appeal must be heard before the Miami Dade County Commission. As of now, a hearing date has not been set. Miami-Dade County’s Office of Historic Preservation has issued a moratorium on permits for the following addresses: 9016 Collins, 9024 Collins, 9025 Harding, 9033 Harding, 9040 Collins, 9048 Collins, 9056 Collins, 9064 Collins. A designation hearing has been deferred on these properties until March 2015. The condominium board of 9241 Collins, Seaside Terrace, requested historic designation from the County, which will be heard by the Board in February. This property currently has a moratorium on building permits. Planning staff have commenced an analysis on the zoning criteria for the block between Collins Avenue and Harding Avenue in November. A special meeting to discuss the corridor analysis will occur with the Planning and Zoning Board in February. Also, a resident requested that the Town consider increasing lot coverage to 50% from 40% of a lot. After many months of discussion, this has been modified to a site specific approach through a practical difficulty variance. This was first discussed at Planning and Zoning in January and will return, after input was provided by the Board, again as a discussion item at Planning and Zoning’s meeting in February. An ordinance addressing this request will be on an upcoming Commission meeting. Staff continues to answer approximately 85-100 zoning questions monthly and reviews permit applications.

2. **Information Technology & TV Broadcasts** - The network cable for the gas pump was installed on January 15. The upgrade for the panic alarm located at Town Hall has been approved. The control panel will be located in Dispatch and the panic buttons will be located throughout Town Hall. IT is currently researching Laser printers for MICA paper for the Finance Department. SQL has been upgraded for the Badger meter reading software and the new version has been installed. IT will be installing the eReport form upgrade to each of the police laptops. IT assisted the Police Department with the FDLE audit and IT has made the necessary changes to satisfy FDLE’s requirements, however IT is waiting on disclaimer text for the police laptops.

3. **Public Utilities / Engineering** – **Public Utilities / Engineering** – The 1 year warranty video of the sanitary sewer mains has commenced and is 100% complete. The engineers have reviewed 72 of the main line sewer runs and have accepted 43 of them. The unaccepted sewer mains will require the line be cleaned and re-televised or require minor repairs that

will be completed by the Contractor at no cost to the Town. The Contractor is currently working with his subcontractor to schedule the main line repairs.

Funding Summary –

<u>Funding Status:</u>	<u>Amount</u>	<u>Amount Received</u>
FDEP Grant	\$873,500	\$873,500
FDEP Grant	\$125,000	\$125,000
FDEP Grant	\$100,000	\$100,000
FDEP State Revolving Fund Loan	\$9,312,881	\$7,339,928 *
BBC Bond	\$859,000	\$859,000
TOTAL	\$11,270,381	\$9,225,928

***Request # 3 has been submitted for the full \$9,312,881. The final report has been submitted to the state.**

4. **Town-Owned Seawall Repair** – This item was presented at the November 6, 2014 Special Commission Meeting and received direction to proceed with Option 5 (total of 5 walls) for the budgeted amount of \$1,138,000.00 (additional grant received for \$38,000 from the state). CGA has received approval from FIND to commence with Option 5. CGA has issued Contract Documents to the Contractor (PAC COMM INC) in January 2015. PAC is currently requesting bonding and insurance documents for the Contract. Preparatory work commenced in January 2015 and the crane barge is anticipated to arrive in February 2015. The project is scheduled to be complete 160 days from issuance of the Notice to Proceed.

5. **Biscaya Island Drainage Project** – This project is completed with the exception the installation of the final tide flex valve at the bridge side of the project (ordered and scheduled to arrive mid-February 2015). The final landscaping restoration was completed in January 2015.



**TOWN OF SURFSIDE
PLANNING AND ZONING BOARD
AND
DESIGN REVIEW BOARD MEETING**

Town Hall Commission Chambers
9293 Harding Ave., 2nd Floor
Surfside, Florida 33154

**OCTOBER 30, 2014
7:00 PM**

MINUTES

DESIGN REVIEW BOARD

1. CALL TO ORDER

Chair Lindsay Lecour called the meeting to order at 7:02 pm.

2. ROLL CALL

Recording Clerk Frantza Duval called the roll with the following members present: Board Member Peter Glynn, Chair Lindsay Lecour, Vice Chair Jacob Kligman, Board Member Armando Castellanos, Board Member Jorge Gutierrez, Board Member Jessica Weiss. Board Member Moisha Rubenstein was absent.

Commissioner Cohen attended as liaison and arrived at 7:04 p.m.

Board Member Rubenstein arrived at 7:33 p.m.

3. APPROVAL OF MINUTES: **September 30, 2014**

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

4. DESIGN REVIEW BOARD APPLICATIONS:

A. Request of the Owner of Property located at 9455 Collins Avenue

The applicant is requesting to install a monument sign.

Town Planner Sarah Sinatra presented the item.

Board Member Castellanos made a motion to approve with the following condition:

1. sign shall be setback five feet from the property line.

The motion received a second from Board Member Gutierrez and all voted in favor with Board Member Rubenstein absent.

B. Request of the Owner of Property located at 9458 Harding Avenue

The tenant is requesting to install a wall sign.

Town Planner Sarah Sinatra presented the item. Representing the applicant, the sign installer Carlos Blanco spoke in favor of the project and gave more details. Board Member Glynn questioned the lighting as perhaps being too bright and using a dimmer may help. Applicant Ronnie Lustigman spoke and gave some input on the item. Board Member Gutierrez mentioned that they also clean up the facade.

Board Member Gutierrez made a motion to approve with the recommendation of staff and that the lights are white to blend. The motion received a second from Board Member Castellanos and all voted in favor with Board Member Rubenstein absent.

C. Request of the Owner of Property located at 9033 Emerson Avenue

The applicant is requesting to add a new bathroom and a walk in closet to the master bedroom.

Town Planner Sarah Sinatra presented the item. The architect gave a presentation on the addition.

Board Member Gutierrez made a motion to approve. The motion received a second from Board Member Castellanos and all voted in favor with Board Member Rubenstein absent.

D. Request of the Owner of Property located at 9480 Bay Drive

The applicant is requesting to build a new single-family house.

Town Planner Sarah Sinatra presented the item and staff is recommending approval. Representing the applicant, architect Ed Landers gave a power point presentation showing the proposed project plans.

Chair Lecour mentioned the code requirement of trees in the front. Manager Sinatra said although they were not shown in the slide presentation the applicant is aware of the code and will comply.

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

E. Request of the Owner of Property located at 9432 Bay Drive

The applicant is requesting to build an addition.

Town Planner Sarah Sinatra presented the item and had recommendations. The applicant Karen Pritchard showed pictures of the house they are trying to replicate as well as graphics showing a rendering of the existing home and the modifications they are planning.

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

1. Reduce the curb cuts to one
2. Provide 10% wall openings on each elevation

The motion received a second from Board Member Castellanos and all voted in favor.

F. Request of Property Owner of Property located at 8934 Froude Avenue

The applicant is requesting a garage conversion.

Town Planner Sarah Sinatra presented the item and staff is recommending approval. Applicant Philippe Azouley spoke and satisfactorily answered questions posed by Board.

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

G. Request of Property Owner of Property located at 8874 Dickens Avenue

The applicant is requesting a first floor and second floor addition.

Town Planner Sarah Sinatra presented the item. Representing the applicant Dr. Socarras, Linda Rinaldi gave a slide presentation of the proposed project.

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

H. Request of the Owner of Property located at 801_ 88th Street

The applicant is requesting to build an addition.

Town Planner Sarah Sinatra presented the item and staff is recommending a variance. Representing the applicant, architect Ari Sklar gave a power point presentation. The Board had some suggestions and questions which were addressed.

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


1. Approval of the variance application to connect the existing accessory structure to the primary structure.
2. The pool equipment shall not be within the ten foot setback.

The motion received a second from Board Member Castellanos and all voted in favor.

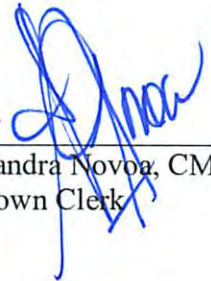
5. ADJOURNMENT.

There being no further business to come before the Design and Review Board the meeting adjourned at 7:57 p.m.

Accepted this 8 day of January, 2014


Chair Lindsay Lecour

Attest:


Sandra Novoa, CMC
Town Clerk

PLANNING AND ZONING BOARD
MINUTES
OCTOBER 30, 2014
7:00 PM

1. CALL TO ORDER

Chair Lindsay Lecour called the meeting to order at 7:58 pm.

2. ROLL CALL

Recording Clerk Frantza Duval called the roll with the following members present: Board Member Peter Glynn, Chair Lindsay Lecour, Vice Chair Jacob Kligman, Board Member Armando Castellanos, and Board Member Moisha Rubenstein. Commissioner Cohen attended as liaison.

3. APPROVAL OF MINUTES: September 30, 2014

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

4. QUASI-JUDICIAL APPLICATION:

A. 801- 88th Street Variance–

A RESOLUTION OF THE TOWN OF SURFSIDE, FLORIDA PLANNING & ZONING BOARD CONSIDERING THE APPLICATION OF 801_88TH STREET TO PERMIT A VARIANCE FROM THE REQUIREMENTS OF SECTION 90-54.5 OF THE TOWN OF SURFSIDE CODE OF ORDINANCES; TO CONNECT A DETACHED GARAGE TO THE HOME TO ALLOW THE EXISTING SINGLE FAMILY HOME TO CONVERT THE GARAGE TO ADDITIONAL LIVING SPACE; PROVIDING FOR RECOMMENDATION OF APPROVAL; PROVIDING FOR AN EFFECTIVE DATE.

Chair Lecor spoke about the process and confirmed that compliance with advertising notice requirements have been met.

Town Attorney Miller asked if anyone had ex-parte communications with the Applicant or any objector. All members of the Board said they had no ex-parte communications with the applicant.

Recording Clerk Frantza Duval swore in everyone wishing to speak in favor or against the item.

Recording Clerk Frantza Duval read the title of the Ordinance.

Town Planner Sarah Sinatra presented the item and said staff is recommending approval to the Town Commission. The Board did not have any questions and were in agreement as presented. There being no public speakers to voice any input Chair Lecour closed the public hearings.

Board Member Rubenstein made a motion to recommend approval to the Town Commission. The motion received a second from Board Member Castellanos and all voted in favor.

5. ORDINANCES:

A. Sight Triangle Ordinance –

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 “ZONING” AMENDING CODE SECTION 90-52 “REQUIRED CLEARANCES” AND STRIKING CODE SECTION 90-92 “SIGHT TRIANGLES AND CLEARANCES”; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Recording Clerk Frantza Duval read the title of the Ordinance. Code Compliance Director Joseph Damien presented the item.

The Board discussed the problems of hedges and Commissioner Glynn said although he is against the cutting down of hedges which in some cases are very beautiful, he fears that the town can be sued if there was an incident because there was an obstruction of visibility due to tall hedges. Vice Chair Kligman was in agreement with Commissioner Glynn. Director Damien said he was comfortable with the ordinance and gave more details on the issue. Town Attorney Miller said they worked very closely on the language of the ordinance and the Town Commission has approved the first reading. There was much discussion regarding the placement of some stop signs and where the stop line bar should be. Attorney Miller was able to address questions from the Board.

Board Member Rubenstein made a motion to recommend to the Town Commission. The motion received a second from Board Member Castellanos and all voted in favor.

6. DISCUSSION ITEMS:

A. Lot Coverage - Town Planner Sarah Sinatra presented the item and explained this was discussed at the last meeting and at the Commission Meeting. Planner Sinatra had a power point presentation to give further details on the subject. Vice Chair Kligman would rather not change the code but have an applicant apply for a variance. Board Member Rubenstein thinks

the size of a family should not have anything to do with increasing the size of an existing home as that is an individual decision. Board Member Glynn said he felt spreading out the first level was better. Adding a second floor addition would result in a neighbor having less light and air.

Planner Sinatra will prepare additional language to limitation of the size of homes on smaller lots and present it to the Town Commission in a first reading ordinance format. It will then be brought back to Planning and Zoning

Commissioner Cohen left the meeting at 8:55 p.m.

B. Future Agenda Items -

Chair Lecour would like to review in more detail the building or expansion of homes as to what is aesthetically right for the town.

Board Member suggests we ask architects to raise their buildings one foot and the town would give them an additional foot in height. Planner Sinatra will do some research on this item.

Chair Lecour would like to see more specifics regarding retail illumination.

The next meeting of the Planning and Zoning Board will be Wednesday, December 3, 2014.

7. PERMITS ISSUED AND REVENUE REPORT FOR SEPTEMBER 2014.
[To be delivered separately]

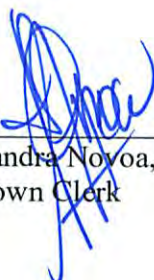
8. ADJOURNMENT.

There being no further business to come before the Planning and Zoning Board the meeting adjourned at 9.14 p.m.

Accepted this 8 day of January, 2014


Chair Lindsay Lecour

Attest:


Sandra Noyoa, CMC
Town Clerk



TOWN OF SURFSIDE
Tourist Board Meeting
Monday November 3, 2014 – 6:00 p.m.
Town Hall Commission Chambers
9293 Harding Avenue, 2nd Floor
Surfside, FL 33154

MINUTES

Tourist Board Members

Chair Michelle Kligman
Vice Chair Dr. Elizabeth Levine
Sandra Argow
Joel Baum, CPA
Barbara Cohen

Town of Surfside

Eli Tourgeman, Vice Mayor / Commission Liaison
Duncan Tavares, TEDACS Director
Frantza Duval, Recording Secretary

**** Out of respect for the Board, Town Staff and the Public please turn off your electronic devices****

I. Call to Order and Roll Call

Vice-Chair Dr. Elizabeth Levine called the meeting to order at 6:05pm.

All of the above listed Board members were present, with the exception of Joel Baum. Chair Michelle Kligman arrived at 6:28pm. A quorum was established. Duncan Tavares requested to move a discussion item however the Vice Chair wanted to proceed with the agenda as presented.

Also in attendance: Michael Crotty, Town Manager; Mayor Daniel Dietch; Linda Miller, Town Attorney; Manny Anon Jr., Assistant Town Attorney, Nissa Benjamin, Marketing and Special Projects.

Approval of August 11, 2014 Meeting Minutes

Barbara Cohen motioned to approve the minutes; Sandra Argow seconded the motion. The motion passed unanimously and the minutes were approved.

II. A/R ~ Resort Tax

Duncan Tavares advised that the Finance Department was not able to provide an update. He will email the Board the update once he has it available. He advised that the Finance director has been meeting with the resort tax auditors. The report will also be available at the next meeting. Michael Crotty, Town Manager, advised that the list of auditors have been approved.

III. Mobile APP Update

Duncan Tavares advised that this item was on the Town Commission agenda in October. The item was pulled from the Consent Agenda for discussion but was never discussed. It will be brought back before the Town Commission at the November 6 Special Meeting.

IV. Third Thursdays ~ Requesting Member input on next year's event series.
Duncan Tavares advised that it would be held from January - April 2015.
The format would be the same as last year with the live music, additional entertainment break in the middle and the food trucks. He will come back in December with the details and the full program for January-April 2015.

Vice-Mayor Tourgeman would like to see Third Thursday advertised at the Grand Beach Hotel.
Dr. Elizabeth Levine stated that the couches help provide a relaxed atmosphere and generate more people.

Sandra Argow inquired about food trucks coming on the weekend as some restaurants are closed on Friday and Saturday nights. Dr. Elizabeth Levine said that this would be a separate issue, but the idea can work for another event such as an antique car show.

She also feels like the Board has not been moving in a productive manner, which is primarily due to canceled meetings.

Barbara Cohen made a motion to approve moving ahead with the Third Thursday event series;
Chair Michelle Kligman seconded the motion. The motion passed unanimously.

V. Sister Cities ~ Identifying a possible program for Surfside.
Duncan Tavares provided an overview of the Sister City program. He advised that there is currently a Town in Quebec interested in pairing with Surfside as a possible sister city. Dr. Elizabeth Levine made a motion to move forward with a sister city program as a discussion item for a future meeting. Barbara Cohen seconded the motion. The motion passed unanimously.

VI. Dates for a Joint Meeting with the Town Commission
Duncan Tavares advised that if the Town Commission approves of the date, then the Tourist Board's December 8, 2014 regular meeting would be a joint meeting with the Town Commission. This would extend the meeting time if it occurs.

VII. Next Tourist Board Meeting: Monday December 8, 2014 at 6:00pm ~ FY1415 Strategic Plan
Barbara Cohen made a motion to approve the December monthly meeting from the 1st to the 8th;
Sandra Argow seconded the motion. The motion passed unanimously.

VIII. Public Comment
Duncan advised that there are a number of businesses hosting events next week (The Vet, Scarlet Letter, and Le Beau Maroc) and that November 13, 2014 would be a good start date for the lights to be turned on. The Board agreed. The actual holiday decorations and entrance lighting features are due to be installed before Thanksgiving.

IX. Adjournment
Sandra Argow made a motion to adjourn the meeting; Dr. Elizabeth Levine seconded the motion. The motion passed unanimously. The meeting ended at 6:47pm.

Accepted this 12 day of January, 2014 5

Michelle Kligman
Member (Print)
Michelle Kligman
Signature

Attest:
Frantza Duval
Frantza Duval
Recording Clerk



TOWN OF SURFSIDE

MUNICIPAL BUILDING
9293 HARDING AVENUE
SURFSIDE, FLORIDA 33154-3009

PARKS AND RECREATION ADVISORY COMMITTEE MEETING

Monday December 15, 2014

7:00 pm

Surfside Community Center
9301 Collins Avenue

MINUTES

1. Roll Call of Committee Members

The meeting called to order by Retta Logan at 7:03pm.

Also in attendance: Alberto Aguirre, Eliana Salzhauer, Tim Milian, Parks and Recreation Director, Shlomo Danzinger, Veronica Lupinacci, Marta Olchyk, Liaison, Frantza Duval, Recording Clerk, Linda Miller, Town Attorney, Jane Graham, Assistant Town Attorney.

2. Approval of minutes from 11/17/14

Shlomo Danzinger made a motion to approve the November 17, 2014 minutes; Alberto Aguirre seconded the motion. The motion passed unanimously. The minutes were approved.

3. 96th Street park renovation review

Veronica Lupinacci – Entered the meeting at 7:07pm

Eliana Salzhauer – Entered the meeting at 7:08pm

Tim Milian provided an overview of the 5-year capital plan concerning 96th street Park. Tim provided a rendering of the Charette with construction being done in the park.

Suggestions included two age specific playgrounds with a new park entrance near the pink house. The rendering also suggested placing the building near the bay.

Tim Milian wants the Committee to review the information, to think about how they would maximize the green space, and to bring it back at the next meeting along with a priority list.

Retta Logan inquired as to how long the park would be down. Tim anticipates that the park to be renovated in three-four months not including the building, depending on its scope of work.

Marta Olchyk inquired as to what needs to be done to move forward. Tim advised that the next step would be to have community input on priorities, identify funds, and choose an architectural firm from the Town's RFP list.

The Committee does not like the idea of a sandbox in the park.

The five-year capital budget amount for the park renovation is \$675K.

The ideal time for the park to be closed is in the summer.

Eliana Salzhauer inquired about placing the new playground equipment in the green space behind the community center during construction.

Marta exited the meeting at 7:46pm.

The next parks and recreation meetings are:

January 27, 2015, Tuesday

February 23, 2015, Monday

Veronica Lupinacci wants to know from Tim what he wants to see as far as programming at the park.

Eliana Salzhauer suggested making Bay drive and 96th street a dead-end.

Tim advised that lighting would also need to be considered.

Board would like to see more than one story on the athletic building (multi-purpose room), if possible.

Linda Miller needs to speak with Sarah Sinatra about the height of the building as per Town code.

4. Community Input

The Board enjoyed the winter extravaganza again this year.

Eliana brought up bringing the Hip-hop dance class to Town. Tim advised that he would like to see what programs can be dropped.

The Board agrees that the After School Program is awesome. Tim stated that the program has so far brought in \$3600 in revenue

5. Meeting Adjournment

Veronica Lupinacci made a motion to adjourn the meeting, Eliana Salzhauer seconded the motion. The motion passed unanimously. The meeting ended at 805pm.

Accepted this 27 day of Jan., 2015

Ketta Logan

Member (Print)

[Handwritten Signature]

Signature

Attest:
[Handwritten Signature]
Frantza Duval
Recording Clerk



TOWN OF SURFSIDE
Tourist Board Meeting
Monday December 15, 2014 – 6:00 p.m.
Town Hall Commission Chambers
9293 Harding Avenue, 2nd Floor
Surfside, FL 33154

MINUTES

Tourist Board Members

Chair Michelle Kligman
Vice Chair Dr. Elizabeth Levine
Sandra Argow
Joel Baum, CPA
Barbara Cohen

Town of Surfside

Eli Tourgeman, Vice Mayor / Commission Liaison
Duncan Tavares, TEDACS Director
Frantza Duval, Recording Secretary

**** Out of respect for the Board, Town Staff and the Public please turn off your electronic devices****

I. Call to Order and Roll Call

Vice-Chair Dr. Elizabeth Levine called the meeting to order at 6:10pm.

