

Town of Surfside Revised Regular Town Commission Meeting AGENDA January 11, 2022 7 p.m.

- 1. Opening
  - A. Call to Order
  - **B. Roll Call of Members**
  - C. Mayor and Commission Remarks Mayor Charles W. Burkett
  - D. Agenda and Order of Business Additions, deletions and linkages
  - E. Community Notes Mayor Charles W. Burkett
  - F. Appointment to Boards and Committees Sandra N. McCready, Town Clerk
    - Planning & Zoning Board At Large
    - Budget Committee Mayor Burkett
    - **Personnel Appeals Board** Mayor Burkett
    - Personnel Appeals Board Commissioner Salzhauer
    - Personnel Appeals Board Commissioner Velasquez
  - G. Champlain Towers South Status Update Andrew Hyatt, Town Manager
- 2. Quasi-Judicial Hearings
  - A. 9011 Collins Avenue/Surf Club-Amendment to Resolution 13-Z-06 Andrew Hyatt, Town Manager (Pages 1-5)

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA; APPROVING AN AMENDMENT TO RESOLUTION NO. 13-Z-06 FOR THE SURF CLUB PROPERTY LOCATED AT 9011 COLLINS AVENUE, SURFSIDE, FL, TO AMEND CONDITION NO. 19, OF SECTION IV., REQUIRING DESIGN AND CONSTRUCTION OF A LIFEGUARD STAND AND PAYMENT OF OPERATIONAL COSTS, AND PROVIDING FOR A ONE-TIME PAYMENT TO THE TOWN IN LIEU THEREOF FOR 96<sup>TH</sup> STREET PARK RENOVATIONS; RATIFYING ALL OTHER REQUIREMETNS AND CONDITIONS OF THE ORIGINAL APPROVAL SET FORTH IN RESOLUTION NO. 13-Z-06; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

- **3.** Consent Agenda (Set for approximately 7:30 p.m.) All items on the consent agenda are considered routine or status reports by the Town Commission and will be approved by one motion. Any Commission member may request that an item be removed from the Consent Agenda and discussed separately. If the public wishes to speak on a matter on the consent agenda they must inform the Town Clerk prior to the start of the meeting. They will be recognized to speak prior to the approval of the consent agenda.
  - A. Minutes Sandra N. McCready, MMC, Town Clerk (Pages 6-77)
    - November 9, 2021 Regular Town Commission Meeting Minutes
    - November 17, 2021 Town Commission Workshop Minutes
    - December 7, 2021 Town Commission Zoning Workshop Minutes
    - December 14, 2021 Regular Town Commission Meeting Minutes
  - **\*B. Town Manager's Report –** Andrew Hyatt, Town Manager (Pages 78-91)
  - \*C. Town Attorney's Report Weiss Serota, Town Attorney (Pages 92-106)
  - D. Committee Reports Andrew Hyatt, Town Manager (Pages 107-147)
    - October 28, 2021 Planning and Zoning Board Meeting Minutes
    - November 18, 2021 Special Tourist Board Meeting Minutes
    - December 6, 2021 Tourist Board Meeting Minutes
  - E. One-Year Extension of Curative Testing Site Outside Town Hall Andrew Hyatt, Town Manager (Pages 148-154)

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING A FIRST AMENDMENT TO THE REVOCABLE, NON-EXCLUSIVE LICENSE AGREEMENT (AGREEMENT) WITH CURATIVE INC. TO EXTEND THE TERM OF THE AGREEMENT; APPROVING THE EXTENSION OF THE TEMPORARY USE PERMIT ISSUED TO CURATIVE INC. BEYOND THE INITIAL NINETY (90) DAY TERM TO ALLOW THE CONTINUED UTILIZATION OF A COVID-19 TESTING KIOSK PURSUANT TO SECTION 90-36.1 OF THE TOWN CODE OF ORDINANCES; AUTHORIZING THE TOWN MANAGER TO EXECUTE A FIRST AMENDMENT TO THE AGREEMENT AND EXTENSION OF THE TEMPORARY USE PERMIT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE. F. FY 2022 Budget Amendment No. 2- Andrew Hyatt, Town Manager (Pages 155-160)

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING BUDGET AMENDMENT NO. 2 FOR THE FISCAL YEAR 2022 BUDGET; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

**G. 89<sup>th</sup> Street Beach End Improvement Expenditures Request -** Andrew Hyatt, Town Manager (Pages 161-172)

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING AND AUTHORIZING THE EXPENDITURE OF BUDGETED FUNDS IN AN AMOUNT NOT TO EXCEED \$145,000 TO IMPLEMENT THE 89<sup>TH</sup> STREET BEACH END CAPITAL IMPROVEMENT PROJECT (CIP); PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

H. Approving Florida Memorandum of Understanding and Miami-Dade County Interlocal Agreement relating to Opioid Litigation Settlement Agreement Funds - Andrew Hyatt, Town Manager (Pages 173-199)

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING THE FLORIDA MEMORANDUM OF UNDERSTANDING WITH THE STATE OF FLORIDA AND OTHER PARTICIPATING LOCAL GOVERNMENT UNITS FOR THE ALLOCATION AND USE OF OPIOID SETTLEMENT FUNDS TO ABATE AND RESOLVE THE OPIOID EPIDEMIC; PROVIDING FOR AUTHORIZATION; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR TRANSMITTAL; AND PROVIDING FOR AN EFFECTIVE DATE.

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING THE OPIOID SETTLEMENT INTERLOCAL AGREEMENT WITH MIAMI-DADE COUNTY GOVERNING THE USE OF OPIOID SETTLEMENT FUNDS ALLOCATED TO THE MIAMI-DADE COUNTY REGIONAL FUND; PROVIDING FOR AUTHORIZATION; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR TRANSMITTAL; AND PROVIDING FOR AN EFFECTIVE DATE.

4. Ordinances

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

A. Second Reading Ordinances

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

- B. First Reading Ordinances
  - 1. Ordinance Securing Construction Sites, Safety and Other Requirements Vice Mayor Tina Paul (Pages 200-209)

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY CREATING ARTICLE V – "CONSTRUCTION SITES", CONSISTING OF SECTION 14-104 "SECURING OF CONSTRUCTION SITES, SAFETY, AND OTHER REQUIREMENTS", OF CHAPTER 14 -"BUILDINGS AND BUILDING REGULATIONS", TO PROVIDE FOR SECURING OF CONSTRUCTION SITES AND PROTECTIONS TO ADJACENT AND NEIGHBORING PROPERTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

 Building Recertification "Don't Wait...Accelerate!"-Changes Necessary to Prevent Another Building Collapse Catastrophe (In Honor of Champlain Towers South Victims) – Commissioner Eliana Salzhauer (Pages 210-245)

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE. FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY CREATING Α NEW SECTION 14-3. "RECERTIFICATION OF EXISTING BUILDINGS", IN ARTICLE I. – "IN GENERAL", OF CHAPTER 14 - BUILDINGS AND BUILDING **REGULATIONS". TO ADOPT AND INCORPORATE SECTION 8-11. –** "EXISTING BUILDINGS" OF THE MIAMI-DADE COUNTY CODE OF ORDINANCES WITH MODIFICATIONS IN FURTHERANCE OF THE "DON'T WAIT, ACCELERATE" PLAN TO IMPROVE BUILDING SAFETY; **PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE** CODE: PROVIDING FOR CONFLICTS: AND PROVIDING FOR AN EFFECTIVE DATE.

- 5. Resolutions and Proclamations (Set for approximately <u>9:45</u> p.m.) (Note: Depends upon length of Good and Welfare)
  - A. Lot Area, Building Height for Beachfront Properties and Increasing Minimum Required Electoral Vote to 60% - Andrew Hyatt, Town Manager (Pages 246-253)

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE. FLORIDA, CALLING FOR A TOWN OF SURFSIDE SPECIAL ELECTION TO BE HELD ON MARCH 15. 2022 FOR THE PURPOSE OF SUBMITTING TO THE ELECTORATE A PROPOSED AMENDMENT TO THE TOWN CHARTER ARTICLE I, SECTION 4 - "GENERAL POWERS OF TOWN; POWERS NOT DEEMED EXCLUSIVE", AS PRESENTED IN A BALLOT QUESTION ON AN AMENDMENT TO THE TOWN CHARTER **REAGARDING LOT AREA,** BUILDING HEIGHT FOR BEACHFRONT PROPERTIES, AND INCREASING MINIMUM REQUIRED ELECTORAL VOTE TO 60% TO REPEAL OR AMEND SECTION 4 OF THE CHARTER: PROVIDING FOR NOTICE OF ELECTION: **PROVIDING REQUISITE BALLOT LANGUAGE AND CHARTER AMENDMENT** TEXT FOR SUBMISSION TO THE ELECTORATE; PROVIDING FOR THE TOWN CLERK TO UTILIZE THE SERVICES OF MIAMI-DADE COUNTY SUPERVISOR OF ELECTIONS FOR THE SPECIAL ELECTION; PROVI DING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

B. Authorizing Additional Expenditure of Funds to Special Counsel in Connection with the Appeal of the Federal Aviation Administration's (FAA's) South Central Florida Metroplex Project – Lilian Arango, Town Attorney (Pages 254-258)

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AUTHORIZING AND APPROVING ADDITIONAL EXPENDITURE OF FUNDS TO SPECIAL COUNSEL, LEECH TISHMAN FUSCALDO & LAMPL, IN CONNECTION WITH THE APPEAL OF THE FEDERAL AVIATION ADMINISTRATION'S (FAA'S) SOUTH CENTRAL FLORIDA METROPLEX PROJECT (METROPLEX), FOR LEGAL FEES AND CONSULTANT'S SERVICES FOR PHASE 1 METROPLEX FLIGHT PROCEDURE ASSESSMENT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

**C. Downtown Walkability and Design Study Scope of Work Approval –** Andrew Hyatt, Town Manager (Pages 259-266)

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING AND AUTHORIZING THE EXPENDITURE OF FUNDS IN AN AMOUNT NOT TO EXCEED \$50,000 TO ENGAGE MARLIN ENGINEERING, INC. FOR A DOWNTOWN WALKABILITY AND DESIGN STUDY; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

D. Champlain Towers South Memorial Park & Pedestrian Plaza at 88<sup>th</sup> Street– Commissioner Eliana Salzhauer (Pages 267-271)

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA; DIRECTING THE MANAGER TO PURSUE THE CLOSURE OF 88<sup>TH</sup>

STREET EAST OF COLLINS AVENUE TO VEHICULAR TRAFFIC FOR THE PURPOSE OF PROVIDING A MEMORIAL PARK AND PEDESTRIAN PLAZA HONORING THE VICTIMS OF THE CHAMPLAIN TOWERS SOUTH **COLLAPSE: AUTHORIZING THE TOWN MANAGER TO EXECUTE AND TAKE** ALL ACTION NECESSARY, INCLUDING APPLICATIONS REQUIRED BY COUNTY AND/OR MIAMI-DADE FLORIDA DEPARTMENT OF TRANSPORTATION AND/OR ANY OTHER GOVERNMENTAL AGENCY WITH JURISDICTION; AUTHORIZING THE TOWN MANAGER TO RETAIN DESIGN OR ENGINEERING PROFESSIONALS FOR THE PREPARATION OF PLANS OR STUDIES AS REQUIRED FOR THE CLOSURE OF THE RIGHT-OF-WAY TO VEHICULAR TRAFFIC; PROVIDING FOR IMPLEMENTATION; AND **PROVIDING FOR AN EFFECTIVE DATE.** 

## 6. Good and Welfare/ Public Comments from Residents (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.

## 8. Unfinished Business and New Business

- 9. Mayor, Commission and Staff Communications
  - A. Town Manager Performance Review Mayor Charles W. Burkett
  - B. Raising Houses in Surfside to Make our Town More Resilient and Sustainable Mayor Charles W. Burkett (Pages 272-315)
  - C. Amending Zoning Definitions to Remove Development Loopholes Commissioner Eliana Salzhauer (Pages 316-319)
  - **D. Amending the Town's Purchasing Code (Chapter 3)** Commissioner Nelly Velasquez (Pages 320-332)
  - E. Community Center Pool Deck Lighting Staff Report Andrew Hyatt, Town Manager (Pages 333-334)
  - F. Art in Public Spaces Committee Commissioner Charles Kesl (Pages 335-336)
  - G. Demolition by Neglect Mayor Charles W. Burkett (Pages 337-339)
  - H. Excessive Homeless Contribution Made by the Former Commission -Mayor Charles W. Burkett (Pages 340-347)
  - I. Lowering of Property Taxes and Water Bills Staff Report Andrew Hyatt, Town Manager (Page 348)
  - J. Amending Town Code Section 2-237 Business Relationships Commissioner Eliana Salzhauer (Pages 349-354)
  - K. Community Center Second Floor Possibility- Andrew Hyatt, Town Manager (Pages 355-356)

- L. Amend Tourist Board Ordinance Commissioner Nelly Velasquez (Page 357)
- M. Legally Defective Charter Amendment Vote in 2012 Mayor Charles W. Burkett (Pages 358-385)
- N. Cone of Silence/Secrecy Mayor Charles W. Burkett (Page 386)
- O. License Plate Readers Mayor Charles W. Burkett (Page 387)
- P. Cancel Culture in Surfside Mayor Charles W. Burkett (Pages 388-394)
- Q. Permit Process Mayor Charles W. Burkett (Pages 395-406)
- **R.** High Water Bill Mayor Charles W. Burkett (Pages 407-408)
- S. Increased Commercial Airliner Flights over Surfside Mayor Charles W. Burkett (Page 409)
- T. Purchase of Electric Vehicles Mayor Charles W. Burkett (Page 410)
- U. One-way Automatic Gate at 96<sup>th</sup> Street and Bay Drive Mayor Charles W. Burkett (Page 411)
- V. Draconian Fines for Residents Mayor Charles W. Burkett (Pages 412-418)
- W. Surfside's Brand Name, Miami's Uptown Beach Town Mayor Charles W. Burkett (Page 419)
- X. Epinephrine Auto-Injectors (EpiPen) Policy Discussion Commissioner Eliana Salzhauer (Pages 420-423)
- Y. Private Security Service Mayor Charles W. Burkett (Page 424)
- Z. Remote Participation by Commissioners Commissioner Charles Kesl (Page 425)
- AA. Budget Meeting Fiasco Commissioner Eliana Salzhauer (Page 426)
- BB. Tree Program Andrew Hyatt, Town Manager (Pages 427-428)

#### 10. Adjournment

Respectfully submitted, Andrew Hyatt 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 <u>www.townofsurfsidefl.gov</u>.

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.



MEMORANDUM

ITEM NO. 2A

To: Honorable Mayor, Vice-Mayor and Members of the Town Commission

From: Andrew Hyatt, Town Manager

**Date:** January 11, 2022

**Subject:** 9011 Collins Avenue/Surf Club – Amendment to Resolution 13-Z-06 Condition No. 19, Section IV., Lifeguard Stand

At the September Budget hearings, the Town Commission requested that Town staff enter into discussions with The Surf Club, Inc. applicant to revise the development order for 9100 Collins Avenue approved via Resolution No. 13-Z-06. The direction was to revise Section IV Conditions Item 19 – voluntary proffer of a lifeguard stand and funds towards operations of the stand.

Town staff meet with representatives of The Surf Club, Inc. and were able to negotiate a revision. The lifeguard stand and funds towards operations would be removed and replaced with a payment of \$115,000 towards renovation of the 96<sup>th</sup> Street Park. The amendment is Town-initiated and not at the request or application of The Surf Club, Inc., and does not impact development or previous site plan approval.

Town Administration recommends adoption of the attached Resolution amending Resolution 13-Z-06 by amending Condition No. 19, of Section IV., of the original development order as presented.

Reviewed by: LA

Prepared by: JG

#### RESOLUTION NO. 2022-

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA; APPROVING **AN AMENDMENT TO RESOLUTION NO. 13-Z-06 FOR** THE SURF CLUB PROPERTY LOCATED AT 9011 COLLINS AVENUE, SURFSIDE, FL, TO AMEND CONDITION NO. 19, OF SECTION IV., REQUIRING DESIGN AND CONSTRUCTION OF A LIFEGUARD STAND AND PAYMENT OF OPERATIONAL COSTS, AND PROVIDING FOR A ONE-TIME PAYMENT TO THE TOWN IN LIEU THEREOF FOR 96<sup>TH</sup> STREET PARK RENOVATIONS; RATIFYING ALL OTHER **REQUIREMETNS AND CONDITIONS** OF THE **ORIGINAL APPROVAL SET FORTH IN RESOLUTION** NO. 13-Z-06; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the Town Commission of the Town of Surfside adopted Resolution No. 2013-Z-06 ("Original Approval Resolution") which approved an application by Surf Club, Inc. ("Applicant") for amended site plan and conditional uses approval on the property located at 9011 Collins Avenue, Surfside, FL 33154 (the "Property"), to allow the redevelopment of a condominium/hotel with 285 hotel rooms and related uses; and

**WHEREAS,** Condition No. 19, of Section IV., of the Original Approval Resolution requires that the Applicant design and build a lifeguard stand located east of the Surf Club Property prior to the issuance of a Temporary Certificate of Occupancy, and requires that the Applicant contribute funds for the operational costs of the lifeguard stand; and

**WHEREAS,** the Town of Surfside Commission and administration have determined that a lifeguard stand at that location is not necessary and wish to amend Condition No. 19 to remove the obligation of Applicant to design and build a lifeguard stand and contribute funds towards the operational costs of the lifeguard stand, and in lieu thereof require a one-time payment or contribution to the Town in the amount of \$115,000, to be used by the Town for the renovation and/or improvements to 96<sup>th</sup> Street Park; and

**WHEREAS**, on January 11, 2022, the Town Commission, at a duly noticed quasi-judicial public hearing, reviewed the matter and hearing from its professional staff, the Applicant, and members of the public, the requirements of the Town Code and consistency with the Town of Surfside's Comprehensive Plan, and substantial competent evidence presented at the hearing.

## NOW THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPLICABLE TO APPLICANT, ITS SUCCESSORS AND/OR ASSIGNS, AS FOLLOWS:

## SECTION 1. RECITALS AND FINDINGS OF FACT.

- 1. All recitals set forth above are incorporated into the body of this Resolution as if same were fully set forth herein.
- The Town Commission finds that the Town-initiated request to amend Condition No. 19, of Section IV., of the Original Approval Resolution, regarding a lifeguard stand east of the Surf Club Property has no impact on the development and Site Plan approved in the Original Approval Resolution and pertains to off-site facilities.

SECTION 2. APPROVAL OF AMENDMENT TO CONDITION NO. 19, SECTION IV; LIFEGUARD STAND. The Town-initiated request to approve an amendment to Condition No. 19, Section IV., of the Original Approval Resolution regarding a lifeguard stand is hereby approved to: (i) delete the requirement that the Applicant design and build a lifeguard stand east of the Surf Club Property, and (ii) delete the requirements that the Applicant contribute funds in the amount of \$60,000 for operational costs of the lifeguard stand. In lieu thereof, Applicant shall make a one-time payment contribution to the Town in the amount of \$115,000, to be used by the Town for renovations and/or improvements to 96<sup>th</sup> Street Park. Condition No. 19, Section IV., of the Original Approval Resolution is hereby amended as follows:

The Applicant shall design and build a lifeguard stand, subject to the review and approval of the Town, to be located east of the Surf Club in a mutually acceptable location and shall be completed no later than the issuance of the Temporary Certificate of Occupancy. The Applicant agrees to contribute \$30,000 to the Town of Surfside at the issuance of the approval of the Temporary Certificate of Occupancy, \$20,000 twelve months thereafter and \$10,000 twelve additional months thereafter towards the operational costs. In lieu of designing and building a lifeguard stand east of the Surf Club Property and contributing \$60,000 towards operational costs thereof, Applicant shall make a one-time payment contribution to the Town in the amount of \$115,000, to be made within five (5) days of adoption of this Resolution. which funds shall be used by the Town for renovations and/or improvements to 96<sup>th</sup> Street Park.

SECTION 3. ALL OTHER REQUIREMETNS AND CONDITIONS OF THE ORIGINAL APPROVAL SET FORTH IN RESOLUTION NO. 13-Z-06 RATIFIED AND IN FULL FORCE AND EFFECT. All requirements and conditions of the Original Approval Resolution, and all other aspects of Resolution No. 13-Z-06 not expressly modified or amended by this Resolution, are hereby ratified and continue in full force and effect and are incorporated into this approval by reference as if fully restated herein.

**SECTION 4. VIOLATION OF CONDITIONS.** Failure to adhere to the terms and conditions of this Resolution and/or the Original Approval Resolution shall be considered a violation of the Town Code and persons found violating the conditions shall be subject to the penalties prescribed by the Town Code, including but not limited to, the revocation of any of the approval(s) granted in this Resolution and the Original Approval Resolution. The Applicant understands and acknowledges that the foregoing approval in this Resolution may be revoked by the Town at any time upon a determination by the Town Code or the conditions of this Approval and has failed to cure, or to provide an acceptable plan to timely cure, the non-compliance.

<u>SECTION 5.</u> <u>SEVERABILITY CLAUSE</u>. In the event any portion or section of this Resolution is determined to be invalid, illegal or unconstitutional by a court or agency of competent jurisdiction, such decision shall in no way affect the remaining portions of this Resolution, which shall remain full force and effect.

**<u>SECTION 6.</u> <u>EFFECTIVE DATE.</u>** This Resolution shall become effective upon adoption.

PASSED AND ADOPTED this 11th day of January, 2022.

Motion by:\_\_\_\_\_,

Second by:\_\_\_\_\_\_.

## FINAL VOTE ON ADOPTION

Charles W. Burkett, Mayor

#### **ATTEST:**

Sandra McCready, MMC, Town Clerk

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

Weiss Serota Helfman Cole & Bierman, P.L. Town Attorney

STATE OF FLORIDA)COUNTY OF MIAMI-DADE)

I, Sandra McCready, Town Clerk of the Town of Surfside, Florida, do hereby certify that the above and foregoing is a true and correct copy of Resolution No. 2022-\_\_\_\_\_ adopted by the Town Commission at its meeting held on the \_\_\_\_\_ day of \_\_\_\_\_\_, 2022.

Issued: \_\_\_\_\_

Sandra McCready, MMC Town Clerk



## Town of Surfside Regular Town Commission Meeting MINUTES November 9, 2021 7 p.m.

## 1. Opening

## A. Call to Order

Mayor Burkett called the meeting to order at 7:04 p.m.

## **B. Roll Call of Members**

Town Clerk McCready called the roll with the following members present:

Present: Mayor Charles Burkett, Vice Mayor Tina Paul, Commissioner Nelly Velasquez, Commissioner Eliana Salzhauer and Commissioner Charles Kesl.

Also present were Town Manager Andrew Hyatt, Town Attorney Lillian Arango and Town Attorney Tony Recio.

## C. Mayor and Commission Remarks – Mayor Charles W. Burkett

Vice Mayor Paul asked for a moment of silence for resident Lou Cohen who was very active in the community. She also reminded everyone about the Veteran's Day Ceremony this week.

Commissioner Salzhauer thanked the Parks and Recreation Department for an incredible Halloween event.

Mayor Burkett also thanked and commended the Parks and Recreation Department for an amazing event.

## D. Agenda and Order of Business Additions, deletions and linkages

Commissioner Kesl would like to move up the ZIP item to be heard when Town Attorney Recio arrives. He also would like to discuss the dock maximum size at some time tonight after item 9A (Champlain Tower South Memorial). He would like to add item 9II (Art in Public Spaces Committee) to be heard in combination with item 9A (Champlain Tower South Memorial). He would like to link item 9C (Ending Option to Contribute to Parking Fund in Lieu of Having Required Parking in Building Plans) and 9S (Purchase of Electric Vehicles).

Vice Mayor Paul stated that the docks are in the ZIP.

Vice Mayor Paul stated that both items 9A (Champlain Tower South Memorial) and 9II (Art in Public Spaces Committee) are.

Commissioner Velasquez stated that it could be moved after 9C (Ending Option to Contribute to Parking Fund in Lieu of Having Required Parking in Building Plans).

Commissioner Kesl stated that the item is an art for a memorial.

Commissioner Velasquez had mentioned she would like to have something like an Art Basel but would like to put 9II (Art in Public Spaces Committee) before 9D (Demolition by Neglect).

Commissioner Salzhauer stated that they can wait on that and deal with more important issues.

Commissioner Velasquez would like to move item 9GG (Ocean Front Grant Study Program) to be heard around item 5A (Resolution – Champlain Towers South Collapse Investigation) and the money should be used for the residents. She requested to link item 9GG (Ocean Front Grant Study Program) with item 5A (Resolution – Champlain Towers South Collapse Investigation).

Commissioner Salzhauer stated that they can discuss the money for the money to be used for other things.

Commissioner Salzhauer would like to link 9DD (Champlain South Memorial Park at 88<sup>th</sup> Street End) with 9A (Champlain Tower South Memorial), item 9AA (Champlain South: "Don't Wait...Accelerate!" Action Plan & Changes Necessary to Prevent Another Catastrophe) to be heard before item 9A (Champlain Tower South Memorial). She would like to move item 9I (Community Center Pool Deck Lighting) to be heard after item 9D (Demolition by Neglect).

Commissioner Velasquez would like to move up item 9HH (Ballot Question for March 15, 2022 Elections) to be heard after item 9AA (Champlain South: "Don't Wait...Accelerate!" Action Plan & Changes Necessary to Prevent Another Catastrophe).

Vice Mayor Paul asked to move item 5C (Resolution – Resolution in Support of the Sister Bays Program) to the consent agenda.

E. Community Notes – Mayor Charles W. Burkett

#### F. Appointment to Boards and Committees – Sandra N. McCready, Town Clerk

- Planning and Zoning Board – Commissioner Salzhauer

Commissioner Salzhauer appointed Randi MacBride to the Planning and Zoning Board.

- Budget Committee - Mayor Burkett

Mayor Burkett asked for those interested to please send in an application.

- Parks and Recreation Committee – Vice Mayor Paul

Vice Mayor Paul appointed Lara Frank to the Parks and Recreation Committee.

- Personnel Appeals Board – Mayor Burkett

No appointment was made by Mayor Burkett at this time.

- Personnel Appeals Board – Commissioner Kesl

No appointment was made by Commissioner Kesl at this time.

#### - Police Pension Board

A motion was made by Commissioner Kesl to appoint William Blumenkranz, seconded by Vice Mayor Paul. The motion carried with a 5-0 vote.

- **Personnel Appeals Board** – Commissioner Salzhauer

No appointment was made by Commissioner Salzhauer at this time.

- **Personnel Appeals Board** – Commissioner Velasquez

No appointment was made by Commissioner Velasquez at this time.

# **G. Undergrounding Update Presentation and Discussion** - Andrew Hyatt, Town Manager

Paul Abbott, Consultant, provided a presentation with the update of the undergrounding to the Commission.

Vice Mayor Paul asked if they will be digging up parts that have not been dug up before and how they will handle if they find any relicts of native americans.

Mr. Abbott answered Vice Mayor Paul's question and explained how they handled a similar situation in Key Biscayne.

Commissioner Salzhauer asked who is KCI and what is the estimate on the KCI cost.

Mr. Abbott stated that he has not received an official proposal. He stated that the only cost estimate they have is from FPL and have received information from Atlantic Broadband.

Commissioner Salzhauer asked if the \$37 million is the total cost and they will have to give the residents a firm amount.

Mr. Abbott stated it is the number he is mentioning tonight, and they have considered other unique procedures in other municipalities and they cannot increase the number for profit or margin and they evaluate it every 60 days.

Mr. Abbott stated that you will not have a concrete number until you move forward with the project, but he feels confident with the number.

Commissioner Kesl asked if they are doing the big installation, they might want to raise the boxes on concrete pedestals in the future and how feasible it is to do that.

Mr. Abbott stated that it is difficult but if you move it vertically, it will not be without disruption or loss of power.

Commissioner Kesl asked how long the project would take.

Mr. Abbott stated that it will take about 9 months to start the process of negotiating the contract and as stated in the last meeting, they need to take structured sections of the community.

Commissioner Velasquez stated that if you want to upgrade the Town, you have to invest in the Town as long as it is structured the correct way.

Mayor Burkett agrees with the Vice Mayor and spoke regarding getting workers to do work and this is probably the worse time to be presenting something like this. He agrees to put it out there and have the voters decide. He would recommend waiting a couple more years to see if prices go down.

Assistant Town Manager Greene corrected a statement regarding the ballot question to come back at the December meeting. He stated that they will not be requesting direction from the citizens whether to do the project, what you are asking them is the right to issue debt at a certain amount to be borrowed that will be tied to ad valorem taxes and there are state and charter rules that determines how that is done. He explained the process on using the unrestricted reserve amounts that can be used.

Commissioner Velasquez asked what interest rate he looked at.

Assistant Town Manager Greene addressed the comment made by Commissioner Velasquez.

Commissioner Salzhauer asked what amount they are looking at putting in and what the estimate would be next year. She agrees with Mayor Burkett and believes this is a lot of money and she does not like to get into debt. She also commented that this would not allow funding for other projects.

Assistant Town Manager Greene addressed the comment made by Commissioner Salzhauer.

Commissioner Salzhauer stated that it should be given to the voters since they already spent \$500,000 to do this study.