All of the above listed Board members were present, with the exception of Chair Michelle Kligman who was set to arrive later. A quorum was established.

Also in attendance – John Di Censo, Interim Town Manager, Jane Graham, Assistant Town Attorney, Linda Miller, Town Attorney, Harald Bindeus, Grand Beach Hotel, Gil Katzman, resident, Jeff Lehman, resident, Commissioner Barry Cohen

Sandra Argow thanked the Board for the decision on the holiday lights.

II. Approval of November 3, 2014 Meeting Minutes

Barbara Cohen motioned to approve the minutes as amended; Sandra Argow seconded the motion. The motion passed unanimously and the minutes were approved.

III. A/R ~ Resort Tax

Duncan Tavares stated that there are some outstanding payments from the same merchants that are usually late. There have been efforts to reach out to those that have outstanding payments. He also stated that the Town's resort tax collections almost reached the one million dollar mark in FY 13/14/.

IV. Meeting Start Time

Barbara Cohen made a motion to defer this item until the Chair arrived. Receiving no second, the motion died.

Duncan Tavares advised that the Chair is unable to make the 6pm meeting due to traffic. The Chair's request is to move the meeting to 6:30pm. Joel Baum made a motion to move the meeting to 6:30pm; Barbara Cohen seconded the motion. The motion carried with a vote of 3-1, with Sandra Argow voting in opposition.

The new time change is effective as of the Board's January meeting.

V. Downtown Bench Sponsorships

Duncan Tavares advised that the sponsorship of downtown benches is up for discussion. He then deferred the item to Vice Mayor Tourgeman to facilitate the discussion.

Vice-Mayor Tourgeman advised that at least five merchants were interested in becoming sponsors and would like a plaque to be affixed to the bench. He stated that there are nine benches up for sponsorship and, if it is the will of the Board, additional benches could be purchased. Duncan Tavares stated that Florida Department of Transportation (FDOT) approved the streetscape plan as executed and that they would need to review any placement of additional benches and may require a percentage of the sponsorship revenue. Sandra Argow inquired if the sponsorships are open to Surfside businesses only. Vice-Mayor Tourgeman advised that the previous Board did not discuss this. However it is something that the current Board could discuss. Dr. Elizabeth Levine stated that some merchants would be interested in co-sponsorships. She is in favor of opening up sponsorships to local businesses and residents. Town Attorney Linda Miller suggested that the Board discuss the six questions Duncan Tavares included in the agenda packet and that the Board's responses could then be presented to the Town Commission. Resident Gil Katzman inquired if there is a term limit on the sponsorship.

Chair Michelle Kligman entered the meeting at 6:37pm.

Barbara Cohen asked about placing benches on the beach path similar to those seen in Bal Harbour. Town Attorney Linda Miller advised that this item would need to be researched as the beach is not under the Town's jurisdiction. Sandra Argow motioned to discuss this item; Joel Baum seconded the motion.

1. ***Should the Town seek sponsorship of the benches?***
All voted in favor with the exception of Barbara Cohen.
2. ***Should there be a plaque attached to the benches or is there another suggestion?***
Sandra Argow stated that this question is vague. Duncan Tavares advised that the Town is not sure on how the plaques would be affixed due to the composition of the benches. He requested that the decision be left to staff due to the environment/location of the benches. Sandra Argow suggested a separate post near the benches. All voted in favor of a plaque with the exception of Barbara Cohen.
3. ***What form of sponsorship should that entail? The price, length of time of sponsorship, what is permissible to state on a plaque, etc...***
Sandra Argow stated that a set of rules needs to be put in place for the plaques (perhaps a one-time sponsorship). Dr. Elizabeth Levine suggested doing it based on the size of the plaque. (maybe include a business name/logo). Sandra Argow suggested that the incorporation year of each business be listed on the plaque.
4. ***Should sponsorship be limited to downtown businesses?***
Sandra Argow asked who would determine who could or could not be a sponsor. Duncan Tavares advised that the Town would be responsible for setting the criteria.
5. ***Should the sponsorship opportunity be available to residents?***
The Board agreed that is should.
6. ***Should the Town buy additional benches and install wherever a business or resident desires in order to secure sponsorship?*** Vice-Mayor Tourgeman recommended that for new benches the full sponsorship (cost of the benches) be paid.

VI. Date For Removal Of Downtown (Holiday) Tree Lights

Sandra Argow suggested that holiday lights be put on the roundabouts throughout the residential district of town.

Barbara Cohen made a motion that the lights be kept on past the holiday season; Dr. Elizabeth Levine second the motion. The motion passed unanimously. Barbara Cohen advised that by holiday season she means the end of March. Sandra Argow made a motion to keep the holiday lights on until Presidents Day, which is February 16, 2015; Dr. Elizabeth Levine second the motion. The motion carried with a vote of 3-2, with Michelle Kligman and Barbara Cohen voting in opposition.

Vice Mayor Tourgeman stated that everyone is very satisfied with the holiday lights and he reminded the Board, and residents, of the holiday lights judging in the residential district on Monday December 22, 2014.

VII. Monday February 2, 2015 a Joint Meeting with the Town Commission

Barbara Cohen made a motion to start the regular Tourist Board meeting at 6:30 and then move to the Joint Meeting with the Commission at 7:00pm; Sandra Argow seconded the item for discussion purposes. After brief discussion, the motion failed.

Dr. Elizabeth Levine made a motion to forgo that evening (February 2, 2015) as a regular Tourist Board meeting and make it a Joint Meeting with the Commission only at 7pm, and leaving an option for the Board to set a second meeting later that month if necessary; Sandra Argow second the motion. The motion passed.

Duncan Tavares will update the board on the availability of the Commission via email. If the Commission is not available, the regular Tourist Board meeting will take place on February 2, 2015 at 6:30pm.

VIII. Small Business Saturday Update

Duncan Tavares advised that Small Business Saturday was a success. He received great feedback from participating merchants. The entire promotion, including a number of videos, was produced for approximately \$750.

IX. Mobile APP Update

Duncan Tavares advised that the app is moving forward for a mid-January launch.

X. Third Thursdays ~ Requesting Member input on next year's event series

Duncan Tavares is preparing to enhance each Third Thursday event. There will be a theme every month with January being Havana nights. Vice-Mayor Tourgeman inquired if Grand Beach is on board for promotion of the event within the hotel. Duncan Tavares stated that the Town has a good working relationship with the concierge at Grand Beach and he will work with them to ensure the information is disseminated. Sandra Argow made a motion to approve the principal idea of Third Thursday; Barbara Cohen seconded the motion. The motion passed unanimously. Dr. Elizabeth Levine recommended that next year there be a "decades" theme: " 50s, 60s, 70s, 80s.

XI. Trade Show Support for GBHS

Harald Bindeus thanked the Town for their continued help and support. Sandra Argow suggested that the Grand Beach host something similar to the SoBe Food and Wine festival. Barbara Cohen

moved to support Grand Beach with the registration/participation expenses for their upcoming trade shows and sales missions as presented; Sandra Argow seconded the motion. The motion passed unanimously.

XII. FY 14/15 Tourism Plan Approval Per Five Year Tourism Plan

Duncan Tavares presented the plan that will be followed per the adopted Five Year Strategic Plan and asked the Board if there were any questions. There were none.

XIII. Next Tourist Board Meeting: Monday January 12, 2015 at 6:30pm (*Change from January 5 and with the new time*)

Dr. Elizabeth Levine made a motion to change the meeting from January 5 to January 12, 2015; Barbara Cohen seconded the motion. The motion passed.

XIV. Public Comment

Vice-Mayor Tourgeman mentioned that the Ruth K Broad K-8 School choir would be caroling throughout downtown on December 17.

Sandra Argow inquired if new turtle calendars are being created. Duncan Tavares advised that the current calendars are 18-month long.

XV. Adjournment

Sandra Argow made a motion to adjourn the meeting; Dr. Elizabeth Levine seconded the motion. The motion passed unanimously. The meeting ended at 7:47pm.

Accepted this 12 day of January, 2014⁵

Michelle Kligman
Member (Print)

Michelle Kligman
Signature

Attest.

Frantza Duval
Frantza Duval
Recording Clerk



**TOWN OF SURFSIDE
PLANNING AND ZONING BOARD
AND
DESIGN REVIEW BOARD MEETING**

Town Hall Commission Chambers
9293 Harding Ave., 2nd Floor
Surfside, Florida 33154

**JANUARY 8, 2015
7:00 PM**

(Re-Scheduled from December 3, 2014)

MINUTES

DESIGN REVIEW BOARD

1. CALL TO ORDER

Chair Lindsay Lecour called the meeting to order at 7:02 pm.

2. ROLL CALL

Recording Clerk Frantza Duval called the roll with the following members present: Board Member Peter Glynn, Chair Lindsay Lecour, Vice Chair Jacob Kligman, Board Member Armando Castellanos, Board Member Jessica Weiss and Board Member Moisha Rubenstein. Board Member Jorge Gutierrez was absent.

Chair Lecour introduced and welcomed the new Town Manager, Guillermo Olmedillo. Manager Olmedillo said he looks forward to working with the town of Surfside.

1.

3. APPROVAL OF MINUTES: **OCTOBER 30, 2014**

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

4. DESIGN REVIEW BOARD APPLICATIONS:

A. Request of the Owner of Property located at 8874 Carlyle Avenue

The applicant is requesting to build an aluminum rail fence.

Town Planner Sarah Sinatra presented the item.

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

1. The applicant work with the Code Compliance Department to assure the site triangle is in compliance.
2. The rail fence is on the inside and hedges on outside.

The motion received a second from Board Member Glynn and all voted in favor with Board Member Gutierrez absent.

B. Request of the Owner of Property located at 9441 Carlyle Avenue

The applicant is requesting a garage conversion to additional living space.

Town Planner Sarah Sinatra presented the item.

Board Member Rubenstein made a motion to approve with the following condition:

1. The applicant provides landscaping in front of garage.

The motion received a second from Board Member Castellanos and all voted in favor with Board Member Gutierrez absent.

C. Request of the Owner of Property located at 9024 Harding Avenue

The applicant is requesting installation of a dark green vinyl carport canopy.

Town Planner Sarah Sinatra presented the item.

There was discussion as to the color of the house against the color of the awning and the Board requested more information and perhaps some pictures of the house. Board Member Glynn thought at some point they may have to decide what a matter of taste is and what is art as individuals see things differently.

Board Member Castellanos made a motion to defer the item. The motion received a second from Vice Chair Kligman and all voted in favor with Board Member Gutierrez absent.

D. Request of the Owner of Property located at 9380 Collins Avenue

The applicant is requesting minor façade changes to the west elevation. The changes include increasing height of the windows, replacing the glass entry door with a wood entry door and moving the sign from the green wall to the wood cladded wall.

Town Planner Sarah Sinatra presented the item with some pictures.

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

E. Request of the Owner of Property located at 9525 Harding Avenue

The tenant is requesting to install a new window sign for Citibank.

Town Planner Sarah Sinatra presented the item.

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

5. ADJOURNMENT.

There being no further business to come before the Design and Review Board the meeting adjourned at 7:18 p.m.

**PLANNING AND ZONING BOARD
MINUTES
JANUARY 8, 2015
7:00 PM**

1. CALL TO ORDER

Chair Lindsay Lecour called the meeting to order at 7:18 pm.

2. ROLL CALL

Recording Clerk Frantza Duval called the roll with the following members present: Board Member Peter Glynn, Chair Lindsay Lecour, Vice Chair Jacob Kligman, Board Member Armando Castellanos, and Board Member Moisha Rubenstein.

Commissioner Cohen attended as liaison and arrived at 7:32 p.m.

3. APPROVAL OF MINUTES: OCTOBER 30, 2014

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

4. ORDINANCES:

A. 10% Wall Openings for Each Story-

**AN ORDINANCE OF THE TOWN COMMISSION OF THE
TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER
90 "ZONING", AND SPECIFICALLY AMENDING
SECTION 90-50 "ARCHITECTURE AND ROOF DECKS"
TO MODIFY THE CODE TO REQUIRE A 10% WINDOWS
PER FAÇADE OF A SINGLE FAMILY HOME PER
STORY; PROVIDING FOR INCLUSION IN THE CODE;
REPEALING ALL ORDINANCES OR PARTS OF**

ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Recording Clerk Frantza Duval read the title of the ordinance.
Town Planner Sinatra gave an update on the ordinance.

Board Member Glynn made a motion to recommend for town approval. The motion received a second from Board Member Castellanos and all voted in favor.

B. Single Family Color Palette-

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 "ZONING", AND SPECIFICALLY AMENDING SECTION 90-50 "ARCHITECTURE AND ROOF DECKS" TO LIMIT THE PERMITTED COLORS IN THE H30A AND H30B ZONING DISTRICTS TO THE FOUR LIGHTEST COLORS ON A COLOR SWATCH; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Recording Clerk Frantza Duval read the title of the ordinance.

Town Planner Sinatra gave an update with color palates from different vendors. Board Member Glynn gave more details regarding the colors and the Board reviewed the four lightest colors for the primary structure as well as trim colors. It was suggested that residents come to the town with their color sample for approval and compare it to the palate on file. Board Member Rubenstein feels it is very difficult to restrict someone to a color palate. There was discussion regarding permits and fee when submitting a request for painting a house.

Public Speaker Alejandro Ramirez expressed he did not feel the town has a problem and asked out of the 1500 residences in Surfside how many are painted a color which may be construed as offensive. Chair Lecour said there were very few homes in question. Board Member Glynn said he wanted to avoid future problems because a new resident may wish to paint their home a very bold color which may cause a problem for an existing neighbor. Board Member Glynn isn't in favor of the ordinance but feels if there is a problem residents do have a way to come to the town for its regulations.

Building Official Ross Prieto also spoke and expressed his views. Town Manager Olmedillo also gave his insight and things to consider such as does the town want a certain image or flavor it wishes to project. There was much discussion on the item as the board does not want to restrict an individual from their preference in color and taste but at the same time they

want to protect a neighboring home from perhaps an extreme paint color. The Board was not entirely comfortable with the issue especially since pulling a permit has not been defined and if there would be a fee. The idea of dropping the issue and just monitoring the situation for approximately six months was also discussed.

Public Speaker Facundo Poj said that in another town one would only have to submit a color chip for approval, it was stamped and there was no need for a permit.

Chair Lecour polled the Board for their input as to what should be done. They all agreed that a permit would not be necessary but the paint color would need approval. Board Member Rubenstein was not entirely in favor of the limitation of the colors but it was discussed that one could appeal and show justification why they want to go outside of the approved palate. Town Planner Sinatra will bring the ordinance back to the Board January 29, 2015 with the edits suggested by the Board.

Board Member Rubenstein made a motion to recommend for town approval with the edits they will revisit January 29, 2015. The motion received a second from Vice Chair Kligman and all voted in favor.

5. DISCUSSION ITEMS:

A. Sheds

Town Planner Sinatra presented the item and gave an update.

Public Speaker Larisa Alonso said she needs more storage space and asked the Board to look at the restriction of 70 sq feet. She explained that in Florida there are no basements or attics and storage is a problem. Many people use their garages for lawn equipment and children's toys and some are now converting their garages into living areas which is creating more of a need for storage. She read the codes for other municipalities which range from 100-120 sq. feet and is requesting the town change its code to allow at least 100 square feet for storage sheds.

Planner Sinatra said the reason for denials in the past was mostly visual even though sheds must be in the back of a home. However if there is no fence or landscaping it can present a problem for a neighbor. The Board discussed enacting a buffer. However, they did not have a problem increasing the size to 100 sq. feet. Height of a shed structure was also discussed. Building Official Ross Prieto also gave some insight on the issue.

Town Planner Sinatra will come back with some language with the Board's suggestions.

B. Future Agenda Items

1. Lot coverage – practical difficulty
2. Corridor analysis
3. Update on Point Lake

6. PERMITS ISSUED AND REVENUE REPORT FOR OCTOBER AND NOVEMBER 2014

Public Official Ross Prieto gave an update.


7. ADJOURNMENT.

There being no further business to come before the Planning and Zoning Board the meeting adjourned at 8:39 p.m.

Accepted this 29 day of January, 2015


Chair Lindsay Lecour

Attest:


Sandra Novoa, CMC
Town Clerk



TOWN OF SURFSIDE
Tourist Board Meeting
Monday January 12, 2015 – 6:30 p.m.
Town Hall Commission Chambers
9293 Harding Avenue, 2nd Floor
Surfside, FL 33154

MINUTES

Tourist Board Members

Chair Michelle Kligman
Vice Chair Dr. Elizabeth Levine
Sandra Argow
Joel Baum, CPA
Barbara Cohen

Town of Surfside

Eli Tourgeman, Vice Mayor / Commission Liaison (absent)
Duncan Tavares, TEDACS Director
Frantza Duval, Recording Secretary

**** Out of respect for the Board, Town Staff and the Public please turn off your electronic devices****

I. Call to Order and Roll Call

Chair Michelle Kligman called the meeting to order at 6:30pm.
All of the above listed Board members were present and a quorum was established.

Also in attendance – Guillermo Olmedillo, Town Manager, Jane Graham, Assistant Town Attorney, Linda Miller, Town Attorney, Harald Bindeus, Grand Beach Hotel Surfside, Gil Katzman, resident, Barbara McLaughlin, resident, Nissa Benjamin, Marketing and Special Projects

II. Approval of December 15, 2014 Meeting Minutes

Barbara Cohen motioned to approve the minutes; Sandra Argow seconded the motion. The motion passed unanimously and the minutes were approved.

III. A/R ~ Resort Tax

Duncan Tavares advised that there are some payments due and they are from the usual merchants who pay late. There have been efforts to reach out to those who are outstanding and the Town will continue to work with the businesses to assure compliance. Joel Baum inquired if there is a way to pass outstanding resort tax balances to new tenants. He made a motion requesting what legal options are available when a business fails to submit resort tax and/or does not follow the collection process; Barbara Cohen seconded the motion. The motion passed unanimously. Dr. Elizabeth Levine would like to add this resort tax item onto the agenda for the joint meeting with the Commission. Joel Baum seconded the motion. The motion passed unanimously.

IV. Update Downtown Bench Sponsorships

Duncan Tavares advised that the bench sponsorship item is set for the Town Commission meeting on January 13, 2015. He met with the Public Works and Building Directors as well as the Town Attorney's office regarding placement options for benches on the beach side of town. The most

viable location for the benches would be west of the bulkhead at the street ends. Barbara McLaughlin advised that, per state law, tourist board funds cannot be used to purchase benches.

V. Update Joint Meeting with the Town Commission

Duncan Tavares advised that there will no longer be a joint meeting with the Town Commission in February. The Tourist Board will have its regular monthly meeting on February 2, 2015. Barbara Cohen made a motion to have a regular Tourist Board meeting on March 2, 2015 and a joint meeting with the Commission on March 9, 2015; Dr. Elizabeth Levine seconded the motion. The motion passed unanimously. Sandra Argow suggested allowing the Commission to conference call into the meeting. Linda Miller advised that it is only allowed for special circumstances as seen recently for Commissioner Karukin at a Town Commission meeting.

VI. Update Mobile APP Update

Duncan Tavares advised that more data input, and time, is needed for the app launch. This is now earmarked for February.

VII. Update Third Thursdays

Duncan Tavares provided an update regarding Third Thursdays. Dr. Elizabeth Levine would like to see more information on the Third Thursday flyer regarding the Surfside Circle. The Board approves of the look of the flyer.

VIII. Social Media

Nissa Benjamin provided an update. Dr. Elizabeth Levine inquired about who is going to be responsible for censorship. Nissa Benjamin receives notification, can monitor what people post, and can respond to any negative feedback. The Tourist Board is on all the major social media sites. She has also worked on all of the sites to ensure brand consistency. This makes for a better searching environment. She posts something new each day to highlight the Town's merchants for tourism purposes and not Town business. The merchants are involved by being interactive with their re-posts, comments and by providing feedback.

IX. Tourist Board Retreat ~ Sandra Argow

Sandra Argow advised that her intention is not to go away for a few days. She would like to sit down with the Tourist Board members to get to know them better. Chair Michelle Kligman suggested that doing something informal, possibly at the Community Center, would work if publicly noticed. She requested that the Director send out a few dates to the Tourist Board members for a possible meeting. The Tourist Board also approved a possible meeting, for an hour or so, on a weekend. Barbara Cohen suggested combining this with a tour of the Grand Beach Hotel Surfside Annex (GBHSA). Sandra Argow motioned for the Tourist Board to informally meet in a public place, like the GBHSA; Barbara Cohen seconded the motion. The motion passed unanimously.

X. Next Tourist Board Meeting: Monday February 2, 2015 at 6:30pm (Sister Cities)

XI. Public Comment

Duncan Tavares suggested adding a section to the agenda title "Other Business" for Board members to speak on non-agenda items. Chair Michelle Kligman reminded the Tourist Board members that they can call the Director to add items to the agenda for discussion, and that this would help with facilitating any information needed for a productive discussion at the meeting.

Sandra Argow would like to have a round table for the Tourist Board meetings as she feels that everyone is too far away due to the current setup. The Board wants the Director to look into this item.

XII. Adjournment

Sandra Argow made a motion to adjourn the meeting; Dr. Elizabeth Levine seconded the motion. The motion passed unanimously. The meeting ended at 7:43pm.

Accepted this 2nd day of February, 2015

Michelle Kligman
Member (Print)

Michelle Kligman
Signature

Attest:
Frantza Duval
Frantza Duval
Recording Clerk



Town of Surfside Commission Communication

Agenda # 4A1
Agenda Date: February 10, 2015
Subject: 10% windows for each story
From: Sarah Sinatra Gould, AICP, Town Planner

Background: The Town's zoning code provides a requirement for 10% windows per façade of a single family home. This requirement is per elevation, not per story. The Planning and Zoning Board has requested a modification to implement this modification per story rather than per elevation only.

Analysis:

Sec. 90-50. Architecture and roof decks.

9-50.1 Architecture.

(1) The architectural design of proposed main buildings shall create a unique elevation compared to the main buildings of the adjacent two homes on each side of the subject property on the same side of street. If the adjacent lot is vacant then the next adjacent lot shall be utilized. A unique elevation shall be created through the modulation of at least three of the following architectural features:

- a. Length, width and massing of the structure;*
- b. Number of stories;*
- c. Facade materials;*
- d. Porches and other similar articulation of the front facade;*
- e. Number and location of doors and windows; and*
- f. Roof style and pitch.*

(2) All elevations for new structures and multi-story additions (additions greater than 15 feet in height) shall provide for a minimum of ten-percent wall

openings including windows, doors or transitional spaces defined by porches, porticoes or colonnades—per story.

Budget Impact: N/A

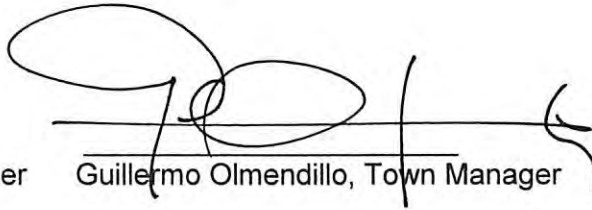
Growth Impact: N/A

Staff Impact: N/A

Staff Recommendation: Staff recommends the Town Commission approve this ordinance on second reading.



Sarah Sinatra Gould, AICP, Town Planner



Guillermo Olmendillo, Town Manager

ORDINANCE NO. 15 – _____

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 “ZONING”, AND SPECIFICALLY AMENDING SECTION 90-50 “ARCHITECTURE AND ROOF DECKS” TO MODIFY THE CODE TO REQUIRE A 10% WINDOWS PER FAÇADE OF A SINGLE FAMILY HOME PER STORY; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside (“Town”) proposes to amend its Code of Ordinances to address the requirement for 10% windows per façade of a single family home; and

WHEREAS, the code currently provides a requirement for 10% windows per façade of a single family home per elevation; and

WHEREAS, the Planning and Zoning Board, as the local planning agency for the Town, has requested a modification to the code to require a 10% windows per façade of a single family home per story; and

WHEREAS, the Town Commission has a desire to amend its Code of Ordinances to address the 10% windows per façade of a single family home and requested a modification to the code to require a 10% windows per façade of a single family home per story; and

WHEREAS, the Town Commission held its first public hearing on November 18, 2014 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, held its hearing on the proposed amendments on January 8, 2015 with due public notice and input; and

WHEREAS, the Town Commission conducted a second duly noticed public hearing on these regulations as required by law on February 10, 2015.

WHEREAS, the Town Commission hereby finds and declares that adoption of this Ordinance is necessary, appropriate, and advances the public interest.

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

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. 90-50. Architecture and roof decks.

* * *

9-50.1 Architecture.

(1) The architectural design of proposed main buildings shall create a unique elevation compared to the main buildings of the adjacent two homes on each side of the subject property on the same side of street. If the adjacent lot is vacant then the next adjacent lot shall be utilized. A unique elevation shall be created through the modulation of at least three of the following architectural features:

- a. Length, width and massing of the structure;
- b. Number of stories;
- c. Facade materials;
- d. Porches and other similar articulation of the front facade;
- e. Number and location of doors and windows; and
- f. Roof style and pitch.

(2) All elevations for new structures and multi-story additions (additions greater than 15 feet in height) shall provide for a minimum of ten-percent wall openings including windows, doors or transitional spaces defined by porches, porticoes or colonnades-per story.

* * *

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.

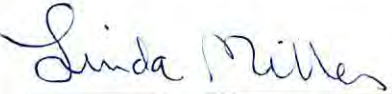
PASSED and **ADOPTED** on first reading this ____ day of _____, 2014.
PASSED and **ADOPTED** on second reading this ____ day of _____, 2015.

Daniel Dietch, Mayor

ATTEST:

Sandra Novoa, Town Clerk

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



Linda Miller, Town Attorney

On Final Reading Moved by: _____

On Final Reading Seconded by: _____

VOTE ON ADOPTION:

Commissioner Barry R. Cohen	yes	____	no	____
Commissioner Michael Karukin	yes	____	no	____
Commissioner Marta Olchyk	yes	____	no	____
Vice Mayor Eli Tourgeman	yes	____	no	____
Mayor Daniel Dietch	yes	____	no	____



TOWN OF SURFSIDE DISCUSSION ITEM

Agenda #: 4B1

Agenda Date: February 10, 2015

From: Mayor Daniel Dietch

Subject: Expanded Polystyrene Ordinance

Objective: For the Town Commission to approve the ordinance to regulate the use of expanded polystyrene (Styrofoam) in the Town.

Background: On June 10, 2014, the Town Commission provided policy direction to develop and implement comprehensive environmental stewardship policies and procedures, including prohibitions on the use of Styrofoam. Through this policy direction and past related actions, Surfside is gaining a reputation for proactive sustainability leadership. On January 13, 2015, the Town Commission directed staff to regulate Styrofoam use through a phased approach, starting with regulating use in municipal buildings and facilities and in public areas.

Consideration: Styrofoam contributes to litter on Surfside's streets, beaches and public areas. It contains toxic substances that leach into food and drink. Styrofoam is not biodegradable in a human being's lifetime and recycling is not widely available.

Styrofoam litter presents risks to Surfside's nesting sea turtles and shorebird populations. Styrofoam is a common pollutant that fragments into smaller pieces that are ingested by marine life and other wildlife. Pollution from Styrofoam litter has wide-ranging environmental implications, including

contributing to a large gyre in North Atlantic Ocean known as the North Atlantic Garbage Patch, composed of marine debris.

Over 70 municipalities across the United States have enacted ordinances that regulate the use of Styrofoam. Among these are large metropolitan areas such as Washington D.C., San Francisco, Seattle, and smaller communities like Laguna Beach and Malibu in California. There are three municipalities in Miami-Dade County - Miami Beach, Key Biscayne, and Bal Harbour that currently regulate Styrofoam. These ordinances prohibit Styrofoam on beaches and parks, and restrict its use for municipal facilities, municipal contractors and vendors and private businesses to varying degrees.

The anticipated cost to implement a Styrofoam ordinance in Surfside would be negligible, and would be related to costs for public education and compliance monitoring.

ORDINANCE NO. 15 – _____

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING ARTICLE I OF CHAPTER 34 “ENVIRONMENT” AND SPECIFICALLY CREATING SECTION 34-9 “PROHIBITIONS REGARDING SALE OR USE OF EXPANDED POLYSTYRENE FOOD SERVICE ARTICLES BY TOWN CONTRACTORS AND SPECIAL EVENT PERMITTEES” OF THE TOWN OF SURFSIDE CODE OF ORDINANCES; AMENDING CHAPTER 34 “ENVIRONMENT” OF THE TOWN OF SURFSIDE CODE OF ORDINANCES AND SPECIFICALLY AMENDING SECTION 34-78 “DEFINITIONS” AND AMENDING SECTION 34-80 “PROHIBITIONS ON LITTER; CIVIL FINES FOR VIOLATIONS; ENFORCEMENT; APPEALS; LIENS”; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside declares that it is in the interest of the public health, safety and welfare of its residents and visitors to reduce litter and pollutants on the lands and in the waters of the Town; and

WHEREAS, expanded polystyrene, a petroleum by-product commonly known as Styrofoam, is neither readily recyclable nor biodegradable and takes hundreds to thousands of years or more to degrade in the environment; and

WHEREAS, due to the physical properties of expanded polystyrene, the United States Environmental Protection Agency states “that such materials can also have serious impacts on human health, wildlife, the aquatic environment and the economy”; and

WHEREAS, expanded polystyrene litter presents risks to Surfside’s nesting sea turtles and shorebird populations.

WHEREAS, expanded polystyrene contributes to litter on Surfside’s streets, beaches and public areas and contains toxic substances that leach into food and drink; and

WHEREAS, on January 13, 2015, the Town Commission directed staff to regulate expanded polystyrene use through a phased approach, starting with regulating use in municipal buildings and facilities, and in public areas; and

WHEREAS, the anticipated cost to develop and implement an expanded polystyrene ordinance in Surfside will be negligible, and would be related to costs for public education and compliance monitoring.

WHEREAS, the Town Commission held its first public hearing on February 10, 2015; and

WHEREAS, the Town Commission shall have conducted a second duly noticed public hearing on these regulations as required by law on March 10, 2015; and

NOW, THEREFORE, BE IT ORDAINED BY 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 Ordinances of the Town of Surfside, Florida is hereby amended to create Sections 34-9, 34-78, and 34-80 to read as follows:

Sec. 34-9 - Prohibitions regarding sale or use of expanded polystyrene food service articles by Town contractors and special event permittees.

- (a) Legislative intent. Expanded polystyrene, a petroleum byproduct commonly known as Styrofoam, is neither readily recyclable nor biodegradable and takes hundreds to thousands of years or more to degrade. Expanded polystyrene is a common pollutant, which fragments into smaller, non-biodegradable pieces that are harmful to marine life, other wildlife and the environment. The Town's goals are to reduce the use of expanded polystyrene and encourage the use of reusable, recyclable and/or compostable alternatives.
- (b) Definitions. For purposes of this section only, the following definitions shall apply:
- (1) Town contractor means a contractor, vendor, lessee, concessionaire of the Town, or operator of a Town facility or property.
 - (2) Expanded polystyrene means blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead foam), injection molding, foam molding and extrusion-blown molding (extruded foam polystyrene).
 - (3) Expanded polystyrene food service articles means plates, bowls, cups, containers, lids, trays, coolers, ice chests and all similar articles that consist of expanded polystyrene.

- (4) Town facility includes, but is not limited to, any building, structure, park, or beach owned, operated or managed by the Town.
- (5) Town property includes, but is not limited to, any land, water, or air rights owned, operated or managed by the Town.
- (6) Special event permittee means any person or entity issued a special event permit by the Town for a special event on Town property or in a Town facility.
- (c) Town contractors and special event permittees shall not sell, use, provide food in or offer the use of expanded polystyrene food services articles in Town facilities or on Town property. A violation of this section shall be deemed a default under the terms of the Town contract, lease or concession agreement and is grounds for revocation of a special event permit. This subsection shall not apply to expanded polystyrene food service articles used for prepackaged food that have been filled and sealed prior to receipt by the Town contractor or special event permittee.
- (d) Any Town contract, lease, or concession agreement entered into prior to the effective date of this section or any special event permit issued prior to the effective date of this section shall not be subject to the requirements of this section, unless the Town contractor or special event permittee voluntarily agrees thereto.

Sec. 34-78. - Definitions.

Expanded polystyrene means blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead foam), injection molding, foam molding, and extrusion-blown molding (extruded foam polystyrene).

Sec. 34-80. - Prohibitions on litter; civil fines for violations; enforcement; appeals; liens.

(b) It shall be unlawful for any person to carry onto any beach within the town a glass container. In addition, it shall be unlawful for any person to carry any expanded polystyrene product onto any beach or into any park within the city.

Section 4. 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 5. 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 6. 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 7. Effective Date. This Ordinance shall be effective adoption on second reading.

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

PASSED and **ADOPTED** on first reading this ____ day of _____, 2015.

PASSED and **ADOPTED** on second reading this ____ day of _____, 2015

VOTE ON ADOPTION:

Commissioner Barry R. Cohen	yes	_____	no	_____
Commissioner Michael Karukin	yes	_____	no	_____
Commissioner Marta Olchyk	yes	_____	no	_____
Vice Mayor Eli Tourgeman	yes	_____	no	_____
Mayor Daniel Dietch	yes	_____	no	_____



Town of Surfside Commission Communication

Agenda Item # 9A

Agenda Date: February 10, 2015

Subject: **Proposed Policy and Enforcement Standards for Corner Visibility (Hedges & Fences) on Properties Located at Street Intersections.**

BACKGROUND

At the October 14, 2014, the Town Commission approved the adoption, on first reading, of an Ordinance amending Town Code Section 90-52 "Required Clearances" and striking Town Code Section 90-92 "Sight Triangles and Clearances." On October 30, 2014, the Planning and Zoning Board reviewed the Ordinance and unanimously recommended approval, although several Board Members raised concerns as to its applicability, enforceability and the burden on Code Compliance staff's administration of an ordinance that did not have specific measurable sightline requirements. Staff informed the Board that the policy and standards that would be presented to the Town Commission should be enforceable and legally sufficient if challenged. The Board requested that a copy of the policy and standards be provided to them once established. On November 18, 2014, the Town Commission approved the adoption of the Ordinance.

The Ordinance served to clarify the provisions of Section 90-52 of the Town Code, as well as eliminated the language reflecting specific sight-line distance requirements and now provides that all corner properties maintain "unobstructed corner clearance areas."

The Town Commission also provided direction to the Administration to:

- More actively enforce and take action to ensure that hedges and other plantings are removed from the rights-of-way (easements) adjacent to private properties, especially in the areas that lie between private property lines and the curb of the streets.

- Coordinate with the County and take action to move the stop signs, stop bars and to mark (paint) curbs at street corners to keep vehicles from parking too close to intersections and obstructing sightlines.
- Establish hardship criteria to be used, on a case-by-case basis, when a property owner claims to be negatively impacted by enforcement due to configuration of the lot, configuration of the intersection, width of streets, one-way streets, dead-end streets, traffic patterns, etc., as long as the relief sought is not in conflict with unobstructed corner clearance areas.

In response to the “hardship” criteria, staff met with several property owners that had indicated that they have properties that should be considered under the hardship criteria, to consider inclusion of those properties into any proposed “hardship” policy. However, discussions on input have not been concluded and have not been incorporated into this memorandum thus said recommendations will be forwarded to the Commission at a future date.

ANALYSIS

Based on the discussions at the October 14, 2014, Commission Meeting, between certain members of the Commission and interested residents, it was determined that if cooperation was received from owners of property identified to have obstructed corner clearance areas, and the determination of the code compliance officer was adhered to, that the enforcement protocols should not have to be engaged.

However, in light of the fact that the Ordinance does not have specific measurable unobstructed corner clearance distance requirements, staff is recommending that in the event enforcement should be required, that legally defensible standards and policies be established that will withstand challenges and facilitate prosecution of non-compliant cases. As such, Staff will address enforcement, on a case-by-case basis, and resolve to determine the acceptable unobstructed corner clearance and substantially be based on the following policy and standards:

PROPOSED POLICY AND STANDARDS

- Measurement shall be based on an assumed driver’s eye height of approximately three and one-half feet (3.5’) above the roadway where the measurement is taken and a maximum vehicle speeds of twenty miles per hour (20 MPH.)
- The officer will stand at a point approximately at the centerline of the roadway and fourteen and one-half feet (14.5’) from the edge of the intersecting road way. He will look onto the intersecting roadway both to the right and to the left and determine that there is clear visibility in both directions. Said clear visibility will be determined based on the following:

- Clear unobstructed view toward the left: at a distance equal to 211 feet+/-, in a linear direction, as measured from the officer's location to its intersection with the centerline of the nearest lane on the intersecting roadway for vehicles approaching from the left (See Exhibit A).
- Clear unobstructed view towards the right: at a distance equal to 213+/- feet, in a linear direction, as measured from the officer's location to its intersection with the centerline of the nearest lane on the intersecting roadway for vehicles approaching from the right (See Exhibit A).

Additionally, at the officer's discretion, other factors may be considered in making a determination based on the particular configuration of the intersection where the subject property is located and other hardship criteria, once established.

In the event that a property owner is aggrieved by the officer's determination, said determination may be reviewed by the Town Manager or his designee and a final determination will be made by the Town. The aggrieved property owner may also appeal the Town's decision to a Special Magistrate.

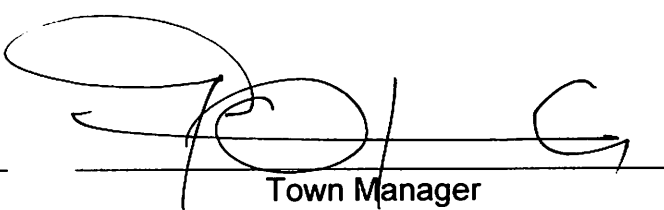
The recommended standards and policy are partly derived and based on the State of Florida Department of Transportation's Manual for Uniform Minimum Standards for Design Construction and Maintenance for Streets and Highways (including Section C.9.b.4: Sight Distance for Intersection Maneuvers,) the standards used by Miami-Dade County and the State of Florida, as no other specific and measurable criteria is available in the Town Code.

CONCLUSION:

The Administration recommends that the Town Commission support and adopt the enforcement standards and policies provided above and provide direction on: 1) whether the "pause" that was placed on enforcement of the prior sight-triangle provisions (Town Code Sections 90-52 and 90-92) is to be removed and the enforcement of the newly adopted ordinance should be pursued; and 2) if such enforcement be pursued on a proactive or reactive manner.

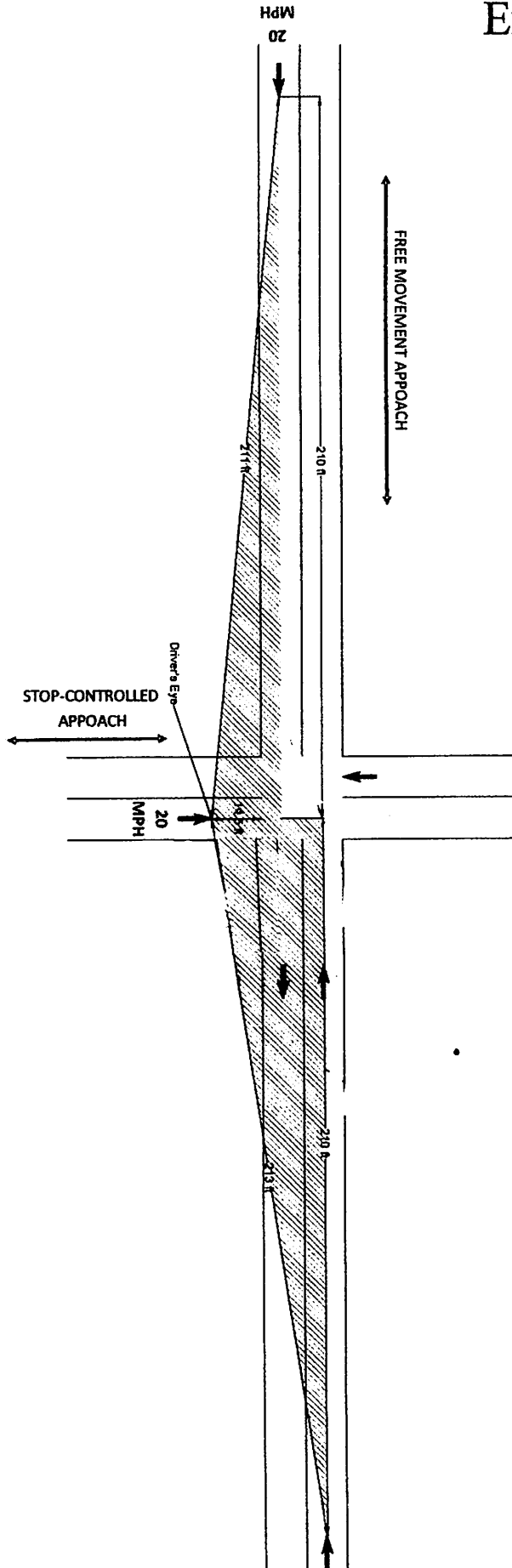


Code Compliance Director



Town Manager

Exhibit "A"



**Calculations based on EDOT's Manual of Uniform Minimum Standards for Design, Construction and Maintenance of Streets and Highways
(Calculations based on a typical lane width of 12 ft)
This figure is presented for illustration purposes and cannot account for all possible configurations.*



**TOWN OF SURFSIDE
DISCUSSION ITEM MEMORANDUM**

Agenda Item # 9B
From: Commissioner Marta Olchyk
Agenda Date: February 10, 2015
Subject: Participation during public meetings

Background

I have asked the Town Administration and Town Attorney's Office to research and review the time allowed for citizens to speak on the same subject during a public meeting. I have also requested clarification on the amount of time the Town Commission may discuss an item. The Town Attorney's Office has provided the following information:

Analysis

The Surfside Town Code includes several provisions related to public participation during public meetings. Nothing in the code speaks directly to the question related to "same subject," yet there are other provisions which may be applicable.