Commissioner Kesl asked if they do the ballot question, he would like to hear from the residents.

Vice Mayor Paul agrees that it should be given to the residents to vote on this item. She asked regarding how the water and sewer is related to this and when will it be paid off.

Assistant Town Manager Greene addressed the comment made by Vice Mayor Paul and stated that the water and sewer is a different fund and spoke regarding the amount left to be paid.

Commissioner Velasquez spoke regarding the project and the need for it to be done now because if they continue to wait the cost will continue to rise.

Mayor Burkett spoke regarding the debt and the amount of money being put aside every year. He stated that generally what that would mean is that if they went ahead and funded it, they would end up not putting any money aside to save and still have the same amount of money in the savings account and would not be able to save more unless they raise taxes.

Commissioner Velasquez stated that the property values will continue to rise. She asked if the amount includes the 96<sup>th</sup> Street Park. She continued discussing the funding and cost of the undergrounding project.

Assistant Town Manager Greene addressed the comment made by Commissioner Velasquez and stated that the budgeted amount would be short because they are adding LEED requirement.

Mayor Burkett stated that it is important to have the information sent out to the voters.

The following individuals from the public spoke:

Jeff Rose is glad that they will be putting it on the ballot and what is the working time and time of finishing the project. He also suggested to put more money towards the walkability project.

Marianne Meischeid asked where the \$375,000 from the Shul development agreement for undergrounding went and she has not received a response.

George Kousoulas explained the issue with the alleys.

Debbie Cimadevilla spoke regarding the undergrounding and besides the Shul the Surf Club also put money aside for beautification. She also asked to reach out to the engineers and synchronize with whatever work is done around Abbott Avenue.

Mr. Abbott stated that it would take about 5 years to finish the project.

Assistant Town Manager Greene addressed the comments made by Ms. Meischeid and stated that in the Shul development agreement it states that the money is put into an escrow account and they are in talks with the Shul.

Vice Mayor Paul stated that there was an issue with the alleyway and if the Town would undertake the undergrounding can the Town take ownership.

Mayor Burkett asked if that area is part of the undergrounding.

Assistant Town Manager Greene addressed the comment made by Mayor Burkett and stated that yes, it is.

Mr. Abbott stated that he did not put the Shul in that allowance because they are responsible for their part of the undergrounding but does have the alleyway.

Commissioner Kesl asked if the Shul does not pay for the undergrounding can they use that money to pay down the parking fund. He commented if they have to use that money for the undergrounding.

Assistant Town Manager Greene addressed the comment made by Commissioner Kesl and stated that Shul cannot underground the alleyway themselves.

Commissioner Salzhauer commented on the undergrounding by the Shul and can they give direction to the Shul to do their own undergrounding.

Assistant Town Manager Greene stated that the \$350,000 is not enough for the underground.

Town Attorney Arango stated that it is platted as a private property and they need to obtain consent of the property owners.

Commissioner Salzhauer asked if they need direction for them to do their part of the undergrounding.

Vice Mayor Paul explained why she stated for the Town to take ownership of the alleys in order to make improvements.

Assistant Town Manager Greene explained the issues with the comment made by Vice Mayor Paul.

Mayor Burkett stated that he likes the idea to explore the possibility of taking ownership of the alley and determine who the owners are as it pertains to the plat.

Town Attorney Arango asked if they are asking to take over the alley.

Mayor Burkett stated that he believes it is a good idea, and for the administration to explore the options and bring to the next meeting.

H. Presentation of the 2021 Public Pension Standards Award - Andrew Hyatt, Town Manager

Town Manager Hyatt made the presentation.

## 2. Quasi-Judicial Hearings – N/A

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

A motion was made by Commissioner Velasquez to approve the Consent Agenda, seconded by Commissioner Kesl. The motion carried with a 5-0 vote.

- A. Minutes Sandra N. McCready, MMC, Town Clerk
  - June 25, 2021 Emergency Town Commission Meeting Minutes Zoning Code Workshop
  - September 13, 2021 Special Town Commission First Budget Hearing Meeting Minutes
  - September 14, 2021 Regular Town Commission Meeting Minutes
  - September 23, 2021 Special Commission Meeting Minutes
  - September 30, 2021 Special Town Commission Final Budget Hearing Meeting Minutes
  - October 12, 2021 Regular Town Commission Meeting Minutes

Approved on consent.

\*B. Town Manager's Report – Andrew Hyatt, Town Manager

Approved on consent.

\*C. Town Attorney's Report – Weiss Serota, Town Attorney

Approved on consent.

- D. Committee Reports Andrew Hyatt, Town Manager
  - August 23, 2021 Special Parks and Recreation Committee Meeting Minutes
  - September 30, 2021 Planning and Zoning Board Meeting Minutes
  - October 14, 2021 Planning and Zoning Board Zoning Code Workshop Minutes

Approved on consent.

E. Resolution Authorizing the Renewal of the Agreement with Thomson Reuters West Publishing for CLEAR Investigative Tool for Fiscal Years 2021-2024 - Andrew Hyatt, Town Manager

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING THE RENEWAL OF AGREEMENT WITH THOMSON REUTERS WEST PUBLISHING CORPORATION FOR CLEAR INVESTIGATIVE TOOL FOR FISCAL YEARS 2022-2024; PROVIDING FOR AUTHORIZATION; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Approved on consent.

F. Resolution Authorizing Law Enforcement Mutual Aid Agreement between the Town of Surfside and the City of North Miami- Andrew Hyatt, Town Manager

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING A VOLUNTARY COOPERATION AND OPERATIONAL ASSISTANCE MUTUAL AID AGREEMENT WITH THE CITY OF NORTH MIAMI; PROVIDING FOR AUTHORIZATION; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Approved on consent.

**G. Resolution Authorizing Expenditure of Forfeiture Funds for FY 2021-2022 -**Andrew Hyatt, Town Manager

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING FISCAL YEAR 2022 POLICE FORFEITURE FUND EXPENDITURES; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Approved on consent.

H. Approval of 2022 Regular Town Commission Meeting Dates and Agenda Deadlines – Sandra N. McCready, Town Clerk

Approved on consent.

I. Authorization to Expend to Preserve Historical Town Documents – Sandra N. McCready, Town Clerk

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING THE PURCHASE OF SERVICES FROM KOFILE TECHNOLOGIES, INC. FOR PRESERVATION. ARCHIVAL AND DIGITIZATION OF HISTORICAL TOWN DOCUMENTS; FINDING THAT THE SERVICES ARE EXEMPT FROM COMPETITIVE BIDDING PURSUANT TO SECTION 3-13(6) OF THE TOWN CODE AS A SOLE SOURCE PROVIDER; AUTHORIZING THE TOWN MANAGER TO ENTER INTO A PURCHASE ORDER FOR SUCH SERVICES AND/OR AGREEMENT AS DEEMED NECESSARY BY THE TOWN ATTORNEY; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Approved on consent.

J. Robert Fisher Historic Designation by the Town of Surfside Proclamation Approval - Andrew Hyatt, Town Manager

Approved on consent.

K. Town Hall Fire Alarm System Upgrade - Andrew Hyatt, Town Manager

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING THE PURCHASE OF A TOWN HALL FIRE ALARM SYSTEM UPGRADE FROM SCIENS BUILDING SOLUTIONS, LLC C/O EMPIRE FIRE SAFETY; FINDING THAT THE PURCHASE IS EXEMPT FROM COMPETITIVE BIDDING PURSUANT TO SECTION 3-13(7)F OF THE TOWN CODE AS A PUBLIC WORKS PURCHASE FOR TOWN FACILITY MAINTENANCE WORK; AUTHORIZING THE TOWN MANAGER TO ENTER INTO A PURCHASE ORDER AND/OR OTHER AGREEMENTS AS MAY BE APPROVED BY THE TOWN MANAGER AND TOWN ATTORNEY; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Approved on consent.

L. FY 2021 Budget Amendment Resolution No. 11- Andrew Hyatt, Town Manager

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING BUDGET AMENDMENT NO. 11 FOR THE FISCAL YEAR 2020/2021 BUDGET; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Approved on consent.

M. Resolution Urging the Florida Service Commission to Reject or Reduce FPL's Proposed Rate Increase – Vice Mayor Tina Paul

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, URGING THE FLORIDA PUBLIC SERVICE COMMISSION (PSC) TO REJECT FLORIDA POWER & LIGHT'S (FPL) REQUEST FOR A BASE RATE INCREASE AND RATE UNIFICATION, AND TO REJECT THE PROPOSED MINIMUM MONTHLY CHARGE; PROVIDING FOR TRANSMITTAL; AND PROVIDING FOR AN EFFECTIVE DATE.

Approved on consent.

#### 4. Ordinances

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

- A. Second Reading Ordinances
- 1. Ordinance to Amend Side Setback in H120 District Tony Recio, Town Attorney

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING SECTION 90-47, "YARDS GENERALLY, ALLOWABLE PROJECTIONS" AND SECTION 90-48 "MODIFICATION OF

#### SIDE AND REAR YARD REGULATIONS" TO PROVIDE ALTERNATIVE SIDE SETBACK REQUIREMENTS IN THE H120 DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Clerk McCready read the title of the Ordinance into the record.

Town Attorney Recio introduced the item and advised the Commission on the recommendations made by the Planning and Zoning Board.

Vice Mayor Paul explained the changes and the new language proposed and what was recommended by the Planning and Zoning Board.

Commissioner Salzhauer is not fine with 10 feet.

Discussion took place among the Commission regarding the changes proposed.

The following individuals from the public spoke: George Kousoulas Bill Thompson Sebastian Garcia Gil Garcia Jeff Rose Randy Rose

Commissioner Salzhauer wanted to know what the importance of the 10-foot balcony is.

Mr. Kousoulas addressed the comments made by Commissioner Salzhauer.

After a lengthy discussion among the Commission, the following motion was made.

A motion was made by Commissioner Velasquez to approve the Ordinance as written on second reading, seconded by Vice Mayor Paul. The motion carried with a 3-2 vote with Commissioner Salzhauer and Commissioner Kesl voting in opposition.

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

- B. First Reading Ordinances
- 5. Resolutions and Proclamations (Set for approximately <u>9:45</u> p.m.) (Note: Depends upon length of Good and

Welfare)

A. Champlain Towers South Collapse Investigation – Destructive Testing -Andrew Hyatt, Town Manager

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING AND AUTHORIZING EXPENDITURE OF FUNDS TO KCE STRUCTURAL ENGINEERS PC FOR TASK 2 ENGINEERING ANALYSIS TO DETERMINE THE CAUSE OF THE CHAMPLAIN TOWERS SOUTH (CTS) BUILDING COLLAPSE AND DESTRUCTIVE TESTING NOT TO EXCEED THE AMOUNT OF \$1,500,000.00; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Clerk McCready read the title of the resolution into the record.

This item is linked with item 9GG.

Commissioner Salzhauer left the meeting at 10:43 p.m. Commissioner Salzhauer arrived back to the meeting at 10:44 p.m.

Allyn Kilsheimer provided an update on the status of the item. He stated that the access to the site was from the 25<sup>th</sup> to 29<sup>th</sup> of October with limited access with a drone. During that time frame they had the right to walk around an offsite facility. He described the piles of the building portion that collapsed and the portion that was demolished. He stated that they were told that the very large pieces were somewhere else. He also provided an update on a telephone conference with NIST.

Commissioner Salzhauer asked why they are not allowing him to do his job.

Mr. Kilsheimer addressed the comments made by Commissioner Salzhauer.

A motion was made by Vice Mayor Paul to extend the meeting for 30 minutes (11:00 p.m.), seconded by Commissioner Velasquez. The motion carried with a 4-0 vote with Commissioner Kesl absent.

Commissioner Salzhauer would like to have answers and when he is allowed in will they get the information they need

Commissioner Velasquez asked if they have the commitment of other people that will be paying for this and who is paying for this.

Mr. Kilsheimer stated that they will run out of the \$750,000 before December

and he stated how much more money he will need to do the testing and offsite material. He explained the worst-case scenario and they are doing the best they can with what they will have.

Commissioner Kesl asked if other levels of government care about this.

Further discussion took place among the Commission and Mr. Kilsheimer regarding the cost expended and the additional cost to be incurred.

Vice Mayor Paul spoke regarding the report that was received today and it is more detailed and essentially it is necessary to find out what happened. She also asked regarding the satellite infrastructure monitoring and if he concluded his findings for Champlain East and Champlain North and if so could they have that report.

Mr. Kilsheimer stated that the satellite data is in the budget and they will start talking to them after they know the kind of foundation system this building had because nobody knows what foundation that building had. He stated that in Champlain North there is nothing that he saw there that is anything of imminent danger of collapse. As it pertains to Champlain East, it is a different design than the other one and when they know more about the material on Champlain South, they will finish the study.

Mayor Burkett stated that Mr. Kilsheimer is correct and Surfside as well as Mr. Kilsheimer have been treated very badly including himself and they have been blocked from getting on the site. He stated that it seems to be a reason why things aren't moving, and it has become convoluted. He stated that he wants Mr. Kilsheimer to be the lead in finding out why the building fell. He stated that they need to find out how this will work, and who will pay for it.

Mr. Kilsheimer stated that they made their own decision with the information they are developing.

Commissioner Salzhauer stated that this is upsetting to witness, and they will not make it easy for Mr. Kilsheimer to get in there and he is the right guy for this.

Commissioner Velasquez stated that within the \$750,000 approved they could do the geotechnical.

Mr. Kilsheimer stated that the geotechnical is \$450,000.

Commissioner Velasquez stated she does not understand how doing testing on concrete will help other buildings. She is proposing giving grants to condominiums, so they can do their own testing.

Mr. Kilsheimer stated that they cannot do the same geotechnical like the one

they can do because they are on an occupied dwelling. He stated that the soil is not the issue itself.

Vice Mayor Paul asked if with the additional \$750,000 will be enough to get the testing done.

Mr. Kilsheimer stated it will get them to do all the work.

A motion was made by Commissioner Velasquez to extend the meeting for another 30 minutes until midnight, seconded by Commissioner Salzhauer. The motion carried with a 5-0 vote.

Vice Mayor Paul would like to request funding to assist with covering the cost for this investigation. She suggested to ask Congresswoman Wasserman-Shultz to request appropriation funding for the Town.

Mayor Burkett stated that he is on board in getting answers and the Town is getting blocked and those individuals at those levels are the ones blocking them.

Mr. Kilsheimer stated that the Receiver will get them to do the sampling and testing on the site shortly.

Commissioner Velasquez stated why they aren't going to Congresswoman Wasserman-Shultz for more money.

Mr. Kilsheimer stated that they have been working and they cannot do the geotechnical study without doing the destructive study on site. He explained the right the Receivership is able to give them at this time.

A motion was made by Vice Mayor Paul to extend the meeting for another 30 minutes (until 12:30 a.m.), seconded by Commissioner Velasquez. The motion carried with a 5-0 vote.

The following individuals from the public spoke: Marianne Meischeid George Kousoulas Randy Rose Yadira Santos

Mayor Burkett asked Mr. Kilsheimer what is the most importance thing he needs to get to the bottom of what happened.

Mr. Kilsheimer addressed the comments made by Mayor Burkett.

After a very lengthy discussion the following motion was made.

A motion was made by Vice Mayor Paul to approve the resolution with an amount of \$750,000 to get him through December and then if he needs more money, he will then come before the Commission, seconded by Commissioner Kesl. The motion carried with a 4-1 vote with Commissioner Velasquez voting in opposition because she prefers the money to go to the surfside residents to determine the condition of their own property.

B. FY 2022 Budget Amendment Resolution No. 1 - Andrew Hyatt, Town Manager

## A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING BUDGET AMENDMENT NO. 1 FOR THE FISCAL YEAR 2022 BUDGET; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Clerk McCready read the title of the resolution into the record.

Assistant Town Manager Greene provided an explanation of the item.

A motion was made by Commissioner Kesl to approve the resolution, seconded by Vice Mayor Paul. The motion carried with a 4-1 vote with Commissioner Velasquez voting in opposition.

C. Resolution in Support of the Sister Bays Program – Vice Mayor Tina Paul

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, EXPRESSING SUPPORT FOR THE SISTER BAYS PROGRAM AND URGING COASTAL COMMUNITIES THROUGHOUT THE COUNTY TO SUPPORT THE PROGRAM; ENCOURAGING THE MIAMI-DADE COUNTY BOARD OF COUNTY COMMISSIONERS TO DEVELOP A MEMORANDUM OF UNDERSTANDING FOR THE SISTER BAYS PROGRAM; PROVIDING FOR TRANSMITTAL; AND PROVIDING FOR AN EFFECTIVE DATE.

This item was moved and adopted under the Consent Agenda (Item 3).

## 6. Good and Welfare/ Public Comments from Residents (Set for approximately 8:15 p.m.)

The following individuals from the public spoke: Eduardo Yero, spoke regarding the Chief of Police search and the big question asked is what is it they are looking for. Is it someone with a big resume and published on police journals or someone that knows the community. He stated that Captain Healy is someone that has been here and knows the community. He stated that Captain Healy cared about Surfside before having a job here.

Jeff Rose commended Captain Healy and has seen more patrol officers in the street, he commended Public Works staff and they need to show appreciation to staff and treat staff like they treat others.

David Lombardi spoke regarding the dock issue on Point Lake and they are concerned that there is a loop hole in the zoning code.

Mel Schlezer, spoke regarding the dock and Point Lake.

Randy Rose spoke regarding the dock and seawall.

Marion Ott spoke regarding the dock and Point Lake.

Vice Mayor Paul spoke regarding working on this portion of the dock in the new zoning code with Town Attorney Recio and included it in the ZIP.

Commissioner Salzhauer addressed comments made by the public regarding the stop signs, the dock and Point Lake.

Commissioner Velasquez addressed the comments made by the public regarding the stop signs, dock and Point Lake.

Commissioner Kesl spoke regarding the 2006 zoning code as it pertains to the dock.

Mayor Burkett spoke regarding the old zoning code and the comments made by the public. He would like to direct the Town Attorney to put it into the ZIP.

Commissioner Velasquez stated that they should not allow any more docks in that small area of water and they should have these docks on the wider parts.

A motion was made by Commissioner Salzhauer to amend the code to address docks to limit dock projections to 10% of the width of the waterway, 10% of the width of the property and cannot block navigability and for lots with water on two sides to only allow dock on the wider waterway, seconded by Commissioner Velasquez. The motion carried with a 5-0.

Vice Mayor Paul asked if they pulled the dock from the ZIP.

Town Attorney Arango advised to issue the separate ZIP and advertise it as soon as possible. This would be a separate ordinance for this and a separate ZIP because it expires in the next month.

Mayor Burkett asked if they could add it to the ZIP before it expires.

Further discussion took place among the Commission regarding the ZIP and changes to the language as it pertains to the dock.

Town Attorney Recio explained on the map where Point Lake and North Canal are

located, and the changes proposed to the ZIP.

A motion was made by Vice Mayor Paul to direct the Town Attorney to investigate the ownership of the lake bottom of Point Lake and North and South Canal and to engage Miami Dade County to collect taxes, seconded by Commissioner Velasquez. The motion carried with a 5-0 vote.

The meeting took a recess at 9:53 p.m. The meeting resumed at 10:00 p.m. with Commissioner Salzhauer absent.

Commissioner Salzhauer entered the meeting at 10:05 p.m.

#### 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. Champlain Tower South Memorial – Vice Mayor Paul

Deferred to the next meeting.

**B. Amending the Town's Purchasing Code (Chapter 3)** – Commissioner Nelly Velasquez

Deferred to the next meeting.

C. Ending Option to Contribute to Parking Fund in Lieu of Having Required Parking in Building Plans – Commissioner Charles Kesl

Deferred to the next meeting.

D. Demolition by Neglect - Mayor Charles W. Burkett

Deferred to the next meeting.

E. Excessive Homeless Contribution Made by the Former Commission -Mayor Charles W. Burkett

Deferred to the next meeting.

F. Lowering of Property Taxes and Water Bills - Staff Report - Andrew Hyatt,

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**Town Manager** 

Deferred to the next meeting.

G. Climate Environmental Collective Revised - Vice Mayor Tina Paul

Deferred to the next meeting.

H. Amending Town Code Section 2-237 Business Relationships – Commissioner Eliana Salzhauer

Deferred to the next meeting.

I. Community Center Pool Deck Lighting - Staff Report – Andrew Hyatt, Town Manager

Deferred to the next meeting.

J. Community Center Second Floor – Staff Report - Andrew Hyatt, Town Manager

Deferred to the next meeting.

K. Amend Tourist Board Ordinance – Commissioner Nelly Velasquez

Deferred to the next meeting.

L. Legally Defective Charter Amendment Vote in 2012 – Mayor Charles W. Burkett

Deferred to the next meeting.

M. Cone of Silence/Secrecy – Mayor Charles W. Burkett

Deferred to the next meeting.

N. License Plate Readers – Mayor Charles W. Burkett

Deferred to the next meeting.

O. Cancel Culture in Surfside - Mayor Charles W. Burkett

Deferred to the next meeting.

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P. Permit Process - Mayor Charles W. Burkett

Deferred to the next meeting.

**Q. High Water Bill –** Mayor Charles W. Burkett

Deferred to the next meeting.

R. Increased Commercial Airliner Flights over Surfside - Mayor Charles W. Burkett

Deferred to the next meeting.

S. Purchase of Electric Vehicles - Mayor Charles W. Burkett

Deferred to the next meeting.

T. One-way Automatic Gate at 96<sup>th</sup> Street and Bay Drive - Mayor Charles W. Burkett

Deferred to the next meeting.

U. Draconian Fines for Residents - Mayor Charles W. Burkett

Deferred to the next meeting.

V. Surfside's Brand Name, Miami's Uptown Beach Town – Mayor Charles W. Burkett

Deferred to the next meeting.

W. Daylight Plane Requirement for New Construction – Commissioner Charles Kesl

Deferred to the next meeting.

X. Abandoned Sports Equipment on Streets, Unmarked Unattended – Commissioner Charles Kesl

Deferred to the next meeting.

Y. Epinephrine Auto-Injectors (EpiPen) Policy Discussion - Commissioner Eliana Salzhauer

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Deferred to the next meeting.

Z. Private Security Service – Mayor Charles W. Burkett

Deferred to the next meeting.

 AA. Champlain South: "Don't Wait...Accelerate!" Action Plan & Changes Necessary to Prevent Another Catastrophe – Commissioner Eliana Salzhauer

Deferred to the next meeting.

**BB.** Remote Participation by Commissioners – Commissioner Charles Kesl

Deferred to the next meeting.

CC. Raising Houses in Surfside to Make our Town More Resilient and Sustainable – Mayor Charles W. Burkett

Deferred to the next meeting.

**DD. Champlain South Memorial Park at 88th Street End -** - Commissioner Eliana Salzhauer

Deferred to the next meeting.

EE. Budget Meeting Fiasco - Commissioner Eliana Salzhauer

Deferred to the next meeting.

**FF.** Zoning In Progress Extension – Tony Recio, Town Attorney

A motion was made by Commissioner Kesl, seconded by Vice Mayor Paul with the changes as presented by Town Attorney Recio and it will be advertised December 7, 2021. The motion carried with a 5-0 vote.

Town Attorney Recio stated that the one relating to the dock will be done separately that will go into effect immediately and the other one will go into effect December 7, 2021. He explained the changes to the Commission on their handouts.

The following individuals from the public spoke: George Kousoulas Jeff Rose **GG. Ocean Front Grant Study Program** – Commissioner Nelly Velasquez

This item is linked with item 5A.

HH. Ballot Question for March 15, 2022 Elections – Commissioner Nelly Velasquez

Commissioner Velasquez presented the item and would like to see at the next ballot for election in March the undergrounding, place hedges in the Charter, make the Police Chief a charter officer and for the Commission to be paid and do a study of all other cities compensation for elected officials.

Mayor Burkett asked for her rationale regarding her statement.

Commissioner Velasquez stated that if the Police Chief is not working out the Commission has a say and could remove the Police Chief.

Vice Mayor Paul stated that she supports the undergrounding. She disagrees with placing the Police Chief as a charter officer and it should be up to the Town Manager. She stated that she added the hedges to the ZIP because of the controversy. She stated that as it pertains to compensation for the Commission, the question should be worded should the Commission be compensated and to put a certain amount.

Commissioner Kesl will support the undergrounding to go to the voters. He stated that many municipalities pay a living wage for their position and let the voters decide.

Commissioner Salzhauer agrees to ask the residents if they want to pay for the undergrounding. She does want the Town Manager to make the decisions but will have to put more thought into that. She does not believe adding hedges to the charter. She does agree for the Commission to have a salary.

Mayor Burkett asked for the Town Clerk to provide dates to have a workshop before the next commission meeting to hold a charter question workshop.

Mayor Burkett stated that they need to have statements in the charter that residents can decide as to height and density.

A motion was made by Commissioner Kesl to extend the meeting for 5 minutes (until 12:36 a.m.), seconded by Vice Mayor Paul. The motion carried with a 5-0 vote.

The following individuals from the public spoke:

Randy Rose spoke regarding increasing the height. Jeff Rose spoke regarding leaving the Police Chief up to the Town Manager and raising the homes.

Commissioner Salzhauer addressed the comments made by the public speakers.

#### II. Art in Public Spaces Committee – Commissioner Charles Kesl

Deferred to the next meeting.

#### 10. Adjournment

A motion was made by Commissioner Velasquez to adjourn the meeting without objection at 12:33 a.m. (November 10, 2021), seconded by Commissioner Kesl. The motion carried with a 5-0 vote.

Accepted this \_\_\_\_\_day of \_\_\_\_\_, 2021.

Charles W. Burkett, Mayor

Attest:

Sandra N. McCready, MMC Town Clerk



#### Town of Surfside Town Commission Workshop MINUTES November 17, 2021 5:30 p.m. Town Hall 9293 Harding Ave, 2<sup>nd</sup> Floor Surfside, FL 33154

## 1. Opening

## A. Call to Order

Mayor Burkett called the meeting to order at 5:35 p.m.

## **B. Roll Call of Members**

Town Clerk McCready called the roll with the following members present:

Present: Mayor Charles Burkett, Vice Mayor Tina Paul, and Commissioner Nelly Velasquez.

Commissioner Eliana Salzhauer and Commissioner Charles Kesl were absent.

Also present were Town Manager Andrew Hyatt, Town Attorney Lillian Arango.

#### **C. Pledge of Allegiance** Interim Chief Healy led the Pledge of Allegiance.

- **D. Mayor and Commission Remarks** There were no remarks.
- 2. Discussion on Items to be Placed on the March 15, 2022 ballot.

#### <u>Hedges</u>

Commissioner Velasquez would like to add a ballot to the March election ballot related to the Hedges. She believes it should be up to each resident or 6 feet should be the highest. Mayor Burkett spoke about the proper language to be used in order not to put residents in a bad position.

Public speaker George Kousoulas stated that having such language on the charter may be overreached. He spoke about the possibility of focusing on the height of the homes.

Mayor Burkett further spoke of the possibility of some language stating it shall not be less than 6 feet tall.

Commissioner Velasquez stated that this topic gives many residents anxiety, especially for the corner lot residents.

Vice Mayor Paul agreed with Commissioner Velasquez and that's why she added it to the Zoning in Progress. She doesn't believe it has to go on the Charter, but agrees with letting voters decide.

Further discussion took place among the Commission and language. Consensus was reached for the language to be as follows: "The Town Commission shall never mandate that hedges be less than 6 feet in any areas in the residential district".

#### Town Commission Salaries and Benefits

Commissioner Velasquez requested to also add Commission compensation on the March 15, 2022 ballot. She believes that it is a lot of work and they should be compensated.

Vice Mayor Paul agrees having the voters decide. She doesn't expect it but she is ok with putting it to the voters.

Randy Rose believe that North Miami and North Miami Beach are two municipalities that pay. He further stated that in some instances they received insurance and other benefits. He appreciated everyone's time and it doesn't hurt to ask and let the people speak.

Commissioner Salzhauer arrived at 5:48 p.m.

Commissioner Salzhauer stated that she requested some information regarding Elected Official salaries.

Town Attorney Arango stated that she replied providing a report that is released by the Miami Dade Commission on Ethics. Town Attorney Arango provided Commissioner Salzhauer with a hard copy of the report.

Town Manager Hyatt stated that the Florida League of Cities usually puts out City stats that are available to the public.

Commissioner Salzhauer stated that you get what you pay, and she believes this position is not worth a \$1 per year. She is not speaking about getting rich but being fairly compensated.

Some discussion took place relating to how Bal Harbor sets their elected officials' salaries.

Vice Mayor Paul read the Bal Harbor Charter section related to this matter into the record.

Commissioner Velasquez believes it should be a set amount but not with cost of living

Commissioner Salzhauer stated that if they are going to move forward, they should come up with a number.

Commissioner Velasquez stated the salaries of the City of Aventura elected officials.

Commissioner Salzhauer believes that \$25,000 could be a fair number.

Commissioner Velasquez believes that \$25,000 is too much money and that \$10,000 could be a better number.

Vice Mayor Paul gave her perspective. She doesn't think that money should motivate people to run. You should be motivated to serve your community, and she sees it more like a bonus for their services.

Further discussion took place regarding the issue.

Vice Mayor Paul suggested \$500 a month.