The First Amendment of the United States Constitution, as applied to the states through the Fourteenth Amendment, guarantees the right to freedom of speech. However, the government may impose reasonable limitations on the time, place, and manner of protected speech, provided that such limitations: (1) are justified without reference to the content of the regulated speech, (2) are narrowly tailored to serve a significant government interest, and (3) leave open ample alternative channels for communication of information; government must demonstrate that it meets all three criteria. State v. O'Daniels, 911 So. 2d 247 (Fla. Dist. Ct. App. 3d Dist. 2005).

Section 286.0114, Florida Statutes provides that members of the public shall be given a reasonable opportunity to be heard on a proposition before a Board or Commission. Section 286.0114(4), Florida Statutes further provides that rules or policies of a commission which govern the opportunity to be heard are limited to those that 1) provide guidelines regarding the amount of time an individual has to address the board or commission, 2) prescribe procedures for allowing representatives of groups or factions on a proposition to address the board or commission, 3) prescribe procedures or forms for an individual to use in order to inform the board or commission of a desire to be heard; to indicate his or her support, opposition, or neutrality on a proposition; and to indicate his or her designation of a representative to speak for him or her or his or her group on a proposition if he or she so chooses; or 4) designate a specified period of time for public comment. Section 286.0114(4), Florida Statutes. Note

that the statute does not allow for limitations to the content of speech, and does enumerate any limitations for public comments that speak to the same subject.

The Florida Attorney General's Office opined on Florida Statutes Section 286.0114: "...when in doubt as to whether the public participation is required, a board or commission should err on the side of allowing the public to do so." (Informal Op. Att'y Gen. Advisory Op., Mr. Joe Jacquot, April 25, 2014)

The Town Code addresses limits for public participation in the following sections: Rule 6.05 Agenda Good and Welfare, Rule 7.02 Citizens presentations; public hearings, Rule 7.03 Registration of speakers, Rule 7.04 Addressing commission, manner and time, and Rule 7.05 Decorum.

Rule 6.05(a)(2) limits the Good and Welfare portion of the Town Commission Agenda to "discussion on subjects not already specifically scheduled on the agenda for discussion and debate." The Rule further states that "In no event shall this portion of the agenda be allotted more than 45 minutes with each speaker be given no more than three minutes, unless by vote of a majority of the members of the commission present, it is agreed to extend the time frames." Rule 6.05(a)(2).

Any citizen shall be entitled to speak on any matter appearing on the official agenda under the section "public hearings." Rule 7.02(b). Rule 7.02(c) states that "No citizen shall be entitled as a matter of right to address the commission on any matter listed on or added to the official agenda which is not scheduled for public hearing, discussion or debate." The rule further provides that when the Commission considers an agenda item that is not a public hearing and on which the public comment is either unanimously in favor or unanimously against the item's passage, "input from members of the public shall be limited to no more than five minutes on any given item." Rule 7.02(c).

For any single agenda item, except for zoning, no more than one-half hour per side shall be allocated to speakers from the public. Rule 7.03 provides that "the presiding officer shall limit the time of each speaker in order to insure compliance with this rule." Rule 7.03(b)

Rule 7.04 provides further specifications for those addressing the Commission. Each person, aside from salaried Town staff, must provide "in an audible tone of voice", their name, address, and whether the person speaks on his or her own behalf, representing a third party, and if they represent an organization, provide specified details as enumerated in Rule 7.04. With the exception of zoning items, "unless further time is granted by the commission...the statement shall be limited to the times prescribed herein." Rule 7.04.

No rule speaks directly to the question of two speakers addressing the same subject. However, Rule 7.04 provides that "No person, other than Commissioners and the person having the floor shall be permitted to enter into any discussion, either directly or through a member of the commission, without the permission of the presiding officer." Furthermore, Rule 7.05 provides that "any person making impertinent or slanderous remarks or who becomes boisterous while addressing the commission shall be barred from further appearance before the commission by the presiding officer, unless permission to continue or again address the commission is granted by the majority vote of the commission members present."

Town Rules of Procedure address the time limit for debate for Town Commission Discussion. Rule 8.01(e) Rules of Debate states “the discussion by the Commissioners on any one item shall not exceed one-half hour.”

Finally, Town Rules allow for suspension of these rules under limited circumstances. Rule 8.01(o) Suspension of the rules states that no rule of procedure adopted by this board shall be suspended except by an affirmative vote of two-thirds of the Commissioners present.



**TOWN OF SURFSIDE
DISCUSSION ITEM MEMORANDUM**

Agenda Item # 9C

From: Commissioner Marta Olchyk

Agenda Date: February 10, 2015

Subject: Noises from construction activities and special events

Background: I have asked the Town Administration and Town Attorney's Office to research and review construction schedule activities for the development projects in Town and to provide recommendations to clarify which events and construction activities require a waiver from the Town noise ordinance. Below and attached includes information provided by the Town Attorney's office on the current Surfside Town Code and attachments of code sections from Miami Beach, Bal Harbour (current code and proposed ordinance), and Bay Harbor Islands.

Analysis: The current Town Code at Sec. 54-77 provides that the Town Manager shall have the right to waive any or all of the requirements of the noise ordinance related to hours in cases of "emergency" where the welfare of persons or property may be jeopardized by their strict enforcement.

The Town Code defines the term "emergency" in the following sections of the Code:

Article VIII. - Emergency Management Procedures - Sec. 2-262(a)(1) "Emergency" shall mean any occurrence, or threat thereof, whether natural, technological or manmade, in war or peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.

Sec. 72-31(b) . - Placement or maintenance of a communications facility in public rights-of-way. The term "emergency" shall mean a condition that affects the public's health, safety or welfare, which includes an unplanned out-of-service condition of a pre-existing service.

The above definitions do not address special events or construction activities.

At the December 10, 2013 Town Commission meeting, the Town Commission discussed the on-going construction noise in the Town and recognized issues concerning the quality of life of the residents. In an effort to mitigate the identified issues, the Town Commission recommended revisions to the Code of Ordinances to control and restrict hours of prohibited noises during Period No. 2 (April 1 –

November 30). At the January 14, 2014, Town Commission meeting, the Commission reviewed the proposed code change restricting hours during Period No. 2 and after much discussion determined and directed staff to revise the Code to prohibit and restrict noises for an annual period from to 6:00 p.m. to 8:30 a.m. At the February 11th 2014, Town Commission meeting, after discussion, the Commission in a friendly amendment directed staff to revise the Code to prohibit and restrict noises for an annual period from to 6:00 p.m. to 8:00 a.m. and directed the Administration to contact the representatives of the developers and ask if they were willing to amend their development agreements to change their hours of operation. The ordinance passed second reading on March 11, 2014.

Thereafter, the Town's Building Official, Ross Prieto met with representatives of the Surf Club, Marriott, Chateau, Young Israel and the Surfside Grand Beach. The representatives voluntarily agreed to comply with the new hours of construction activity. The Building Official holds monthly construction schedule meetings with the representatives to review the construction schedule and other areas of concern to discuss the impact of construction activities on the community. The representatives have made requests to the Town Administration for authorization for construction activities which cannot be carried out in a manner which would comply with the current code sections.

Recommendation: To direct the Town Administration to amend the Town Code to provide authorization for the Town Manager to issue a temporary permit to allow noise when produced by a temporary use or activity. In addition, to amend the Code to authorize the Town Manager to prescribe any reasonable conditions on the construction activities necessary to minimize any adverse effect upon the community.

Attachments:

Code Sections on Noise from:

1. Miami Beach (Attachment "A")
2. Bal Harbour (Attachment "B")
3. First Reading Ordinance of Bal Harbour (Attachment "B1")
4. Bay Harbor Islands (Attachment "C")

ARTICLE IV. - NOISE**Sec. 46-151. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory use means those uses deemed accessory uses under the land development regulations of this Code.

Amplification device means any instrument, machine, or system, which by electronic means augments sound by increasing the sound level or volume.

Amplified sound means sound augmented by any electronic means that increases the sound level or volume.

City manager means the city manager or the city manager's designee which may be one of his assistants or a department or division head of the city designated by the city manager or the special master.

Code inspector means an authorized employee or agent of the city whose duty it is to ensure code compliance, including but not limited to inspectors of the city's code compliance department, police officers, or any authorized agent or employee of the city whose duty it is to assure code compliance.

Conditional use means those uses deemed conditional uses under the land development regulations of this Code.

Emergency work means any work performed for the purpose of remedying conditions that create an imminent peril to life, health or property.

Habitual offender means when a person or entity has more than five offenses within 12 months of the first offense.

Offense means a notice of violation that has not been appealed timely or a finding of violation by a special master following the appeal of a violation.

One day means a 24-hour period from noon to noon.

Premises means any real property or parcel of land, including the buildings, structures or other improvements thereon.

Qualified noise engineer means any person from a list of engineers maintained by the city selected pursuant to the city's competitive bidding procedures.

Violator means a person or entity determined or cited by a code inspector as being in violation of the provisions of this article.

(Ord. No. 95-2982, § 2(24-1), 3-22-95; Ord. No. 2006-3511, § 1, 3-8-06; Ord. No. 2011-3737, § 1, 9-14-11)

Cross reference— Definitions generally, § 1-2.

Sec. 46-152. - Noises; unnecessary and excessive prohibited.

It shall be unlawful for any person to make, continue or cause to be made or continued any unreasonably loud, excessive, unnecessary or unusual noise. The following acts, among others, are declared to be unreasonably loud, excessive, unnecessary or unusual noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:

- (a) *Horns, signaling devices, etc.* The sounding of any horn or signaling device on any automobile, motorcycle, bus or other vehicle on any street or public place of the city, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for any unnecessary and unreasonable period of time.
- (b) *Radios, televisions, phonographs, etc.* The using, operating, or permitting to be played, used or operated any radio receiving set, television set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such manner as to be plainly audible at a distance of 100 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.
- (c) *Animals, birds, etc.* The owning, harboring, possessing or keeping of any dog, animal or bird which causes frequent, habitual or long continued noise which is plainly audible at a distance of 100 feet from the building, structure or yard in which the dog, animal or bird is located.
- (d) *Whistles.* The blowing of any locomotive whistle or whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger or upon request of the proper municipal authority.
- (e) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustibile engine, or motor vehicle except through a muffler or other device which will effectively prevent unreasonably loud or explosive noises therefrom.
- (f) *Defect in vehicle or load.* The use of any automobile, motorcycle, jet ski, water bike, recreational vehicle, dirt bike or motor vehicle so out of repair, so loaded or in such manner as to create unreasonably loud or unnecessary grating, grinding, rattling or other noise within a residential area.
- (g) *Schools, courts, hospitals.* The creation of any excessive or unreasonably loud noise on any street adjacent to any school, institution of learning, house of worship or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the working of such institutions, or which disturbs or unduly annoys the patients in the hospital, provided conspicuous signs are displayed in such streets indicating that it is a school, hospital or court street.
- (h) *Hawkers, peddlers.* The shouting and crying of peddlers, hawkers, and vendors which disturbs the peace and quiet of the neighborhood.
- (i)

Noises to attract attention. The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of any unreasonably loud or unnecessary noise to any performance, show, sale, display or advertisement of merchandise.

- (j) *Loudspeakers, etc.* The use or operation on or upon the public streets, alleys and thoroughfares anywhere in this city for any purpose of any device known as a sound truck, loud speaker or sound amplifier or radio or any other instrument of any kind or character which emits therefrom loud and raucous noises and is attached to and upon any vehicle operated or standing upon such streets or public places aforementioned. It is provided, however, that this subsection is not intended to be construed in a manner that would interfere with the legitimate use of the foregoing loudspeaker type devices in political campaigns.
- (k) *Power tools and landscaping equipment.* The operation of noise-producing lawn mowers, lawn edgers, weed trimmers, blowers, chippers, chain saws, power tools and other noise-producing tools which are used to maintain or at a residence out-of-doors between 8:00 p.m. and 7:00 a.m.
- (l) *Shouting.* Any unreasonably loud, boisterous or raucous shouting in any residential area.

(Ord. No. 95-2982, § 2(24-2), 3-22-95; Ord. No. 2006-3511, § 2, 3-8-06; Ord. No. 2011-3737, § 2, 9-14-11)

Sec. 46-153. - Responsibility for compliance.

For purposes of this article, any person owning or having responsibility for management of a premises, however temporarily, any performer or disc jockey producing sound upon any premises, any person playing music, any person having control of volume knobs or levels or amplification devices, and the business as named on the occupational license, if applicable, shall be jointly and severally liable for compliance with this article and shall be responsible for any violations of this article.

(Ord. No. 95-2982, § 2(24-3), 3-22-95; Ord. No. 2006-3511, § 3, 3-8-06)

Secs. 46-154, 46-155. - Reserved.

Editor's note—

Ord. No. 2006-3511, §§ 4 and 5, adopted March 8, 2006, repealed §§ 46-154 and 46-155, which pertained to noise levels in specific areas and additional sound limitations for public property and were derived from Ord. No. 89-2665, § 12C, adopted Oct. 1, 1989, and Ord. No. 95-2982, § 2(24-4), adopted March 22, 1995.

Sec. 46-156. - Temporary permits.

- (a) *Requirements and procedures.* The city manager is authorized to issue a temporary permit to allow noise when produced by a temporary use or activity as provided in this section. The city manager may prescribe any reasonable conditions necessary to minimize any adverse effect upon the community. A permit granted under this article shall contain all conditions upon which the permit has been granted, including the period of time for which the permit has been granted. Such relief may be granted in the following situations:
 - (1) *Code compliance in progress.* When an applicant is utilizing best efforts to comply with the noise restrictions in this article, but additional time is required for the applicant to modify his activity to comply and no reasonable alternative is available to the applicant, such permits may be granted for a period of time not to exceed ten consecutive days.
 - (2)

Construction. When construction activities pursuant to a valid building permit cannot be carried out in a manner which would comply with section 46-152, notwithstanding that all equipment is operated in accordance with manufacturer's specifications, is in good repair and utilizes all noise baffling methods as specified by the manufacturer, such activities shall occur only as follows:

- a. Between the hours of 7:30 a.m. and 6:30 p.m., and between the hours of 7:30 a.m. and 7:30 p.m. during daylight savings time, on any day in areas zoned as CCC, GU, I-1, MR, CPS-1, CPS-2, CPS-3, CPS-4, RO, WD-1, WD-2, GC, HD, MXE, CD-1, CD-2 and CD-3. Construction noise that violates section 46-152 shall not be permitted on Sundays or on national holidays in the zoning districts set forth in this subsection. However, the city manager may authorize any necessary construction activities to occur earlier and/or later than as otherwise provided in this subsection based upon a finding that:
 1. There are no reasonable alternatives;
 2. There are no prior code violation adjudications or fines and no pending construction noise violation cases against the property owner, contractor, or the construction site; and
 3. There is a significant community need, public purpose or benefit.The work authorized by the city manager may be conditioned upon reasonable notice to surrounding property owners and tenants. Permits issued pursuant to such authorization shall not exceed seven consecutive days.
- b. Between the hours of 8:00 a.m. and 6:00 p.m. on weekdays and 10:00 a.m. and 4:00 p.m. on Saturdays in areas zoned as RM-1, RM-2, RM-3, RM-PRD, RPS-1, RPS-2, RPS-3, RPS-4, RMPS-1, RS-1, RS-2, RS-3, RS-4, RO, TH and in any exclusively residential zoning district not otherwise specified in this subsection and within 300 feet of any of these zoning districts. On Sundays and national holidays, construction shall not be permitted before 10:00 a.m. or after 4:00 p.m. and construction noise that violates section 46-152 shall not be permitted between 10:00 a.m. and 4:00 p.m. in the zoning districts set forth in this subsection or within 300 feet thereof, except that in buildings with occupied apartment units, as defined in section 114-1 of this Code, no construction shall be allowed on Sundays or national holidays. However, the city manager may authorize any necessary construction activities to occur earlier and/or later than as otherwise provided in this subsection based upon a finding that:
 1. There are no reasonable alternatives;
 2. There are no prior code violation adjudications or fines and no pending construction noise violation cases against the property owner, contractor, or construction site; and
 3. There is a significant community need, public purpose or benefit.The work authorized by the city manager may be conditioned upon reasonable notice to surrounding property owners and tenants. Permits issued pursuant to such authorization shall not exceed three consecutive days.
- c. The issuance of a temporary permit is a privilege and does not constitute a right or expectation that said permit will remain in effect. Any permits issued pursuant to subsections (2)a. and b., shall not constitute or be deemed precedent for the granting of any future permits.

- d. Notwithstanding the provisions of subsections (2)a. and b., temporary permits shall be subject to authorization by the building official under emergency circumstances or when the building official determines that for reasons of technical necessity work earlier or later than the time frames specified in subsections (2)a., b. or on any day (including Sundays or national holidays) is required. The work authorized by the building official pursuant to this subsection shall be conditioned upon reasonable notice to surrounding property owners and tenants.
- (3) *Special events and film and print permits.* A film permit issued pursuant to section 12-1 or a special event permit issued pursuant to section 12-5 may be exempted from the requirements of section 46-152 upon specific compliance with subsections 12-1(9) or 12-5(8), as applicable.
- (b) *Violation of temporary permit.* Failure to comply with any condition of a temporary permit issued pursuant to this section shall constitute a violation and shall result in enforcement procedures and penalties as set forth in sections 46-159 and 46-160
- (c) *Revocation of temporary permits.* Any temporary permit may be immediately revoked pursuant to the procedures set forth in sections 102-383 and 102-385 if the city manager finds that an emergency condition exists involving serious danger to the public health, safety, or welfare; if the permit holder failed to disclose or misrepresented material information in the permit application or in the permit application process; or that there was a failure to comply with any condition of a particular temporary permit.

(Ord. No. 95-2982, § 2(24-5), 3-22-95; Ord. No. 97-3085, § 1, 7-2-97; Ord. No. 2001-3302, § 2, 4-18-01; Ord. No. 2001-3303, § 2, 4-18-01; Ord. No. 2003-3412, § 1, 6-11-03; Ord. No. 2006-3511, § 6, 3-8-06; Ord. No. 2006-3516, § 1, 6-17-06; Ord. No. 2006-3520, § 1, 7-12-06)

Sec. 46-157. - Exemptions.

The following uses and activities shall not constitute unnecessary and excessive noises prohibited in section 46-152:

- (1) Cries for emergency assistance and warning calls.
- (2) Radios, sirens, horns and bells and other sounds created by police, fire and other emergency response vehicles.
- (3) Parades, fireworks displays, and other activities for which a permit has been obtained from the city, pursuant to section 46-156, within such hours and in accordance with such restrictions as may be imposed as conditions for the issuance of the permit.
- (4) Authorized activities on or in municipal or publicly owned properties and facilities, except where such publicly owned properties or facilities are under private operation or use, unless the city manager or the city manager's designee has specifically authorized an exemption from this section, which exemption will be subject to specific requirements consistent with the administrative guidelines approved by separate resolution of the city commission.
- (5) Fire alarms and burglar alarms, bells and chimes of churches or other religious institutions; however, false burglary alarms shall be subject to enforcement procedures and penalties as set forth in article II of chapter 42
- (6) Locomotives and other railroad equipment and aircraft, to the extent that city regulation is preempted by federal law.
- (7) Noises resulting from emergency work.

- (8) Any noise resulting from activities of a temporary duration permitted pursuant to section 46-156
- (9) Noise generated by motor vehicles as defined in F.S. § 320.01 when operated and equipped in accordance with requirements set forth in the Florida Statutes.
- (10) Noise resulting from the operation of vessels when operated in compliance with the decibel limitations in F.S. § 327.65. However, noise exceeding the limitations set forth in F.S. § 327.65 shall be subject to enforcement and penalties as set forth in F.S. ch. 327.
- (11) Live or amplified sound projecting east of the east property line from each property from 1st Street to 5th Street on the east side of Ocean Drive, from 5th Street to 15th Street on the west side of Ocean Drive, from 15th Street to 73rd Street on the east side of Collins Avenue, from 73rd to 75th Streets on the west side of Ocean Terrace, and from 76th to 87th Streets on the east side of Collins Avenue. This exemption shall only apply to noise that is received in that area located east of the violating property and between the north and south projections of its property boundaries and where there is no part of any residential building or structure on any property to the east of the violating property unless the building or structure to the east is owned by the violator. Any noise received by a property that is outside of this area shall subject the violator to the enforcement provisions of this article.

(Ord. No. 95-2982, § 2(24-6), 3-22-95; Ord. No. 2006-3511, § 7, 3-8-06; Ord. No. 2008-3610, § 1, 7-16-08)

Sec. 46-158. - Enforcement by code inspectors; notice of violation; warnings; responsibility to provide current address.

(a) *Notice of violation.* If the code inspector observes a violation of this article, the inspector shall issue a notice of violation to each person and entity identified in section 46-153, and a courtesy copy of the violation shall be provided to an employee or other representative of the business tax receipt holder who is on the premises of the business tax receipt holder, except as otherwise provided in subsection (b). The code inspector shall inform the violators that they must immediately cease the violation. The notice shall include the following information:

- (1) Name of the violator.
- (2) Date and time of violation.
- (3) Nature of the violation.
- (4) Amount of fine or other penalty for which the violator may be liable pursuant to section 46-159 of this Code or as otherwise provided by law.
- (5) Instructions and due date for paying the fine.
- (6) Notice that the violation may be appealed by filing a written request for an administrative hearing with the clerk of the special master within ten days after service of the notice of violation, that failure to do so shall constitute an admission of the violation and waiver of the right to a hearing, and that unpaid fines will result in the imposition of liens which may be foreclosed by the city.

The notice shall also inform the violator that repeat violations of this article will result in the imposition of larger fines and may also result in revocation, suspension, or the imposition of restrictions on the business tax receipt, and/or certificate of use, or accessory use, and/or injunctive proceedings as provided by law. The notice shall be signed by the code inspector who witnessed the violation.

(b) *Warnings.*

- (1) *Oral warnings.* If a code inspector observes a violation of this article without a complaint having been made, the inspector may first issue one oral courtesy warning per day and inform the violator that the violator will be subject to penalties if the violation continues.
- (2) *Written warnings.* A code inspector shall first issue a written warning to immediately cease the violation prior to issuing a notice of violation unless one written warning has been issued in the 12 months preceding the date of violation.

The written warning shall be substantially in the same form as the notice of violation as stated in subsection 46-158(a) above. Failure to correct the violation within 15 minutes following the issuance of a written or oral warning shall result in the issuance of a notice of violation pursuant to this article.

A code inspector shall not issue a written warning, and instead shall issue a notice of violation, to any person, entity or establishment who:

- a. In any one day has already been issued a written warning as specified in section 46-158; or
 - b. In any 12-month period has exceeded the warning limits specified in subsection 46-158(b) 2; or
 - c. Is also being cited for an illegal commercial or nonpermitted nonresidential use in a residential zoning district.
- (c) *Responsibility to provide current address.* The holder of the business tax receipt for the premises where a violation or warning is issued shall have the responsibility to keep the city advised of its current address and of the current address of the owner of the premises.

(Ord. No. 95-2982, § 2(24-7), 3-22-95; Ord. No. 2006-3511, § 8, 3-8-06; Ord. No. 2006-3520, § 2, 7-12-06; Ord. No. 2008-3610, § 2, 7-16-08; Ord. No. 2011-3737, § 3, 9-14-11)

Sec. 46-159. - Fines and penalties for violation; appeals; alternate means of enforcement.

- (a) The following civil fines and penalties shall be imposed for violations of this article:
- (1) If the offense is the first offense, \$250.00 fine.
 - (2) If the offense is the second offense within the preceding 12 months, \$1,000.00 fine.
 - (3) If the offense is the third offense within the preceding 12 months, \$2,000.00 fine.
 - (4) If the offense is the fourth offense within the preceding 12 months, one weekend (noon Friday through noon Monday) business tax receipt conditions and/or accessory use restrictions shall be imposed limiting the ability to produce any live or amplified sound at that portion of the premises that caused the violation, in addition to a \$3,000.00 fine.
 - (5) If the offense is the fifth offense within the preceding 12 months, two weekend (noon Friday through noon Monday) business tax receipt conditions and/or accessory use restrictions shall be imposed limiting the ability to produce any live or amplified sound at that portion of the premises that caused the violation, in addition to a \$5,000.00 fine.
 - (6) If the offense is the sixth or greater offense within the preceding 12 months, it shall be considered an habitual offender offense with penalties and fines imposed pursuant to subsection 46-159(h).
 - (7) The first time an offense is committed while the violator was also engaged in an illegal commercial or nonpermitted, nonresidential use in a residential zoning district, \$1,000.00, notwithstanding the fine provision in subsection (1) above.

- (8) The second or any subsequent time an offense is committed while the violator was also engaged in an illegal commercial or nonpermitted, nonresidential use in a residential zoning district, \$5,000.00, notwithstanding the fine provisions in subsections (2)—(4) above.

A person may receive a separate notice of violation once every hour if a violation has occurred at any time within that period. Each violation shall constitute a separate offense for which a separate fine shall be imposed. An offense shall be deemed to have occurred on the date the violation occurred. Business tax receipt conditions or accessory use restrictions pursuant to this section shall be imposed by order of the special master after finding an offense warranting suspension or restriction has occurred. An offense occurring 12 months after the last offense shall be treated as a first offense for purposes of incurring new fines and penalties. However, any fines or penalties imposed in any prior 12-month period shall not be waived or altered.

- (b) A violator who has been served with a notice of violation shall elect either to:
- (1) Pay the civil fine in the manner indicated on the notice; or
 - (2) File a written request for an administrative hearing before a special master to appeal the decision of the code inspector that resulted in the issuance of the notice of violation. The written request shall be submitted to the clerical staff of the special master no later than ten (10) days of service of the notice of violation, and shall be accompanied by an appeal fee as approved by a resolution of the city commission. The fee may be returned to the violator if the special master rules in favor of the violator. All disputes regarding proper notice of the violation and timeliness of the appeal shall be heard by the special master prior to any hearing on the merits of the violation itself.
- (c) The procedures for appeal of the notice of violation shall be as set forth in sections 102-384 and 102-385. A courtesy mail notice shall be promptly provided to the complainant of any hearing regarding the notice of violation, and the complainant may testify at such hearings; provided, however, that nontransmission of the courtesy notice to the complainant shall not in any way invalidate, affect, or impair any of the further proceedings, actions, or determinations in the case. Failure to give such notice shall not be a cause for continuance or cancellation of any scheduled hearing of the matter. Only two continuances, for no longer than 20 days each, shall be granted by the special master for any administrative hearing unless the alleged offender, at a hearing on a motion for continuance, establishes by testimony, and/or other evidence, that good cause exists for a further continuance. If the special master finds that a violation has occurred, the applicable penalty set forth in subsection 46-159(a) shall be imposed.
- (d) Failure of the named violator to appeal the decision of the code inspector within the prescribed time period shall constitute a waiver of the violator's right to administrative hearing before the special master. A waiver of the right to an administrative hearing shall be treated as an admission of the violation and penalties shall be assessed accordingly. In the event of a fourth or fifth offense, and following notification by the code inspector of the violator's failure to timely request an administrative hearing, the special master shall enter an order setting the time during which conditions shall be imposed on the violator's business tax receipt or, as applicable, the accessory uses shall be restricted. Such conditions or restrictions shall begin no later than 30 days after entry of the order by the special master.
- (e) Any party aggrieved by the decision of a special master may appeal that decision to a court of competent jurisdiction as provided in F.S. § 162.11 and section 30-77 of this Code.
- (f)

The city may institute proceedings in a court of competent jurisdiction to compel payment of civil fines. A certified copy of an order imposing a civil fine or city bill for penalties due under this section may be recorded in the public records and thereafter shall constitute a lien upon any other real or personal property owned by the violator and it may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but shall not be deemed to be a court judgment except for enforcement purposes. After two months from the filing of any such lien that remains unpaid, the city may foreclose or otherwise execute on the lien. All costs and attorneys fees incurred by the city for collecting any fine shall be paid by the violator.

- (g) As an alternative or additional means of enforcement, the city may institute proceedings to revoke or suspend a business tax receipt and/or certificate of use or seek injunctive relief.
- (h) In cases of habitual offender violations or offenses, the city manager may issue an administrative complaint for suspension or revocation of a business tax receipt and certificate of use as provided in section 102-383. Upon a finding of habitual offender violations or offenses by the city manager, a business tax receipt suspension, revocation and/or fine shall be imposed. Suspensions shall be imposed with restrictions limiting the ability to provide any live or amplified sound as either a condition of the business tax receipt or as an accessory use restriction. In the event the violator is a hotel, motel, condominium, apartment or other residential property, accessory use restrictions shall be imposed in lieu of a business tax receipt revocation which results in the eviction of residents. Additionally, in the event of a revocation, as a condition of being permitted to resume operation under the business tax receipt, the city manager shall utilize the criteria set forth in section 142-1362 of this Code to impose such conditions or restrictions as deemed appropriate to assure compliance with all city codes.

In determining the length of the suspension or accessory use restriction to be imposed under this subsection, the city manager shall consider the following factors: the gravity of the violations or offenses; any actions taken by the violator to correct the violations or offenses; and, any previous violations or offenses committed by the violator. No suspension or accessory use restriction imposed under this subsection shall be for a period of time of less than 30 consecutive days.

In the event an habitual offender does not hold a business tax receipt or certificate of use, the special master shall impose a fine up to \$5,000.00 per violation.

- (i) Any fine imposed under this article shall become a lien pursuant to the procedures of sections 30-74 and 30-75 of this Code.
- (j) In addition, in the event a violator refuses to comply with a notice of violation issued under section 46-158, a violator may be punished by imprisonment not to exceed 60 days or by imposition of a fine not to exceed \$500.00 per offense or both.
- (k) Nothing herein shall restrict the powers and authority granted to the various boards and committees of the city, including the imposition of conditions and sanctions not specifically enumerated in this article.
- (l) Nothing herein shall be deemed to modify existing applicable state, county or city building and fire codes, ordinances, laws or regulations.
- (m) A nolle prosequi, or any other decision made by the city not to prosecute a notice of violation, must be based upon good cause and issued in writing in a public record.

(Ord. No. 95-2982, § 2(24-8), 3-22-95; Ord. No. 2006-3511, § 9, 3-8-06; Ord. No. 2006-3520, § 4, 7-12-06; Ord. No. 2008-3610, §

3, 7-16-08; Ord. No. 2010-3696, § 4, 9-20-10; Ord. No. 2011-3737, § 4, 9-14-11)

Sec. 46-160. - Nuisance.

Any violation of this article shall constitute a nuisance. The city attorney may bring suit on behalf of the city, or any affected citizen may bring suit in his name, against the person or persons causing or maintaining the violation, and against the owner/agent of the building or property on which the violation exists. Relief may be granted according to the terms and conditions of F.S. § 60.05, relating to abatement of nuisances, or pursuant to section 46-159. In any such action, the city or affected citizen, if the prevailing party, shall be awarded costs, including reasonable attorney's fees.

(Ord. No. 95-2982, § 2(24-9), 3-22-95)

Sec. 46-161. - Motor vehicle alarms.

- (a) Definition. The following term shall have the following meaning for purposes of this section: "alarm system" shall mean a motor vehicle siren or horn alarm system contained in or appurtenant to a motor vehicle, designed to activate and sound in the event of a break-in or attempted break-in of the vehicle.
- (b) It shall be unlawful for any motor vehicle equipped with an alarm system to activate and emit a siren or horn noise, audible at a distance of 100 feet intermittently or continuously within a period in excess of 15 minutes. Any person who has custody of any such offending motor vehicle shall be deemed in violation of this section.
- (c) A violation of this section on the public streets or areas within the city is hereby declared a public nuisance which may be abated by the removal of such vehicle upon authorization of a law enforcement officer. Prior to removing such vehicle, the law enforcement officer shall afford the owner or custodian of such vehicle the opportunity to disconnect or deactivate the alarm system at the scene. Otherwise, the vehicle shall be removed to an authorized facility. The law enforcement agency shall ascertain the name and address of the registered owner of such vehicle and provide written notice by certified mail, return receipt requested, within 24 hours of such removal, the reason(s) for the removal, and the place where such vehicle has been removed. The fees assessed for the removal of the vehicle may be appealed by filing a complaint in the county court and posting with the court a cash or surety bond or security equal to the amount for the removal and/or storage of the vehicle to ensure the payment of such in the event the owner or custodian of the vehicle does not prevail.
- (d) A violation of this section on private property shall cause the person who owns or has custody of the offending vehicle to be fined \$50.00. Any duly designated law enforcement officer and/or code enforcement officer is authorized and empowered to enter without force upon private property in order to detect and issue a citation or notice of violation to and upon the owner or custodian of the offending motor vehicle. A copy of the citation or notice of violation may also be left on the offending vehicle and shall constitute notice. The citation or notice of violation may be appealed in accordance with the procedures set forth in sections 102-384, 102-385, and chapter 30 of this Code.
- (e) It shall not be a violation of this section if it is determined by the law enforcement officer and/or code enforcement officer that the siren or horn noise has been triggered by the unauthorized opening of the hood, trunk or door(s) of the vehicle, by the breaking or attempted breaking of a window or by lightning, thunderstorms, or severe weather conditions.

(Ord. No. 98-3157, § 1, 12-2-98; Ord. No. 2006-3511, § 10, 3-8-06; Ord. No. 2010-3696, § 4, 9-20-10)

Sec. 46-162. - Administrative policies and procedures.

The city manager, or the city manager's designee, is authorized to establish policies and procedures consistent with this article IV and the administrative guidelines approved from time to time by separate resolution of the city commission.

(Ord. No. 2008-3610, § 4, 7-16-08)

Secs. 46-163—46-200. - Reserved.

ARTICLE II. - NOISE

FOOTNOTE(S):

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Cross reference— Code enforcement, § 2-181 et seq.**Sec. 11-26. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Commercial-Apartment Neighborhood is legally defined to include: Tracts A and B and Lots 1 through 16, Ocean Front Section of Bay Harbor, Plat Book 44, page 27; Tracts C, D and E, Bal Harbour Ocean Front Addition, Plat Book 57, page 68; Areas 1 through 5, Business Section of Bal Harbour, Plat Book 60, page 39; a portion of Tract D described in Deed Book 2886, page 198 and Deed Book 3505, page 170, Residential Section of Bal Harbour, Plat Book 44, page 98; Lots 1 through 4, Block 1, Plat Book 44, page 98; Lots 1 through 10, Block 7, Plat Book 44, page 98; Lots 1 through 5, Block 8, Plat Book 44, page 98; Lot 1, Block 8A, Resubdivision of Residential Section of Bal Harbour, Plat Book 53, page 15; Lots 1 through 3, Block 12A, Resubdivision of Residential Section of Bal Harbour, Plat Book 53, page 15, Public Records of Dade County, Florida.

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

Noise means any sound which annoys or disturbs humans or which causes or which tends to cause adverse psychological or physiological effect on humans.

Noise Disturbance means any sound in quantities which are or may be potentially harmful or injurious to human health or welfare, or which unnecessarily interferes with the enjoyment of life or Property, including outdoor recreation, of a reasonable Person with normal sensitivities.

Residential Neighborhood is legally defined to include: Lots 5 through 24, Block 1; Lots 1 through 20, Block 2; Lots 1 through 33, Block 3; Lots 1 through 18, Block 4; Lots 1 through 20, Block 5; Lots 1 through 33, Block 6; Lots 1 through 21, Block 9; Lots 1 through 13, Block 10; Lots 1 through 22, Block 11; Lots 1 through 20, Block 12 and Tract E, Residential Section of Bal Harbour, Public Records of Dade County Plat Book 44, page 98.

Sound Level Meter means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and A-weighted sound level network with fast and slow integrating time constants, used to measure sound pressure levels. The sound level meter should be capable of measuring the A-weighted equivalent sound level (Leq) and maximum sound level. Normally, the Slow meter response time constant would be employed. The period of time over which sound levels are measured reflects the nature of the situation and normally would be between five and ten minutes.

(Code 1974, § 12-20(b); Ord. No. 436, § 1, 9-15-98)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 11-27. - Noise Disturbance—Generally.

It shall be unlawful for any Person to make, continue or cause to be made or continued any loud, excessive or unusual Noise Disturbance.

(Code 1974, § 12-20(a))

Sec. 11-28. - Reserved.

Editor's note—

Ord. No. 378, § 1, adopted Oct. 20, 1992, repealed former § 11-28 in its entirety, which pertained to notices to abate noise disturbances.

Sec. 11-29. - Violations of article.

- (a) *Prohibited acts generally.* The following acts, and the causing or permitting thereof, are presumed to be in violation of this article:
- (1) Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument or other machine or device for the producing or reproducing or amplifying of sound which creates a Noise Disturbance across a real property line in a Residential or Commercial-Apartment Neighborhood.
 - (2) Owning, possessing or harboring any animal or bird which frequently or for a continued duration howls, barks or makes other sounds which create a Noise Disturbance across a real property line in a Residential or Commercial-Apartment Neighborhood.
 - (3) Operating or causing the operation of any tools or equipment used in construction, drilling or repair work outside the hours specified in section 11-31; provided, however, for any noises emanating from the activities listed under section 11-31 during the hours in which such noises are permitted, the associated equivalent sound levels shall not exceed the equivalent A-weighted sound level limits of subsection 11-29(b) by five decibels and the associated maximum A-weighted sound levels shall not exceed the equivalent A-weighted sound level limits of subsection 11-29(b) by ten decibels.
 - (4) Using or firing explosives or similar devices, except in an Emergency, or using or firing firecrackers, skyrockets or the like if prior permission is not obtained from the Village Manager.
- (b) *Noises exceeding permitted decibel level.* Any noise which emits a sound measured at an A-weighted equivalent sound level (Leq) in excess of 57 decibels in a Residential Neighborhood and 64 decibels in a Commercial Apartment Neighborhood between the hours of 7:00 a.m. and 10:00 p.m. (Daytime Decibel Levels) or 54 decibels in a Residential Neighborhood and 61 decibels in a Commercial Apartment Neighborhood between the hours of 10:00 p.m. and 7:00 a.m. (Nighttime Decibel Levels), shall be presumed a nuisance and prima facie evidence of a violation of this article. The measurements shall be taken with a calibrated sound level meter at the location of the dwelling unit or premises of the complaining party. If there is no complaining party, the measurement shall be taken at approximately 100 feet from the property from which the noise is emanating.
- (c)

Mitigation practices. Any person operating or causing or allowing the operation of tools or equipment used in construction, drilling or repair work, shall mitigate noise by assuring compliance with the following noise mitigation practices:

- (1) Pile driving:
 - a. Substitution of hydraulic impact hammers for diesel impact hammers;
 - b. Use of augering equipment to construct bored piles;
 - c. Use of vibratory hammers for driving steel piles; and
 - d. Use of static load equipment to push rather than drive piles.
- (2) Concrete breaking:
 - a. Substitution of hydraulic, electric or gasoline-powered tools for pneumatic equipment;
 - b. Substitution of a whip-action impact hammer for a standard, excavator-mounted hammer;
 - c. Use of a thermal lance to burn holes in concrete;
 - d. Use of diamond drills and saws;
 - e. Use of hydraulic bursters or jacks;
 - f. Use of excavator-mounted hydraulic crushers;
 - g. Use of nonexplosive chemical demolition agents; and
 - h. Use of high-pressure discharge of carbon dioxide gas.
- (3) Construction site noise control: Use of sound barriers, absorptive sound blankets, and acoustic enclosures.
- (4) Operational Restrictions:
 - a. Scheduling of noisy activity to coincide with periods of least noise sensitivity;
 - b. Restricting equipment idling on-site;
 - c. Prohibiting unnecessary rattling and banging;
 - d. Use of portable radios to communicate with workers.

(Code 1974, § 12-20(c), (d); Ord. No. 336, § 1, 9-19-89; Ord. No. 436, §§ 2—4, 9-15-98; Ord. No. 557, § 5, 9-20-2011)

Cross reference— Code enforcement, § 2-181 et seq.; animals, ch. 5.

Sec. 11-30. - Variance for special events.

Upon written Application to the Village (the Application), submitted a minimum of ten days prior to an event at which noise levels are expected to exceed Nighttime Decibel Levels, the applicability of Daytime Decibel Levels may be extended to 11:00 p.m. on weeknights or to 1:00 a.m. on weekends and holidays by the Village Manager subject to such conditions as he may impose. Applications shall include a full description of the event, the location of the event, and the name of the Person responsible for the event. The decision of the Village Manager shall be final and not subject to appeal.

(Ord. No. 336, § 1, 9-19-89)

Sec. 11-31. - Certain Noises restricted to specified hours.

- (a) Noises other than those enumerated in 11-29, because of their nature and characteristics, shall be grouped as follows for the purpose of control and restriction:
 - (1) Steam, gasoline or oil-operated cranes, pile drivers, excavators, dredges, ditchers and all other similar machinery;

- (2) One-cylinder steam or internal-combustion engines, horizontal or vertical;
- (3) Air compressors and pneumatic riveting machines, jackhammers, drills and other similar air equipment;
- (4) Power band and circular saws working in the open;
- (5) Hand hammers on steel or iron, structural, rivet or otherwise;
- (6) Stationary or portable concrete mixers, with engines multicylindered and properly muffled;
- (7) Power band and circular saws, sanders, planers, grinding machines, drills, bar benders and cutters, and similar machinery, when enclosed;
- (8) Hand operations in connection with plumbing, electrical, roofing and framing work in the open;
- (9) Transit concrete mixers, with engines multicylindered and properly muffled, operated to cause the least possible noise;
- (10) Hand operations in connection with plumbing, electrical, roofing and framing work, when enclosed;
- (11) Hand loading and unloading and the handling of building materials and other similar heavy trucking;
- (12) Masonry work and the hand mixing of mortar;
- (13) Plastering and the hand mixing of plaster;
- (14) Painting;
- (15) Glazing;
- (16) Landscaping; and
- (17) All other Noises of similar intensity and/or annoyance.

Noises, to be considered enclosed, shall originate within the exterior walls of a building.