Commissioner Velasquez spoke about \$500 monthly.

Commissioner Salzhauer believes it is too little for the work it takes.

Consensus of majority was to put some language on the ballot for a \$1000 a month flat with no cost-of-living adjustment.

George Kousoulas spoke on the issue and he thinks that the rationale of the Vice Mayor and Commissioner Velasquez is the right one. Further discussion took place and consensus was reached to put a ballot question on the March 15, 2022 to ask the residents if the Town Commission should get paid \$1,000 per month and receive individual health insurance. Mayor Burkett objected to this ballot question.

#### **Undergrounding the Powerlines**

Assistant Town Manager Jason Greene requested not to exceed the amount that the Commission would like to place on the ballot.

There was some discussion with the "Pay as you go" concept and there was not consensus for this concept.

There was consensus to use "not to exceed \$40,000,000" language.

Commissioner Velasquez believes that \$3 million dollar could be a deal breaker.

Vice Mayor Paul believes that the Town should have a cushion and to have in mind that the alley is included.

#### Height and Density

Mayor Burkett spoke about some ballot language that he had shared with the Town Attorney. He read the title into the record and it read as follows:

"The density of development and structures within the Town of Surfside shall never exceed 70 units per acre, nor shall the height ever exceed ???? to the top of the building for properties on the ocean, and never exceed a height of 40 feet above the crown of the road to the top of the building on the blocks between Collins and Harding, nor ever exceed ????? above the crown of the road to the top of the building in the residential district. The erosion control line shall never be used to calculate density, only the bulkhead line shall be used. Lot size restrictions and requirements on the ocean shall be those which were in effect in the 2004 zoning code. This amendment to the Town of Surfside Charter shall not be repealed, revised, amended, or superseded, unless repeal, revision, amendment, or superseding provisions are placed on the ballot at a regularly scheduled election of the Town of Surfside and approved by a vote of more than 70% of the electors of the Town of Surfside."

He believes that Surfside should remain the small town they all believe it is.

Vice Mayor Paul stated that this is already in the Charter and that the issue to her is the aggregation of the lots that's allowing the big buildings and parking garages.

Public speaker George Kousoulas spoke about the issue and provided some specific details related to the matter.

Commissioner Salzhauer stated that she is not interested in raising houses. She further stated that Lindsay Lecour's house was completed within the code. She believes that this is not a matter that should be added it to a ballot question.

Mayor Burkett stated that one of his main concerns has always been the density, intensity and height of properties.

Vice Mayor Paul reminded the Town Commission that some of these issues can be resolved during the upcoming Charter Review that takes place every 10 years.

Commissioner Velasquez believes that protection to the single-family district should be a priority and should be in the Charter. She believes that it is their duty to protect their Town.

Mayor Burkett believes that the 30 feet in the charter may be a little low.

Commissioner Salzhauer believes it is too high.

Public Speaker Jeff Rose stated that the Planning and Zoning Board had a workshop last night and requested some language regarding this matter to be considered by the Town Commission to be added to the ballot.

Vice Mayor Paul proposed that in case of a hurricane and devastation of a building occurs, that they can re-develop per the code that was in place when the building was built. She believes that if you go by another code, you are at risk of displacing some owners.

Commissioner Velasquez believes that this may become complicated to place it on as a ballot question.

Commissioner Salzhauer is not supportive of adding a question related to this matter on the ballot.

Further discussion took place about locking the height of the building in the ocean, the ones in the corridor and if anyone wanted to amend that, you will need 70 percent of the voters to vote.

Mayor Burkett also spoke about removing the language addressing the measurement from the erosion control line to use the bulkhead line instead.

Public speaker George Kousoulas provided an explanation on the matter.

Vice Mayor Paul believes that all these requirements are already in the Charter.

Discussion regarding what the current charter states that the higher measurement is 120 feet. However, it does not state where you measure from.

Mayor Burkett stated that he is trying to set the number where you measure from and setting a new height for buildings.

Recap – 120 feet above NGVD 18.25
 The erosion control line shall never be used to calculate density, only the bulkhead line shall be used.
 There shall not be more "magic" acre
 60% of voters must vote in order to overturn any of these provisions.

Public speaker Randy Rose had a question regarding the number of voters that is required to approve a ballot question. He further spoke about parking garages being built underground and suggested that everyone should be more conscious about sea level rise.

Mr. Rose further requested consideration to allow to place on the Champlain Tower South property 18 floors instead of 12 floors so that it helps with the wrongful death cases.

Commissioner Velasquez objected to Mr. Rose's suggestion.

Commissioner Salzhauer objected to Mr. Rose's suggestion.

Public speaker Jeff Rose spoke and provided his opinion regarding some of the zoning matters previously discussed.

Vice Mayor Paul stated once again that all these requirements are already in the Charter.

Commissioner Salzhauer would like to add a question to the ballot for no overnight beach furniture storage on the beach. There was consensus to add this item to the ballot.

No other questions were asked by the Commission.

Public speaker Randy Rose commented on the decision of the Commission that it is more important to put a beach furniture storage and hedges height in the ballot instead of allowing the Champlain Tower South property height in order to assist with wrongful death cases.

# 3. Adjournment

Attest:

There being no further business to discuss, the meeting adjourned at 8:00 p.m.

Accepted this \_\_\_\_\_day of \_\_\_\_\_, 2021.

Charles W. Burkett, Mayor

Sandra N. McCready, MMC Town Clerk



#### Town of Surfside Zoning Code Workshop MINUTES December 7, 2021 6 p.m. Town Hall Commission Chambers - 9293 Harding Ave, 2<sup>nd</sup> Floor Surfside, FL 33154

# 1. Opening

#### A. Call to Order

Mayor Burkett called the meeting to order at 6:02 p.m.

# B. Roll Call of Members

Deputy Town Clerk Herbello called the roll with the following members present:

Present: Mayor Charles Burkett, Vice Mayor Tina Paul and Commissioner Nelly Velasquez, Commissioner Charles Kesl and Commissioner Eliana Salzhauer (arrived at 6:55 p.m.)

Also present were Town Manager Andrew Hyatt, Town Attorney Tony Recio, Town Planner Walter Keller and Building Official James McGuinness.

# 2. Summary of Changes from September and October Workshops

Town Attorney Recio gave an update on the changes that were made in the September and October workshop meetings. He provided the summary of changes to the Town Commission.

Commissioner Velasquez asked why it says NGVD 9.

Town Attorney Recio stated it is a way of setting it to zero so everyone is on the same grounds.

Mayor Burkett stated that he is not comfortable with the NGVD because it is very complicated the way it is being measured. He explained his point of view the NGVD.

Commissioner Kesl provided his input as it pertains to NGVD and the height of the properties when it comes to insurance. He stated that he is fine with either one.

Vice Mayor Paul spoke regarding measuring from the wave crest and stated NGVD or NAVD is confusing for some and asked why it has changed and what the measurement was in 2006.

Public speaker George Kousoulas explained how it was measured in the past and provided an explanation of NGVD as it pertains to measurement and FEMA requirements.

Mayor Burkett addressed the comments made by Mr. Kousoulas and the measurement as it pertains to the first floor and he does not want the skyline to continue to get higher. He asked Commissioner Kesl if he would like to keep the buildings the same height.

Commissioner Kesl asked how much variation there is in the NGVD.

Mr. Kousoulas stated that it is standard. He explained the wave crest measurement.

Mayor Burkett stated his position is to maintain the current skyline.

Commissioner Velasquez would like to hear from the Town Planner and Building Official.

Commissioner Kesl asked if they adopt the NGVD standard how it would impact the height of crest wave.

Mayor Burkett asked if that goes up with time as sea level rises.

Building Official McGuinness stated that he cannot guarantee if it would go up and it has not gone up in the past 25 years. He explained what the height of crest wave is.

Town Planner Keller explained what the crest wave and measurement entails.

Mayor Burkett stated that they can say if they want to use wave crest and they are worried about composition and compatibility of the buildings in Town and how tall you want the buildings.

Commissioner Velasquez asked Town Planner Keller what are the differences between NGVD 29 and 88.

Town Planner Keller explained to Commissioner Velasquez what the difference is between the two.

Town Attorney Recio read what the code states as it pertains to the height and measurement from the crown of the road as well as it pertains to the H120 district.

A lengthy discussion took place among the Commission with Town staff and Mr. Kousoulas regarding the NGVD and height of the buildings as well as the crown of the road.

Consensus of the Commission was reached to cap the height of the buildings.

Building Official McGuinness explained the measurement as it pertains NGVD which has been replaced by NAVD since 2014 and whatever preference point it has to be done in NAVD.

Mayor Burkett stated that the numbers will be slightly different.

Building Official McGuinness explained the difference is about a foot. He asked Town Attorney Recio to replace the NGVD with NAVD.

Mayor Burkett stated that they have been discussing NGVD for the last six months.

Town Attorney Recio stated that NAVD is a scale.

Mayor Burkett asked what the measurement is as it pertains to the NAVD and they do not have the numbers currently.

Building Official McGuinness stated that they have a surveyor that will go out and get those measurements.

Further discussion among the Commission took place regarding the difference between NAVD and NGVD and measurement from the crown of the road.

Mr. Kousoulas explained the difference between NAVD and NGVD.

Public speaker Andrew Balis asked how the NAVD number and a building height of 30 feet would deal with the rising of flood plain as it pertains to a residential district. He also spoke regarding the parking problem in Surfside and possibly requiring parking under a building across Surfside.

Mayor Burkett stated that needs to change due to the rising of flood waters and that is why homes should be raised. He asked Mr. Balis if he is fine with capping the height of the buildings. He responded to the comments made by Mr. Balis.

Commissioner Kesl stated that he is looking for consistency and spoke regarding the rising of flood water.

Mayor Burkett stated that they need to raise the houses in the residential district due to the rising of flood water.

Public speaker Jeff Rose spoke regarding height of the buildings and raising properties on Collins Avenue.

Mayor Burkett addressed the comments made by Mr. Jeff Rose.

Public speaker Randy Rose spoke regarding rising water and believes they should not shrink the buildings to 11 floors.

Mayor Burkett addressed the comments made by Mr. Randy Rose.

Mayor Burkett stated if it is the pleasure of the Commission to place the language on the ballot that would work.

Vice Mayor Paul stated that she does not recall voting on doing a survey of the H120 properties.

Mayor Burkett stated that there is a number of 18.25 and how it would convert properly. He explained the measurement.

Vice Mayor Paul asked how much the survey would be costing.

Building Official McGuinness stated that it will cost between \$200 to \$300.

Vice Mayor Paul stated that the Town Manager should have sent an email to notify the commission that the survey was being done.

Mayor Burkett addressed the comments made by Vice Mayor Paul. He explained to Commissioner Salzhauer what has been discussed to catch her up since she arrived late. He explained that what they are trying to do is minimize height.

Commissioner Salzhauer asked can they equate what the crown of the road is and use the measurements required. She stated that the crown of the road is set at a specific number.

Mayor Burkett stated that the ballot question is very confusing.

Commissioner Salzhauer stated that the ballot question is very confusing.

Commissioner Kesl stated that it is how it is phrased and that is what is important for the voters to be able to understand.

Mayor Burkett stated they are talking about the height of the buildings.

Town Planner Keller stated that you can set what you want if it is crown of the road or elevation and set the height under NAVD or NGVD. He stated that it is a different standard that is more updated, but they are basically the same.

Commissioner Kesl asked if they have a fixed level if it would vary.

Town Planner Keller addressed the comment made by Commissioner Kesl.

Mayor Burkett stated the question is how high and if they want the buildings going higher or cap them at the level they are right now or back at the 12 stories of the crown of the road from when they were originally were built.

Commissioner Velasquez stated that they discussed it already and now he is bringing it back and asked for clarification.

Mayor Burkett stated that he found out 5 days ago that the right measurement is NAVD and they do not know what that number is until they have a survey done.

Commissioner Velasquez asked when they would be able to have the survey.

Building Official McGuinness stated that he will get with the surveyor to see if they can get it done this week.

Mayor Burkett suggested adding NAVD number equivalent after the survey is done and add it to the ballot. He stated that they can agree that there is an equivalent measurement between the two but it is still the same height.

Town Attorney Recio explained where the 120 feet is measured from.

After a lengthy discussion the Commission decided to move forward with the survey and come back once the survey is completed with the NAVD number to determine the measurement and height.

#### 3. Summary of Changes to Draft Code – Remaining Items

#### 1C. Rooftop uses

Town Attorney Recio summarized the item with changes.

Vice Mayor Paul asked if they are putting protections under 1a.

Town Attorney Recio stated that there is a provision 5d in the table that gives protection.

Mayor Burkett asked if they have determined what catastrophe means under 5d.

Town Attorney Recio stated it cannot be an intentional act of the homeowner.

# 1d and 1e

Town Attorney Recio stated that they have discussed this in the last commission meeting.

# 1f

Town Attorney Recio summarized the changes.

# 1g

Town Attorney Recio stated that it was modified slightly, and the idea is to get the most restrictive of 2006 and the current code and combine them.

Commissioner Salzhauer asked what the number is.

Town Attorney Recio stated that this is the code they received in September and the changes have not been implemented yet.

Town Attorney Recio gave the number requested by Commission Salzhauer.

Vice Mayor Paul stated that she is placing an item on the next Commission agenda to protect older buildings when a new construction project is going up next to them.

Commissioner Salzhauer asked Town Planner Keller if the 17-foot break is enough and ample spacing between the buildings. She spoke regarding some taking multiple lots and make them one.

Town Planner Keller believes 17 feet is reasonable.

The following individual from the public spoke:

#### George Kousoulas

Town Attorney Recio stated that the 17 foot is in the current code in MuniCode. He also discussed what Commissioner Salzhauer was referring to if a building would do a unity of title and combine the lots.

Town Attorney Recio clarified confusing the Commission had as it pertains to H40, H30 and H120 and now specifically they are talking about H120.

Further discussion took place regarding the building separation.

Mr. Kousoulas stated that the numbers in 1c does not make sense. He explained the sketch that was handed to the Commission by Town Attorney Recio.

Further discussion took place regarding the sketch and how you can give some height.

Commissioner Kesl stated that the reason for the roof is for the mechanicals and allowing accessory uses for pool and at some point, you have to say enough. He stated it is a matter of perspective.

The following member of the public spoke:

Jeffrey Platt asked why they are allowing the giant trees on the roofs.

Commissioner Kesl stated that it has become popular now and when buildings are being planned the stability of the trees is part of the analysis.

Commissioner Salzhauer asked Town Attorney Recio what is allowed on the roof.

Town Attorney Recio stated that currently they allow roof decks, rooftop structures, mainly mechanical. He stated that there is nothing specific to vegetation.

Commissioner Salzhauer stated that they need to put language that they cannot have anything higher than 30 feet on the roof.

Town Attorney Recio stated that if it is the will of the Commission, they can limit the vegetation.

Further discussion took place regarding trees on rooftops.

Commissioner Velasquez would like to postpone this topic of trees on the roof.

#### 1h Materials

Town Attorney Recio stated they are clear on this item.

# 2 Single Family

Commissioner Salzhauer stated that most people are here regarding a post on nextdoor which is incorrect and their property rights are not being taken away. She explained that it has to do with large homes being built next door to smaller homes and those smaller home owners are not happy because they open their window and they see a wall. She stated that what they are trying to do is close the loophole.

Vice Mayor Paul welcomed everyone and wanted to know if there were public comments on H120 before they switch subjects.

Commissioner Kesl welcomes everyone's comments and he stated he will do his best and listen to everybody.

Commissioner Velasquez stated what she fell in love with in Surfside was with the onestory homes and having those enormous houses, there are things that take away from the privacy you have. She stated that there is a point that someone can still look into your yard.

Mayor Burkett welcomes everyone and he would like everyone's input and has not made a decision and has listened to everyone. He believes the allowance currently is too big but he is open to listen to the public.

The following individuals from the public spoke:

Barry Portnoy spoke regarding increasing square footage and with the restrictions of the setbacks it is difficult to build. He is opposed to shrinking their rights on the tight lots.

Andy Balis spoke regarding reducing anything on the 50-foot lots and the setbacks on the second stories. He stated that there are different hedges.

Commissioner Velasquez stated that FEMA has a limitation of a percentage of how much you can build.

Commissioner Salzhauer clarified the setback of 5 feet and the increase would be for larger lots.

Jeff Rose spoke regarding the allowable square footage Surfside has allowed and spoke regarding the setbacks that have been set and they are punishing people for lot aggregation.

Commissioner Salzhauer addressed the comments made by Jeff Rose and the loopholes in the zoning code.

Lara Frank spoke regarding the landscaping and the increase. She spoke regarding driveways and she also asked regarding enclosing her patio. She spoke regarding fences and gates being prohibited.

Town Planner Keller addressed the comments and questions made by Ms. Frank.

Town Attorney Recio stated that she can still have an outdoor terrace. He stated that there are recommendations from the Planning and Zoning Board as it pertains to fences and gates.

Sharon Hakmon does not want them to disvalue the price of their property. He spoke regarding the decrease in percentage and people want to build a large home.

George Kousoulas, explained the difference between the zoning codes.

Commissioner Velasquez asked if they have discussed this before.

Mr. Kousoulas continued discussing the setbacks.

Pearl Dweck spoke regarding her house that she is building and the cost to her house if over \$100,000 more due to the setbacks.

Alan Davoudpour spoke regarding information to understand their proposed zoning change and how it will affect everyone that lives in Surfside.

Shlomo Danzinger stated that Commissioner Salzhauer is reducing their rights of taking away their buildable rights.

Commissioner Salzhauer addressed the comments made by Mr. Danzinger.

Jordan Wachtel spoke regarding lowering hedge heights and they do not have enough police officers.

Meeting recessed at 8:48 p.m.

Meeting reconvened at 9:00 p.m.

A motion was made by Commissioner Velasquez to extend the meeting until 10:00 p.m., seconded by Vice Mayor Paul. The motion carried with a 3-0 vote with Commissioner Salzhauer and Commissioner Kesl absent.

Mayor Burkett believes they need to super charge the Building Department and get more help. He has been told that things are slow in the Building Department.

Dovid Duchman stated that he is interested in the value of the properties to increase and they should not punish the people for building.

Joshua Epstein stated that the majority of the people are trying to live their lives and they purchased their homes with an intent of privacy.

Dalit Teshuba is opposed to shrinking square footage.

Mandyf Davoudpour stated that Commissioner Salzhauer is wasting time and is rude and they should go back to 80% and the Town is growing. She is against the Commission putting restrictions on properties.

Jeffrey Platt said that there is hypocrisy and people complaining

Alicia Boymelgreen spoke regarding the commission encouraging people to increase their one-story homes.

Carolyn Baumel stated that she hopes they are listening to the audience and they need to allow the Town to grow.

Eli Ginsburg spoke regarding reducing 72% or lower and they cannot state that they are not taking away livable square footage away because that is exactly what they are doing.

A motion was made by Commissioner Kesl to extend the meeting until 10:30 p.m., seconded by Commissioner Velasquez. The motion carried with a 5-0 vote.

Andrew Balis spoke regarding processing permitting and it is taking an average of four months here in Surfside.

Randy Rose spoke regarding the zoning in the neighborhood fluctuating and they should not take away the right of the property owner to build.

Commissioner Salzhauer stated that she is grossed out to hear that someone says they cannot live in a 4,000 square foot house and that is an entitled comment. She stated that Surfside is a special community.

Commissioner Kesl thanked the speakers and stated they are fortunate to be in the market they are in. He stated that he wants to improve the zoning code not by taking anyone's rights but keeping the Town the way it has been.

Vice Mayor Paul stated that she grew up in Surfside and spoke regarding what it was like growing up in Surfside. She stated that for the last 6 years she has tried to incentivize people to not knock down their homes and keep their footprint to help preserve the character of the Town. She stated that she does not want to take square footage from people but would like to see more creative architecture designs.

Commissioner Velasquez thanked the public and believes this is a very delicate subject and believes it should be placed on the ballot and for the residents to determine what the residents want. She spoke regarding keeping the same design in the community and there are many residents that do not want the mansions. She spoke regarding undergrounding of the power lines. She spoke regarding the Abbott Avenue drainage problem and that needs to be priority.

Mayor Burkett stated that there are certain parts that concern him and stated that as the code reads if he knocks down his house, he can build a 12,000 square foot house. He stated that nobody wants to penalize anyone, and he does not agree that the neighborhood would be better with large homes. He stated that the Town has diversity with the type of homes they have.

Commissioner Salzhauer stated that people will never be satisfied, and this does not have a happy ending. She stated that she wanted to close the loopholes in the code.

Commissioner Kesl stated the problem he has with the new properties is not that they should live in a certain square footage, he believes the first level is very overwhelming. He spoke regarding there being a zoning code for a reason.

Vice Mayor Paul would like to see landscape requirements for new homes. She would like to see the correct percentage of landscape requirements for front and back yards.

Commissioner Velasquez spoke regarding putting this to a vote and allowing the residents to decide because it affects the community.

Mayor Burkett summarized the comments made by the Commission and the public.

Jeff Rose spoke regarding the H30A/H30B average setbacks and FAR presentation.

Mayor Burkett does not agree that the houses on those lots should be that size and he spoke with people in the community.

Commissioner Salzhauer stated that the problem will be that people will not take the time to understand and does not want to end up with nothing. She stated that the people want more than what they have.

# PAGE 45

Commissioner Kesl spoke regarding the trade off with the side setbacks.

Vice Mayor Paul likes the 68% but will stay with the 72% because that is what is currently in the code. She also stated that the understory has not been discussed. She mentioned the alternatives as presented in the presentation slide.

Commissioner Velasquez commented on putting a survey out there, placing it on the website and mass emails to see what the residents want.

Mayor Burkett summarized the different comments made by the Commission. He would like to size the houses appropriately. He stated that he understands what they are saying and is willing to support 3,600 square feet.

Commissioner Salzhauer stated that what she wants to prevent from happening is that they do not want to end up with large homes. She is willing to support going smaller but will not approve more version of larger homes. She is fine with a smaller version of "B" without the goodies.

Town Attorney Recio clarified what "goodies" include.

After a very lengthy discussion the Commission discussed the different designs and what should be allowed as it pertains to square footage.

A motion was made by Commissioner Salzhauer to extend the meeting until 11:00 p.m., seconded by Commissioner Kesl. The motion carried with a 5-0 vote.

Vice Mayor Paul spoke regarding green space.

Commissioner Velasquez stated that size does matter.

Mayor Burkett stated that he believes that 4,000 square feet is ok but they want to have more green space. He stated that the 3,600 square feet is a decent size house. He stated that he has heard the public and it is about compromise.

Commissioner Salzhauer would like smaller and what is considered the right size. She stated you remove the goodies and right size the house.

Mayor Burkett stated that the goodies are restricted by the FAR.

Town Attorney Recio explained what the "goodies" are under the current code. He explained that most codes have lot coverage and our 40% has a slide concept. He suggests to have both concepts.

Commissioner Salzhauer recommends 68%.

Town Attorney Recio stated it would apply to any addition as well.

Commissioner Kesl has a concern with the permeability.

Vice Mayor Paul has a concern with the permeability.

The following individuals from the public spoke: Randy Rose Sharon Hakmon Jordan Wachtel Alan Davoudpour Jeff Rose Mandyf Davoudpour George Kousoulas Shlomo Danzinger

A motion was made by Commissioner Kesl to extend the meeting until 11:10 p.m., seconded by Commissioner Salzhauer. The motion carried with a 5-0 vote.

Commissioner Salzhauer spoke regarding the average setbacks.

Vice Mayor Paul stated the majority of the residents here want the 72%.

Vice Mayor Paul agrees with the 72% and compliance with pervious landscape requirements.

Consensus was reached among the four Commissioners to go with the 68%.

#### 4. Recommendations from Planning and Zoning Board for Single Family Districts

- 5. Public Comment
- 6. Question & Answer (based on public comment)

#### 7. Adjournment

The workshop adjourned at 11:05 p.m.

Minutes Zoning Code Workshop December 7, 2021

Accepted this \_\_\_\_\_day of \_\_\_\_\_, 2022.

Attest:

Charles W. Burkett, Mayor

Sandra N. McCready, MMC Town Clerk



Town of Surfside Regular Town Commission Meeting MINUTES December 14, 2021 7 p.m.

#### 1. Opening

#### A. Call to Order

Mayor Burkett called the meeting to order at 7:00 p.m.

#### **B. Roll Call of Members**

Town Clerk McCready called the roll with the following members present:

Present: Mayor Charles Burkett, Vice Mayor Tina Paul, Commissioner Nelly Velasquez, Commissioner Kesl and Commissioner Eliana Salzhauer (arrived at 7:08 p.m.).

Also present were Town Manager Andrew Hyatt, Town Attorney Lillian Arango and Town Attorney Tony Recio.

#### C. Mayor and Commission Remarks – Mayor Charles W. Burkett

Commissioner Kesl spoke regarding having decorum and they do not get things done and it is disrespectful and distracting. He stated that tonight he will be looking at decorum and the person will be respected.

Commissioner Kesl stated that he will not be running for re-election. He stated it has been very difficult and encouraged anyone that would like to run to run. He wished everyone happy holidays.

Commissioner Velasquez stated that she does not like the fact that he stated that nothing has been done. She further commented on the different projects that have been approved and are in the works and his comments are insulting.

Commissioner Salzhauer stated that making these decisions are a lot behind the scenes work that has been in the works. She spoke regarding the park project and that is why she wants to get the zoning code done. She stated that their methods are different, the building collapse and pandemic, we have dealt with a lot.

Vice Mayor Paul wished everyone happy holidays and stated there is still a lot of work to be done.

Mayor Burkett agrees with Vice Mayor Paul. He stated that he is happy that Commissioner Kesl spoke regarding the decorum and respect.

#### D. Agenda and Order of Business Additions, deletions and linkages

Vice Mayor Paul requested to link item 9II (Ordinance for New Development Requirements) with 9A (Champlain South: "Don't Wait...Accelerate!" Action Plan & Changes Necessary to Prevent Another Catastrophe), and move 9GG (Citizens Presentation-Concept Project of the Memorial Park by Ivanova Tatiana) before 9A (Champlain South: "Don't Wait...Accelerate!" Action Plan & Changes Necessary to Prevent Another Catastrophe).

Commissioner Kesl deleted the following items and explained the reason for the deletion. The items being deleted are items 9D (Ending Option to Contribute to Parking Fund in Lieu of Having Required Parking in Building Plans), move item 9Y (Daylight Plant Requirement for New Construction) to the next zoning code workshop and delete item 9Z (Abandoned Sports Equipment on Streets, Unmarked Unattended).

Commissioner Velasquez would like to discuss item 9HH (Change Surfside Election Date from March to November) and agrees that the election should be in November because it would allow more people to come out and vote. She requested to move it up.

Commissioner Kesl stated that there are things to be discussed over a year and half and those should be discussed first.

Vice Mayor Paul and Commissioner Kesl are not in agreement with moving the election to November.

Commissioner Velasquez stated that it is important to discuss it to be able to put it up on the agenda.

Mayor Burkett asked Commissioner Kesl what would be the harm to discuss the item and have the residents decide.

Commissioner Kesl stated he did not have time to review that item.

Commissioner Velasquez asked Town Attorney Arango regarding the change of election date.

Town Attorney Arango stated that the next elected officials would serve 2 ½ years for the first round.

Mayor Burkett asked to bring up the Town Manager's evaluation to be heard before item 9II (Ordinance for New Development Requirements). He stated it is a review for the Town Manager today. He stated that they need to start the conversation and recognize that he has been here for a year.

Commissioner Velasquez stated that the Town Manager has been doing a great job and it should be done at another meeting.

Commissioner Kesl stated that there is another one they are doing now.

Vice Mayor Paul did do the review and then it was taken off the agenda and now they have a new review to be done and it is not on the agenda and is fine for it to be on the January agenda. She also requested to remove item 9J (Climate Environmental Collective Revised) because there is not enough time to form this important committee.

Mayor Burkett stated that they have two people in Town that are interested in participating in a flood program and the Commission wanted to see a presentation. He stated it costs \$7,000 for a soil study for this specific house. He asked to be able to do the presentation and this would address homes all across Town. He stated that they are still looking for grants. He asked for item 9DD (Raising Houses in Surfside to Make our Town More Resilient and Sustainable) to be moved up to be heard before 9C (Amending the Town's Purchasing Code (Chapter 3).

Commissioner Kesl stated that they are all in support of the item.

Commissioner Velasquez asked if they can discuss item 9HH (Change Surfside Election Date from March to November) with the ballot question resolutions above 5B (Bond Referendum-General Obligation Bonds-Undergrounding Utilities).

A motion was made by Commissioner Velasquez, to combine 9II (Ordinance for New Development Requirements) with 9A (Champlain South: "Don't Wait...Accelerate!" Action Plan & Changes Necessary to Prevent Another Catastrophe), deletion of items 9D (Ending Option to Contribute to Parking Fund in Lieu of Having Required Parking in Building Plans), item 9Z (Abandoned Sports Equipment on Streets, Unmarked Unattended), item 9J (Climate Environmental Collective Revised), bring up item 9HH (Change Surfside Election Date from March to November) to be discussed with the resolution, seconded by Commissioner Kesl. The motion carried with a 5-0 vote.

Commissioner Salzhauer would like to add an item. She spoke regarding the large homes being made and the loopholes that are in the code. She explained her item.

Mayor Burkett stated that the zoning code is important, and he is working with the community solving the problem and is eager to go to the next zoning code workshop and get the code done.

Commissioner Salzhauer is proposing the same way they separate it, go back to the 40% and 80% on second floor, get rid of the loopholes with a maximum of 6% and measure from the correct place. Direct the Town Attorney to come up with a stand-alone item to put into a motion in the event the zoning code does not pass.

A motion was made by Commissioner Kesl to add an item to tonight's agenda that creates definitions for the zoning code for lot areas, lot coverage, setbacks (encroachments) to be heard before item 9C (Amending the Town's Purchasing Code (Chapter 3), seconded by Vice Mayor Paul. The motion carried with a 5-0 vote.

Discussion took place among the Commission regarding the item to be added to the agenda regarding zoning code definitions.

E. Community Notes – Mayor Charles W. Burkett

#### F. Appointment to Boards and Committees – Sandra N. McCready, Town Clerk

- Budget Committee - Mayor Burkett

Mayor Burkett did not make an appointment.

- Personnel Appeals Board – Mayor Burkett

Mayor Burkett did not make an appointment.

- Personnel Appeals Board – Commissioner Kesl

Commissioner Kesl appointed Andrea Travani to the Personnel Appeals Board.

- **Personnel Appeals Board** – Commissioner Salzhauer

Commissioner Salzhauer did not make an appointment.

- **Personnel Appeals Board** – Commissioner Velasquez

Commissioner Velasquez did not make an appointment.

- Planning and Zoning Board – At Large

The Town Commission did not make an appointment to the Planning and Zoning Board.

#### G. Presentation to Mr. Bob Fisher - Andrew Hyatt, Town Manager

Town Manager Hyatt presented Mr. Fisher with the plaque for his home that received the historic acknowledgement by the Town.

Mayor Burkett spoke regarding Mr. Fisher and congratulated him. He read the proclamation.

Commissioner Salzhauer thanked Mr. Fisher for doing this.

Commissioner Velasquez thanked Mr. Fisher for doing this.

Vice Mayor Paul stated she read the historic designation report and it is fascinating.

Mr. Fisher thanked everyone.

Town Manager Hyatt stated that he wanted to thank the staff and the Commission for allowing the Town to go and apply for a grant for the Abbott Avenue drainage and the Town received \$2 million-dollar grant.

Town Manager Hyatt introduced Mr. Allyn Kilsheimer to provide an update.

Mr. Kilsheimer gave an update on the Champlain Tower South. He stated that they are still waiting on the testing and inspection. They are doing different modes of triggers if they try different things. He provided an update on the meetings they have attended.

Commissioner Salzhauer spoke regarding the Plaintiff's attorneys and they filed a motion in not allowing us to get access to the site. She stated that he should be allowed to test the site and get the truth.

Vice Mayor Paul spoke regarding a meeting the County had where she asked for Mr. Kilsheimer to obtain access to the other two sites and she will follow up with Mayor Levine-Cava.

Commissioner Kesl stated that they want him to obtain access and that the Town of Surfside may be a defendant.

Commissioner Velasquez stated that they just want to get the answers.

Mayor Burkett stated he is disappointed that they are being blocked. He stated that they need to know why the building fell down to make sure no other buildings are at risk. He stated that NIST said they work in terms of years.

#### 2. Quasi-Judicial Hearings – N/A

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

A motion was made by Commissioner Velasquez to approve the consent agenda minus the meeting minutes, seconded by Commissioner Kesl. The motion carried with a 5-0 vote.

Town Attorney Arango requested an Executive Session regarding Solimar vs. Town of Surfside and would like to hold the meeting before the end of the year.

Commissioner Velasquez would prefer it to be after the holidays in January.

A. Minutes – Sandra N. McCready, MMC, Town Clerk

# November 9, 2021 Regular Town Commission Meeting Minutes November 17, 2021 Town Commission Workshop Minutes

Deferred to the January 11, 2022 meeting.

#### \*B. Town Manager's Report – Andrew Hyatt, Town Manager

Approved on consent.

#### \*C. Town Attorney's Report – Weiss Serota, Town Attorney

Approved on consent.

#### D. Committee Reports - Andrew Hyatt, Town Manager

- October 4, 2021 Tourist Board Meeting Minutes
- October 25, 2021 Parks and Recreation Committee Meeting Minutes
- November 18, 2021 Special Tourist Board Meeting Minutes

Approved on consent.

E. Purchase of Police Vehicles - Andrew Hyatt, Town Manager

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING AND AUTHORIZING THE PURCHASE OF FOUR (4) 2022 FORD POLICE INTERCEPTOR UTILITY VEHICLES, TOGETHER WITH EMERGENCY LIGHTING EQUIPMENT, GRAPHICS, AND RADIO EQUIPMENT FOR EACH POLICE VEHICLE; FINDING THAT THE PURCHASE OF THE POLICE VEHICLES AND EMERGENCY LIGHTING EQUIPMENT, GRAPHICS, AND RADIO EQUIPMENT ARE EXEMPT FROM COMPETITIVE BIDDING PURSUANT TO SECTION 3-13(3) OF THE TOWN CODE; DECLARING CERTAIN POLICE VEHICLES AND EQUIPMENT AS SURPLUS PROPERTY AND AUTHORIZING THE SALE OR DISPOSITION OF THE SURPLUS PROPERTY; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Approved on consent.

F. Cellular Water Meters Phase I Expenditure - Andrew Hyatt, Town Manager

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE. FLORIDA, APPROVING THE PURCHASE OF NEW CELLULAR ENCODERS TOGETHER WITH CLOUD-BASED HOSTING SERVICES FROM BADGER METER, INC. TO REPLACE EXISTING ENCODERS USED TO TRANSMIT WATER METER INFORMATION TO TOWN HALL: FINDING THAT THE PURCHASE IS EXEMPT FROM COMPETITIVE BIDDING PURSUANT TO SECTIONS 3-13(6) AND (7)F OF THE TOWN CODE AS SERVICES AVAILABLE FROM A SOLE SOURCE AND AS A PUBLIC WORKS AND UTILITIES PURCHASE FOR TOWN FACILITY MAINTENANCE AND REPLACEMENT WORK; AUTHORIZING THE TOWN MANAGER TO ENTER INTO A PURCHASE ORDER AND/OR OTHER AGREEMENTS AS MAY BE APPROVED BY THE TOWN MANAGER AND TOWN ATTORNEY: PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Approved on consent.

**G.** Youth Sports Instructors Soccer – Alves Sports Group, LLC- Andrew Hyatt, Town Manager

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING AN AGREEMENT WITH ALVES SPORTS GROUP, LLC FOR THE TOWN'S YOUTH SOCCER PROGRAM; FINDING THAT THE SERVICES ARE EXEMPT FROM COMPETITIVE PROCUREMENT PURSUANT TO SECTION 3-13(2) OF THE TOWN CODE; AUTHORIZING EXPENDITURE OF FUNDS; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE. Approved on consent.

H. Youth Sports Instructors Tennis – GM Sports Tennis, LLC – Andrew Hyatt, Town Manager

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING AN AGREEMENT WITH GM SPORTS TENNIS, LLC FOR THE TOWN'S YOUTH TENNIS PROGRAM; FINDING THAT THE SERVICES ARE EXEMPT FROM COMPETITIVE PROCUREMENT PURSUANT TO SECTION 3-13(2) OF THE TOWN CODE; AUTHORIZING EXPENDITURE OF FUNDS; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Approved on consent.

I. CRS Max Annual Contract Renewal – Andrew Hyatt, Town Manager

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA APPROVING AN AGREEMENT WITH CRS MAX CONSULTANTS, INC. FOR COMMUNITY RATING SYSTEM CONSULTANT SERVICES; PROVIDING FOR AUTHORIZATION AND IMPLEMENTATION OF THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

Approved on consent.

#### 4. Ordinances

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

A. Second Reading Ordinances

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

- B. First Reading Ordinances
  - 1. Marine Structure Ordinance addressing docks Town Attorney

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING SECTION **"MARINE** 90-57. -STRUCTURES", TO PROVIDE FOR REGULATIONS FOR OF DOCKS, PIERS AND CONSTRUCTION MOORINGS ON WATERFRONT LOTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND

#### PROVIDING FOR AN EFFECTIVE DATE.

Town Clerk McCready read the title into the record.

Town Attorney Recio introduced the item and gave a summary of the item. He handed out a map with the lots relative to the item.

Commissioner Salzhauer stated if they do not have anything in the Ordinance they would be able to place anything anywhere.

Town Attorney Recio spoke regarding the setback requirements per the Ordinance.

Commissioner Kesl spoke regarding the set backs and the use of boats when they get attached to the docks. He stated that he supports this item.

Vice Mayor Paul asked regarding the D5 setbacks and the size of the lots and if they are able to build docks. She asked if the Building Official and Town Planner are good with the way the Ordinance is written.

Building Official McGuinness is content with the way the Ordinance is written.

Town Planner Keller stated that he also supports the Ordinance as written.

Commissioner Salzhauer does believe the setbacks are important because the triangle can be changed and the 10 feet protects future owners and is in support of the Ordinance as written.

Commissioner Velasquez asked how long this D5 has been in practice.

Town Attorney Recio stated many years.

Commissioner Velasquez stated this is the first time they are adding the setbacks. She would like to hear from the residents.

The following individuals from the public spoke: Saul Rosen Mel Schlesser Randy Rose Jeff Rose Israel Cohen Jaime Rubinson

Mayor Burkett asked if the DERM requirement is above what they are requesting.

Town Attorney Recio stated that it is.

Town Attorney Arango stated that you would go with what is more restrictive.

Town Attorney Recio addressed the comment made by Mr. Cohen regarding the lots not circled in red and those lots are 10% of the width of the waterway or 15 feet, which means he could build a 10-foot dock.

Town Attorney Recio stated that Bay Drive is 35 feet.

Town Attorney Arango stated that it would be under subsection d of the part of the Ordinance and encouraged the Commission to pass the Ordinance.

A motion was made by Commissioner Velasquez to approve the Ordinance on first reading without the 10 feet on both sides. There being no second the motion died for lack of a second.

A motion was made by Vice Mayor Paul to discuss the item, seconded by Commissioner Kesl.

A motion was made by Commissioner Kesl to approve the Ordinance as written, seconded by Vice Mayor Paul. The motion carried with a 5-0 vote.

#### 5. Resolutions and Proclamations (Set for approximately <u>9:45</u> p.m.) (Note: Depends upon length of Good and Welfare)

A. Legislative Priorities - Andrew Hyatt, Town Manager

A RESOLUTION OF THE MAYOR AND TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA APPROVING STATE LEGISLATIVE PRIORITIES FOR 2022; AUTHORIZING THE TOWN MANAGER AND TOWN OFFICIALS TO IMPLEMENT THE LEGISLATIVE PRIORITIES; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Clerk McCready read the title into the record.

A motion was made by Vice Mayor Paul to discuss the resolution, seconded by Commissioner Salzhauer.

Vice Mayor Paul would like to oppose SB 736 and stated that this allows the developers off the hook of their responsibilities for 10 years by reducing it to 4 years. She would like to add funding for Champlain Tower South Independent investigation and funding for the memorial. She would also like to add insurance incentives for buildings that are in compliance with their maintenance.

Commissioner Salzhauer agrees with Vice Mayor Paul and pursue the FAA flight pattern.

Mayor Burkett stated that he has been dealing with that and they come over Surfside 2 ½ minutes apart. He requested to add it to the legislative priorities.

Commissioner Salzhauer asked how some of the priorities got there.

Assistant Town Manager Greene stated that the items that were added was worked with the Town Manager and they looked at the priorities over the past ten years.

Commissioner Kesl would like to add transportation as well as water transportation.

Vice Mayor Paul is concerned about clean water and there is so much litter coming from boaters and does not think water transportation is a legislative priority for Surfside.

Commissioner Salzhauer spoke regarding obtaining funding not only for a memorial but also for a memorial park.

Mario Bailey, Town lobbyist, explained the legislative priorities and how the procedure works on the opposition of the SB 736.

Town Manager Hyatt spoke regarding legislative days.

A motion was made by Commissioner Kesl to approve the resolution with the changes presented, seconded by Vice Mayor Paul. The motion carried with a 5-0

vote.

**B. Bond Referendum-General Obligation Bonds-Undergrounding Utilities –** Andrew Hyatt, Town Manager.

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, CALLING FOR A TOWN OF SURFSIDE SPECIAL ELECTION TO BE HELD ON MARCH 15, 2022 FOR THE PURPOSE OF SUBMITTING TO THE ELECTORATE A BOND REFERENDUM REGARDING THE ISSUANCE OF GENERAL OBLIGATION BONDS BY THE TOWN OF SURFSIDE IN AN AMOUNT NOT TO EXCEED FORTY MILLION (\$40,000,000.00) DOLLARS FOR THE PURPOSE OF UNDERGROUNDING OF UTILITIES; PROVIDING FOR PUBLICATION OF NOTICE OF SUCH REFERENDUM; PROVIDING REQUISITE BALLOT LANGUAGE FOR SUBMISSION TO THE ELECTORATE; PROVIDING FOR THE TOWN CLERK TO UTILIZE THE SERVICES OF MIAMI-DADE COUNTY SUPERVISOR OF ELECTIONS FOR THE SPECIAL ELECTION; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Clerk McCready read the title into the record.

Vice Mayor Paul stated that the amount stated by Mr. Abbott was \$37 million.

Commissioner Salzhauer stated that he stated that you needed some wiggle room.

A motion was made by Commissioner Velasquez to approve the resolution, seconded by Commissioner Kesl. The motion carried with a 5-0 vote.

C. Annual Salary for Mayor and Commissioners with Single Health Coverage – Andrew Hyatt, Town Manager

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, CALLING FOR A TOWN OF SURFSIDE SPECIAL ELECTION TO BE HELD ON MARCH 15, 2022 FOR THE PURPOSE OF SUBMITTING TO THE ELECTORATE PROPOSED AMENDMENTS TO THE TOWN CHARTER AT ARTICLE II, SECTION 7 - "SALARY", TO PROVIDE FOR PAYMENT OF AN ANNUAL SALARY FOR MAYOR AND COMMISSIONERS AND SINGLE HEALTH INSURANCE BENEFIT; PROVIDING FOR NOTICE OF ELECTION; PROVIDING REQUISITE BALLOT LANGUAGE AND CHARTER AMENDMENT TEXT FOR SUBMISSION TO THE ELECTORATE; PROVIDING FOR THE TOWN CLERK TO UTILIZE THE SERVICES OF MIAMI-DADE COUNTY

### SUPERVISOR OF ELECTIONS FOR THE SPECIAL ELECTION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Clerk McCready read the title into the record.

Commissioner Velasquez commented there not being an amount.

Commissioner Salzhauer stated that it is in the ballot language.

Town Attorney Arango clarified the language is on page 191.

Commissioner Salzhauer asked if they want family coverage, then the Commissioner would have to pay that cost.

Assistant Town Manager Greene stated that per their conversations, the Commissioners would be treated as employees and explained the different options.

Commissioner Salzhauer stated that she was expecting more of a salary since this job takes so much time. She was hoping to really have real salaries that would entice real people to do the work. She was thinking more like \$30,000 a year.

Commissioner Kesl stated that he thought it was \$12,000 biweekly. He stated that he brought this up in the gazette and it did not make sense to him after he won the election and this is a lot of work. He stated this is a good start.

Commissioner Velasquez believes it is a good start and another motivation is the health insurance.

Vice Mayor Paul stated that people should be motivated to serve their community and not by the money.

A motion was made by Commissioner Kesl to approve the resolution, seconded by Commissioner Velasquez. The motion carried with a 4-1 vote with Mayor Burkett voting in opposition.

**D** Prohibition on Storage of Privately-Owned Property Overnight on Beach – Andrew Hyatt, Town Manager A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, CALLING FOR A TOWN OF SURFSIDE SPECIAL ELECTION TO BE HELD ON MARCH 15, 2022 FOR THE PURPOSE OF SUBMITTING TO THE ELECTORATE PROPOSED AMENDMENTS TO THE TOWN CHARTER AT ARTICLE IX. – "MISCELLANEOUS PROVISIONS," ADDING SECTION 150 -"PROHIBITION ON STORAGE OF PRIVATELY-OWNED PROPERTY OVERNIGHT ON BEACH" TO PROVIDE FOR A PROHIBITION ON THE STORAGE OF PRIVATELY-OWNED PROPERTY OVERNIGHT ON THE BEACH; PROVIDING REQUISITE BALLOT LANGUAGE AND CHARTER AMENDMENT TEXT FOR SUBMISSION TO THE ELECTORATE; PROVIDING FOR THE TOWN CLERK TO UTILIZE THE SERVICES OF MIAMI-DADE COUNTY SUPERVISOR OF ELECTIONS FOR THE SPECIAL ELECTION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Clerk McCready read the title into the record.

Commissioner Salzhauer spoke regarding the most important thing was having the land swap and they need to protect their beach. She stated that they do not want privatization of the beaches. She would like to add a minimum standard of 60% to overturn it.

Commissioner Velasquez stated that she believes it should be more specific or give an example. She believes it is too broad.

Commissioner Salzhauer stated that private property is anything. She stated they cannot store anything that is private on the beach. She explained to Commissioner Velasquez what they mean by public property.

Vice Mayor Paul stated that they allowed storage and had to take it away and it was not easy because they took advantage of it.

Commissioner Kesl stated that he is good with this as well. He stated that he advocated for no private or commercial activities on our private beaches.

Commissioner Salzhauer stated that she would like the same language as the land swap.

Town Attorney Arango stated the language to be included to make it the same as the land swap.

The following individuals from the public spoke: Randy Rose Jeffrey Platt

A motion was made by Commissioner Salzhauer to approve the resolution as amended, seconded by Commissioner Velasquez. The motion carried with a 5-0 vote.

E. Lot Area, Building Height for Beachfront Properties and Increasing Minimum Required Electoral Vote to 60% - Andrew Hyatt, Town Manager

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, CALLING FOR A TOWN OF SURFSIDE SPECIAL ELECTION TO BE HELD ON MARCH 15, 2022 FOR THE PURPOSE OF SUBMITTING TO THE ELECTORATE A PROPOSED AMENDMENT TO THE TOWN CHARTER ARTICLE I, SECTION 4 - "GENERAL POWERS OF TOWN; POWERS NOT DEEMED EXCLUSIVE", AS PRESENTED IN A BALLOT QUESTION ON AN AMENDMENT TO THE TOWN CHARTER **REAGARDING LOT AREA,** BUILDING HEIGHT FOR BEACHFRONT PROPERTIES, AND INCREASING MINIMUM REQUIRED ELECTORAL VOTE TO 60% TO REPEAL OR AMEND SECTION 4 OF THE CHARTER; PROVIDING FOR NOTICE OF ELECTION; PROVIDING REQUISITE BALLOT LANGUAGE AND CHARTER AMENDMENT TEXT FOR SUBMISSION TO THE ELECTORATE; PROVIDING FOR THE TOWN CLERK TO UTILIZE THE SERVICES OF MIAMI-DADE COUNTY SUPERVISOR OF ELECTIONS FOR THE SPECIAL ELECTION: PROVI DING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Clerk McCready read the title into the record.

Mayor Burkett stated that he has some additional language to be added to the resolution.

Commissioner Salzhauer stated that she spoke with Town Attorney Recio that what they are doing is accomplishing what they are looking for. She asked the Town Planner and Building Official stating that what they are doing will keep the skylines in check. Commissioner Kesl stated that he supports this ballot question and the measuring it from the bulkhead line. He spoke regarding elevation and crown of road.

Commissioner Velasquez stated that she does want to make sure their buildings will not go higher and likes the 60% approval.

Vice Mayor Paul spoke regarding the conversation that took place in the workshop with the survey for the NAVD and NGVD and asked where they are at on that.

Building Official McGuinness stated that their building permitting has doubled and the survey will be available in a couple of days.

Vice Mayor Paul asked what the Building Official's recommendation is.

Building Official McGuinness stated that you must change it to NAVD and that is what needs to be used and it is about 1 ½ foot difference.

Vice Mayor Paul stated that they need to know the number in order to place it in the ballot language.

Mayor Burkett spoke regarding the item and explained the measurements as it pertains to this item and the difference between NAVD and NGVD. He stated that the numbers proposed are the correct numbers.

Commissioner Salzhauer suggested some language in preserving the current skyline. She wants to make sure that this is not making a bigger building.

Commissioner Kesl asked regarding the NAVD and NGVD measurements.

Building Official McGuinness explained the difference of NAVD and NGVD.

Vice Mayor Paul asked if the Building Official suggests deferring the item until they have the numbers from the survey.

Building Official McGuinness stated whatever the will of the Commission would be.

Mayor Burkett stated what they are trying to accomplish is not having any building higher then what they currently have in Surfside. He continued explaining the measurements and crown of the road as it pertains to this item.

Further discussion took place among the Commission and Building Official McGuinness regarding the difference between NAVD and NGVD and the calculations.

The following individuals from the public spoke: George Kousoulas

Mayor Burkett asked if they know what the NGVD numbers are for those buildings then the Commission can make a decision and where they measure from.

Vice Mayor Paul stated that not many buildings are left to be redeveloped.

Mayor Burkett suggested a sampling of the buildings.

Vice Mayor Paul asked Building Official McGuinness if they can go with the number given by Mr. Kousoulas without a survey.

Town Planner Keller suggested that they get the number by a registered surveyor.

Mayor Burkett stated they should have a sampling of the 3 lowest and 3 highest buildings and their location and the Commission will decide what is the lowest NAVD number and state if they vote for this then they will get this type of building. He stated that he believes it has gone way too high already.

Commissioner Velasquez stated that whoever does the survey, they should bring the number.

After a lengthy discussion on the item and placing this on the January meeting agenda, the Commission requested the Building Official to go and see if he can get the measurements of all the buildings and if he cannot get all of the buildings then to obtain 3 or 4 of the smallest buildings and 3 or 4 of the tallest buildings.

Town Attorney Arango stated that she has serious concerns about having the survey before the holidays.

A motion was made by Commissioner Kesl to approve the resolution, seconded by Commissioner Velasquez.

The motion was withdrawn by Commissioner Kesl and Commissioner Velasquez

rescinded her second.

Town Manager Hyatt requested authorization from the Commission to expend the additional funds for the survey.

A motion was made by Commissioner Velasquez, to give the Town Manager authorization to expend up to \$25,000 to do the survey, seconded by Commissioner Salzhauer. The motion carried with a 5-0 vote.

A motion was made by Commissioner Salzhauer to defer the item to the January meeting, seconded by Commissioner Velasquez. The motion carried with a 5-0 vote.

The following individuals from the public spoke: Randy Rose to George Kousoulas Jeff Rose Jordan Wachtel Linden Nelson Sharon Hakmon

F. Hedges in Single-Family Lots – Town Attorney

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, CALLING FOR A TOWN OF SURFSIDE SPECIAL ELECTION TO BE HELD ON MARCH 15, 2022 FOR THE PURPOSE OF SUBMITTING TO THE ELECTORATE PROPOSED AMENDMENTS TO THE TOWN CHARTER AT ARTICLE IX. – "MISCELLANEOUS PROVISIONS," ADDING SECTION 149 -"HEDGES IN SINGLE-FAMILY RESIDENTIAL LOTS", TO PROVIDE THAT SIX (6) FOOT HEDGES SHALL BE PERMITTED ON SINGLE-FAMILY LOTS; PROVIDING FOR NOTICE OF ELECTION; PROVIDING REQUISITE BALLOT LANGUAGE AND CHARTER AMENDMENT TEXT FOR SUBMISSION TO THE ELECTORATE; PROVIDING FOR THE TOWN CLERK TO UTILIZE THE SERVICES OF MIAMI-DADE COUNTY SUPERVISOR OF ELECTIONS FOR THE SPECIAL ELECTION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Clerk McCready read the title into the record.

A motion was made by Commissioner Velasquez to approve the resolution as amended, seconded by Vice Mayor Paul. The motion carried with a 4-1 vote with Commissioner Kesl in opposition. Vice Mayor Paul has an issue on page 210 to change the language from "along" to "within" shown in Exhibit "A" and "(6) feet tall strike through "on or" in the ballot question.

Mayor Burkett stated that there is a survey and they cannot legally put it on the line.

Town Attorney Arango agrees with Vice Mayor Paul's suggestion.

Commissioner Velasquez stated that it is embarrassing that someone goes through this Commission when the residents have to come and fight for hedges to create privacy on their property. This ballot question is to provide the hedges.

Mayor Burkett commented on everyone having different opinions and the reason why it is on the ballot is because they keep having elected officials that knock it down and the residents are tired of it. He stated that 6 feet right now is the best they can do.

A motion was made by Commissioner Velasquez to extend the meeting for an hour, seconded by Commissioner Salzhauer. The motion was carried with a 5-0 vote.

The following individuals from the public spoke: Jeff Rose Jordan Wachtel Linden Nelson Steven Schott

Commissioner Kesl addressed the comments made by the speakers.

Commissioner Velasquez stated that these are natural trees and where people want to put them should not be the problem of the Commission.

Vice Mayor Paul spoke regarding the change in the zoning code language.

Commissioner Salzhauer spoke regarding what the code currently states that reducing the height of the hedges because it makes it easier for people to hide.

Mayor Burkett spoke regarding the resolution and believes it is a good thing.

Vice Mayor Paul requested to move up item 9GG (Citizens Presentation – Concept Project of the Memorial Park by Ivanova Tatiana) to be heard now.

Commissioner Velasquez stated that the families should be consulted with and bring them in on the idea.

# 6. Good and Welfare/ Public Comments from Residents (Set for approximately 8:15 p.m.)

The following individuals from the public spoke:

George Kousoulas spoke regarding working together on the zoning code. Jeff Rose apologized for the last meeting for any chaos and everyone should have taken a step back. He thanked staff for all they have done in the last 2 years. He stated they are all appreciated by residents and happy holidays. He stated that they need to focus on what is important in the community.

Jeffrey Platt apologized for his actions at the last meeting. He spoke regarding the zoning code as it pertains to larger homes on corner lots.

Randy Rose provided a copy to the Commission and spoke regarding the size of homes and the lots in Town.

Jaime Rubinson spoke regarding the zoning in progress and for the Commission to focus on the big picture.

Marianne Ott spoke regarding the diversity of the Commission and they should respect each other and stated that they should have more trees and shade in Town. She would also like to see the underground of powerlines.

Linden Nelson stated he is proud to hear the conversation taking place. He thanked the staff for all the work done.

Commissioner Kesl spoke regarding the zoning code and voiced his frustration about decorum and not that they did not accomplish much in Town. He believes that there are lots of things in the discussion items and if they would have better organization and understanding of the process, then they would have been able to accomplish more. He thanked the public speakers for their comments and concerns.

Commissioner Salzhauer spoke regarding what took place at the last zoning code workshop. She spoke regarding what has been accomplished.

Commissioner Velasquez thanked the speakers and spoke regarding the one-story homes and privacy. She spoke regarding some residents that do not want the large two-story homes.

Vice Mayor Paul spoke regarding her tenure on the Commission and did admit it is at times painful to be here but she is here to support and work for the residents. She addressed the comment made about the trees and spoke regarding a tree give-a-way by the Town and would like to direct the Town Manager to do a tree-give away

program again.

Commissioner Velasquez stated that she understands that small projects are good but you have issues of flooding.

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. Champlain South: "Don't Wait...Accelerate!" Action Plan & Changes Necessary to Prevent Another Catastrophe – Commissioner Eliana Salzhauer [Linked to Item 9II]

This item was linked to item 9II (Ordinance for New Development Requirements).

Commissioner Salzhauer introduced the item and the changes needed to be made to avoid this from happening again. She stated that they should reduce the recertification to 30 years and do the geotechnical studies and give direction to move this forward.

Vice Mayor Paul stated that the flaw is what people aren't looking at which is how you protect the neighbors when there is a building and demolition of properties. She spoke regarding her item 9II (Ordinance for New Development Requirements) and her point is the protection of neighbors. She spoke regarding looking at buildings every 20 years and on the coast, you might see more deterioration. She also believes getting assistance for geotechnical studies as a legislative priority. She is fine with 30 years but would prefer 20 years.

Commissioner Velasquez stated that there are buildings that have never received a geotechnical study.

Vice Mayor Paul would like to direct the Town Manager to amend the recertification to 30 years and geotechnical study should be done along the coast line.

Commissioner Kesl thanked Commissioner Salzhauer and Vice Mayor Paul. He spoke regarding the geothermal issues and he spoke regarding a conversation he had with the FEMA director two days after the collapse.

Commissioner Velasquez stated she is fine with either 20 years or 30 years

and in New York they do recertifications of their buildings every 5 years. She stated that people need to feel safe in their building. She stated that she suggested giving grant money to the owners of the units to do their own study.

Mayor Burkett stated that there is no conclusion with making the judgements and it is silly and a waste of time.

Town Attorney Recio stated that section 8.1 provides that the building code be the same across the county which includes recertification and he has strong doubts what they can incorporate.

Commissioner Salzhauer stated that she does not want to go based on what the County states and the County can challenge it if they want and they know that 40 years is not working.

Vice Mayor Paul stated that they had engineering specialists that looked at this and these-regulations are in the Florida Building Code. She is looking at how to go beyond that to safeguard the neighbors.