- (b) The Noises set forth in subsection (a) of this section are hereby prohibited at any location and at any hour on Sundays and on New Year's Day, Christmas Day, Independence Day, Labor Day and Thanksgiving Day, and on Mondays through Saturdays from 5:30 p.m. to 8:30 a.m.
- (c) Except with the prior written consent of the Village Manager or his or her designee, it shall be unlawful to construct or demolish, or to add to, alter or repair the exterior portion of, any dwelling, or to mow or perform any other lawn maintenance activities which require the use of machinery, in residential districts between the hours of 5:30 p.m. and 8:30 a.m. on Mondays through Saturdays, and during any hours on Sundays and on New Year's Day, Christmas Day, Independence Day, Labor Day, and Thanksgiving Day. Such consent shall not be withheld if documented proof is submitted to the Village Manager or his or her designee showing that the activities described in this paragraph (c) are necessary, cannot be done at any other time, and will not take more than one day to complete.
- (d) Except in an Emergency which will result in damage or injury, or with the prior written consent of the Village Manager or his or her designee, it shall be unlawful to permit independent contractors, vendors, or any other hired persons or employees to make any additions, alterations, or repairs inside any dwelling in residential districts between the hours of 9:00 p.m. and 8:30 a.m. on any day. Such consent shall not be withheld if documented proof is submitted to the Village Manager

or his or her designee showing that any alterations, additions, or repairs described in this paragraph are necessary, cannot be made at any other time, and will not take more than one day to complete.

- (e) The requirements of this section shall not be construed to prevent the operation of automobiles or light delivery vehicles at any time; provided, however, that such motor vehicles shall at all times be properly muffled and shall be so operated as to create the least possible noise or nuisance.

(Code 1974, § 12-21; Ord. No. 345, § 2, 2-20-90; Ord. No. 347, § 1, 5-15-90)


Cross reference— Code enforcement, § 2-181 et seq.

Secs. 11-32—11-50. - Reserved.



COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager 

DATE: January 13, 2015

SUBJECT: **AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING SECTION 11-29 "VIOLATIONS OF ARTICLE" AND SECTION 11-31 "CERTAIN NOISES RESTRICTED TO SPECIFIED HOURS" OF ARTICLE II "NOISE" OF CHAPTER 11 "NUISANCES" OF THE VILLAGE CODE OF ORDINANCES, TO ALLOW FOR THE APPROVAL OF CERTAIN RESTRICTED NOISES OUTSIDE OF SPECIFIED HOURS IN THE B BUSINESS DISTRICT UPON WRITTEN CONSENT OF THE VILLAGE MANAGER OR HIS OR HER DESIGNEE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

ADMINISTRATIVE RECOMMENDATION

I am recommending approval of this Ordinance.

BACKGROUND

Earlier this year, representatives from the Bal Harbour Shops and the contractors for the new restaurant presently under construction on the second floor, requested authorization from the Building Official to perform work beyond the hours prescribed by the Village Code. In reviewing the nature of the work to be performed and the safety concerns potentially posed to patrons and visitors to the property, authorization was granted to conduct this work between the hours of midnight and 8:00 am.

As a result of this review and approval process, the Building Official received additional requests for work to be performed after hours by other tenants at the Bal Harbour Shops. It appears that this was a long accepted practice in the Village. A review of the Code, however, leads us to conclude that this practice is not currently allowed by the Code. It should be noted that the Code presently allows for discretion to allow this type of approval in the Residential and Commercial-Apartment Neighborhood districts.

In order to address this matter, I instructed the Building Official to develop guidelines that would be appropriate when reviewing such after-hours requests in the Business District should discretion be authorized by the Village Council. The guidelines consider both the needs of the business community, the safety of its patrons, visitors, employees and most

importantly the comfort and wellbeing of the Village residents. If the requestors cause a noise disturbance, the Village shall require mitigation through compliance with the mitigation practices set forth in subsection 11-29c of the Village Code or shall revoke the approval. The following are the guidelines:

1. The work is primarily within the interior of the structure such as interior improvements or tenant build-outs, or
2. The work will significantly interrupt operations of adjacent (including above or below) tenants, or
3. The work poses a potential safety hazard to employees or visitors, or
4. The work cannot be done at any other time, or

These guidelines, were presented to the Council in the December 10, 2014 meeting as a discussion item together with a request that the council consider if it wished to codify this past practice and establish specific criteria for reviewing similar requests in the future. The council voted unanimously for the Village attorney and me to develop such and Ordinance.

During this meeting, the council had two requests; first, clarification on how many complaints of noise as a result of after-hours work had been received by the Village. Based on the Police Department's records, the police department has responded to approximately 357 total calls (false alarms, disturbances, etc.), for service this year at the Shops, of those 357 calls, 8 were noise related to after-hour construction noise. The department issued two warnings and five violations for violation of code 11-31 for a total of 7 code actions. Second, that the Manager have the authority to require that an off-duty officer be present during such work. This has been incorporated into the code amendments with the clarification that the cost for such officer shall not be borne by the Village.

CONCLUSION

It may be preferable for certain types of construction activities to be performed outside of the normally permitted working hours in the Village Code, provided that these activities do not pose a nuisance to the surrounding residents. The code does not presently address this need nor allow the Manager to approve such requests. It is the desire of the council that the Code be amended to address this matter. The proposed amendment establishes guidelines for review of after-hours work requests and gives the manager the ability to review and approve such requests.

ORDINANCE NO. 2015-

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING SECTION 11-29 "VIOLATIONS OF ARTICLE" AND SECTION 11-31 "CERTAIN NOISES RESTRICTED TO SPECIFIED HOURS" OF ARTICLE II "NOISE" OF CHAPTER 11 "NUISANCES" OF THE VILLAGE CODE OF ORDINANCES, TO AMEND THE EXISTING CRITERIA AND CREATE A PROCEDURE FOR APPROVAL OF CERTAIN RESTRICTED NOISES OUTSIDE OF SPECIFIED HOURS IN THE B BUSINESS DISTRICT UPON WRITTEN CONSENT OF THE VILLAGE MANAGER OR HIS OR HER DESIGNEE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article II "Noise" of Chapter 11 "Nuisances" of the Village Code of Ordinances (the "Code") sets forth regulations governing noise occurring in the Commercial-Apartment and Residential Neighborhoods of the Village, and allows the Village Manager to make certain exceptions to these regulations in the residential districts; and

WHEREAS, the Village Council desires to amend the noise regulations set forth in Article II "Noise" of Chapter 11 "Nuisances" of the Code, to (a) modify the criteria for approval of exceptions to the noise regulations in the Commercial-Apartment and Residential Neighborhoods and (b) create a new procedure to allow for the approval of certain construction noises outside the hours specified in the Code in the B Business District upon the written consent of the Village Manager; and

WHEREAS, the Village Council deems it advisable amend the Code in this manner, to allow for after-hours construction in the B Business District that will not otherwise disturb or negatively impact Village residents; and

WHEREAS, the Village Council hereby finds and determines that this Ordinance is in the best interest of the public health, safety and welfare.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That each of the above recitals is hereby adopted and confirmed.

Section 2. Village Code Amended. That Section 11-29 “Violations of Article” of Article II “Noise” of Chapter 11 “Nuisances” is hereby amended to read as follows¹:

Sec. 11-29. Violations of article.

(a) *Prohibited acts generally.* The following acts, and the causing or permitting thereof, are presumed to be in violation of this article:

(3) Operating or causing the operation of any tools or equipment used in construction, drilling or repair work outside the hours specified in section 11-31 unless such activity is authorized by the prior written consent of the Village Manager or his or her designee, as provided for in subsections 11-31(c), (d) and (e); provided, however, for any noises emanating from the activities listed under section 11-31 during the hours in which such noises are permitted, the associated equivalent sound levels shall not exceed the equivalent A-weighted sound level limits of subsection 11-29(b) by five decibels and the associated maximum A-weighted sound levels shall not exceed the equivalent A-weighted sound level limits of subsection 11-29(b) by ten decibels.

(c) *Mitigation practices.* Any person operating or causing or allowing the operation of tools or equipment used in construction, drilling or repair work, shall mitigate noise by assuring compliance with the following noise mitigation practices or other methods that the Building Official determines, in his or her sole discretion, are at least as effective as those listed below:

(1) Pile driving:

- a. Substitution of hydraulic impact hammers for diesel impact hammers;
- b. Use of augering equipment to construct bored piles;
- c. Use of vibratory hammers for driving steel piles; and
- d. Use of static load equipment to push rather than drive piles.

¹ Additions to existing Village Code text are shown by underline; deletions from existing Village Code text are shown by ~~strikethrough~~.

(2) Concrete breaking:

- a. Substitution of hydraulic, electric or gasoline-powered tools for pneumatic equipment;
- b. Substitution of a whip-action impact hammer for a standard, excavator-mounted hammer;
- c. Use of a thermal lance to burn holes in concrete;
- d. Use of diamond drills and saws;
- e. Use of hydraulic bursters or jacks;
- f. Use of excavator-mounted hydraulic crushers;
- g. Use of nonexplosive chemical demolition agents; and
- h. Use of high-pressure discharge of carbon dioxide gas.

(3) Construction site noise control: Use of sound barriers, absorptive sound blankets, and acoustic enclosures.

(4) Operational Restrictions:

- a. Scheduling of noisy activity to coincide with periods of least noise sensitivity;
- b. Restricting equipment idling on-site;
- c. Prohibiting unnecessary rattling and banging;
- d. Use of portable radios to communicate with workers.

Section 3. Village Code Amended. That Section 11-31 “Certain Noises Restricted to Specified Hours” of Article II “Noise” of Chapter 11 “Nuisances” is hereby amended to read as follows:

Sec. 11-31. Certain Noises restricted to specified hours.

- (b) The Noises set forth in subsection (a) of this section are hereby prohibited at any location and at any hour on Sundays and on New Year's Day, Christmas Day, Independence Day, Labor Day and Thanksgiving Day, and on Mondays through Saturdays from 5:30 p.m. to 8:30 a.m., except as provided in subsections (c), (d) and (e) of this section.
- (c) ~~Except~~An applicant may seek with the prior written consent of the Village Manager or his or her designee to construct or demolish, or to add to, alter or repair the exterior portion of, any dwelling, or to mow or perform any other lawn maintenance activities which require the use of machinery, in residential districts during between the hours prohibited by subsection (b) of 5:30 p.m. and 8:30 a.m. on Mondays through Saturdays, and during any hours on Sundays and on New Year's Day, Christmas Day, Independence Day, Labor Day, and Thanksgiving Day. Such consent may be granted by ~~shall not be~~

~~withheld if documented proof is submitted to the Village Manager or his or her designee if an applicant submits documentation establishing, as determined in the sole discretion of the Village Manager or his or her designee, showing that the activities described in this paragraph (c) are necessary cannot be done at any other time, and will not take more than one day to complete.~~

(d) ~~Except in an Emergency which will result in damage or injury, or with~~ An applicant may seek the prior written consent of the Village Manager or his or her designee, it shall be unlawful to permit independent contractors, vendors, or any other hired persons or employees to make any additions, alterations, or repairs inside any dwelling in residential districts during between the hours prohibited by subsection (b) of 9:00 p.m. and 8:30 a.m. on any day. Such consent may be granted by shall not be withheld if documented proof is submitted to the Village Manager or his or her designee if an applicant submits documentation establishing, as determined in the sole discretion of the Village Manager or his or her designee, showing that any alterations, additions, or repairs described in this subsection paragraph are necessary cannot be made at any other time, and will not take more than one day to complete. In an Emergency which will result in damage or injury, a property owner or tenant may permit independent contractors, vendors, or any other hired persons or employees to make any alterations or repairs inside any dwelling in residential districts during the hours prohibited by subsection (b) without the prior written consent of the Village Manager or his or her designee.

~~(e) The Noises set forth in subsection (a) of this section may be permitted on Mondays through Saturdays during the hours prohibited by subsection (b) in the B Business District only with the prior written consent of the Village Manager or his or her designee. Such consent may be granted if an applicant submits documentation establishing, as determined in the sole discretion of the Village Manager or his or her designee, that the Noises set forth in subsection (a) of this section can be mitigated through compliance with the mitigation practices set forth in subsection 11-29(c), and that the Noises:~~

- ~~1. Are primarily generated within the interior of the structure, and~~
- ~~2. Would interrupt or substantially impair the operations of adjacent tenants if conducted during the hours that Noises are allowed by subsection (b); or~~
- ~~3. Are produced by activities that pose a safety hazard to employees or visitors; or~~
- ~~4. Are produced by activities that can not practically be performed during the hours that Noises are allowed by subsection (b).~~

~~(f) In the event that the Village Manager or his or her designee grants their consent to perform Noise-producing activity during the hours prohibited in subsection (b) of this section, the Village Manager or his or her designee may require the applicant to post an off duty police officer, code compliance officer, or other employee or agent of the Village at the site of the Noise-producing activity at the applicant's sole cost and expense.~~

(eg) The requirements of this section shall not be construed to prevent the operation of automobiles or light delivery vehicles at any time; provided, however, that such motor vehicles shall at all times be properly muffled and shall be so operated as to create the least possible noise or nuisance.

Section 4. Severability. That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Inclusion in the Code. That it is the intention of the Village Council, and it is hereby ordained that this Ordinance shall become and made part of the Village Code; that the sections of this Ordinance may be renumbered or relettered to accomplish such intention; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6. Conflict. That all sections or parts of sections of the Village Code, 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. That this Ordinance shall be effective immediately upon adoption on second reading.

PASSED AND ADOPTED on first reading this __ day of _____, 201_.

PASSED AND ADOPTED on second reading this __ day of _____, 201_.

Mayor

ATTEST:

Dolores Mejia, Interim Village Clerk

ARTICLE II. - NOISE**Sec. 12-20. - Purpose.**

The purpose and intent of this article is to control and restrict noises that may cause hardship or offense to residents or disrupt their right to the quiet enjoyment of their property.

(Ord. No. 30, § 1, 4-14-51; Ord. No. 42, § 1, 12-10-51; Ord. No. 647, § 1, 4-12-99; Ord. No. 938, § 3, 8-6-2012)

Sec. 12-21. - Definitions.

Appliance means any air conditioner, pool pump, clothes washer, clothes dryer, or generator in service within the town prior to the effective date of this section.

Commercial landscaping means the cutting or trimming of grass, trees, shrubs or other foliage by a business entity or individual other than the owner or resident of the property for a fee.

Construction activity means any activity associated with the construction, renovation, repair alteration or demolition of any building, structure or any part thereof.

Noise means any audible sound emanating from any source.

Noise disturbance means any sound in quantities which are or may be potentially harmful or injurious to human health or welfare, or which unnecessarily interferes with the enjoyment of life or property, including outdoor recreation, of a reasonable person with normal sensitivities. Noises measured at an A-weighted equivalent sound level (Leq) in excess of 65 decibels between the hours of 9:00 a.m. and 10:00 p.m. (daytime decibel levels) or in excess of 60 decibels between the hours of 10:00 p.m. and 9:00 a.m. (nighttime decibel levels), taken with a calibrated sound level meter at the location of the dwelling unit or premises of the complaining party shall be considered prima facie evidence of a violation of this article. If there is no complaining party, the measurement shall be taken at approximately 100 feet from the property from which the noise is emanating.

Sound level meter means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and A-weighted sound level network with fast and slow integrating time constants used to measure sound pressure levels. The sound level meter shall be capable of measuring the A-weighted equivalent sound level (Leq) and maximum sound level. The period of time over which sound levels are measured shall reflect the nature of the sound.

(Ord. No. 938, § 3, 8-6-2012)

Sec. 12-22. - Prohibited acts generally.

The following acts and the causing or permitting thereof, are presumed to be in violation of this article.

- (1) Operating or playing any radio, television, phonograph, drum, musical instrument or other machine or device for the production, reproduction or amplification of sound which creates a noise disturbance.
- (2) Owning, possessing or harboring any animal or bird which frequently or for a continued

duration howls, barks or makes other noises which create a noise disturbance.

- (3) Operating or causing the operation of any tools or equipment used in construction activity and landscaping outside the hours specified in section 12-26 without first receiving a permit from the town manager pursuant to section 12-25
- (4) Using or firing explosives, fire crackers, firearms, sirens or similar devices, except in an emergency, or using or firing firecrackers, skyrockets or the like if prior permission is not obtained from the town manager.

(Ord. No. 938, § 3, 8-6-2012)

Sec. 12-23. - Exceptions.

The terms and prohibitions of this article shall not be applied to or enforced against:

- (1) Any motor vehicle, motor boat or other vehicle of the town, the county, the state or licensed public utility vehicle within the town while engaged in necessary public business.
- (2) The use of electric generators during a state of emergency as declared by the state, county or town.
- (3) Noise generated for the purpose of alerting someone to an emergency or in the performance of emergency work.

(Ord. No. 938, § 3, 8-6-2012)

Sec. 12-24. - Appliance replacement.

Appliances emitting noises that constitute a noise disturbance must be made to comply with the provisions of the chapter or must removed from service in accordance with the following schedule:

- (1) Appliances emitting noises with a decibel level exceeding the permissible level (65 decibels) by ten or more decibels must be removed from service within one year from the date on which this ordinance [chapter] is adopted.

(Ord. No. 938, § 3, 8-6-2012)

Sec. 12-25. - Permits.

- (1) *Authorized.* Upon written application to the town manager or his designee submitted a minimum of seven days prior to the event or project at which noise levels are expected to reach the level of a noise disturbance, a permit may be granted exempting an individual from the prohibitions or hour restrictions contained in this article, subject to such conditions as the town manager may impose. The decision of the town manager shall be final and not subject to appeal, except by writ of certiorari in accordance with law.
- (2) *Application.* The application for a permit under this section shall contain the following information:
 - (a) The name, date of birth, address and telephone number of the person who will be in charge of the activity or event for which a permit is requested (the "supervisor");
 - (b) The name of the person, company or organization seeking the permit;
 - (c) The exact dates and times for which the permit is sought;
 - (d) The exact location of the activity or event for which a permit is requested;
 - (e) A description of the activity or event for which a permit is requested.
- (3)

Administrative procedures. The town manager is hereby authorized to promulgate reasonable rules and procedures for application for, issuance and revocation of such permits. These rules and procedures shall serve to implement the intent and purpose of this article so that necessary and beneficial activities may occur while providing for protection of the public.

- (4) *Supervisor to be present at event.* The supervisor of the activity or event for which the permit is sought must remain at the location of the activity or event during the entire time stated in the permit.

(Ord. No. 938, § 3, 8-6-2012)

Sec. 12-26. - Permissible hours for construction activity and landscaping.

The performance of construction activity and landscaping within the town shall be allowed only from 9:00 a.m. until 6:00 p.m., Monday to Friday, and between the hours of 10:00 a.m. and 5:00 p.m. Saturday. Notwithstanding the above, the operation of leaf blowers is hereby prohibited on Saturdays.

The performance of construction activity and landscaping within the town shall not be allowed on, Sundays or legal holidays, and the same is hereby specifically prohibited. For purposes of this section, the term "legal holidays" is defined as any day legally observed as a holiday by the town.

(Ord. No. 30, § 2, 4-14-51; Ord. No. 56, § 1, 12-8-52; Ord. No. 487, § 1, 4-11-90; Ord. No. 547, § 1, 2-14-94; Ord. No. 938, § 3, 8-6-2012)

Cross reference— Additional restrictions, § 12-22.

Sec. 12-27. - Penalties.

The following fines and penalties shall be imposed on violators of this article:

- (a) For the first violation, the violator shall receive a notice of violation imposing a fine of \$250.00.
- (b) For any subsequent violation, the violator shall receive a notice of violation imposing a fine of \$500.00.

(Ord. No. 647, § 3, 4-12-99; Ord. No. 938, § 3, 8-6-2012)

Sec. 12-28. - Granting exceptions.

Whenever and wherever it shall appear to the satisfaction of the town manager that work on buildings within said town is of such a nature that the same cannot be stopped immediately within the time specified herein without substantial loss and damage to the contractor or the owner of said property, then, and only then, the town manager is hereby authorized in his discretion to except said work from the provisions of hereinabove only until the time necessary to complete such emergency work, or to relieve such undue hardship.

(Ord. No. 30, § 4, 4-14-51; Ord. No. 938, § 3, 8-6-2012)

Editor's note—

Ord. No. 938, § 3, adopted Aug. 6, 2012, set out provisions amending former § 12-29. To avoid skipping section numbers, and at the editor's discretion, former § 12-29 has been renumbered as § 12-28



Town of Surfside Commission Communication

Agenda Item #: 9D

Agenda Date: February 10, 2015

Subject: Byron Avenue Traffic Congestion/ Public Safety Concern

Background:

Traffic has substantially increased on Collins and Harding Avenues regionally as well as locally in Surfside. These roadways have become major north/ south thoroughfares for vehicles to avoid I-95 and Biscayne Blvd. traffic congestion. The multiple lane closures at the developments in Surfside and neighboring jurisdictions have only added to this traffic overcrowding. Drivers have learned that they can avoid the backup on Collins and Harding Avenue by traveling west into the residential neighborhoods and north or south on Byron Avenue. The developments have also brought up to 2000 construction workers daily to Surfside. Due to parking restraints put in place by the Town, workers are not allowed to park in the municipal lots and some are parking in our residential neighborhoods causing more obstruction on these streets. This influx has also increased our property crimes in the neighborhoods and at the construction sites. The Town will soon put in place a pilot resident only parking program on two blocks of Byron Avenue in order to address this problem.