Commissioner Kesl stated that he was looking for validation. He stated that there are many tiers of issues.

Commissioner Velasquez stated that they should start somewhere and start with 30 years and the geotechnical study should be part of the inspections and 10-year recertification.

Mayor Burkett stated that it is important to do the geotechnical study and Mr. Kilsheimer was getting on the site to see if it was a geotechnical issue. He stated that he is not sure if the condominiums will want to do the geotechnical studies.

The following individuals from the public spoke: George Kousoulas Randy Rose Jordan Wachtel Jeff Rose Shlomo Danzinger

Building Official McGuinness stated that he took this to the County because we received attraction from the County. He stated that his recommendation is to come up with the ordinance that is close to the County.

Mayor Burkett asked if they could prospectively adopt it once the County has approved it.

Town Attorney Recio stated that the County Building Code states it is a uniformed code in Miami Dade County.

Town Attorney Arango reiterated what Town Attorney Recio stated and they must follow the County Code.

Commissioner Velasquez asked Building Official McGuinness what the County is proposing.

Building Official McGuinness addressed the comments made by Commissioner Velasquez.

Commissioner Salzhauer addressed the comments made by the public.

Vice Mayor Paul stated that what is also important is what you do to protect the buildings when new construction is going up next door to them.

Town Attorney Arango asked where these standards are and what format, since the direction is to the Town Attorney to draft an ordinance.

A motion was made by Commissioner Salzhauer to direct the Building Department and Mr. Kilsheimer, to have a 30-year inspection with 10 years recertification with 2-year notice to the building and a duty for a report from a structural engineer they have a duty to report it to the Building Official and add the geotechnical studies, seconded by Vice Mayor Paul. Vice Mayor Paul rescinded her second. The motion was seconded by Commissioner Kesl. The motion carried with a 3-2 vote with Mayor Burkett and Vice Mayor Paul voting in opposition.

Town Attorney Arango advised that they have concerns with the legality of the proposed motion as it pertains to the County Building Code.

A motion was made by Commissioner Salzhauer to extend the meeting for 30 minutes, seconded by Commissioner Velasquez. The motion carried with a 4-1 vote with Mayor Burkett voting in opposition.

#### B. Champlain Tower South Memorial – Vice Mayor Paul [Linked to Item 9EE]

Vice Mayor Paul introduced the item and spoke regarding archiving the materials they have received and form a committee to review ideas for the memorial.

Commissioner Salzhauer spoke regarding a location of the memorial park and set the land aside.

The following individual from the public spoke:

Pablo Langisfeld Shlomo Danzinger Linden Nelson Randy Rose Jeff Rose

Tattiana Ivanova provided a PowerPoint presentation regarding the memorial.

Commissioner Salzhauer stated that they do not own the land.

A motion was made by Commissioner Salzhauer to direct the Town Attorney and Town Manager to begin the process to set aside 88<sup>th</sup> Street East of Collins all the way to the beach as a memorial park. The motion died for lack of a second.

Vice Mayor Paul stated that they do not own the land. She thanked Ms. Ivanova for her presentation.

Commissioner Kesl spoke regarding the presentation and the vision of what this site could be for everyone. He stated that they need the land to be able to envision this.

Mayor Burkett thanked everyone and stated that they do not own the land.

Commissioner Velasquez stated that they should have the family involved and get together and create a committee and get their opinion.

Mayor Burkett spoke to Mr. Langisfeld and stated that the Town has been responsive and that other agencies are less responsive and their intention is to memorialize their daughter and her husband.

C. Amending the Town's Purchasing Code (Chapter 3) – Commissioner Nelly Velasquez

Deferred to the next meeting.

D. Ending Option to Contribute to Parking Fund in Lieu of Having Required Parking in Building Plans – Commissioner Charles Kesl

Removed from the agenda.

E. Community Center Pool Deck Lighting - Staff Report – Andrew Hyatt, Town Manager

Deferred to the next meeting.

F. Art in Public Spaces Committee – Commissioner Charles Kesl

Deferred to the next meeting.

G. Demolition by Neglect - Mayor Charles W. Burkett

Deferred to the next meeting.

H. Excessive Homeless Contribution Made by the Former Commission -Mayor Charles W. Burkett

Deferred to the next meeting.

I. Lowering of Property Taxes and Water Bills – Staff Report – Andrew Hyatt, Town Manager

Deferred to the next meeting.

J. Climate Environmental Collective Revised - Vice Mayor Tina Paul

Removed from the agenda.

K. Amending Town Code Section 2-237 Business Relationships – Commissioner Eliana Salzhauer

Deferred to the next meeting.

L. Community Center Second Floor Possibility- Andrew Hyatt, Town Manager

Deferred to the next meeting.

M. Amend Tourist Board Ordinance - Commissioner Nelly Velasquez

Deferred to the next meeting.

N. Legally Defective Charter Amendment Vote in 2012 – Mayor Charles W. Burkett

Deferred to the next meeting.

O. Cone of Silence/Secrecy – Mayor Charles W. Burkett

Deferred to the next meeting.

P. License Plate Readers – Mayor Charles W. Burkett

Deferred to the next meeting.

Q. Cancel Culture in Surfside - Mayor Charles W. Burkett

Deferred to the next meeting.

**R. Permit Process -** Mayor Charles W. Burkett

Deferred to the next meeting.

S. High Water Bill – Mayor Charles W. Burkett

Deferred to the next meeting.

T. Increased Commercial Airliner Flights over Surfside - Mayor Charles W. Burkett

Deferred to the next meeting.

U. Purchase of Electric Vehicles - Mayor Charles W. Burkett

Deferred to the next meeting.

V. One-way Automatic Gate at 96<sup>th</sup> Street and Bay Drive - Mayor Charles W. Burkett

Deferred to the next meeting.

W. Draconian Fines for Residents - Mayor Charles W. Burkett

Deferred to the next meeting.

X. Surfside's Brand Name, Miami's Uptown Beach Town – Mayor Charles W. Burkett

Deferred to the next meeting.

Y. Daylight Plane Requirement for New Construction – Commissioner Charles Kesl

Moved to the next zoning code workshop.

Z. Abandoned Sports Equipment on Streets, Unmarked Unattended – Commissioner Charles Kesl

Removed from the agenda.

AA. Epinephrine Auto-Injectors (EpiPen) Policy Discussion - Commissioner Eliana Salzhauer

Deferred to the next meeting.

BB. Private Security Service – Mayor Charles W. Burkett

Deferred to the next meeting.

CC. Remote Participation by Commissioners – Commissioner Charles Kesl

Deferred to the next meeting.

DD. Raising Houses in Surfside to Make our Town More Resilient and Sustainable – Mayor Charles W. Burkett

Deferred to the next meeting.

EE. Champlain South Memorial Park at 88<sup>th</sup> Street End - - Commissioner Eliana Salzhauer [Linked to Item 9B]

Item was discussed under item 9B.

FF. Budget Meeting Fiasco - Commissioner Eliana Salzhauer

Deferred to the next meeting.

GG. Citizens Presentation – Concept Project of the Memorial Park by Ivanova Tatiana– Sponsored by Vice Mayor Paul

Item was discussed under item 9B.

HH. Change Surfside Election Date from March to November – Mayor Charles W. Burkett

Mayor Burkett introduced the item and stated that Town Attorney Arango already stated that if this passes in March, the new Commission will be serving for 2 ½ years. He stated it is more sensible to have the elections concurrent

with Miami-Dade County and it costs more money to have the election in March instead of having them in November.

Commissioner Kesl stated that the cost factor is an issue and spoke regarding being in favor of sending this to the voters but would like to ask for more detail. He also stated that having the election in March would allow the voters to focus on the local election.

Commissioner Salzhauer stated that there is a lot of value to separating it from the national primary election because it gives them a separate bite of the apple to putting things on the agenda.

Commissioner Velasquez stated it is a good point Commissioner Kesl brought up. She is fine either way and understands November bringing in more voters.

Vice Mayor Paul stated that she is fine with March elections and the primary presidential elections are every 4 years and ours are every 2 years.

Commissioner Salzhauer stated that the ballot questions should be focused on important issues and not this one.

Mayor Burkett stated that if you put the question out there and if 75% of the residents would prefer to go in November and he does not see what the down side is. He stated that not allowing the residents to decide is what he has an issue with.

Commissioner Salzhauer spoke regarding making decisions for residents but she does not think putting issues like these diminishes everything that is important. She would like to maintain the ballot questions they already have.

Commissioner Velasquez disagrees with Commissioner Salzhauer because these questions are important and there are different ways of seeing things.

Commissioner Kesl stated that the ballots questions need to be things that will go in the Town Charter.

Vice Mayor Paul would like more information on this and an analysis done and does not know why the sudden change. She would like to move up 9GG (Citizens Presentation – Concept Project of the Memorial Park by Ivanova Tatiana) which was not moved up and it is a potential ballot question.

Mayor Burkett stated this is not silly and it is an option for the residents and it can be talked about and debated. He stated that if the residents want it in March, then he is fine with that but it would be better in November for more participation. The following individuals from the public spoke: George Kousoulas Jaime Rubinson

Mayor Burkett passed the gavel to Vice Mayor Paul.

Town Attorney Arango stated this is a time sensitive item.

A motion was made by Mayor Burkett to place on the ballot the question to move the election from March to November, seconded by Commissioner Velasquez. The motion failed with a 2-3 vote with Commissioner Salzhauer, Commissioner Kesl and Vice Mayor Paul voting in opposition.

# II. Ordinance for New Development Requirements – Vice Mayor Tina Paul [Linked to Item 9A]

Item was discussed under item 9A (Champlain South: "Don't Wait...Accelerate!" Action Plan & Changes Necessary to Prevent Another Catastrophe).

A motion was made by Vice Mayor Paul to direct the Town Attorney to draft an Ordinance with the Town Manager and Building Official to require specific safety practices and standards for protection and monitoring of existing buildings next to properties with demolition and new construction as well as adding seismic meters and monitoring wells, seconded by Commissioner Salzhauer. The motion carried with a 5-0 vote.

#### 10. Adjournment

A motion was made by Commissioner Kesl to adjourn the meeting without objection at 12:28 a.m. (December 15, 2021). seconded by Commissioner Velasquez The motion carried with a 5-0 vote.

Accepted this \_\_\_\_\_day of \_\_\_\_\_, 2022.

Charles W. Burkett, Mayor

Attest:

Sandra N. McCready, MMC Town Clerk



# TOWN MANAGER'S REPORT

## **JANUARY 11, 2022**

#### I. TOWN DEPARTMENTS

#### **Building Department**

**A.** As the world discovers Surfside, the surge in new building business continues. Both Town residents and the contracting community are coming into the Building Department lobby in record numbers to inquire about and apply for building permits for a wide variety of construction projects. As anticipated, permit numbers have significantly increased over prior year this December. This also means many more plans reviews and inspections for our entire Building Team.

**B.** Building Department Permit and Inspection numbers for the month to date continue to soar over prior months as follows: December 2021: 110 Building Permits issued; 211 Inspections performed; 41 lien searches completed. These numbers continue to increase over prior year.

**C.** The Building Department continues to advocate for the acceleration the 40 Year Building Recertification to commence with buildings 30 Years Old (instead of 40 years old). With full support from the Miami-Dade Building Officials Association and Board of Rules and Appeals, this recommendation is now going forward to the Miami-Dade County Commission for discussion, with legislative action ultimately amending Miami-Dade County Code Chapter 8, Section 8-11. We also anticipate not only this change at the County level to the Miami-Dade Code but also a change at the state level to the 2023 Florida Existing Building Code with the addition of a chapter entitled: "Buildings 30 Years or Older".

**D.** The Building Department greatly anticipates the upgrade of Town's Tyler Software platform in early 2022 which will open a customer service portal for online permitting, inspections requests and plans review. This will greatly increase speed and efficiency of permits issued, raise levels of service and eliminate most of the lobby traffic which now takes up much of our staff's time.

### **Code Compliance Division**

A. Code Compliance Cases: As of December 27, 2021, the total number of active, open cases being managed is 199. Of these cases, 89 cases are still under investigation and are working towards compliance; 13 cases are on-hold; 24 cases are in the Special Master hearing queue; 7 cases are in post-hearing status; 22 code cases have been issued liens and remain unpaid; 42 code cases have service liens and remain unpaid. Properties with unpaid liens are sent reminder letters on a semi-annual basis. For the month of December, the Code Compliance staff has conducted an approximate of 142 inspections.

**B.** Collected Civil Penalty Fines: Unresolved code compliance cases accrue fines until the code violation is resolved. After the violation is corrected, the property owner is notified to remit the fine amount due. In many cases, the fine amount is either paid, resolved via a settlement agreement, or referred to the Town's Special Master for a hearing and potential mitigation on the fine amount due.

The following is a summary by fiscal year of the fine amounts collected by the Town:

- FY 22: As of December 27, 2021, 21 cases have paid/settle for a total monetary collection of \$12,914
- FY 21: 86 cases have paid/settle for a total collection of \$39,464
- FY 20: 109 cases paid/settled for a total collection of \$115,851

**C.** The Code Compliance Division has assisted the Finance Department by conducting 40 Code lien searches for the month of December 2021.

**D.** Th Code Compliance Division has continued to assist the Town Clerk's Office with public records requests.

E. The Division presented 13 Code Compliance cases to the Special Master.

#### **Community Services & Public Communications Department**

**A.** Throughout the month, CSPC continued work on the Town's Third Thursdays events, including finalizing all collateral and marketing materials to promote the block parties. Die-cut postcards, hotel installations and street pole banners will be placed and distributed in the new year.

**B.** The CSPC department created all public education materials regarding the Town's March 2022 election and ballot questions, including the development of webpages, mailers, planning community workshops and e-blasts that will be provided to residents starting in January. Information was also included in the January 2022 Gazette.

**C.** During the December 5<sup>th</sup> Farmers Market, the Tourism Bureau hosted a popular holiday pet photo opportunity for residents. The event information was included in The New Tropic newsletters leading up to the event, and the vendor has requested similar future activations.

**D.** The department completed work on the Town Resident and Visitor Guides to send to print in January. Visitor guides will be provided to hotels and resident guides will be provided to new residents upon opening a water bill.

Human Resources	

Human Resources continues to provide support and assistance to the Town Administration, departments and staff in relation to a variety of items/services to include:

**A.** COVID-19 Health Pandemic: Provided staff with COVID-19 information, support and assistance.

**B. Safety and Wellness Initiatives:** Provided staff with information regarding weekly webinars and classes for mental health support, nutrition, fitness, support groups, community healthy initiatives and exercise classes.

**C.** *EEOC Discrimination Complaints:* Awaiting on response with regards to EEOC complaints filed by Mr. Victor May.

**D. Police Department Re-Accreditation**: Provided information needed to validate Human Resource standards required for the re-accreditation process. Interviewed by assessor.

**E.** Chief of Police Recruitment: Received over 60 resumes from local and national applicants. Conducted interviews. A conditional offer of employment was issued, contingent on the successful completion of the pre-employment background screening / investigation.

**F.** *Updated Job Descriptions:* Reviewed and updated job descriptions for Tourism Manager and Public Works classifications.

G. Interviews: Conducted interviews for Chief of Police and Recreation Leader II.

**H. Promotions:** Facilitated information and participated in discussions regarding Public Works promotions.

**I.** Classification and Compensation Study: Participated in a market data discussion with Evergreen.

**J.** AFSCME Florida Council 79: AFSCME and the Town will commence collective bargaining on January 31<sup>st</sup>, 2022.

K. Holiday Lunch: Coordinated a holiday luncheon for staff.

- Employee appreciation, recognition, and activities
- Pre-employment Background Check
- Conditional offer of employment offers (withdrawal when applicable)
- New hire orientation
- New hire reporting Florida Department of Revenue
- Workers' compensation
- Grievance
- Labor statistics report U.S. Department of Labor Statistics
- Interviews
- Exit interviews
- Personnel counseling
- Retirement plan related assistance
- Recruitment / Advertising for vacancies
- Responding to candidates / acknowledge resumes received
- Verification of Employment Requests
- Personnel maintenance changes
- Insurance enrollment, changes and termination of coverage
- Safety and wellness initiatives
- Training
- Public records requests related to personnel (active / inactive)
- FMLA assistance
- Criminal records check level 2 for all Parks and Recreation instructors/concession staff

## Finance Department

Monthly Budget to Actual Summary as of November 30, 2021 - Attachment "A"

## Parks and Recreation Department

Parks and Recreation continued to operate the following facilities: The 96<sup>th</sup> Street Park, the Beach Lifeguard Tower, Hawthorne Tot Lot and the Dog Park. The Tennis Center as of October15, 2021 has reopened after renovation to the courts and equipment.

Fall programing classes are in full swing for Fall session II. 96<sup>th</sup> Street Park design continues to move forward. The LEED part of the design process is under way. The RFQ for the Park construction, is in the planning process and should be completed by late January or early February. Winter Camp had a total of 30 kids registered for the 2 weeks. Staff continue to adjust and work on schedules to keep facilities open during the COVID-

19 spike this winter. Winter programing requisition is in full swing and winter programs will begin after the first of the year.

### **Planning Department**

Development Application Process (2012 - Present) - Attachment "B"

### Police Department

### A. Police Department Statistics (December 1 – December 22, 2021)

- o Traffic Citations 416
- o Parking Citations 736
- o Arrests 6
- o Dispatch Events 1093
- o Incident/Crime Reports 40

### **B.** Police Department Re-Accreditation Onsite Assessment

The Police Department's onsite Re-Accreditation assessment took place December 7 - 9, 2021. The PD is seeking Re-accreditation status for the fourth consecutive cycle having achieved the prestigious initial Commission for Florida Law Enforcement Accreditation (CFA) in 2009. A team of CFA assessors examined all aspects of the Surfside Police Department's policies and procedures, management, operations, and support services. The Police Department had to comply with more than 250 standards in order to receive reaccredited status. Many of the standards are critical to life, health, and safety issues. Upon completion, the assessors are recommending re-accreditation with no conditions at the Commission for Florida Law Enforcement Accreditation (CFA) conference in St. Augustine in February 2022. The Police Department personnel were highly praised for their professionalism and knowledge.

### C. Police Events/Community Outreach

• The Police Department collected toys for our 13<sup>th</sup> Annual Toy Drive. The toys were delivered to 25 families (53 children) in need in need on December 21<sup>st</sup> and December 22<sup>nd</sup>, 2021 by Interim Chief John Healy, Sergeant Jay Matelis, Executive Assistant Dina Goldstein and Parking Enforcement Officer Alain Acosta. The smiles on the faces of the children were priceless.

- The Surfside Police Department will host a community blood drive on January 6, 2022 from 10:00 a.m. 5:00 p.m. in the Town Hall municipal parking lot.
- Code Enforcement will host their monthly Special Master Hearing January 18, 2022 from 10:00 a.m. – 2:00 p.m. in the Commission Chambers.
- The monthly Coffee with the Cops is January 27, 2022 at 10:00 a.m. at Starbucks.

### II. SEE CLICK FIX REPORT

Requests filtered by request category that have been created 12/01/2021 - 12/31/2021

Request Category	Created in period	Closed in period	Average days to close
Community Center (P & R)	1	1	0
Dog Stations (P & R)	1	1	0.1
Other	5	5	5
Police (Safety Concern)	1	1	0.8
Pothole (PW)	1	0	
Street lights (PW)	1	0	

Requests filtered by request category that have been created 01/01/2014 - 12/31/2021

Request Category	Created in period	Closed in period	Average days to close
96 Street Park (P & R)	11	11	2
Beach Issue	238	217	16.9
Code Compliance (Safety Concern)	113	110	19.7
Code Compliance (Violation)	191	187	17.6
Community Center (P & R)	13	11	6.8
Dog Stations (P & R)	19	19	2.5
Drainage/Flooding (PW)	46	36	17.5
Graffiti (PW)	5	3	17.5
Hawthorne Tot-Lot (P & R)	7	7	22.5
Other	334	295	18.6
Police (Safety Concern)	105	104	6.1
Pothole (PW)	8	7	23.3
Solid Waste (Commercial) (PW)	8	7	4.8
Solid Waste (Residential) (PW)	39	28	13.2
Street lights (PW)	80	61	82
Surfside Dog Park (P & R)	12	11	0.7
Utilities (Water/Sewer) (PW)	49	36	23.9
Barking Dog	13	13	12.2
Beach Patrol	8	7	2.6
Parking Issue	111	105	2.1
Construction Issues	51	41	13.7
Dead Animal	8	6	10.4

#### TOWN PROJECTS

#### 96<sup>th</sup> Street Park

111.

The Design Team continues to push forward with Construction Documents and LEED certification. 90% Construction Documents for Permitting and the Bid Set Drawings and Specifications for the Construction RFQ will be submitted by end of January 2022.

#### Abbott Avenue Drainage Study

Progress Status Report - Attachment "C"

#### Byron/Bay Closure Study

Miami-Dade County DTPW's reviewed the Traffic Study methodology for the traffic analysis related to potential road closure of Byron Avenue and Bay Drive at 96th Street and concluded that it cannot complete and render a final decision of the methodology review due to the current traffic conditions of the area. Various MOT (maintenance of traffic) are in place after the building collapse at 8777 Collins Avenue which will impact and affect the overall Town wide traffic circulation. The Town of Surfside can resubmit the methodology once traffic conditions are back to normal (pre-building collapse) which include all roadways being open to the public.

#### Undergrounding of Utilities

In December, the Town Commission approved a ballot question for the March election to request resident approval to issue General Obligation debt over up to \$40 million to underground utilities throughout the Town.

Respectfully submitted by:

Andrew E. Hyatt, Town Manager

# Attachment "A"

1 of 3

#### TOWN OF SURFSIDE, FLORIDA MONTHLY BUDGET TO ACTUAL SUMMARY FISCAL YEAR 2022 As of NOVEMBER 30, 2021

16.7% OF YEAR EXPIRED (BENCHMARK)

Agenda Item #

Page

January 11, 2022 ANNUAL **GOVERNMENTAL FUNDS** ACTUAL % BUDGET BUDGET **GENERAL FUND - 001** 368,461 REVENUE \$16,592,940 2% \$ **EXPENDITURES** 3,574,014 \$16,592,940 22% Net Change in Fund Balance (3.205.553)Fund Balance-September 30, 2021 (Unaudited) 20,920,841 A Fund Balance-November 30, 2021 (Reserves) 17,715,288 \$ TOURIST RESORT FUND - 102 REVENUE 400,311 \$3,517,323 11% \$ EXPENDITURES 566 822 16% \$3,517,323 Net Change in Fund Balance (166, 511)Fund Balance-September 30, 2021 (Unaudited) 4,063,018 Fund Balance-November 30, 2021 (Reserves) \$ 3,896,507 POLICE FORFEITURE FUND - 105 REVENUE S \$107,159 0% 23,155 EXPENDITURES \$107,159 22% Net Change in Fund Balance \$ (23,155) Fund Balance-September 30, 2021 (Unaudited) 221,034 Fund Balance-November 30, 2021 (Reserves) \$ 197,879 **TRANSPORTATION SURTAX FUND - 107** REVENUE \$ 62 \$287,097 0% EXPENDITURES 100.068 \$287,097 35% Net Change in Fund Balance (100.006)Fund Balance-September 30, 2021 (Unaudited) 547,674 Fund Balance-November 30, 2021 (Reserves) \$ 447,668 BUILDING FUND - 150 REVENUE 262.774 23% \$ \$1 125 469 EXPENDITURES 242,640 \$1,125,469 22% Net Change in Fund Balance 20,134 Fund Balance-September 30, 2021 (Unaudited) 1,913,914 Fund Balance-November 30, 2021 (Reserves) \$ 1,934,048 **CAPITAL PROJECTS FUND - 301** REVENUE \$332,500 0% \$ 663 EXPENDITURES 467,100 \$332,500 140% Net Change in Fund Balance (466,437) Fund Balance-September 30, 2021 (Unaudited) 5,894,823

NOTES:

Fund Balance-November 30, 2021 (Reserves)

1) Many revenues for November 2021 are received in subsequent months (timing difference) and are recorded on a cash basis in the month received.

5,428,386

2) Expenditures include payments and encumbrances. An encumbrance is a reservation of a budget appropriation to ensure that there is sufficient funding available to pay for a specific obligation.

A. Includes \$2,000,000 available for hurricane/emergencies. The unaudited balance of \$18,920,841 is unassigned fund balance (reserves).

\$

		Page	2 of 3
PROPRIETARY FUNDS	ACTUAL	ANNUAL BUDGET	% BUDGET
WATER & SEWER FUND - 401 REVENUE EXPENDITURES Change in Net Position Unrestricted Net Position-September 30, 2021 (Unaudited) Unrestricted Net Position-November 30, 2021 (Reserves)	\$ 655,764 512,023 143,741 (1,383,444) \$ (1,239,703)	\$4,473,190 \$4,473,190	15% 11%
MUNICIPAL PARKING FUND - 402 REVENUE EXPENDITURES Change in Net Position Unrestricted Net Position-September 30, 2021 (Unaudited) Unrestricted Net Position-November 30, 2021 (Reserves)	\$         302,758           315,925         (13,167)           1,754,091         \$           \$         1,740,924	\$1,264,180 \$1,264,180	24% 25%
SOLID WASTE FUND - 403 REVENUE EXPENDITURES Change in Net Position Unrestricted Net Position-September 30, 2021 (Unaudited) Unrestricted Net Position-November 30, 2021 (Reserves)	\$         286,217           327,067         (40,850)           (247,933)         (288,783)	\$1,811,003 \$1,811,003	16% 18%
STORMWATER FUND - 404 REVENUE EXPENDITURES Change in Net Position Unrestricted Net Position-September 30, 2021 (Unaudited) Unrestricted Net Position-November 30, 2021 (Reserves)	\$ 144,688 563,853 (419,165) 3,654,490 \$ 3,235,325	\$889,000 \$889,000	16% 63%
FLEET MANAGEMENT FUND - 501 REVENUE EXPENDITURES Change in Net Position Unrestricted Net Position-September 30, 2021 (Unaudited) Unrestricted Net Position-November 30, 2021 (Reserves)	\$ 105,613 211,424 (105,611) 1,091,990 \$ 986,179	\$780,044 \$780,044	14% 27%

Jason D. Greene, Assistant Town Manager/CFO

and 17

Andrew Hyatt, Town Manager

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#### Town of Surfside

#### **Net Funds Historical Balances**

#### Period 2018 - November 2021

FUND	9/30/2018	9/30/2019	9/30/2020	9/30/2021	11/30/2021	CAGR <sup>(a)</sup>
General	\$ 10,902,050	\$ 14,984,105	\$ 18,286,748	\$ 20,920,841	\$ 17,715,288	24.3%
Tourist Resort	356,313	1,640,525	2,109,658	4,063,018	3,896,507	125.1%
Police Forfeiture	159,527	105,725	168,289	221,034	197,879	11.5%
Transportation Surtax	263,292	328,377	442,856	547,674	447,668	27.7%
Building	2,760,673	2,563,517	1,991,388	1,913,914	1,934,048	-2.0%
Capital Projects	2,158,902	3,048,582	4,899,128	5,894,823	5,428,386	39.8%
Water & Sewer	(2,546,398)	(2,367,098)	(1,733,610)	(1,383,444)	(1,239,703)	-18.4%
Municipal Parking	943,315	1,198,948	1,293,993	1,754,091	1,740,924	23.0%
Solid Waste	601,201	641,636	219,615	(247,933)	(288,783)	-174.4%
Stormwater	3,203,878	3,200,132	3,205,050	3,654,490	3,235,325	4.5%
Fleet Management	-	585,363	825,468	1,091,990	986,179	N/A
Total	\$ 18,802,753	\$ 25,929,812	\$ 31,708,583	\$ 38,430,498	\$ 34,053,718	16.0%

(a) - CAGR stands for Compound Average Growth Rate, and is a useful measure of growth over multiple time periods. It represents the growth rate of a Fund Balance from the initial time value to the ending balance if you assume that the fund has been compounding over a time period.