There are no sidewalks in the neighborhoods in Surfside. The population has changed dramatically and we have many families and children who play, walk and bike on the streets. Over 1400 children attend Ruth K. Broad K-8 and half of them live in Surfside and most walk through the neighborhoods to and from school each day. The traffic problem has become a public safety issue for Surfside residents. There have been 18 motor vehicle accidents on Byron Avenue over the past three years and five resulted in injuries. Two accidents involved bicyclist and one involved a pedestrian. One accident in 2013 involved an overturned vehicle.

In order to address this issue, Town staff has had meetings with Miami-Dade County and Florida Department of Transportation officials over the past several months. Surfside requires authorization from FDOT for any changes to Collins Avenue, Harding Avenue, and 96 Street which are all state roads. Authorization from Miami-Dade County is required for changes to the residential neighborhoods including the placement of signage, speed calming devices, closing of streets, or changing streets to one ways. Town staff has also met with residents of Byron Avenue who are strongly in favor of changes to ensure their safety and quality of life.

Surfside has conducted two traffic studies over the past few years (Calvin, Giordano and Associates, 2012 and Advanced Transportation Engineering Consultants, 2014). Both have recommended improvement to the operational efficiency to the traffic signals on Collins and Harding Avenues. Adjustments in the timing have been made by the County but vehicle and pedestrian detections are needed at Collins and 95 St., Harding Ave. and 96 St., Harding Ave. and 95 St., Harding Avenue and 94 St., and Harding Avenue and 93 St. This will allow traffic to flow better north and southbound when there are no vehicles waiting at the cross street. Currently the traffic signals cycle automatically and when not needed, adding to the congestion at times. These are County traffic lights and would need County approval to add the detections.

Additionally the 2012 study recommends traffic calming proposals in the residential neighborhoods. Although many of the locations for traffic calming devices meet the minimum volume criteria and the speed percentile, the County requires a street to be at least 750 feet in length to be eligible for speed humps/ tables. Most streets in Surfside do not meet this requirement except for 88 Street which also needs calming devices but Miami-Dade County can approve an exception.

The Police Department staffs Byron Avenue with personnel on a daily basis to deter traffic violators and congestion. Hundreds of citations and warnings have been issued on Byron Avenue to drivers avoiding Collins Avenue and Harding Avenue. Most recently, the Police Department is temporarily closing blocks to traffic on Byron Avenue during rush hours to deter drivers from utilizing this road as a thruway to avoid congestion. More permanent, effective and efficient solutions are needed to make this area safe. These answers include speed calming devices, street closures, traffic light and pedestrian detections and other measures as soon as possible. Miami-Dade County officials have agreed to conduct a study on Byron Avenue in order to review some of our recommendations.

Budget Impact:

1. Cost to close street end:
 - New curb: \$1,440
 - Dirt and sod: \$500
 - Landscape: \$3,500
 - Miscellaneous signage: \$250
 - Total cost: \$5,690

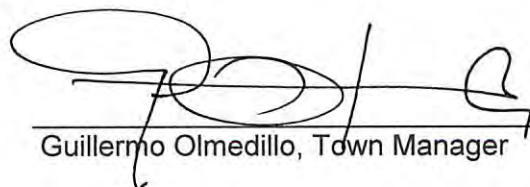
2. The cost of one speed table installed: \$5,250

Conclusion:

The Police Department has experienced a decrease in vehicular traffic in those blocks which have been temporarily closed during peak hours and residents have voiced a notable improvement. Based on the estimated costs comparison between closing a street end and one speed table, the more effective and cost efficient remedy to control and prevent outside traffic from traveling through the residential neighborhoods will be closing streets. In order to move forward with a more permanent solution to the public safety concern regarding Byron Avenue a certified traffic study and design of the roadway modifications will have to be conducted at a cost to the Town. The design / recommendations will then be submitted to Miami-Dade County for approval.



David Allen, Chief of Police



Guillermo Olmedillo, Town Manager



Town of Surfside

MEMORANDUM

TO: Town Commission
FROM: ~~Guillermo Olmedillo~~, Town Manager
DATE: February 10, 2015
SUBJ: **Town Commission and Tourist Board Joint Meeting**

Seeking Town Commission availability for a Joint Meeting of the Town Commission and Tourist Board.

The date of March 9, 2015 for a joint meeting, to address proposed changes to the Resort Tax Ordinance as well as Tourist Board policies, procedures, ethics, governance etc, is no longer a viable option due to the inability of all five Tourist Board members to attend.

The following are possible dates that will need to be verified by the Board once all of the Commissioners have stated their availability:

Monday, April 13, 2015

Monday, May 4, 2015 (preferred date)

Monday, May 11, 2015

Monday, May 18, 2015



**Town of Surfside
Town Commission Meeting
February 10, 2015
7:00 pm**

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

**DISCUSSION ITEM MEMORANDUM
Ad-Hoc Sustainability Committee**

Title: Ad-Hoc Sustainability Committee

Submitted By: Daniel Dietch, Mayor

Objective: To discuss Commission interest in establishing an Ad-Hoc Sustainability Committee to identify and champion a range of sustainability opportunities and make recommendations to the Town Commission.

Consideration: Surfside has been a leader in developing a wide range of sustainability initiatives that focus on mitigation, adaptation and resiliency related to the impacts of climate change as well as programs that demonstrate a culture of environmental stewardship. Such activities are fundamental to promoting and maintaining a well-informed and capable community. Much of our work has been loosely connected and could benefit from a more comprehensive vision and strategy that could be managed through an engaged committee. This is evidenced by the recent work of the Beach Sand Committee as well as relationships that have been developed with organizations such as the CLEO Institute, Surfrider Foundation, and Youth Environmental Alliance and many others to promote sustainability.

On June 10, 2014, the Town Commission provided policy direction to develop and implement comprehensive environmental stewardship policies and procedures. If the Town Commission is agreeable, the role of the Ad-Hoc Sustainability Committee could be to identify and promote policies and practices within the Town and region to help achieve a more sustainable environment. The next step would be to prepare a Committee Charter that establishes the framework to constitute and convene an ad-hoc committee under the administrative leadership of the Town Manager. Charter elements may include, but not be limited to the following:

- Purpose
- Membership
- Nature
- Organization
- Tasks
- Duration



Town of Surfside Commission Communication

Agenda Item # 9G

Agenda Date: February 10, 2015

Subject: Post Office Parking Lot Garage Update

Since the Town Commission meeting on January 13, 2015, staff completed the following in an effort to move this process forward,

A meeting was held the Town Manager, Town Attorney, Nancy Stroud (Outside Council) and Eric Liff (Lambert Advisory). Also in attendance were the Finance Director, Town Planner, Building Official and TEDACS Director. This was the first meeting of the team that will assist with all aspects of the plan to build a garage on this site. The meeting preliminarily identified roles and responsibilities, a draft timeline, and possible associated expenses. All of these components require further clarification.

Also, all five Town approved Architectural firms were contacted to provide proposals for the site given the following parameters:

- Address the Town's deficiency of parking spaces to the maximum possible given the zoning constraints of the location
- Accommodate the Post Office's requirements for a new facility of 8,078 gross SF that includes a delivery platform, service lobby, mail processing area etc.

These proposals were received on Friday January 30 and will be reviewed by staff. A recommendation to the Town Commission will be part of the March 10, 2015 agenda.

A recap of Lambert's involvement to date, and a proposal to enter into the next phase of negotiation with the private property owner, was also received last week. Attachment A is provided at this time for informational purposes only.

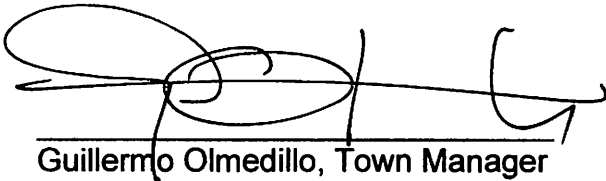
Rather than bring items to the Town Commission on a piecemeal basis, the March 10, 2015, Town Commission meeting is earmarked for the Administration to provide a comprehensive plan that meets the objectives and direction provided by the Commission. A process and timeline, with accompanying deliverables, along with a related vendor proposals and a resolution to expend parking fund reserves to accomplish the identified goals, will be provided at that time. The report will address each stage of the process in an effort to provide a clear

view of the commitment being undertaken. If the Town Commission accepts this report, one that takes the Town from this juncture through to issuance of an RFP for the construction of a garage, the Administration will as expeditiously and judiciously as possible.

Some of the remaining items to address that will be included in the report:

- Finalizing the private property owner's requirements for an agreement with the Town
- Address the willingness of the Post Office to relocate to a temporary location during the garage construction
- Identify the Town's timeline from a Town Commission / Planning & Zoning perspective
- Confirm the Comprehensive Plan/Zoning changes (and timeline) required
- Review the process as it relates to the Shul expansion timeline
- Incorporate a RFP, traffic analysis and Bond process into the overall project

It is the view of the Administration that the Town Commission will be better informed of all the associated expenses, be aware of all commitments and challenges through the report to be provided next month.



Guillermo Olmedillo, Town Manager



Memorandum

To: Mr. Guillermo Olmedillo, Town Manager
From: Eric Liff, Lambert Advisory
Date: January 29, 2015
Subject: Public/Private Partnership Advisory Services - Update

In March 2014, Lambert Advisory was engaged by the Town of Surfside to provide Public/Private Partnership Advisory Services in association with the Town's potential parking garage development opportunities. The Agreement (refer to Attachment 1 herein) specified two particular tasks, including: Task 1 – Evaluation of the Proposed Parking Garage and Strategic Options; and, Task 2 – Public/Private Partnership Solicitation/Negotiations. To date, Lambert has completed Task 1, which focused on three primary scopes of services, and the following provides a summary overview of the work completed for each of these items. Accordingly, we have included the relevant documentation presented to the Town as referenced below.

- 1.) *Updated Parking Garage Demand and Program:* Lambert completed the parking garage demand analysis for the Post Office site and, specifically, the market assessment to estimate the demand and performance parameters for retail use as part of the proposed parking garage. The research and analysis was documented within a Technical Memorandum and delivered to the Town in July 2014 (refer to Attachment 2).

- 2.) *Parking Garage - Net Operating Income Projections:* Based upon the assessment of the parking garage demand and program, Lambert prepared a number of alternative financial analyses to determine net operating income (NOI), as well as estimates of return on investment (ROI) based upon residual valuations of potential public/private partnership structures. These financial models were presented and discussed during numerous meetings with Town staff.

- 3.) *Strategic Opportunities:* Based upon the market and financial evaluations, Lambert met with the Town on several occasions to discuss strategic initiatives with the owner of the Post Office site with consideration to land acquisition, alternative public/private partnership structures, and/or long term lease options. Lambert also participated in a meeting with the Post Office site owner, with follow up phone conversations. Additionally, Lambert participated in several meetings and/or conference calls with property owners in surrounding sites to discuss alternative options beyond that of the Post Office (including the Abbott lot and 94th Street lot).

Lastly, a certified and highly reputable real estate property appraiser was engaged by Lambert to provide a land valuation of the post office property. The appraisal, which was discussed with Town staff, may be used as part of the subsequent negotiation with the private land owner and is currently retained in our file. Note, the cost for the appraisal was paid for out of Lambert's Task 1 fee.

On January 13th, the Town Commission voted to move ahead with negotiations of a potential public/private partnership for the proposed Post Office parking garage development. For Lambert, this process is outlined in Task 2 of the original agreement. The terms of services were based upon an hourly rate given the uncertainty of the scope of work at the time. For instance, the original proposed scope for Task 2 considered the preparation and evaluation of an RFP associated with a public/private partnership for the Post Office site. However, this service is not necessary since the negotiation will directly involve a single property owner who has now expressed an interest in a joint development with the Town. Therefore, Lambert submitted an updated proposal for services and Not-to-Exceed Fee structure associated with Task 2 (refer to Attachment 3).

Please let me know if you have any questions and we appreciate the opportunity to continue our work with the Town of Surfside.

ATTACHMENT 1

Public/Private Partnership Advisory Services (Original Agreement)



Mr. Michael Crotty
Town Manager
Town of Surfside
9293 Harding Avenue
Surfside, FL 33154

March 21, 2014

Subject: Public/Private Partnership Advisory Services

Dear Mr. Crotty:

Lambert Advisory (Lambert) is pleased to provide Public/Private Partnership (P3) Advisory Services related to the potential acquisition and development of a parking garage in Surfside, Florida.

This letter outlines our proposed scope of services, fees, timing and the conditions that will govern this engagement. Lambert Advisory has broad experience assisting municipalities with development solicitation, evaluation of responses, assessment of proposed structuring and negotiating final agreements for public/private ventures. We likewise work with private responders and, as a result, have a thorough understanding of the challenges and opportunities which surround the public/private partnership process.

As we understand it, the Town of Surfside (Town) completed a Parking Study in late 2012 and as a result of the findings is contemplating the development of a parking structure located on the west side of Collins Avenue south of 95th Street (hereto referred to as the Post Office site). Based upon the garage development site as proposed in the Parking Study, the property comprises four individual parcels, including: three contiguous parcels that are owned by the Town with a total 28,260 square feet (0.65 acres); and, a fourth parcel that is privately owned, comprises a total 12,460 square feet (0.29 acres), and currently includes the Post Office building. As a result, the Town is evaluating the opportunity to build a parking garage and ancillary retail on all four parcels which would require a public/private partnership should the one property remain privately owned. To assist with this evaluation, the Town is looking for guidance in evaluating public/private partnership strategies and opportunities with a developer to build the parking garage and potential on-site retail.

Based upon the Town's objectives outlined above, we propose the scope of services within two distinct tasks:

Task 1: Evaluation of the Proposed Parking Garage and Strategic Options

The first task associated with the public/private partnership process is to evaluate the proposed parking garage development to provide the Town with the base of information and

analysis necessary to identify alternative development options for the parking garage. There are three primary steps to this process, summarized as follows:

- 1.) *Updated Parking Garage Demand and Program:* Based upon our discussions, the parking demand analysis for the Post Office site will need to be updated. Lambert will work with the Town's parking consultant to define the parking demand based upon demand from two primary sources: 1) demand from public use; and, 2.) demand from on-site retail (which may also include a new Post Office). In this effort, Lambert's primary role will be to prepare a market assessment to estimate the demand and performance parameters for retail use as part of the proposed parking garage development based upon:
 - a.) Economic/Demographic Overview – This analysis will analyze economic/market trends locally considered pertinent to the proposed development, including but not limited to: population and population characteristic trends and projections; beach utilization, hotel occupancies (including assessment of new hotel development), employment trends and labor force characteristics; household trends and projections; and, traffic patterns and trends primarily along Harding Avenue and Collins Avenue.
 - b.) Comparable/Competitive Supply Profile – The supply effort will profile any competitive/comparable retail development projects located in the market area. The type of data that Lambert will seek to obtain includes: size of retail center; merchandise/tenant mix; rental rates and lease terms; market orientation (i.e. resident, worker); and, identification and summary profile of notable retail development under construction or in the planning stages.
 - c.) Estimates of Retail Market Demand and Performance - Based upon our analysis of market supply and demand conditions outlined above, Lambert will identify market demand for the proposed retail development with specific aspects including:
 - Potential uses and most synergistic tenant/business mix for the site;
 - Achievable "net" rental rates;
 - Estimate of timing and absorption for development; and,
 - Planning and design guidelines which can be utilized to set the parameters for partnership solicitation.
- 2.) *Parking Garage - Net Operating Income Projections:* Based upon the estimate of parking demand from potential public and retail utilization, we will work with the Town's parking consultant to forecast revenue, expenses and net operating income from the parking garage. Lambert's main focus will be on the net operating income generated from the retail component and the analysis will also factor in the need to accommodate the Post Office should it remain a part of the development plan.
- 3.) *Outline of Strategic Opportunities:* Based upon the evaluation of demand and operating estimates outlined above, Lambert will be in a position to assist the Town in its evaluation of strategic opportunities for implementing the proposed parking garage development. This includes but is not limited to an assessment of: land

acquisition (of the Post Office site); alternative public/private partnership structures with the current or new owner of the Post Office property which includes an understanding of potential equity, debt, and/or land contribution structuring; and, analysis of the Town's return-on-investment from alternative development options. Importantly, the strategic analysis is aimed at maximizing the benefit of the parking garage to both the Town and its residents.

Task 2: Public/Private Partnership Solicitation and/or Negotiations (Optional)

At the point the Town considers a public/private partnership for the proposed Post Office parking garage development, and a solicitation for Public/Private Partnership be required as part of the process, Lambert is prepared to assist with the preparation, evaluation and negotiation associated with a Request for Proposal (RFP) the Town may need to undertake as part of the public/private partnership.

Prepare an RFP for Public/Private Partnership - Lambert will prepare an RFP for a development and/or operating partner and will be oriented to both identifying the strongest developer/operator as well as marketing the property to prospective developer/operators. The RFP will set forth the key components of the Ranking Criteria and Selection Criteria including any required terms and structure of an Agreement. Furthermore, the RFP will include (or make reference to) all relevant and available information regarding the parking garage property including physical, regulatory, and legal documents.

Evaluation: Lambert will be prepared to assist the Town in its evaluation of any RFP responses in light of the prevailing and prospective economic and financial environment impacting the proposed development. The primary objective of this evaluation is to assess the revenue, operating and financial assumptions set forth within each RFP and advise the Town as to any items and/or issues that may not be consistent with our findings.

Negotiation Assistance: Once a partner is selected, Lambert will be prepared to assist in the negotiation process with a selected partner and advise the Town in the interest of structuring a fair and equitable agreement for both parties.

Fees and Documents

Our fees will be based upon our standard hourly rates of \$225 for Paul Lambert (Managing Principal), \$175 for Eric Liff (Principal), and \$110 for professional staff. We propose a fixed fee for Task 1 in the amount of \$18,500. For Task 2, should the Town accept, we propose to complete the work on an hourly basis, with a "not-to-exceed" amount which we will be agreed upon prior to commencement of work.

Specific to Task 1, we will document our findings and conclusions within a Technical Memorandum, with supporting documentation and analysis.

The fees stated above include any out of pocket or ancillary expenses such as automobile costs, printing costs, long distance telephone, postage and courier, and photocopying. If, at some

point during the course of the work, a decision is made to discontinue, our fee will be based upon the actual professional time expended to date.

Other Terms of Agreement

Our studies, reports and analysis are subject to the following restrictions and conditions:

- Lambert Advisory has no obligation to update our findings and conclusions for changes in market conditions which occur subsequent to our work. Any such changes in market conditions may affect the validity of our estimates.
- Documents we prepare are based upon assumptions and estimates which are subject to uncertainty and variation. These estimates are often based on data obtained in interviews with third parties, and such data are not always completely reliable. In addition, we make assumptions as to the future behavior of consumers and the general economy which are highly uncertain. Therefore, while our estimates will be conscientiously prepared on the basis of our experience and the data available to us, we make no warranty of any kind that the occupancy, rates, revenues, or expenses projected will, in fact, be achieved.

Acceptance

We hope this letter correctly addresses your needs. If you have any questions regarding the scope of work or business arrangements, please call me at (305) 503-4096.

We thank you for the opportunity to present this proposal and look forward to working with you on this exciting assignment.

Very truly yours,



Eric Liff
Principal

THE PROPOSAL AND ITS TERMS AND CONDITIONS ARE ACCEPTED IN ITS ENTIRETY.

NAME: Michael Crotty
COMPANY: Town of Surfside FL
TITLE: Town Manager
DATE: 5-21-14

*Approved by Resolution of Town Commission
at its May 13, 2014 Meeting.*

ATTACHMENT 2

Post Office Site Parking Garage (P3 Evaluation Services) – Technical Memorandum

To: Mr. Michael Crotty, Town of Surfside
From: Eric Liff, Lambert Advisory
Date: July 18, 2014
Re: Post Office Site Parking Garage (P3 Evaluation Services)

Memo

Introduction

Lambert Advisory (Lambert) has completed its analysis of the proposed Post Office Site parking garage and, specifically, an evaluation of the market demand and opportunity to integrate retail commercial uses into the development program. Based upon the findings associated with the retail/commercial analysis, we have prepared a preliminary evaluation of the impact this may have on the approach the Town of Surfside (Town) may undertake to support development of the parking facility, including a potential public/private partnership, land acquisition, and/or other recommended development structure.

The basis for Lambert's scope of work is the result of a Parking Structure Feasibility Report that was completed by Rich & Associates in March 2013 (Parking Study) that recommended the Town consider development of a parking structure located on the west side of Collins Avenue, and south of 95th Street (and referred to as the Post Office Site). The Town currently owns approximately 28,260 square feet of land (0.65 acres), which includes three sites (labeled *Town A*, *Town B* and *Town C* in the following figure). Immediately to the west (labeled *PO Site* in the following figure) is a 12,460 square foot privately-owned property – and current location of the US Post Office. As we understand, the Post Office currently leases the *Town B* site from Surfside to support its customer and Post Office vehicle parking, and the lease is reaching its term limit within the next 12 months. In addition to the *Town A*, *B* and *C* sites, Surfside also owns the property immediately north of the proposed parking garage (labeled *Town D* in the following figure), which is a 0.17 acre property that may be considered as part of the broader development plan, including land for additional adjacent retail development.