Last updated on 1/1/2022

		DEVELOPMENT APPLICATION PROCESS (2012 - PRESENT)	CATION PRC	OCESS (2012 - PR	RESENT)				
			Densit	Density/Intensity	Variances	5	Building Permit	Permit	, in the second s
Application Uste Location	Project Description	statosta Autor	Allowed	Approved	Requested	Received A	Received Application No.	Status	same
Original submittai: 7/13/2012 Site plan amendment: 4/16/16 9011 Collins Avenue	Original submittal: 7/13/2012 Surf Club - restoration of the famous Site plan amendment: surf club historic structure and for the 4/15/15 construction of new improvements 9011 Collins Avenue	DRG - 7/31/2012, 8/33/2012, site plan amendment: 5/16/2016, 8/4/2016, 3/9/2017, 5/11/2017 P&2 - Original site plan: 9/27/2012, site plan amendment: 10/10/2017 Plan Ert -	762 units	257 units	None	None	13-727	Issued	Fort Partners has indicated a desire to obtain a final CO and Landscape approval needs to be resolved. A landscpe inspection was performed and comments were provided by the Town Planner on November 5, 2021. Once the comments are addressed a final inspection will be required.
7/20/2012 9450 Collins Ave	The Shul - New multiuse glass atrium and joining learning center (3 storles)	DRG - 2/11/2013, 3/27/2013, 7/9/2013 P&Z - 2/27/2014 Stee Plan Ext -	3 story expa squ	3 story expansion of 8,558.9 square feet	None	None	14-509	Issued	The Applicant is requesting revisions in the landscape pitn. Preliminary comments will be finalized after performing an on-site inspection.
8/12/2015 12/23/20 Site Plan Amendment 9133 Collins Ave & 9149 Collins Ave	Surf Club II - Redevelopment of DRG - 9/4/2015, 3/9/2017, 9/12/2017 property with a muth-family reidential P&L - 12/7/2017, 2/11/2021, 4/29/21 Sole project and renovation of existing TC - 2/13/2018, 4/13/21, 6/8/21 Sole fullocating units and horeir cooms. Revisions to revisions to barbone determine the revisions to barbone determine parking and revisions to barbone determine parking and revisions to barbone determine the determine the revisions to barbone determine parking and revisions to barbone determine the det	DRG - 9(4/2015, 3/9/2017, 9/17/2017, 2/9/2021 P&2 - 12/7/2017, 2/11/2021, 4/29/21 TC - 2/13/2018, 4/13/21, 6/8/21 Schreduied Ste Pan Ear - Sie Paina Extension of proved by TC on 7/28 TC Meeting, Applicant requested extension of site plan due to FL Declaration of Emergency. Additional Covid extension - New Permit Due Date December 26, 2021	199 units	Reduced to 31 condo units, 26 hotel rooms	None	None	20-536	Foundation Only Permit Issued	
Original submittal: 2/11/2015 Revised stubmittal: 2/31/18 9380, 9322, 9364, 9346, 9340, 9322, 9316, & 9300 9340, 9322, 9316, & 9300	righnal submittali: 2/11/2016 Revises submittali: 2/11/2016 9380, 9312, 9364, 9348, existing improvements, construction of 9340, 9322, 9316 & 9300 3-story building Collina Ave	DRG - Organal submittal: 3/10/2016, 4/27/2016 Revized submittal: 6/27/2018, 4/22/2018, 11/1/18 P&L - Original approval: 7/18/2016, Revized approval: 11/29/18 TC - Original approval: 11/10/2016, Approved February 26, 2019 Sita Piza Ext - Request submitted to catend approval due to emergency declaration (Numbane Dorian), Additional Covid and Tropical Storm Eisa extensions - New Permit Due Date February 4, 2018	250 units	Request is for 205 units	None	None	18-610	Has not applied for permit yet	information supplied by the Eden Surfide LLC to Town Bidg Dept on 11/30/E21 indicates desitre to obtain a foundation min. MDC receipts for impact fees of \$1,105,679-39 (Pd. 18/3/21) and 20% Water and Sewer fees (Pd. 10/26/71) have been received.
5/4/2016 8955 Collins Ave	Residential Condominiums	DRG - 6/20/2016, 7/27/2016 B.Z 10/277/2016 TC - 11/10/2016 Stee Plan Ext -	110 units	16 units	None	None	16-602	Issued	A landscape inspection was performed and updated comments were issued by the Town Planner on October 25, 2011. The Applicant has revealed drawings to be consistent with the comments and plant material has been changed where applicable. A final inspection is necessary to complete this phase.
								Page 1 of 2	

# **Attachment "B"**

	Bullding Permit	Received Application Status	None Site Plan approval has explored	The Town Planner properted a Final SQL-roff for Planning and Zonhar on November 17, 2021. The Building Department will Has not applied ineed to suprove the structural portion, the aboling for permit yet: the retentions and or in support of the building permit submitted to the Town.	Not needed in 2021 Not needed in 2021 Site Plan Approval 5/26/21	Kone	This parcel on the west side of Collins Awhure was also Inspected along with the residential component on the east side of Collint Awenue. See discussion on first page speechbeet.	Processing schedule b being finalized. A DRG meeting b expected in early lanuary.
DEVELOPMENT APPLICATION PROCESS (2012 - PRESENT), Cont.	Variances	Requested	None	Resolution a 19-2683 Resolution a 19-2683 Commission on Original spolication requested 3 Variances. Commission 2019 final application did not include any Variances. scheler, 34 with.	1 requested: Section 90.82. – Off-street loading requirements (Loading Sace Stre). Not Required in 2021 Plan	1 requests of allminuts landscaping along the morth	Landscape buffer	
MENT APPLICATION PR	Density/Intensity	Approved	4 units		Current request is for 18 units. Town blanner, 13 units DRG recommended approvul, P&2 recommended denial			
DEVELOPA		Allowed	8 units	stime 6				<u> </u>
1		Zoning Process	DAG - 11/2/2016, 2///2017, 5/18/2017, 6/21 TBD Paz - 6/2/2018, 6/21 TBD TC - 4/14/2018, Approvel Expeed Sto Para Ext -	DMD - 6/19/7017, 8/24/7017, 9/24/7017 DMD - 6/19/7013, 4/24/7017, 9/24/7013, approved on 10/27/19 FTE - 12/20/19 FTE Men Dz - 2 COVID Exantlons New Permit Deedline 9/27/29	Data - 01/22/7015, 02/18/7016, 01/23/7016, 11/15/2018 Meeting Francing, 275/7021 11/15/2013/11/9 P2 recommending, 275/7021 11/10/19 P2 recommending, 275/7021 P2 Denied Paule Reconcident TC - Donvid Dy bit, Commission (requires reconsideration by TC) TC - Donvid P2/26/21	DNG - N/A 1942 - 1029/0019 1942 - 1029/19 Sta Man Ed -	DRG - M/A 124 - 1/30/2020 174 - 21/1/2020 Sta Pian Ect -	DRIG - N/A PRIZ - N/A TTC - N/A
		Project Description	303 Surfside - 4 Townhouses (2018) 303 Surfside - 6 Townhouses (2021)	Surf House - sits plan approval for expansion (2010, e)/39/2017, e)/24/2017, 9/24/2017 to existing multi-turnly building doeneed (2012, 2/22/2018, 4/26/2018, 5/31/2018, to existing the transformed for Soc 80-38/31 (2012, 12/01/9) of the Town Code.	16 mult-family units	Young krael Variance Recent to eliminats tandroping to provide for a handrapped accessible ramp	DRG - N/A Arte request to have FPL vauit encroach into Parz - 120/2020 Isndscape buffer. 571/2020 Stee Plan Ed -	Site Plan approval to develop an 11 story, 13 unit MF Bidg with 33 parking spaces in the H1220 Zoning District on the north side of the Seaway and south side of the Caritia.
	Application Date	Location	10/1/2016, 5/6/21 9116 Harding Ave	5/19/2017 3995 Collins Ave	Ortéinal Submittal: 1/06/2015 Revised submittals: 8/01/2016, 12/23/2016, 03/09/2018, 10/29/2018 9/25/2020 8851 Harding Avenue	7/3/2019 9580 Abbott Ave	1/7/2020 8926 Colăns Avenue	11/18/2021 9165 Collins Avenue

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# **Attachment "C"**



December 25, 2021

Jason D. Greene, CGFO, CFE, CPFIM Assistant Town Manager / Chief Financial Officer Town of Surfside 9293 Harding Avenue Surfside, Florida 33154 Phone (305) 861-4863 Ext. 225

#### RE: KEITH Progress Report – December 25, 2021 Project Name: Abbott Avenue Drainage Improvements – Phase 2 Project Location: Town of Surfside Our Project/Proposal Number: 11494.01

#### Section 1 – Surveying Services

#### Task 101 Topographic Survey

- Survey and monumentation set up underway.
- ✓ Field work underway gathering Topography.

#### Section 2 – Subsurface Utility Engineering Services

Task 201 Horizontal Designation Services

✓ Field work started on Monday 12/6/21.

- Task 202 Location Services
  - ✓ On-hold pending completion of Preliminary Engineering Design.
- Task 203 Utility Mapping
  - ✓ Continuing existing utility record search underway.
  - ✓ Field work started on Monday 12/6/21.

#### Section 3 – Geotechnical Engineering Services (Subconsultant - UES)

- Task 301 Geotechnical Exploration and Report
  - ✓ Dig Ticket request underway.
- Section 4 Civil Engineering Design Services

#### Task 401 Preliminary (30%) Civil Engineering Design

- ✓ Continuing existing utility record search underway.
- Continuing preparation of the stormwater report for permitting.
- ✓ Initial CAD drawings setup.

#### Task 402 Design Development 60% Civil Design Documents

✓ On-hold pending completion of Preliminary Engineering Design Task 401.

# Task 403Design Development 90% Civil Design Documents✓On-hold pending completion of 60% Documents Task 402.

www.KEITHteam.com



October 19, 2021 / Page 2 of 2 12626.M0 Hollywood Boulevard Streetscape Bermello Ajamil & Partners

Bernello Ajanili	a Faitiers
Task 404	<ul> <li>Final (100%) Civil Construction Documents</li> <li>✓ On-hold pending completion of 90% Documents Task 403.</li> </ul>
Task 405	<ul> <li>Engineering Permitting</li> <li>✓ Attempting to schedule initial coordination meetings with jurisdictional agencies (including MDC DERM, FDOT, FDEP, etc.).</li> <li>✓ Permit Submittals on-hold pending completion of Tasks 401 and 402.</li> </ul>
Task 406	<ul> <li>Stormwater Model Animation</li> <li>✓ On-hold pending completion of 90% Documents Task 403.</li> </ul>
Task 407	FDOT Coordination (Scenario #1) ✓ Received FDOT GIS Access.
Section 5 - Engineering	- Mechanical and Electrical Engineering Design Services (Subconsultant – ME )
Task 501	Preliminary (30%) Mechanical and Electrical Engineering Design ✓ On-hold pending completion of Survey
Task 502	Design Development 60% Mechanical and Electrical Design Documents ✓ On-hold pending completion of Preliminary Engineering Design Task 501.
Task 503	Design Development 90% Mechanical and Electrical Design Documents ✓ On-hold pending completion of 60% Documents Task 503.
Task 504	Final (100%) Mechanical and Electrical Construction Documents ✓ On-hold pending completion of 90% Documents Task 504.
Section 6 – S	Structural Engineering Design Services (Subconsultant – Ingelmo Associates)
Task 601	Preliminary (30%) Structural Engineering Design ✓ On-hold pending completion of Survey
Task 602	<ul> <li>Design Development 60% Structural Design Documents</li> <li>✓ On-hold pending completion of Preliminary Engineering Design Task 601.</li> </ul>
Task 603	<ul> <li>Design Development 90% Structural Design Documents</li> <li>✓ On-hold pending completion of 60% Documents Task 602.</li> </ul>
Task 604	Final (100%) Structural Construction Documents ✓ On-hold pending completion of 90% Documents Task 603.
Section 7 – E	Bid Assistance Services
Task 701	Bidding Services ✓ On-hold pending completion of Final (100%) Documents

✓ On-hold pending completion of Final (100%) Documents.



# Town of Surfside PLANNING & ZONING BOARD MINUTES

OCTOBER 28, 2021 – 6:00 p.m.

Town Hall Commission Chambers – 9293 Harding Avenue, 2<sup>nd</sup> Floor, Surfside, FL 33154

# 1. Call to Order/Roll Call

Chair Frankel called the meeting to order at 6:00 p.m.

Present: Chair Judith Frankel, Board Member Fred Landsman, Board Member James Mackenzie, Board Member Ruben Bravo, Alternate Board Member Horace Henderson, and Alternate Board Member Carolyn Baumel.

Absent: Mayor Charles W. Burkett

Also, Present: Town Manager Andrew Hyatt, Town Planner Walter Keller, Town Attorney Tony Recio, and Building Official Jim McGuiness.

# 2. Town Commission Liaison Report – Mayor Charles Burkett

No Liaison report was provided due to Mayor Burkett being absent.

# 3. Approval of Minutes – September 30, 2021 and October 14, 2021

A motion was made by Vice Chair Landsman to approve the September 30, 2021 Planning and Zoning Board Meeting Minutes and the October 14, 2021, Planning and Zoning Board Zoning Code Workshop Meeting Minutes, seconded by Board Member MacKenzie. The motion carried with a 5-0.

# 4. Applications:

Town Attorney Recio read the quasi-judicial statement into the record.

Town Attorney Recio polled the Board Members.

No Board Members had any communication with any of the applicants.

Deputy Town Clerk Herbello confirmed notice requirements.

Deputy Town Clerk Herbello swore in all applicants.

#### A. 716 88<sup>th</sup> Street – New Two-Story Residence

Town Planner Keller provided a summary of the application.

**Background:** This application is a request to demolish an existing 2-story singlefamily residence and construct a new 2-story single family residence. The parcel is located in the H30A Zoning District at 716 88th Street. The average lot depth is 201 feet with a width of 75 feet. The site plan indicates the lot size is 15,149 square feet (SF). The proposed floor space totals 5,790 SF.

The setback requirements for the H30A Zoning District are 20-foot front, 7 feet 5inch side and 50-foot rear. The Applicant is proposing a 20-foot 5-inch front setback with a setback on the rear lot of 52 feet 9 inches and a 7-foot 6-inch side setback.

Total lot pervious area is 5,318 SF or 35.10% where 35% is required. The front yard setback pervious area is proposed at 80.86% where 50% is required. The rear yard setback pervious area is 44.02% where 40% is required. The second floor under ac is proposed at 4,734 SF which is 31.24% where 32% is the maximum.

A pitched roof is proposed at 29 feet 3 inches where 30-feet is the height requirement. A 14 Foot concrete driveway with 4-inch-wide grass joints is proposed for the driveway. The site plan does not specify what percentage of landscaping will be Florida Friendly. Table 1 on page 2 provides information on site characteristics and zoning requirements.

A variety of architectural enhancements are proposed, including a 5-foot stone masonry wall surrounding the property. Architectural items include stone cladding, wood brise soleil, gunmetal finish glazing frame and alucobond cladding. The front elevation includes a 5-foot wall, concrete driveway with grass, trees, windows and terraces. Detailed drawings were provided by the Applicant with limited information on the pool.

**Applicant Package:** A package of drawings, landscape plan and an application was submitted by the Applicant with a recent survey dated August 2021.

**Staff Recommendation:** It is recommended the Application be approved subject to the following comments:

Pool deck meets the rear setback requirements in addition to landscape/pervious area.

Accessory structure need to comply with setback requirement of 50 Feet. Maximum height is limited to 12 feet. Tree removal permit is provided prior to the removal of existing site trees. Preservation of canopy trees is encouraged.

Provide calculations to show landscaping meets 20% Florida Friendly landscape requirements.

Kobe Karp, representing the applicant, provided a presentation of the site plans and the project.

Chair Frankel asked if it is a flat roof and will they will meet the 30% and addressed the comments and recommendations from Town Planner Keller.

The following individual from the public spoke:

George Kousoulas spoke regarding the project and stated that the issue with this is that the code is a bit sloppy as it refers to buildings and accessories. He spoke regarding the code with the 50-foot setback refers to the buildings.

Jeff Rose spoke regarding cabana and accessories and provided several properties in Surfside that have these accessory structures.

Chair Frankel asked how far back it is set back.

George Kousoulas stated it is 15 feet.

Board Member Henderson asked regarding the bathroom.

Mr. Kousoulas addressed the question regarding the bathroom and stated that they are open.

Town Planner Keller spoke regarding what the code mentions regarding encroachment and the stairs be moved back 10 feet away from the seawall. He stated that it is common the way it is built and discussed the zoning in progress.

Mr. Karp stated that they accept the recommendations regarding the staircase.

Building Official McGuinness stated that for any of the approval, that the pool will be on a separate permit. He stated that the garage and all enclosed areas under 10 feet have the proper area of relief. He stated that the outdoor kitchen and the plumbing and electrical should be separated and GFI as well as raised and meet electrical and plumbing code.

Mr. Karp accepts all recommendations mentioned.

Chair Frankel asked for Town Attorney Recio's opinion as it pertains to the encroachment.

Town Attorney Recio read the zoning in progress section and explained how it pertains to a building. He stated that what they have done in the past is the Board can approve it with conditions if the code clarifies that section.

Board Member Henderson clarified what Town Attorney Recio mentioned as it pertains to if the code does not change the bathroom cannot be there.

Vice Chair Landsman asked if the Commission has any appreciation as it pertains to a building and a non-building.

Town Attorney Recio stated that the Commission is aware of that and will be addressing that.

Board Member MacKenzie asked regarding the cabana and pool bathroom and asked if they are redoing the seawall as well as if they will be raising the pool to 10 feet. He stated that he is not in favor of cabanas being so close to the seawall but also mentioned that there may be an option of approval subject to certain recommendations.

Mr. Karp stated that they will be redoing the seawall and stated that they will raise the pool to comply. He stated that he agrees with all recommendations provided.

Vice Chair Landsman asked regarding the pool equipment on the roof.

Further discussion took place among Mr. Karp and the Board Members regarding the seawall, cabana, bathrooms, pool and air conditioning equipment.

Board Member Mackenzie also stated that in the past they have not approved stairs in the setback and suggested the owner to figure a way to push them in. He asked regarding location of the pool equipment. He stated that there is a lack of articulation on the façade.

Mr. Karp stated that they will look at placing it next to the air conditioning equipment. They will also do an access point to get to the equipment and the pool equipment behind the bathroom or on the roof with an access hatch. He also addressed the comments made regarding the exterior wall materials and elevation.

Board Member Henderson stated that he is concerned with the façade of that wall and discussed the seawall and lifts. He asked if the pervious area is within the percentage it needs to be in.

Town Planner Keller stated that visually it looks like it is and wants the applicant to verify it.

Mr. Karp stated that they confirm they do meet the pervious percentage.

Board Member Bravo stated that he likes the fact that they have different components of the façade. He stated it is not so different than some they have approved. He does agree on the length of the wall. He suggests working on the length of the wall. He spoke regarding the pool and the cabana and keep that portion on hold while they build the rest of the house until they can determine if it can be approved. He asked regarding the roof.

Town Planner Keller stated that they need to clarify that it is a flat roof and they comply with the code.

Mr. Karp stated that they do comply with the height and confirms that it is a flat roof.

Board Member MacKenzie asked regarding the fence.

Mr. Karp stated that the fence is in the front and is open and you can see through it.

Chair Frankel asked to see the fence and gate image as to what it will look like. She asked regarding hedges.

Mr. Karp addressed the comments and questions made by the Board regarding the hedges, gate and fence.

David Forbes, owner, addressed the comments made regarding notification to the neighbors and he stated that they have shown everything they are doing to the house.

Board Member Baumel commented on the front doors and Mr. Karp's design and congratulated them on a great job done.

Chair Frankel stated that the stairs have to be moved in, advised taking out the cabana discussion at this moment although she does not have an issue with an accessory structure 20 feet from the seawall and cannot approve it at this moment. She appreciates the landscape architecture and materials used on the façade. She stated that the gates have become a contentious issue. She stated that they can set the gate closer to the garage where it is less visible from the street.

Town Planner Keller suggested coming back at a later time for the fence and gate.

After a lengthy discussion among the Board Members and Mr. Karp regarding the massing, façade as well as the particulars of the application, the following motion was made.

A motion was made by Vice Chair Landsman to approve the item with staff recommendations and conditions clarification of the roof height, stairs be removed from the setback, stairs must be moved back 10 feet from the seawall, clarification on pervious area and rear yard, driveway needs to be clarified, removing the cabana, pool, gate and fence at this time, flood vents for all enclosed areas and they will come back for the other additional aspects of the design when ready, seconded by Board Member Bravo. The motion carried with a 3-2 vote with Board Member MacKenzie and Board Member Henderson voting in opposition.

#### B. 1420 Biscaya Drive – New Two-Story Residence

Town Planner Keller provided a summary of the application.

Background: This application is a request to construct a new 2-story single family residence. The vacant parcel is located in the H30A Zoning District at 1420 Biscaya Drive. The average lot depth is 202 feet with a width of 92 feet. The Applicant indicates the lot size is 18,400 square feet (SF). The proposed airconditioned floor space totals 7,548 SF. Non-airconditioned space increases the total to 10,897 SF. An overhead view of the lot from the Miami Dade County Property Appraiser is provided in Figure 1 on the following page.

The setback requirements for the H30A Zoning District are 20-foot front, 9.2 feet side and 50 feet rear (per Zoning in Progress). The Applicant is proposing a front yard setback of 25 feet 4 inches, side setbacks of 9 feet 3 or 5 inches and a rear main building setback of 50 feet. Several encroachments are located in the side setbacks and the rear setback. The Applicant's proposal regarding average setbacks is reasonable. The second floor under ac and covered porches is proposed at 4,394 SF which is 23.9% where 32% is the maximum. Another measure of the second-floor size is it cannot be larger than 80% of the first floor. Again, the second floor A/C area is 4,394 SF which is 74.3%. Lots greater than 112.5 feet are also required to have the front and rear yards combined equal 36% or more. The 25.33-foot front yard and 50-foot rear vard when added together and divided by the 202-foot lot depth is 37.3% although encroachments in the front and rear yards exist. A flat roof is proposed which is equal to the 30 feet height requirement. Table 1 on page 3 provides information on site characteristics and zoning requirements.

A variety of architectural enhancements are proposed. These items include significant breaks in the side walls, provision of balconies, terraces, doors, iron railings, front yard wall water feature and a large number of windows. Air conditioners are located adjacent to the side yard setback area. This review may be supplemented prior to the Planning and Zoning Board meeting.

**Applicant Package:** A package of drawings and an application was submitted by the Applicant. A recent survey was also submitted.

**Staff Recommendation:** It is recommended the site plan be approved subject to the following comments:

The landscape plan is not based on the Town's landscape requirements.

Information needs to be submitted to verify the proposed plan provides 50% landscape/pervious area in the front yard setback area, 40% in the rear yard setback area and 35% on the total lot area.

Provide calculations and worksheets indicating the size of covered terraces on the first and second floors and front and rear entry area.

Verify the roof top slab elevation does not exceed more than 30 feet from the road crown elevation.

The planters need to be removed from the side yard setback.

The side yard setback is 10% of the lot width, not 5 feet. All encroachments such as, equipment pads, A/C equipment, stairs and overhangs need to be removed from the setback. For a flat roof, a 6-inch projection is allowed.

The cabana bath, BBQ/sinks, bar and roof are located in the 50-foot rear yard setback.

The FEMA Base Flood Elevation is 8.0 feet NGVD. plus 2 feet (10.0 feet).

The 4-foot-high wall and Aluminum fence and gates on the front property line required design approval by the Planning and Zoning Board.

Jose Silva, representing applicant, provided an overview and presentation of the application and project.

Roberto Riguero, representing applicant, provided an overview and presentation of the application and project.

Board Member MacKenzie asked if they would have a gable roof if the 30 feet would be from where.

Town Attorney Recio stated it would be from the trusses. He also advised the applicant that they cannot have 32 feet for the roof. He clarified the measurements as it pertains to flat roofs and gable roofs.

Board Member MacKenzie continued discussion regarding the roof, high ceiling options and setbacks.

Mr. Riguero discussed the roof and what the client desires is having a flat room.

The following individuals from the public spoke: Robert Hill, neighbor, he stated that the home is large and too close. Darryl Wall, neighbor, likes the home and stated that the neighbors are stranded in Paris for 2 years due to COVID.

Town Planner Keller stated that the house is at 9 feet 2 inches from the neighbors.

Mr. Silva stated that they will be redoing the seawall as well.

Building Official McGuinness stated that the home is to be built 10 feet above flood plain and gave his recommendations.

Chair Frankel stated that she is not a fan of fences and gates but has never seen such a nice one like this one and it was an architectural feature of the home.

Board Member Henderson stated that the gate is on the property line and has 2 gates.

Chair Frankel stated that they did approve one that was 3 ½ feet previously or having it set back further from the setback.

Board Member Henderson stated that they have been consistent approving them further back in the property line.

Mr. Silva stated that if they move it back it will be hard to get out of the garage and move around to move out and he will consider lowering it to 3 ½ feet.

Chair Frankel stated that 20 feet to her is the correct accessory setback for a cabana and would allow the condition if the zoning code changes to allow approval at a future date without coming back if the code changes.

Town Attorney Recio clarified that it is the bathroom section not the BBQ.

Mr. Silva asked regarding if a rooftop terrace would be allowed.

Town Attorney Recio stated that it has been discussed and they stated that they will not allow rooftop terraces.

Board Member Henderson asked regarding rooftop equipment.

Mr. Silva stated that there is nothing on the roof.

Vice Chair Landsman agrees that this design on the sides of the homes brings articulation and it is beautiful. He spoke regarding the design criteria.

Board Member MacKenzie stated that there is a lot to be said how neighbors can coexist with this house and there is a beautiful courtyard.

Discussion took place among the Board Members, applicant and Town Planner regarding the elements of the project, the cabana and recommendations.

Mr. Silva asked if they can approve the fence and gate if they do it 3 ½ feet.

A motion was made by Board Member Bravo to approve the item with staff recommendations and additional conditions provided by the Town Planner, seconded by Board Member MacKenzie. The motion carried with a 5-0 vote.

#### C. 1452 Biscaya Drive – New Two-Story Residence

Town Planner Keller provided a summary of the application.

Background: This application is a request to construct a new 2-story single family residence. The vacant parcel is located in the H30A Zoning District at 1452 Biscaya Drive. The average lot depth is 200 feet with a width of 92.5 feet. The Applicant indicates the lot size is 18,287 square feet (SF). The proposed air-conditioned floor space totals 10,070 SF. The garage is 676 SF. An overhead view of the lot from the Miami Dade County Property Appraiser is provided in Figure 1 on the following page.

The setback requirements for the H30A Zoning District are 20-foot front, 10 feet adjacent to the waterway connecting to Point Lake, 9.25 feet side and 50 feet rear (per Zoning in Progress). The Applicant is proposing a front yard setback of 20 feet, 25 Feet to the Waterway to Point Lake, side setbacks of 9.25 feet, and a rear main building setback of 52 feet. An encroachment is located in the front setback. The Applicant's proposal regarding average setbacks is reasonable. The second floor under ac and covered porches need additional information. The 20-foot front yard and 52-foot rear yard when added together and divided by the 200-foot lot depth is 36.0% although an encroachment is located in the front yard. A flat roof is proposed which is

equal to the 30 feet height requirement. Table 1 on page 3 provides information on site characteristics and zoning requirements.

A variety of architectural enhancements are proposed. These items include significant breaks in the side walls, provision of balconies, terraces, ribbed concrete, wooden slat panel on garage front and at locations around the building, glass railings, front entry water feature and bronze mullion windows and doors. Mechanical equipment and generator are centered on the roof which is accessed from stairs located on the second floor.

This review may be supplemented prior to the Planning and Zoning Board meeting.

**Applicant Package:** A package of drawings and an application was submitted by the Applicant. A recent survey was also submitted.

**Staff Recommendation:** The site plan package is generally consistent with the Town's Zoning in Progress. It is recommended the site plan be approved subject to the following comments:

Design features of the front of the building extend 3 feet into the front setback area where a 6-inch encroachment is allowed.

Provide calculations and worksheets clarifying the size of uncovered steps and exterior balconies; covered and uncovered terraces, patios, breezeways or porches on the first and second floors and front and rear entry area; and, that all exemptions do not exceed 15% of the total footprint of all principal and accessory building and structures.

Roof top mechanical is not currently included in the Zoning in Progress. Clarify the height of the roof and any extensions above which are limited to 3 feet with a 30-foot roof height.

The driveway and entry walk total 44 lineal feet. Town Code allows 18 feet for driveway connection to garage. Recommend the driveway and walk be reduced in width.

The 4-foot-high wall and aluminum fence and gates on the front property line required design approval by the Planning and Zoning Board.

Reinaldo Borges, representing the applicant, provided a presentation of the project.

Chair Frankel asked if they can approve the rooftop mechanicals if the zoning code allows it.

Town Attorney Recio stated that they can approve it conditionally if the zoning code allows it if not it will have to be placed on the ground.

Chair Frankel asked regarding the eaves of the sloped roof.

Town Attorney Recio stated what the zoning in progress says as it pertains to sloped roofs and it would be 24 inches and this could be applied here.

The following individual from the public spoke: George Kousoulas spoke regarding the encroachment issue and the zoning in progress.

Building Official McGuinness provided his recommendations.

Board Member Henderson asked on A-0010 shows the lot and spoke regarding the vacant lot and if they are together.

Mr. Borges stated there is a unity of title on the lots.

Mr. Kousoulas spoke regarding the lot and how it is recorded.

Discussion took place among the Board Members and staff regarding the location of the equipment.

Town Planner Keller suggested a conditional approval.

Board Member MacKenzie spoke regarding the equipment on the ground and on the roof and what types of equipment they are. He also asked regarding the pitched roof.

Mr. Borges answered the comments made by Board Member MacKenzie.

After a lengthy discussion regarding the recommendations, the specifics of this project, and some inconsistencies of the plans that were physically submitted compared to the PowerPoint presentation, the following motion was made.

Town Planner Keller provided his recommendations and conditions for approval.

A motion was made by Board Member MacKenzie to approve the item with staff recommendations and conditions, seconded by Board Member Bravo. The motion carried with a 5-0 vote.

### D. 9437 Harding Avenue – Sign and Awning Fabric

Town Planner Keller provided a summary of the application.

**Background:** The subject property is located at 9435 & 9437 Harding Avenue in the SD-B40 Zoning District. The Applicant is requesting to install one (1) permanent wall sign and replace existing canopies for TMobile.

The proposed wall sign is face lit channel letter, with a sign area of 32.8 SF. Two proposed canopies will replace existing canopies, and be placed across the store frontage (33'-8"). The proposed canopies will be black and flame retardant. The proposed canopies will utilize the existing frame (7'-0" X 16'-2").

#### **Governing Codes:**

#### **Current Municode:**

**Sec 90-73.a(3)(1-3)**— Provides a wall sign of 1 square foot (SF) for each 1 foot of frontage. In the Business District for stores with less than 25 feet of frontage, a 25 SF sign is allowed. This store has 33 feet of frontage. The maximum size of any one sign is 45 SF. The Code has further restrictions including requiring a 1/4 inch to 2-inch offset from the wall to allow rainwater to drain and limits illumination to white LEDs. All signage to be lit with white illumination from dusk to dawn.

#### Current Municode:

**Sec 90-49.2.a(2)** – Awnings and canopies shall remain consistent with architectural details and proportions harmonious with the overall building design and historic context.

**Sec. 90-49.2.a(4)** - After 25 feet in length, an awning or canopy shall have either a break of a minimum of six inches or articulation of the awning or canopy. The proposed canopies are each 16"-2" in width, the plans do not provide a measurement between the two canopies.

**Sec. 90-49.2.***a*(9)- Awnings shall project a minimum of three feet and a maximum six feet over the sidewalk, not to exceed the width of the sidewalk. The proposed canopy exceeds the maximum six feet and proposes seven feet but does not exceed the width of the sidewalk and is replacing like for like.

**Applicant Package:** A building permit for the sign and awnings were submitted by the Applicant.

**Staff Recommendation:** Approval subject to the sign packet stating a minimum six-inch break or articulation of the awning or canopy will be maintained. The plan submitted with the building permit does not provide the measurement of the break.

The Planning and Zoning Board needs to give design approval for the wall sign and canopies.

Andy Ocendo, representing the applicant provided an explanation of the project.

Vice Chair Landsman asked why black in color.

Mr. Ocendo stated it is the TMobile color scheme.

Board Member MacKenzie asked if the sign is boxed.

Mr. Ocendo stated that they are individual letters just the way it currently is.

Board Member Bravo spoke regarding the existing sign and the new one and the awning being black.

Marianne Meischeid, DVAC Chair, stated that they do not have a color scheme for awnings at this time.

A motion was made by Vice Chair Landsman to approve the item with staff recommendations and conditions, seconded by Board Member Bravo. The motion carried with a 5-0 vote.

#### E. 9588 Harding Avenue – Reverse Channel Letters-Sign

Town Planner Keller provided a summary of the application.

**Background:** The subject property is located at 9588 Harding Avenue and within the SD-B40 Zoning District. The applicant is requesting to remove the existing wall sign and replace it with another permanent wall sign.

The proposed wall sign is an illuminated reverse channel letter and will be painted black. The proposed sign area is 20.3 SF and will be placed across the existing store frontage (24'). The proposed sign meets zoning requirements.

#### **Governing Codes:**

#### **Current Municode:**

**Sec 90-73.a(3)(1-3)**– Provides a wall sign of 1 square foot (SF) for each 1 foot of frontage. Stores with less than 25 feet of frontage are allowed a 25 SF sign. This store has 24 feet of frontage. The maximum size of any one sign is 45 SF. The Code has further restrictions including requiring a ¼ inch to 2-inch offset from the wall to allow rainwater to drain and limits illumination to white LEDs. All signage to be lit with white illumination from dusk to dawn.

**Applicant Package:** A building permit for the sign was submitted by the applicant.

**Staff Recommendation:** Approval of the submitted sign packet. The Planning and Zoning Board needs to give design approval for the proposed wall sign.

Mary Brewster, representing applicant was present to address any questions.

No discussion took place among the Board.

A motion was made by Vice Chair Landsman to approve the item with staff recommendations and conditions, seconded by Board Member Henderson. The motion carried with a 5-0 vote.

#### F. 601 88<sup>th</sup> Street – Double Wood Fence and Gate

Town Planner Keller provided a summary of the application.

Background: This Applicant is requesting approval for a fence and two gates off 88th Street. This corner lot is located in the H30B Zoning District with 6,860 square feet of lot area with a width of 61.25 feet. In addition to this Memorandum, an Agenda Packet was submitted by the Applicant. The Applicant's property photo is more current than the Google Street View and is included in the Applicant's submittal.

The Applicant constructed a wood fence approximately 5 feet 8 inches high to screen a boat and trailer. The existing fence connects to the side of the residence and continues to a large existing hedge approximately 4 feet off the 88th Street property line. The hedge continues along the south property line to the corner and continues north along Carlyle Avenue. The wood fence has two manual swing gates which allow the Applicant to remove his boat and trailer from the property. The fence is perpendicular to 88th Street.

**Governing Codes:** The March 2021 Zoning in Progress requirements for fences and walls are detailed in the following Zoning Code sections:

**Current Municode:** 90-56.2 & 3 – Allows fence or ornamental walls in the front yard or primary corner yard if granted design review approval by the

Planning and Zoning Board. Further limits height for a lot wider than 50 feet a 4-foot height plus 1/2 foot for each 10 feet exceeding 50 feet.

**Current Municode 90-56.5 – 11** Modification of secondary frontage fence and ornamental wall regulations.

(1) A fence or ornamental wall that has a maximum opacity of 100 percent and a maximum height of six feet, as measured from grade, may project into or enclose the street side yard of a corner lot, provided:

a. The fence or wall is not placed in front of the front facade of the primary residential structure and extends beyond the plane of the front facade on only one side of the primary residential structure;

b. The fence or wall is setback three feet from any property line;

c. Shrubs shall be installed at the time the fence or wall is installed; and

d. The shrubs shall be planted a minimum of 36 inches in height, shall be placed a maximum of 24 inches on center and shall cover the exterior of the fence or wall within one year after the final inspection of the fence.

*90-56.6* When being installed as a safety feature for a swimming pool in a front or primary corner yard, a fence or ornamental wall shall be permitted at a maximum of four feet in height. The applicant shall demonstrate evidence relative to this hardship.

90-56.7 Reserved.

*90-56.8* In order to prevent water ponding at the base of ornamental walls, the installation of weep holes or other similar drainage features shall be required. The number and spacing shall be determined per lot per review.

90-56.9 Hedges shall be no more than four feet in height in the front yard and side corner yards and ten feet in height in the rear and interior side yards, except as required by section 90-56.5(1). Hedges may be higher if granted approval by the design review board, on a case-by-case basis.

*90-56.10* Under no circumstances is any fence, wall or hedge to be located on a corner lot in such a way as to conflict with the requirements of section 90-52 (Required clearances) or fire codes, including concealment of fire hydrants.

*90-56.11* No fence, wall or hedge maybe placed within the public right-of-way except that landscaped islands surrounded by circular driveways on lots no more than 115 feet in width shall be permitted, provided that it is understood

by the property owner that the town does not waive its right to demand removal without notice as deemed necessary within the town's discretion and the town shall not be liable for any damages arising from such removal. Property owner shall install or plant such materials at own risk. All improvements, other than groundcovers, as defined in the landscape section, shall be placed on private property.

90-56.12 Fences and walls shall be constructed so that the finished side shall face out or away from the property upon which it is constructed, and all support posts and the unfinished side shall be on the inside facing the property upon which said fence or wall is constructed. All masonry fences or walls shall be constructed so as to have a finished surface, including concrete block walls which shall have a plastered finish on all sides above ground level. In the event that a wood fence is constructed against a significant obstacle on the adjoining property, such as a hedge or another fence, that line of fence against the obstacle may be constructed with posts on the outside of the fence provided that the horizontal rails are at least 50 percent covered by boards on the side facing away from the property on which the fence is constructed.

#### Current Municode: 90-65 - Boat Parking

(b) No boat, or boat trailer shall be parked within the required interior side setback and/or required rear setback, or project or encroach on any public right-of-way.

(c) A boat trailer and personal watercraft may be parked in the front, side, or rear yards. If parked in the side or rear yard, the boat trailer and personal watercraft shall not be visible to the neighboring property. A fence, wail or hedge, consistent with the Code, shall be installed in order to limit visibility to the maximum extent possible.

(d) When parked or stored in the front or secondary frontage yard the place of parking shall be parallel with and immediately adjacent to or on the driveway and shall be at least five feet from the interior side or rear property line.

(e) The parking, storage or keeping of any boat or boat trailer shall not obstruct driveways or impede the ability of the abutting property owner to maintain the right-of-way clearance. The parking, storage or keeping of any boat or boat trailer shall not cause other vehicles to be parked in rights-of-way so as to create a hazard. The parking or storage of a boat or boat trailer shall not be in conflict with the provisions of 90-52.

This review may be supplemented prior to the Planning and Zoning Board meeting.

**Staff Recommendation:** Staff supports approval of this Fence/Gate request since it screens the boat and trailer and is generally consistent with Sec 90-56.5-11 and Sec 90-65. provided the Planning and Zoning Board issues design approval.

Chair Frankel asked if the front of the house is still visible from the street.

Town Planner Keller stated that it is still visible.

Conrado Cabrera, applicant explained the application to the Board.

Vice Chair Landsman asked if this is a new or existent fence.

Mr. Cabrera stated that it is a new fence.

Chair Frankel stated that she does not have an issue with this application.

Board Member Bravo asked if they have to go through these types of applications.

Town Planner Keller stated that the way the code is written, if there is a fence on the front or side yard it does come before this Board. He stated that this applicant was cited by Code Enforcement and that is why he is before the Board.

A motion was made by Vice Chair Landsman to approve the item with staff recommendations and conditions, seconded by Board Member MacKenzie. The motion carried with a 5-0 vote.

# 5. Ordinance to Amend Side Setback in H120 District – Tony Recio, Town Attorney

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING SECTION 90-47, "YARDS GENERALLY, ALLOWABLE PROJECTIONS" AND SECTION 90-48 "MODIFICATION OF SIDE AND REAR YARD REGULATIONS" TO PROVIDE ALTERNATIVE SIDE SETBACK REQUIREMENTS IN THE H120 DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Deputy Town Clerk Herbello read the title of the ordinance into the record.

Town Attorney Recio provided an overview and explanation of the item and the setback requirements.

Board Member Henderson asked for clarification and if this is suggesting that the developer will have 3 choices.

Town Attorney Recio stated that the wedding cake design is applicable across the board and also explained the other choices available.

Vice Chair Landsman asked if there is a developer that requested this.

George Kousoulas stated no.

Chair Frankel stated that the people in Town are the ones that are requesting information on this.

Board Member MacKenzie asked what the objective is.

Town Attorney Recio explained the process of ordinances and if the Board would make a recommendation then it would go back to the Commission.

Board Member MacKenzie stated that if this passed on first reading something must have taken place and is not in agreement that this Board is the last to be asked.

Board Member Baumel stated that this is very important.

The following individual from the public spoke:

George Kousoulas addressed the comment made by Board Member MacKenzie and explained how this item came about.

Jeff Rose stated that this was brought forth by Vice Mayor Paul due to the collapse of the Champlain Tower South. He stated that one day the Regent Palace will go down and be redeveloped and stated that a wedding cake would produce more of a setback and he supports this ordinance.

Mariane Meischeid stated that this allows more insight for the architects and better than the wedding cake design.

Christopher Machado, attorney representing victims of the Champlain Tower South collapse, stated that the interest is to maximize the value for the victims of the Champlain Tower South collapse and their own concern is the amount of projection of the balcony. He requested an exception for the building that would go on the Champlain Tower South site.

Further discussion took place among the Board Members and Mr. Kousoulas regarding the specifics of the ordinance as well as setbacks and balconies.

Board Member Henderson does believe this feels a bit rushed. He cannot see any developer consider the text amendment. Chair Frankel spoke regarding the wedding cake design and allowing the possibility of something else and allowing the architect other possibilities makes sense.

Board Member Henderson stated that they need to think about what happens if you are in an older building beside the new one and you looking at the same issues with single family homes.

Town Attorney Recio explained the concern Vice Mayor Paul had regarding the balconies.

Board Member MacKenzie agrees with Board Member Henderson. He stated that he would like more time to digest this ordinance.

Chair Frankel stated that they do not have an ability to make a recommendation at this time.

Vice Chair Landsman stated that they can decide not to make a recommendation at this point.

Town Attorney Recio explained their options.

Town Planner Keller explained that they can tweak it later but to get it started.

Town Attorney Recio reiterated what the motion on the table is.

A motion was made by Vice Chair Landsman to recommend to the Town Commission to approve the previous text amendment version for the Town Commission to adopt the ordinance on second reading at the next Commission Meeting, seconded by Board Member Bravo. The motion carried with a 5-0 vote.

#### 6. Draft Proposed Zoning Code

#### 7. Next Meeting Date: December 16, 2021

Consensus was reached to hold the next meeting on December 16, 2021.

#### 8. Discussion Items:

A. Pools

Deferred to next meeting

Minutes Planning and Zoning Board Meeting October 28, 2021

#### B. Future Agenda Items

#### 9. Adjournment.

A motion was made Vice Chair Landsman to adjourn the meeting without objection at 10:18 p.m. The motion received a second from Board Member Bravo. The motion carried with a 5-0.

Respectfully submitted,

Accepted this 16 day of December, 2021.

Judith Frankel, Chair

Attes Sandra McCready, Town Cle



#### **Town of Surfside**

#### SPECIAL TOURIST BOARD MEETING MINUTES 9293 Harding Avenue, Surfside, FL 33154 November 18, 2021– 5:30 p.m.

#### **Opening Items:**

1. Call to Order/Roll Call

The meeting was called to order by Chair Herman at 5:30 p.m.

Present:	Chair Lisa Herman Board Member Robert Lisman Vice Chair Eli Tourgeman Board Member Diana Gonzalez
Absent:	Board Member Ian Mavorah
Also Present:	Vice Mayor Tina Paul Roger Pou, Town Attorney Andrew Hyatt, Town Manager Malarie Dauginikas, Community Services & Public Communications Director

#### 2. Agenda and Order of Business

Chair Herman introduced and welcomed the newly appointed Tourist Board Member Diana Gonzalez.

#### 3. Approval of Meeting Minutes: October 4, 2021

A motion was made by Vice Chair Tourgeman to approve the October 4, 2021 Tourist Board Meeting Minutes, seconded by Board Member Lisman. The motion carried with a 4-0 vote with Board Member Mavorah absent.

#### 4. Resort Tax Collection and Vacancies Report

Community Services & Public Communications Director Dauginikas gave an update on the resort tax collection and vacancy report.

#### 5. Selection of Downtown Vision Advisory Committee (DVAC) Liaison

Community Services & Public Communications Director Dauginikas explained to the Committee what the role of the DVAC Liaison entails.

A motion was made by Vice Chair Tourgeman to appoint Board Member Gonzalez as the DVAC liaison, seconded by Board Member Lisman. The motion carried with a 4-0 vote with Board Member Mavorah absent.

#### 6. 2022 Third Thursdays Events: Vendor Selection Presentations

Community Services & Public Communications Director Dauginikas gave a summary of the vendor selection

The below vendors provided a presentation of their company.

• 5:45 p.m. - AA Musicians

Alan Andai presented on behalf of AA Musicians. He provided a history of Third Thursdays event series as well as what AA Musicians' past involvement in a PowerPoint presentation.

Board Member Gonzalez asked about the budget for the series.

Chair Lisman asked regarding their involvement in past Third Thursday events.

Mr. Andai addressed the comments made by the Board and his company's involvement in the past with this event.

Vice Chair Tourgeman stated he was very involved in the Third Thursday events in the past and Mr. Andai also helped develop the early concept. He touched on the small budget when the events first started and how Mr. Andai was always able to work with the existing resources. He stated that Mr. Andai and his company always did an amazing job with the budget they had to work with.

Mr. Andai thanked Vice Chair Tourgeman for his comments and spoke regarding the past and he is looking forward to being able to bring their resources to the Town. • 6:00 p.m. - CMG – Cross Minded Group

Diego Caiola, representing Cross Minded Group. He gave an overview of the company and their experience with different agencies.

Board Member Gonzalez asked what they promote under the art tents.

Mr. Caiola stated it is different events for the children with painting and art. He continued with his PowerPoint presentation.

Chair Herman asked how many staff members they have. She asked what other activities they have for children.

Mr. Caiola stated they have 8 staff members and they use face painting and other art activities for the children. He also provided the layout of the picnic tables and chairs.

Chair Herman asked how many food trucks they will have.

Mr. Caiola stated that they usually have 2 and depends on how many restaurants they have that participate, they will turn it into ice cream trucks.

Vice Chair Tourgeman suggested that whatever food truck is coming, that it will not conflict with any restaurants that are serving that particular food in the business district.

Mr. Caiola stated that the food trucks that they have usually provide snow cones and dessert.

Board Member Gonzalez asked what the budget is for that project.

Chair Herman explained that everyone is working with the same budget that was already set in a previous meeting.

• 6:15 p.m. - Robyn Baltuch

Robyn Baltuch, founder of Baltuch design provided a PowerPoint presentation with the different events and provided a summary of her company's experience.

Chair Herman asked what they would do with each event.

Ms. Baltuch explained what events would take place on each Third Thursday for each month.

• 6:30 p.m. - Agency Lu/Event Rhythm (presented at 6:44 p.m.)

Camilo Provencales, Agency Lu/Event Rhythm Productions provided a PowerPoint presentation of the company and provided an overview of their experience and past events.

Alexandra Fernandez, Agency Lu/Event Rhythm provided overview of different events that they would be presenting.

Juliana Arango, Agency Lu/Event Rhythm provided concepts for the events that will be family friendly and eco conscious. She also provided different activity ideas for children and adults.

Board Member Gonzalez asked what type of music they will have.

Ms. Arango stated that it depends on the event and the musician, they want to match up the activity with the type of music and would like to keep local talent involved.

• 6:45 p.m. – Sara Liss (presented at 6:22 p.m.)

Sara Liss, provided a PowerPoint presentation. She has been attending Third Thursdays for over ten years and is happy that the event is coming back. She provided an overview of her experience and past events. She provided ideas for Third Thursday events.

Chair Herman asked how big her staff is.

Ms. Liss stated that currently she has a staff of 3 but that is due to hiatus but has a lot of connections and she will start hiring and staffing up quickly.

Board Member Gonzalez asked regarding her comment that she uses Surfside residents.

Ms. Liss stated that yes, she creates event hosts and they will then invite 5 people and each event host would get a picnic basket. It is creating a host that will promote the event.

The Board took a break at 6:54 p.m. The meeting resumed at 7:00 p.m.

Chair Herman stated that she likes the idea of going with someone local with someone like Mr. Andai and Ms. Liss. She also believes that Agency Lu has great concepts and ideas.

Board Member Lisman stated that he likes everyone's presentation and they have great ideas all around.

Board Member Gonzalez would like to keep someone local and Agency Lu has great ideas. She also stated that since they have been closed for so long she likes the ideas of coming up with big ideas and proposals. She also likes what Ms. Liss proposed. She suggested choosing something new to make a change.

Vice Chair Tourgeman agrees that everyone did a good presentation. He stated that he was surprised that no one mentioned involving the hotels. They need to remember this is the Tourist Board and the dollars spent on this activity come from Tourist dollars. He would have liked to hear besides the business district to have an incorporation of the main pillars of this Board which is the hotels. The hotels generate the funds to pay for this activity. One of the presenters has his whole family involved. Overall everyone did a great presentation.

Board Member Gonzalez stated that whoever they choose, they can guide and ask them to work with the hotels.

Vice Chair Tourgeman stated that he was surprised that the hotels were not spoken about. He spoke regarding the event in the past and when tourists go back home they speak about the great event that they attended in Surfside. He explained why they decided to do the event in January, February and March is due to the tourists.

Board Member Lisman stated that the event should be on the hotel's calendar, so they are aware of the events.

Vice Mayor Paul thanked all the presenters and liked the ideas. She stated that the focus should be how does it evolve coming out of COVID-19.

Vice Chair Tourgeman stated that they are not over COVID-19 and crowds are avoided, and some are still wearing masks. He asked if any of them have given a thought to that.

Vice Mayor Paul stated that in one of the presentations, they had hand sanitizing stations. She stated that perhaps part of the requirement is to have mask wearing and hand sanitizing stations.

Board Member Gonzalez stated that they cannot force anyone to wear masks.

Vice Mayor Paul spoke regarding recommending the wearing of the masks.

Town Attorney Pou stated that something that can be done is that the agreement could contain that vendors have hand sanitizing stations and COVID-19 recommendations and contractually you can have the vendor's employees wear masks.

Further discussion took place among the Board regarding mask wearing at the event and possible recommendations.

The Board took a break at 7:15 p.m. The meeting reconvened at 7:25 p.m.

AA Musicians	330
CMG - Cross Minded Group	245
Robyn Baltuch	225
Agency Lu/ Event Rhythm	375
Sara Liss	375

The following were the scores for each vendor:

Chair Herman opened the floor for discussion due to Sara Liss and Agency Lu being a tied vote.

Board Member Lisman stated that they should consider the track record and history of the vendor.

Board Member Gonzalez stated that they know the background of the company. She would suggest going with someone they know.

A motion was made by Board Member Gonzalez to recommend Sara Liss to the Town Commission as the vendor for the Third Thursdays event, seconded by Board Member Lisman. The motion carried with a 4-0 vote with Board Member Mavorah absent.

# 7. Sustainably Surfside Contest

Community Services & Public Communications Director Dauginikas provided a summary of the contest. She stated that they did not have many entries in response, but they did have a terrific winner, @plasticfisherman, who turns beach litter into art. A video was shown to highlight his efforts.

#### 8. Turtle Sculpture Update

Community Services & Public Communications Director Dauginikas provided an update on the turtle sculpture. She stated that they wanted to go back and do some additional research on the sustainability/Tequesta concept given that the Board was not too familiar with the history when the concept was initially pitched and expressed additional concerns.

Staff spoke to key historians and archeologists with extensive knowledge of the Tequesta Indians and their presence in the area. They included Robert Carr, founder of the South Florida Archeological Society and one of the leaders of the Tequesta Miami Circle excavation in the 1990s; Jorge Zaramillo, Executive Director of the HistoryMiami museum; and Dr. Paul George, HistoryMiami historian who leads Surfside's walking tours. All three were very enthusiastic about the idea noting it would in no way be considered offensive given since it would honor the tribe. Mr. Carr stressed that Tequesta artifacts and remains were recovered near 95<sup>th</sup> Street, likely near the site of the proposed sculpture location.

Vice Chair Tourgeman asked if a design proposal was available.

Community Services & Public Communications Director Dauginikas stated that not as of yet, but after tonight's discussion they will go back to the design school, so that students could work on designs for the Board.

Chair Herman stated she felt much more comfortable with the concept after hearing the additional research and the support of experts.

Board Member Gonzalez stated that it is important to show the native involvement and history.

Vice Mayor Paul stated she really liked the idea from the beginning given the importance of honoring our history and is happy staff did not give up on the concept and conducted additional research to support it.

Chair Herman asked the size of the turtle at the location.

Community Services & Public Communications Director Dauginikas provided the presentation with the size of the turtle.

Board Member Lisman would have liked more design options before making the decision.

Vice Mayor Paul asked if they will be coming back with a design.

Community Services & Public Communications Director Dauginikas stated that they can come back with some designs.

Board Member Lisman explained what was presented last time and he would like to see more concepts and designs

A motion was made by Board Member Gonzalez to move forward with the concept and come back with designs, seconded by Vice Chair Tourgeman.

Board Member Gonzalez withdrew her motion and Vice Chair Tourgeman withdrew his second.

Board Member Gonzalez asked regarding what is being presented today.

Board Member Lisman stated that at the last meeting, given the initial questions and concerns on the Tequesta concept, a suggestion was made to look at Surfside's architecture for design inspiration, stressing there were other concepts available besides the sustainability/Tequesta idea.

A motion was made by Vice Chair Tourgeman that in addition to the sustainability/Tequesta concept, other design options be brought back to the Board at the next meeting, seconded by Board Member Lisman. The motion carried with a 3-1 vote with Board Member Gonzalez voting in opposition and Board Member Mavorah absent.

# 9. 2021 Holiday Banners Final Selection

Community Services & Public Communications Director Dauginikas provided the final designs for the 2021 Holiday Banners which were tweaked according to the Board's direction at the October meeting.

Vice Chair Tourgeman stated that he is a Spanish speaker and does not recall the term "Felices Fiestas."

Community Services & Public Communications Director Dauginikas stated that she will defer to the Tourism Manager.

Town Attorney Pou opined that Felices Fiesta is an alternative and Tourism Manager Trigueros brought it to his attention.

Further discussion took place regarding the Spanish translation.

Board Member Gonzalez likes option 2.

Vice Chair Tourgeman likes the color red and green for the holidays. He likes option 4 with more red.

Chair Herman feels that they are moving backwards. She said the designs felt "clip arty" and would like to see the previous options.

Board Member Lisman stated that the designs were not up to standard and do not reflect our Town therefore he would rather pick what they did last year than any of these new options.

Community Services & Public Communications Director Dauginikas stated that she has the ones from last year and her concern is that they are running out of time.

Chair Herman stated that if they still have the banners from last year just use those.

Vice Chair Tourgeman stated that if they like those previous banners then just go with those.

A motion was made by Vice Chair Tourgeman to use the banners from last year and do a better effort next year for better designs, seconded by Board Member Lisman. The motion carried with a 4-0 vote with Board Member Mavorah absent.

# **10.Surfside Small Business Recovery Fund Update**

Community Services & Public Communications Director Dauginikas provided an update of the Surfside Small Business Recovery Fund. She provided the deadline date and they will be going to the businesses to provide applications and deadline date.

#### 11. Redesigned Tourism Eblasts, New 2022 Visitor Guide

Community Services & Public Communications Director Dauginikas provided a summary of the redesigned Tourism Eblasts and New 2022 Visitor Guide. She stated that they are looking at launching it in January 2022.

Vice Chair Tourgeman asked if it would be possible to retouch the vintage Surf Club image to add color.

Community Services & Public Communications Director Dauginikas stated that she can check because that is the only photo they found.

Vice Chair Tourgeman stated that it would look more attractive.

Board Member Lisman would also like to see it in color.

#### **12. Discussion Items:**

#### A. Next Meeting: Monday, December 6, 2021 at 5:30 p.m.

Consensus was reached to hold the next meeting on December 6, 2021 starting at 5:30 p.m.

Vice Chair Tourgeman stated that in the past the Board used to provide food. He would like to recommend that at all meetings they provide food, like pizza. He stated that as volunteer, these meetings take place during dinner time and they are not provided food nor refreshments. He would like to have some food to be provided at the meetings.

Consensus was reached to have food at the meetings moving forward.

Board Member Gonzalez stated that some hotels would have prizes to attract individuals. She stated that it would bring a lot of people to the Town. She suggested to have the hotels make some form of promotions.

Vice Chair Tourgeman commented on the Tourist Board participating with the hotels for different tours.

#### 13. Public Comment – 3-minute time limit each, please

There were no public speakers.

Minutes Special Tourist Board Meeting November 18, 2021

#### 14. Adjournment

There being no further business to discuss before the Tourist Board, Vice Chair Tourgeman made a motion to adjourn the meeting at 8:07 p.m., seconded by Board Member Lisman. The motion carried with a 4-0 vote with Board Member Mavorah absent.

Respectfully submitted:

Accepted this \_\_\_\_\_ day of \_\_\_\_\_ \_, 2021. Lisa Herman

Attes Evelyn Herbellt Deputy Town Clerk



### Town of Surfside

### TOURIST BOARD MEETING MINUTES 9293 Harding Avenue, Surfside, FL 33154 December 6, 2021– 5:30 p.m.

### **Opening Items:**

1. Call to Order/Roll Call

The meeting was called to order by Chair Herman at 5:33 p.m.

Present:	Chair Lisa Herman Vice Chair Eli Tourgeman Board Member Diana Gonzalez Board Member Ian Mavorah
Absent:	Board Member Robert Lisman Malarie Dauginikas, Community Services & Public Communications Director
Also Present:	Vice Mayor Tina Paul Roger Pou, Town Attorney Andrew Hyatt, Town Manager Frank Trigueros, Tourism Manager Mayor Charles Burkett

### 2. Agenda and Order of Business

Tourism Manager Trigueros spoke regarding Barbara Cohen and the passing of her husband.

Vice Chair Tourgeman wanted to send something on behalf of the Board to Mrs. Cohen.

Chair Herman advised the public of the Farmer's Market, and the new SIGAL pop-up store where Sara Liss's cookbooks are also available. She also spoke about the upcoming historical tours and COVID testing at Town Hall.

Tourism Manager Trigueros stated that all the information is on the Town website.

### 3. Approval of Meeting Minutes: November 18, 2021

A motion was made by Vice Chair Tourgeman to approve the November 18, 2021 Tourist Board Meeting Minutes, seconded by Board Member Gonzalez. The motion carried with a 4-0 vote with Board Member Lisman absent.

### 4. Discussion regarding the Downtown Business District and Parking

Mayor Burkett discussed the Downtown Business District and its lack of parking. He also spoke regarding the construction workers from the Bal Harbour project using Town parking lots. He suggested doubling the price for parking spots or increase them substantially. He also suggested giving the merchants coupons that can be used as discounts. He suggested coming up with a creative solution to solve the parking problem such as these merchant vouchers that could potentially be funded by the Tourist Board.