Figure 1: 95th Street Parking Garage (Post Office Site) Parcel Map



The Town is in a position to move ahead with its plan to build parking on the A, B and C parcels; however, this would constrain the number of parking spaces as well as seriously limit any opportunity to integrate retail/commercial. It is presumed that the opportunity to integrate the Post Office site would notably increase parking inventory, as well as enhance the opportunity to integrate retail/commercial use. Therefore, the Town is looking for assistance in evaluating public/private partnership strategies and opportunities with a developer to build the parking garage inclusive of the Post Office site.

It is important to note that the analysis herein is being completed under a few guiding parameters that will be critically important to address as part of any subsequent planning, including:

- 1.) The analysis is being completed independent of the findings of parking demand, surplus and/or deficit provided within the Parking Structure Feasibility Report (completed by Rich & Associates in March 2013). Therefore, this analysis is intended to help the Town evaluate its options for integrating retail/commercial use within the proposed parking garage and resultant impact on the ability of the Town to meet its parking needs.
- 2.) Lambert's analysis is being completed independent of any regulatory, design, and/or other physical planning input associated with the integration of the commercial/retail component within the proposed parking structure. Importantly, zoning for the entire PO Site contemplated herein is primarily limited residential and government use. Therefore, the opportunity to

expand the commercial component would require a land use change (by Referendum). As such, the analysis herein is being conducted independent of the current regulatory requirements in the effort to establish a baseline understanding of the opportunity and impact that the expansion of any commercial development may have on the potential public/private partnership. Accordingly, the findings and recommendations herein will require input as to design feasibility and recommendations, as well as impacts to parking operations from the Town or its planning representatives. We are, however, working under the assumption that the garage's height limit will remain at the current 4-story requirement.

- 3.) Any development-related costs identified herein are strictly order-of-magnitude as program recommendations are conceptual at this point. Further, Lambert is not a qualified cost estimator. All development costs will need to be verified independently from this report.
- 4.) The analysis herein is completely independent of any consideration or decision by the Town, residents and business community to acquire, maintain or relocate the US Post Office.

This technical memorandum is broken down into three main categories, including: Site Profile; Economic Overview and Retail/Commercial Market Findings; and, Evaluation of Strategic Development Options.

Site Profile

As summarized in the introduction above, the Town currently owns 0.65 acres within three contiguous sites. These three sites provide approximately 305 linear feet of frontage along Collins Avenue, with 144 feet of frontage along 95th Street. It is important to note that the Town's site(s) do not provide for direct access/exposure to Harding Avenue, which is the key corridor for downtown retail development; therefore, the property does lack some continuity with the area's core retail node which is traditionally an essential design feature among retail districts; particularly, within a retail area dependent upon pedestrian mobility. Considering this, retail frontage (and visibility) along Collins is critical, particularly considering the 25,000 average daily traffic count (ADT) that is traveling north bound.

In terms of visibility and exposure, integrating the retail/commercial into the development plan will only help, as it enhances the connectivity to Harding Avenue, although exposure to the roadway is still not direct. Moreover, the Town's consideration for including the north side lot (or Town D site) would further help somewhat with exposure and visibility, but more importantly, development of this site would help to improve commercial activity on 95th Street and help to draw resident and visitor pedestrian traffic from the core area, as well as the east/west movement to/from the beach. Although we do not know what the site coverage requirements are for the *Town D* site (assuming that parking will be waived), we estimate the retail space allowance is a maximum 60 percent of floor area, or roughly 4,500 square feet of retail space.

In any regard, a key component for integrating retail/commercial uses within the parking garage so that the retail space remains fully functional and there is adequate sidewalk width in regard to pedestrian flow. Accordingly, the retail should be limited to ground-floor space, which we also presume is a physical/design requirement that will be needed to adequately support the Town's current level of desired public parking, as well as any additional parking that will be needed as a result of new retail, as well as parking for post office vehicles should their operations remain in place. Although we have not been provided with any designs that conceptualize the integration of parking, retail and/or post office uses, preliminary discussions with the Town indicate the opportunity to build a maximum 20,000 to 30,000 square feet of retail/commercial space, the larger area of which assumes development of the *Town D site*. Importantly, Lambert is not in a position to assess what the impact to the retail space configuration would be with and without the post office and is an item that should be looked into further if the development plans progress.

Economic Overview and Retail/Commercial Market Findings

The opportunity and desire to integrate retail/commercial development is heavily dependent upon whether or not there is demand for this use in the market, and whether or not it's accretive to the overall development plan. Especially, if it provides added value that the Town can leverage to share the cost of development (and associated risk) with a private partner, along with receive potential on-going economic benefit from its operation. In most instances, a comprehensive market analysis is not needed for a development that is 20,000 to 30,000 square feet. However, a development of this scale does require some degree of market understanding to ensure that broader economic conditions are stable, there is some semblance of balance between supply and demand in the existing market, and there is adequate economic and market growth to support new supply.

The following provides a summary profile of key demographic, economic and real estate market conditions that support (or constrain) the opportunity for new commercial development within the proposed parking development, as well as a highlight of key findings.

Demographic Overview: Between 2000 and 2010, the town of Surfside grew from a population of 4,909 residents to 5,744 residents, an average annual growth rate of 1.6 percent, or roughly 83 persons per annum. Comparatively, Miami-Dade County grew by an average annual growth rate of 1.0 percent. During the same period, the Town of Surfside also experienced faster household growth rate than the County. Surfside increased from 2,248 households in 2000, to 2,609 households in 2010, an average annual growth of 1.5 percent, while household growth in the County was at 1.1 percent on an average annual basis. The majority of households in the Town of Surfside are owner-occupied, with the 2010 US Census reporting that 70.1 percent of households are owner-occupied, a figure which has remained unchanged since 2000.

The Town of Surfside has a significantly higher median-household income and per capita income than Miami-Dade County overall. According the American Community Survey (ACS) 2008-2012 5-

year average, the median-household income for Surfside is currently \$67,760, up from \$50,927 in 2000. In comparison, the 2008-2012 ACS reports a median-household income of \$43,464 for Miami-Dade County, up from \$35,996 in 2000.

Per capita incomes remained higher in the Town of Surfside than they are in Miami-Dade County overall. 2008-2012 ACS figures report a per capita income of \$46,242 for Surfside, an increase from \$38,375 in 2000, while the ACS reports the current per capita income for Miami-Dade County at \$23,304, an increase from the reported per capita income in 2000 of \$18,497.

Lastly, the median age for the Town of Surfside according to the 2010 US Census figures is 46 years old, while the median age for Miami-Dade County in 2010 is 38.2 years old, indicating a relatively healthy sector of population that supports relative strong consumer expenditure, particularly for dining and higher-end retail.

Housing Market Summary: During the ten-year period between 2004 and 2013, both single-family home and condo median sale prices reach their respective peaks in 2006. Following 2006, both single-family homes and condo median sales prices experienced a notable decline. However, both experienced a rebound in median sales prices following 2011. The following table is a summary of median sales prices for both single-family homes and condos between 2004 and 2013.

Figure 2: Town of Surfside – Single Family and Condominium Sales Trends

Source: Florida Department of Revenue, Sales Data Files; Florida Housing Data Clearinghouse

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Single Family Homes	\$ 435,000	\$572,000	\$ 680,000	\$ 650,000	\$ 500,000	\$367,000	\$ 350,000	\$372,500	\$ 427,000	\$ 495,000
Condominiums	\$ 347,000	\$480,000	\$ 545,000	\$ 490,000	\$ 370,000	\$322,500	\$ 230,000	\$220,000	\$ 300,000	\$ 429,500

Retail Market Profile: According to Costar, the Surfside retail inventory approximates a total 215,000 to square feet of space within 42± buildings/bays. There have been only two new retail developments in the last 50+ years, the primary development of which comprises the Publix (28,000 square feet) on 94th Street. The retail is clustered within the *downtown* core, and generally defined as the east and west side of Harding Avenue between 94th Street and 96th Street. The tenant mix largely comprises restaurants, with a mix of banking and small boutique retail, as well as the CVS Pharmacy. For the most part, the Surfside retail market overall has experienced modest vacancy (greater than 5 percent) during the past several years. Although, there have been periods of increased tenant turnover, and some of the issues of stability come from the Town’s parking constraints. In terms of lease rates, there is some variance, but for the most part, published rates are between \$35 and \$40/SF, NNN.¹

¹ NNN represents a lease structure whereby tenant or lessee agrees to pay all real estate taxes, building insurance, and maintenance on the property in addition to any other relevant fees that are expected under the agreement (rent, etc.).

Surfside's downtown (retail) corridor is bounded to the north by Bal Harbour Shops, a 500,000 square foot mall that is internationally recognized and is among the strongest performing retail centers in the world (in terms of sales per square foot), with plans to add an additional 250,000 square feet. To the west, the Town of Bay Harbor has approximately 220,000 square feet of space primarily lining Kane Concourse; however, a decent amount of the commercial space is medical and/or service oriented.

According to the Greater Miami CVB, the Surfside/Bal Harbour hotel submarket² reached peak occupancy for the first half of 2013 at 79 percent, but has dropped significantly to 69 percent for the same period 2014. However, the submarket has by far the strongest average daily rates (ADR) at \$423 for year-to-date 2014 vs. \$376 in the prior year. Comparatively, Miami Dade County is currently at 82 percent occupancy with an ADR of \$171.

Hotel Market Overview: With the closure of the Best Western Oceanfront Resort and the Beach House Hotel, there is currently a limited supply of hotel properties in Surfside. The 269-room Grand Beach Hotel is the major hotel property with plans for expansion to the west of 76 units. However, two new branded hotels including the Four Seasons Hotel @ The Surf Club (80 rooms) and the Marriott (175 rooms) are scheduled to be completed in 2015. To the north, other major hotel/resort properties include the St. Regis Bal Harbour (230 rooms) and One Bal Harbour Resort & Spa (85 rooms).

Office Market Overview: Surfside has very limited traditional office space, and mostly comprises real estate offices, which can also be considered quasi-retail. Bay Harbor has approximately 180,000 square feet of office, a large part of which is older, upper-floor (above retail) space along Kane Concourse. The relevance of office market discussion for Surfside is two-fold: first, the surrounding office inventory (albeit limited) provides support for the Town's retail and, particularly, day time traffic; and, second, any opportunity to add supporting office space (ie. 10,000 to 20,000 square feet) within Surfside, especially new, quality space for business service firms such as legal and accounting would likely be quickly absorbed.

In all, near term growth in condominium and hotel development, a relatively strong existing commercial/retail base serving the resident and visitor base, visibility along Collins Avenue and 95th Street, and the opportunity to continue capturing a fair share of demand from residents and workers in Bay Harbor and Bal Harbour portends well for the opportunity to support 20,000 to 30,000 square feet of retail within the proposed 95th Street parking garage site. This would primarily include service-oriented retail such as full service restaurants, cafes, bank branch, and/or real estate office, along with limited convenience and/or other dry-goods stores (ie. clothing). Although it's difficult to establish lease rates given that there is limited comparability within the existing retail market for which new, well designed retail space will likely be able to capture notably higher lease rates, and the fact that lease

² Greater Miami CVB categorizes the Miami Dade County hotel market into 13 submarkets. This includes the Surfside/Bal Harbour submarket with 9 total properties comprising 1,021 rooms.

rates are highly dependent upon variables associated with the extent of tenant build out (and improvement allowances from landlord), we presume average lease rates may be in the range of \$35 per square foot (NNN) with a tenant improvement allowance of \$25± per square foot.

From a market perspective, we can generally define and support demand for 20,000 to 30,000 square feet of retail as part of the parking facility. However, ensuring that the design of the parking facility allows for fully functional retail space configuration, as well as easy access and good visibility is necessary and a condition of any proposed plan. Considering this, the next step to the evaluation herein is the impacts that the potential retail/commercial space has on alternative development strategies the Town may consider for the parking garage.

Evaluation of Strategic Development Options

The analysis above provides support for 20,000 to 30,000 square feet of retail that can be integrated into the proposed 95th Street parking garage. It serves at the basis for assessing the strategic development options that the Town may consider to help support the development opportunity, whether it is done entirely by the Town or as part of a joint development effort. As noted, though, there are a number of items that need to be addressed as part of the process and, namely, design and cost factors that will ultimately need to be understood for the Town to make an informed decision and addressed further below. However, we do know that (according to the Parking Study), the Post Office site can accommodate 280± parking spaces (or 219 net new spaces) and this assumes that the Post Office would be relocated. Furthermore, the cost of the proposed structure would be an estimated \$5.3 million, or \$19,000 per space. The Parking Study's configuration for the site does not consider retail and, therefore, it is very important to understand what impact the integration of retail has on the overall design, net new parking inventory, and development cost. Furthermore, the Town needs to determine what additional space requirements would be needed to accommodate 20,000 to 30,000 square feet of retail that would have to be a part of the proposed development and for which the pricing structure may potentially vary from the public (non-retail) spaces. If a 3.5 space per 1,000 square foot of retail ratio is applied, an additional 70± to 105± spaces would be needed for the retail tenant(s).

For this exercise, we assume the impact of retail on overall design, parking inventory, and cost is manageable. Therefore, the key to the evaluation is to understand the value the retail component has on the broader development plan. Regardless of who builds or operates the retail (whether it's the Town, a private entity, or joint effort) the retail to the landlord/developer, \$35± per square foot in net rental revenue, which includes allowance for vacancy, bad debt and adequate capital replacement reserve. This level of revenue generates approximately \$875,000 in annual revenue (in constant 2014 \$'s) that can be used to leverage the development and operations of the overall parking garage development. Using a 7.5 percent capitalization rate, and 25,000 square feet of retail, the estimated value of the retail component is roughly \$11 to \$12 million. Irrespective of what the actual cost of the retail component is (including allocated costs for common area, parking and build out), it is estimated that the land component represents approximately 15 to 20 percent of the total value, or between \$1.75

million and \$2.25 million. This would be in addition to any inherent value in the Town's land (including sites A, B, C and D) beyond the retail/commercial space and its associated parking and common area.

This land evaluation is the basis for the Town's consideration to purchase the Post Office site, as well as negotiate a potential public/private partnership for the parking garage and retail area. Importantly, the estimate of land evaluation herein is being prepared on an *order-of-magnitude* basis considering the number of regulatory, development and operating variables that need to be addressed by the Town (and/or its planning and parking consultants) that include, but is not limited to:

- ✓ The fact that a change of zoning/land use designation for the PO Site is desired and/or possible at this time;
- ✓ Confirmation that the design of the parking garage allows for optimal utilization of the retail space and the impact the retail would have on net new parking inventory;
- ✓ Evaluating and confirming the cost variables associated with building a mixed use parking and retail/commercial building; and,
- ✓ Understanding the parking garage annual revenue and operating expense structure and the allocation between the retail spaces and public spaces.

We look forward to our meeting with Staff on July 23rd, but please do not hesitate to contact me with any questions – (305) 503-4096.

ATTACHMENT 3

Update Proposal For Task 2



Mr. Guillermo Olmedillo
Town Manager
Town of Surfside
9293 Harding Avenue
Surfside, FL 33154

January 22, 2015

Subject: Public/Private Partnership Advisory Services (Task II)

Dear Mr. Olmedillo:

Lambert Advisory (Lambert) is pleased to provide a proposal for the continuation of services associated with the negotiation of a potential Public/Private Partnership for a mixed use parking garage in Surfside, Florida. The proposal herein represents Task II of the Public/Private Partnership Services Agreement executed on March 21, 2014.

Specifically, Lambert will assist the Town in its negotiation with the owner of the Surfside Post Office site. The negotiation process will be guided by regulatory, design, development cost, and legal input from the Town (and/or its designated representatives). For this, Lambert will participate in structuring a fair and equitable agreement for the Town and its private development partner. We envision the primary focus of the negotiation services to be:

- ✓ *Financial Evaluation* - Prepare financial analyses that correspond to the mixed use parking garage concept, and for which alternative concepts will likely be evaluated. The evaluation(s) will be done in the effort to establish the financial terms for the public/private partnership. Importantly, we will rely upon potential parking revenue assumptions/estimates for the proposed garage based upon data provided by the Town and/or its parking consultant.
- ✓ *Coordination with Town and Representatives* – Lambert will attend all meetings requested by the Town including those with the private development partner, and/or other designated representatives related to the negotiation process. Notably, Lambert will work with the Town’s legal advisor, parking consultant and design consultants to provide input on relevant terms of the public/private partnership agreement (which is anticipated to be prepared by the Town’s attorney or its legal advisor).
- ✓ *Attend Public Meetings* – Lambert will attend all public meetings requested by the Town.

- ✓ *Documentation and Reporting* – We will prepare documentation including letters, memorandums and/or presentations as requested by the Town in conjunction with the financial evaluations and meetings as set forth above.

Fees

Our fees will be based upon our standard hourly rates of \$175 for Eric Liff (Principal), \$225 for Paul Lambert (Managing Principal), and \$110 for professional staff. We propose to complete the work on an hourly basis, with a “not-to-exceed” amount of **\$15,000**. Invoices will be submitted on the 30th day of each month, and Lambert will include a detailed overview of billing activity.

The fees stated above include any out of pocket or ancillary expenses such as automobile costs, printing costs, long distance telephone, postage and courier, and photocopying. If, at some point during the course of the work, a decision is made to discontinue, our fee will be based upon the actual professional time expended to date.

Other Terms of Agreement

Our studies, reports and analysis are subject to the following restrictions and conditions:

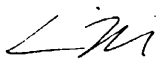
- Lambert Advisory has no obligation to update our findings and conclusions for changes in market conditions which occur subsequent to our work. Any such changes in market conditions may affect the validity of our estimates.
- Documents we prepare are based upon assumptions and estimates which are subject to uncertainty and variation. These estimates are often based on data obtained in interviews with third parties, and such data are not always completely reliable. In addition, we make assumptions as to the future behavior of consumers and the general economy which are highly uncertain. Therefore, while our estimates will be conscientiously prepared on the basis of our experience and the data available to us, we make no warranty of any kind that the occupancy, rates, revenues, or expenses projected will, in fact, be achieved.

Acceptance

We hope this letter correctly addresses your needs. If you have any questions regarding the scope of work or business arrangements, please call me at (305) 503-4096.

We thank you for the opportunity to present this proposal and look forward to working with you on this exciting assignment.

Very truly yours,



Eric Liff
Principal

THE PROPOSAL AND ITS TERMS AND CONDITIONS ARE ACCEPTED IN ITS ENTIRETY.

NAME: _____

COMPANY: _____

TITLE: _____

DATE: _____



**Town of Surfside
Town Commission Meeting**

February 10, 2015

7:00 pm

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

DISCUSSION ITEM MEMORANDUM

Agenda#: 9H

Submitted By: Guillermo Olmedillo, Town Manager

Subject: Point Lake – North Canal Update

Background: To obtain a dock permit, Miami-Dade County Department of Regulatory and Economic Resources (“DERM”) requires the Applicant to execute an Affidavit of ownership of submerged lands. It has been determined that the property owners along Point Lake and North Canal do not have title to the submerged lands and therefore are unable to obtain dock permits.

Examination of title and instruments indicates that the ownership of Point Lake and the North Canal is privately owned by Mrs. June Newbauer (“Owner”), the surviving heir of the Levy family, late owners of the Normandy Development Company (an Ohio corporation) which was dissolved in 1957. Thus, the submerged lands are not vested in the State of Florida, the Town or the upland property owners along Point Lake and North Canal.

Owner offered to convey and transfer any interest to the Town from the Normandy Beach Development Company in Point Lake and North Canal for the amount of \$500,000.

The Town requested Owner to reconsider her position and responsibilities as fee owner of Point Lake and North Canal in light of the following relevant information and factors:

- The Normandy Beach Development Company has had no active part or prior knowledge of its ownership of Point Lake and North Canal until the Town informed Owner. The Town sought a formal conveyance from Owner to address dock permitting and maintenance issues along the Point Lake and North Canal.
- The Owner has not paid real estate taxes on such property nor exercised any rights or obligations consistent with active ownership and responsibility for the Point Lake and North Canal.

- Since the creation of the subdivision known as Normandy Beach and platting thereof, the upland owners along Point Lake and North Canal have historically acquired and exercised certain implied beneficial use and enjoyment rights to such submerged lands, including the construction of docks on the property. Owner's current position impairs the rights of the property owners along Point Lake and North Canal.

At the Town's request, Miami-Dade Property Appraiser's Office will provide information on whether real estate taxes have been assessed for Point Lake and North Canal submerged lands.

There is an existing fire line pipe which sits across North Canal at a depth of 1'-6" to 3'-6" and has been previously damaged by boat traffic. The Town has the upland rights to the two street end parks abutting North Canal. The Town may install a new fire line pipe at a depth of 10'-0" or greater to ensure the integrity of said fire line without affecting the existing pipe and abandon the old pipe where it is and allow it to rust and disintegrate (estimated to cost \$18,000). Should the Town opt to eliminate the existing pipe, then the estimated mitigation fees are \$140,000, which includes mitigation fees for sea grasses and a permit has to be obtained from DERM.