Chair Herman asked if this would pertain to every lot on every street in Surfside.

Mayor Burkett stated that he will present it to DVAC as well and he would like for the Tourist Board be part of this. He stated that this is something that is necessary. He stated that it could be directed to a certain area that they want to provide the service. He spoke regarding the different lots in Surfside.

Vice Chair Tourgeman asked what the Town is currently charging for the lots.

Mayor Burkett stated that what they are charging now is not impacting those that are parking and they do not want people that are working in Bal Harbour coming to park here all day.

Vice Chair Tourgeman spoke regarding the parking problem in Surfside and that it has been a problem forever. He stated that Mayor Burkett has a good idea and believes there are alternatives that have been used in the past. He stated that in the past they would open the Abbott Avenue lot at 9:00 a.m. He spoke regarding the problem which is that employees from Bal Harbour are using the lot and taking up a lot of spaces. He stated that Mayor Burkett is requesting support from the Board.

Board Member Gonzalez spoke regarding the cost to park in the City of Hollywood and she stated that what Surfside charges is very cheap.

Vice Chair Tourgeman stated that there are others lots that should be increased which should also be Harding Avenue because all the parking spaces are taken. He stated that this time of the year it has always been a terrible problem and people coming to Surfside get discouraged because they have to drive and are unable to find parking. He suggested the coupon idea or closing the lots. Vice Mayor Paul thanked Vice Chair Tourgeman for his thoughts and ideas. She stated that they did change the rates to increase them and they put a cap of the number of hours. She stated that her concern in raising the rates is that you then discourage individuals from coming.

Board Member Mavorah agrees with possibly increasing the rate or closing the lots. He asked if the problem with the parking is that the employees from Bal Harbour are parking in our lots and does not understand why their own workers will not park in their lots.

Chair Herman stated that they could also have them park in Haulover and bus them to the construction site.

Board Member Gonzalez stated that anywhere you go to park is expensive and believes that increasing the rate is a good idea. She stated that it is cheaper to park here than anywhere else.

Vice Mayor Paul spoke regarding the parking rates in Miami Beach and when she discussed increasing the rate, you do not want to discourage people from coming.

Interim Police Chief Healy spoke regarding the issue with the construction workers parking and the employees from Bal Harbour Shops parking in our lots is because our rates are cheaper. He provided the number of spots in the parking lots with their rates.

Vice Chair Tourgeman asked Interim Police Chief Healy regarding the weekend and week day rates.

Interim Police Chief Healy spoke regarding the 20 people he had to kick out today and stated that it is cheaper to park in Surfside then in the Bal Harbour shops. He spoke regarding the construction workers parking in our lots as well.

Further discussion took place among the Board and Interim Police Chief Healy regarding the individuals that are parking in the Surfside lots, the different lots, the different ways to rectify this, including signage to prevent them from parking and raising the rates.

Vice Chair Tourgeman asked Interim Police Chief Healy based on his experience since they are charging the low rates, what does he recommend to send to the Commission for approval.

Interim Police Chief Healy stated it is hard for him to make a recommendation but as long as you keep the price under the Bal Harbour Shops prices it will be a problem. Vice Mayor Paul asked how the pilot program the Town Manager has of a drop off area is doing. She stated that she also saw that areas have limited parking and they have signs that states they can only park if they are patronizing certain businesses.

Interim Police Chief Healy stated that will require an employee to be there all the time and if they have a receipt that they patronized the business then they can park in the lots.

Vice Chair Tourgeman stated that assigning parking would be a disaster.

Board Member Gonzalez stated that they should have the same price as Bal Harbor and not less than Bal Harbour.

The following individuals from the public spoke: George Kousoulas Marianne Meischeid

Mayor Burkett summarized the discussion and spoke regarding the rebate and coupon option. He also suggested charging as much as hotels charge for parking and come up with a formula.

Further discussion took place among the Board members regarding the increase of the parking rate and options.

A motion was made by Vice Chair Tourgeman to recommend the immediate closure of Abbott Avenue lot as in the past has proven effective and open the lot at 9:00 a.m., together with looking at the immediate increase on meters for the hourly rate which is presently at \$2.00 and raise to \$3.00 and to recommend for the Commission to look at the coupon system that would allow some discount to the perspective buyers in the business district, seconded by Chair Herman.

Board Member Mavorah asked if that the Abbott Avenue lot is the lot with the problem.

Interim Police Chief Healy addressed the comments made regarding the lots and the price that Bal Harbour is charging with and without a validated ticket. He spoke regarding the construction workers and as long as it is cheaper you will have the problem. He stated that if you choose to close the lot you have to determine the time you will close the lot.

Town Attorney Pou advised the Board that this Board can only recommend but does not have the authority to close the lot.

Board Member Gonzalez asked to modify the motion to increase the rate from \$3.00 to \$4.00 and weekend rate from \$3.00 to \$4.00.

Vice Chair Tourgeman agreed to amend his motion to the new rate.

Interim Police Chief Healy stated that you have to take into account the Harding Avenue lot.

Vice Mayor Paul stated that if you keep Harding Avenue to \$4.00 an hour it should not have a renewable option.

Mayor Burkett stated that what he is looking for is support of the concept and they can then move forward with the idea.

Vice Chair Tourgeman rescinded his motion and Chair Herman rescinded her second.

A motion was made by Vice Chair Tourgeman to recommend to the Town Commission to increase the rates on the Harding Avenue and Abbott Avenue lots, look into the possible closure of the lots, increase the hourly rate on the meters, issuance of coupons look at the coupon system that would allow some discount to the perspective buyers in the business district, seconded by Board Member Gonzalez. The motion carried with a 4-0 vote with Board Member Lisman absent.

### 5. Resort Tax Collection and Vacancies Report

Tourism Manager Trigueros provided an update on the item noting the collection this year is at a record level, showing few signs of slowing down.

### 6. Turtle Sculpture: Student Designs

Tourism Manager Trigueros shared the designs prepared by students from the Miami International University of Art and Design with the Board members. He provided a presentation of the different options for the turtle designs separated by concept: Architecture and Tequesta/Sustainability. Because the design was so specialized, the painting would require an additional cost by the vendor which was listed on each design.

Chair Herman asked if they will be able to see the top and bottom.

Tourism Manager Trigueros stated that yes, viewers would be able to see the top and bottom once the sculpture is erected.

Chair Herman prefers the Tequesta concept over the architectural option and likes the design with the skeletons and bones.

Tourism Manager Trigueros spoke about the benefits of the Tequesta/sustainability concept which would enable staff to tie it to a broader green initiatives campaign.

Board Member Gonzalez likes the turtle design and the one with the sun, palm trees and the ocean.

Vice Chair Tourgeman stated why don't they do the Town seal.

Tourism Manager Trigueros stated that would mean going in a completely different direction given that they were looking at the designs and concepts they had requested from the students.

Chair Herman stated that the full concept had been explained in detail at a previous meeting.

Board Member Mavorah stated he likes the turtle with the green tones which plays into Surfside's overall brand and essence.

Tourism Manager Trigueros stated that design is a subtle nod to the Tequesta while being better suited to the sustainability portion of the concept.

Vice Mayor Paul stated that design is pleasing in the surface and asked what color the base would be.

Tourism Manager Trigueros stated that the base will be more of a sand base. He stated he likes the first green and blue turtle Board Member Gonzalez mentioned, but that one lacks any Indian references in its design.

Board Member Mavorah asked if there will be a plaque explaining.

Tourism Manager Trigueros stated that if they move forward with the Tequesta design, they will have a sign or plaque to provide context which would also credit to the student who designed it.

Board Member Mavorah recommends the Chaparro green turtle design.

Board Member Gonzalez recommends the one with the palm trees.

Vice Chair Tourgeman recommends the bold pattern native design.

Vice Mayor Paul stated that the colorful one looks too much like fabric and should fit better the form of the turtle.

Chair Herman recommends the green turtle, but also likes the colorful design one.

Discussion took place among the Board members regarding the design and size of the turtle.

Tourism Manager Trigueros recommends the green one because it brings in the sustainability portion of the concept and is more elegant.

Board Member Mavorah agrees with Tourism Manager Trigueros with the green one

A motion was made by Vice Chair Tourgeman to entertain the colorful Tequesta turtle design (number 13), seconded by Board Member Gonzalez.

Board Member Gonzalez stated that if they are between the two, she prefers the green Chaparro turtle.

Board Member Mavorah asked if they could do a poll for the community to vote between the two turtles.

Vice Chair Tourgeman withdrew his motion and Board Member Gonzalez withdrew her second.

Board Member Mavorah proposes to take the top two designs, the green turtle and the colorful Tequesta turtle to put a survey out with the two choices to the community, seconded by Vice Chair Tourgeman. The motion carried with a 4-0 vote with Board Member Lisman absent.

A motion was made by Vice Chair Tourgeman to approve the additional cost of either \$3,200 or \$2,500 for the painting of the turtle sculpture chosen, seconded by Board Member Mavorah. The motion carried with a 4-0 vote with Board Member Lisman absent.

### 7. Surfside Small Business Recovery Fund Update

Tourism Manager Trigueros provided an update on the item and stated that they have sent out the information again and reminded the businesses to apply. He provided the deadline date.

Vice Chair Tourgeman asked when they sent it out and if they have received any interest.

Tourism Manager Trigueros stated he sent it out last week. He stated that they do not know the information of who has applied since the foundation is handling all applications.

### 8. Social Media

Tourism Manager Trigueros provided an update on the item. He provided a presentation which began with a reminder from when the accounts were inactive for several months due to COVID-19. He explained that the Town Commission wanted it dormant to avoid bringing people to Town. He also noted that in previous years, the Tourist Board would invest upwards of \$50,000 towards social media advertising which had been reduced to \$0.

Tourism Manager Trigueros presented updates across different channels, noting the type of content they produce including destination imagery, highlighting local businesses, Surfside hotels, Town events and amenities, as well as target audiences.

He provided the insight statistics for audiences, top performing hashtags, as well as an update in follower numbers. One of the main takeaways was that organic content, which is not boosted by any promotional dollars, is up more than 60 percent.

Vice Mayor Paul stated that the Farmer's Market is mentioned in the Costco magazine this month.

Board Member Gonzalez stated that the work quality is good and representative of the Town.

### 9. Hotel Outreach

Tourism Manager Trigueros provided an update on hotel outreach noting he hadn't met with all the senior executives yet due to holiday schedules, but he had dropped off important reminders with front desk teams and concierges. These include the upcoming Winter Wonderland event, the new Third Thursdays series, checking in on Surfy's Passport Adventure and more.

Board Member Gonzalez suggested recommending that hotels develop neighbor-friendly offers.

### **10. Third Thursdays Feedback and Street Banners**

Tourism Manager Trigueros provided an update on the item and a presentation with the different designs.

Chair Herman asked when they have to decide on the theme.

Tourism Manager Trigueros stated that the themes presented by Sara at the November meeting are the themes that would be moving forward.

Chair Herman likes them all.

Board Member Mavorah likes the designs. He likes version 1, he stated that version 2 has a lot going on in a good way and likes the incorporation of the turtle. He stated that his least favorite is version 3. He stated that version 4 is contemporary but does say much about the event. He prefers the red on version 2.

Board Member Gonzalez stated that some elements might not be visible at night.

Board Member Gonzalez likes version 2 and the colors.

Board Member Mavorah suggested changing the name.

Tourism Manager Trigueros stated they needed to keep the theme names given that the events are weeks away and Sara had carefully curated each idea. The Board; however, is welcome to throw in any ideas and suggestions about how to enhance the themes.

Sara Liss spoke to provide context into the thinking behind each theme.

A motion was made by Vice Chair Tourgeman to move forward with version number 2 as the banner design for Third Thursday, seconded by Chair Herman. The motion carried with a 4-0 vote with Board Member Lisman absent.

### 11. Discussion Items:

### A. Next Meeting: Monday, January 3, 2022 at 5:30 p.m.

Consensus was reached to hold the next meeting on January 3, 2022 starting at 5:30 p.m.

### 12. Public Comment – 3-minute time limit each, please

Vice Chair Tourgeman stated that Commissioner Velasquez wanted to bring up more art on the beach. He spoke regarding past events on the beach and he would like to look into bringing that back. He wanted to remind them of the past activities the Tourist Board had that was very successful. He would like to propose to look at having art on the beach like Bal Harbour.

Tourism Manager Trigueros agrees with a desire to have more art and noted that DVAC has been trying to come up with art in public places for some time.

Vice Mayor Paul spoke regarding the events that occurred in the past which were halted due to the beach renourishment and then COVID, and commented on

previous art exhibitions on the beach. She spoke regarding some of the beach events she attended in the past.

Chair Herman commented on who pays for the ones in Bal Harbour because they are big and find out how they do theirs.

Vice Chair Tourgeman stated that the idea is to bring it back and activities on the beach.

Tourism Manager Trigueros will look into the information provided by the Board.

Vice Mayor Paul spoke regarding art in public places and some of the artists that participated.

There were no public speakers.

### 13. Adjournment

There being no further business to discuss before the Tourist Board, Vice Chair Tourgeman made a motion to adjourn the meeting at 7:35 p.m., seconded by Board Member Gonzalez. The motion carried with a 4-0 vote with Board Member Lisman absent.

Respectfully submitted:

Accepted this 3 day of J2022.

Lisa Herman, Chair

Attes Evelvn Herbello

Deputy Town Clerk



### Town of Surfside Town Commission Meeting January 11, 2022 7:00 pm Town Hall Commission Chambers - 9293 Harding Avenue, 2<sup>nd</sup> Floor Surfside, FL 33154

# Date:December 21, 2021Subject:One-year extension of Curative Testing site outside Town Hall

**Objective:** Encourage residents, visitors, business employees, and neighbors to remain healthy. Do the Town's part to protect Public Health by supporting best practices. Continue the Town's partnership with Curative to provide professional, timely and safe COVID testing and results to individuals at no cost to those individuals or to the Town.

**Consideration:** COVID testing is an integral part of addressing and combatting COVID infections and supporting public health, our livelihood, and business. The Curative partnership and testing site are in place and in action, open six days per week. Town staff report the advantages of having the site at Town Hall and have assessed and reported zero negative impacts.

**Recommendation:** Renew the Curative contract at no cost to the Town for one year.

The contract can be cancelled by the Town at any time. Renewal for a year is prudent given COVID trends. There is no end in sight at this time for COVID and its variants and the need for testing to be available. Instead, demand is increasing for use of the services of the COVID testing kiosk, with the highest numbers getting tested at the Town Hall site yesterday.

Due to the conditions on the ground, Curative is now offering one-year renewals in its partnerships. A one year renewal, compared to 90 days or 180 days, will save Town Staff, including Town Manager, Attorney, Human Resources Director, as well as the Town Commission, time and resources and provide some relief to full agendas.

### RESOLUTION NO. 2022-

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING A FIRST AMENDMENT TO THE REVOCABLE, NON-EXCLUSIVE LICENSE AGREEMENT (AGREEMENT) WITH CURATIVE INC. TO EXTEND THE TERM OF THE AGREEMENT; APPROVING THE EXTENSION OF THE TEMPORARY USE PERMIT ISSUED TO CURATIVE INC. **BEYOND THE INITIAL NINETY (90) DAY TERM TO ALLOW THE CONTINUED UTILIZATION OF A COVID-19 TESTING KIOSK PURSUANT TO SECTION 90-36.1 OF** THE TOWN CODE OF ORDINANCES: AUTHORIZING THE TOWN MANAGER TO EXECUTE A FIRST AMENDMENT TO THE AGREEMENT AND EXTENSION OF THE TEMPORARY USE PERMIT; PROVIDING FOR **IMPLEMENTATION;** AND PROVIDING FOR AN **EFFECTIVE DATE.** 

WHEREAS, on March 12, 2020, the Town of Surfside (the "Town") declared a state of emergency due to the public health crisis presented by the novel coronavirus ("COVID-19"); and

WHEREAS, on or about November 1, 2021, the Town and Curative Inc. ("Curative") entered into a Revocable, Non-Exclusive License Agreement (the "Agreement") to allow Curative to conduct COVID-19 testing (the "Services") utilizing a COVID-19 testing kiosk; and

**WHEREAS,** in order to provide the Services in accordance with the Agreement, Curative applied for and received a temporary use permit in accordance with Section 90-36.1 of the Town Code of Ordinances ("Code"), which temporary use permit is valid for an initial term of up to ninety (90) days unless extended by the Town Commission; and

WHEREAS, in order to continue providing the Services, Curative desires to extend the term of the Agreement beyond February 18, 2022, and apply for an extension of its temporary use permit for its COVID-19 testing kiosk; and

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**WHEREAS,** the Town Commission desires to approve a First Amendment to the Agreement, in substantially the form attached hereto as Exhibit "A," in order to extend the term of the Agreement through May 18, 2022, with three additional renewal options of ninety (90) days upon mutual agreement of the parties (the "First Amendment"); and

WHEREAS, in accordance with Section 90-36.1(b) of the Town Code, the Town Commission further desires to approve an extension of Curative's Temporary Use Permit beyond the initial ninety (90) term through May 18, 2022, and authorize the Town Manager to extend the permit term by up to three additional ninety (90) day periods upon approval by the Town Building Official; and

WHEREAS, the Town Commission finds that this Resolution is in the best interest and welfare of the residents of the Town.

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

Section 1. <u>Recitals.</u> That each of the above-stated recitals are hereby adopted, confirmed, and incorporated herein.

Section 2. <u>Approval of First Amendment.</u> The Town Commission hereby approves the First Amendment to the Agreement in substantially the form attached hereto as Exhibit "A," subject to final approval as to form, content, and legal sufficiency by the Town Manager and Town Attorney. The Town Manager is hereby authorized to execute the First Amendment, subject to approval by the Town Manager as to content and legal sufficiency by the Town Attorney. The Town Manager is further authorized to extend the Term of the Agreement for up to three additional renewal options of ninety (90) days, and upon mutual agreement of the parties

Section 3. <u>Approval of Temporary Use Permit.</u> Pursuant to Section 90-36.1 of the Town Code, the Town Commission hereby approves the extension of Curative's Temporary Use

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Permit beyond the initial ninety (90) day term through May 18, 2022, to allow Curative to continue providing its Services utilizing a COVID-19 testing kiosk. The Town Manager and/or Building Official are authorized to issue an extension of the Temporary Use Permit as indicated in this Resolution, and the Town Manager is further authorized to extend the term of the Temporary Use Permit beyond May 18, 2022, for three additional ninety (90) day periods, upon approval by the Town Building Official.

Section 4. Implementation. The Town Manager and/or designee is authorized to take any and all necessary action to implement the First Amendment, the Temporary Use Permit, and the purposes of this Resolution.

Section 5. Effective Date. This Resolution shall take effect immediately upon its adoption.

**PASSED AND ADOPTED** on this 11<sup>th</sup> day of January, 2022.

Motion By: \_\_\_\_\_\_\_
Second By: \_\_\_\_\_\_

### FINAL VOTE ON ADOPTION:

Commissioner Charles Kesl	
Commissioner Eliana R. Salzhauer	
Commissioner Nelly Velasquez	
Vice Mayor Tina Paul	
Mayor Charles W. Burkett	

Charles W. Burkett, Mayor

Attest:

Sandra McCready, MMC Town Clerk

Approved as to Form and Legal Sufficiency:

Weiss Serota Helfman Cole & Bierman, P.L. Town Attorney

### FIRST AMENDMENT TO THE REVOCABLE, NON-EXCLUSIVE LICENSE AGREEMENT BETWEEN THE TOWN OF SURFSIDE AND CURATIVE INC.

# This **FIRST AMENDMENT TO THE REVOCABLE, NON-EXCLUSIVE LICENSE AGREEMENT** (this "Amendment") is entered into effective as of this \_\_\_\_\_ day of \_\_\_\_\_\_

\_\_\_\_\_, 2022 (the "Effective Date"), between the **TOWN OF SURFSIDE**, a Florida municipal corporation (the "Town"), and **CURATIVE INC.**, a Delaware company authorized to do business in Florida ("Curative"). The Town and Curative shall be referred to hereafter individually as a "Party" and collectively as the "Parties" to this Agreement.

**WHEREAS**, on or about November 1, 2021, the Town and Curative entered into a Revocable, Non-Exclusive License Agreement to allow Curative to operate a COVID-19 testing kiosk (the "Agreement"); and

**WHEREAS**, the Parties wish to enter into a First Amendment to the Agreement to extend the Term of the Agreement.

**NOW THEREFORE,** for and in consideration of the mutual promises set forth herein, the Town and Curative agree as follows:

- 1. <u>Recitals Adopted.</u> The above recitals are true and correct and are incorporated herein by this reference. All initially capitalized terms used but not otherwise defined herein shall have the meaning ascribed thereto in the Amendment.
- 2. <u>Term; Effective Date.</u> Section 2.1 of the Agreement is hereby amended and replaced as follows:

The term of this Agreement shall be for ninety (90) days from February 18, 2022, through May 18, 2022 unless earlier terminated in accordance with Paragraph 6. This Agreement may be renewed by mutual agreement of both parties for up to three additional ninety (90) day terms.

- 3. <u>Conflict: Amendment Prevails.</u> In the event of any conflict or ambiguity between the terms and provisions of this Amendment and the terms and provisions of the Agreement, the terms and provisions of this Amendment shall control.
- 4. <u>Agreement Ratified.</u> Except as otherwise specifically set forth or modified herein, the all terms in the Agreement are hereby ratified and affirmed and shall remain unmodified and in full force and effect in accordance with its terms.

### [REMAINDER OF PAGE LEFT BLANK. SIGNATURE PAGE FOLLOWS.]

**IN WITNESS WHEREOF**, the parties hereto have caused this Amendment to be executed the day and year as first stated above.

### **TOWN OF SURFSIDE**

By: \_\_\_\_\_

Andrew Hyatt Town Manager

Attest:

### CURATIVE INC.

By: \_\_\_\_\_ Ryan Souders General Counsel

Approved as to form and legal sufficiency:

By: \_\_\_\_\_\_ Sandra McCready, MMC Town Clerk

By: \_\_\_\_\_ Curative Legal Department

Approved as to form and legal sufficiency:

By:

Weiss Serota Helfman Cole & Bierman, P.L. Town Attorney

### Addresses for Notice:

Andrew Hyatt Town of Surfside Attn: Town Manager 9293 Harding Avenue Surfside, FL 33154 305-861-4863 (telephone) 305-993-5097 (facsimile) ahyatt@townofsurfsidefl.gov (email)

### With a copy to:

Weiss Serota Helfman Cole & Bierman, P.L. Attn: Lillian Arango, Esq. Town of Surfside Attorney 2525 Ponce de Leon Boulevard, Suite 700 Coral Gables, FL 33134 larango@wsh-law.com (email) Addresses for Notice:

Curative Inc. Attn: Legal Department 430 S. Cataract Avenue San Dimas, CA 91773-2902 \_\_\_\_\_\_(telephone)

agatha@curative.com (email)

### With a copy to:

Curative Inc. Attn: Tami Wilson-Ciranna, Chief Financial Officer 430 S. Cataract Avenue San Dimas, CA 91773-2902 \_\_\_\_\_\_\_\_(telephone)

Curative Inc.

Attn: Frederick Turner, Chief Executive Officer 1600 Adams Drive, Suite 105 Menlo Park, CA 94025

(telephone) (email)

(email)

Curative Inc. c/o C T Corporation System, Registered Agent 1200 South Pine Island Road Plantation, FL 33324



## MEMORANDUM

ITEM NO. <sup>3F</sup>

**To:** Honorable Mayor, Vice-Mayor and Members of the Town Commission

From: Andrew Hyatt, Town Manager

**Date:** January 11, 2022

Subject: FY 2022 Budget Amendment Resolution No. 2

The State of Florida, the Charter of the Town of Surfside, and sound financial management practices require monitoring of the Town's budgetary condition. Budget requirements include maintaining a balanced budget and a prohibition against entering into encumbrances for which there is not sufficient appropriation.

The Town Commission monitors the budget to actual summary at the fund level monthly on each agenda. The Town Manager is authorized by the Charter to make adjustments within funds so long as the appropriation for each fund is not exceeded. The purpose of this budget amendment is for the Town Commission to amend the FY 2022 annual budget and to recognize changes in revenues and expenditures that differ from the adopted budget.

The attached document represents the amendment that ensures compliance with State law, Town Charter, and sound financial management practices.

Staff has reviewed FY 2022 actual revenues and expenditures and recommends a change to the FY 2022 annual budget is as follows:

### **GENERAL FUND (Attachment A)**

The General Fund is being amended to:

- 1. Record the receipt of a \$10,000 donation from a private source;
- 2. Appropriate \$10,000 for Public Safety equipment funded with the donated funds:
  - a. laser radar units (\$4,300);
  - b. training aide (\$5,700).

**PAGE 155** 

### WATER AND SEWER FUND (Attachment A)

The Water and Sewer Fund is being amended to:

- 1. Record the use of Federal Grant ARPA/ Coronavirus Local Fiscal Recovery Funds of \$24,451 to fund eligible expenses;
- 2. Appropriate those funds of \$24,451 for professional services for a 20-year Sanitary Sewer Needs Analysis.

Reviewed by: JG

Prepared by AM

### TOWN OF SURFSIDE BUDGET AMENDMENT ATTACHMENT A

# Fiscal Year2021/2022BA No.2Fund Nos.001 General Fund401 Water and Sewer Fund

1/11/2022

Account Number	Account Description	Justification	Original/ Adjusted Budget	Increase	Decrease	Adjusted Budget
GENERAL FUND						
REVENUES						
001-511-366-10-10	Donations - Private Source	Donation received	\$0	\$10,000		\$10,000
TOTAL	GENERAL FUND REVENUES			\$10,000	\$0	
EXPENDITURES						
001-3000-521-52-90	Miscellaneous Operating Supplies	Public Safety laser radar units funded through private donation	\$55,214	\$4,300		\$59,514
001-3000-521-64-10	Machinery & Equipment	Police training equipment funded through private donation	\$0	\$5,700		\$5,700
TOTAL	GENERAL FUND EXPENDITURES			\$10,000	\$0	

WATER AND SEWER	FUND					
REVENUES						
401-536-331-5-40	Federal Grant - Treasury (ARPA)	Use of ARPA - Local Fiscal Recovery Funds	\$ 167,990	\$ 24,451	9	5 192,441
TOTAL	WATER AND SEWER FUND REVEN	IUES		\$ 24,451	\$ -	
EXPENSES						
401-9900-536-31-10	Professional Services	20-Year Sanitary Sewer Needs Analysis	\$ 107,391	\$ 24,451	9	131,842
TOTAL	WATER AND SEWER FUND EXPEN	ISES		\$ 24,451	\$ -	

### RESOLUTION NO. 2022-

### A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING BUDGET AMENDMENT NO. 2 FOR THE FISCAL YEAR 2022 BUDGET; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS,** on September 30, 2021, the Town of Surfside (the "Town") Commission adopted Resolution No. 2021- 2820 approving the budget for Fiscal Year 2022 and establishing revenues and appropriations for the Town; and

**WHEREAS,** the General Fund is being amended to record the receipt of a \$10,000 donation from a private source and appropriate \$10,000 for Public Safety equipment funded with the donated funds, as detailed in Attachment "A" attached hereto; and

WHEREAS, the Water and Sewer Fund is being amended to record the use of Federal Grant ARPA/ Coronavirus Local Fiscal Recovery Funds of \$24,451 to fund eligible expenses, and to appropriate those funds of \$24,451 for professional services for a 20-year Sanitary Sewer Needs Analysis, as detailed in Attachment "A" attached hereto; and

**WHEREAS,** an increase to the budgeted revenue estimates and expenditure estimates is required for the General Fund and Water and Sewer Fund, to comply with Florida Statutes and the Town's commitment to sound budgeting practices, where budgeted expenditures may not exceed anticipated revenues; and

**WHEREAS,** the Town Commission desires to amend the Fiscal Year 2022 budget by amending the General Fund and Water and Sewer Fund, as set forth in Attachment "A" attached hereto; and

**WHEREAS,** the Town Commission finds that this Resolution is in the best interest and welfare of the residents of the Town.

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

Section 1. <u>Recitals.</u> That each of the above-stated recitals are hereby adopted, confirmed, and incorporated herein.

**Section 2.** Approving Amended Budget; Budget Amendment No. 2. That the Town Commission approves the 2022 fiscal year budget amendment provided for in Attachment "A" attached hereto.

**Section 3. Implementation.** The Town Manager and/or his designee are directed to take any and all action necessary to accomplish this Budget amendment and the purposes of this Resolution.

### **PAGE 158**

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

**PASSED AND ADOPTED** on this 11<sup>th</sup> day of January, 2022.

Motion By: \_\_\_\_\_\_
Second By: \_\_\_\_\_

### FINAL VOTE ON ADOPTION:

Commissioner Charles Kesl	
Commissioner Eliana R. Salzhauer	
Commissioner Nelly Velasquez	
Vice Mayor Tina Paul	
Mayor Charles W. Burkett	

Charles W. Burkett, Mayor

Attest:

Sandra Novoa, MMC Town Clerk

Approved as to Form and Legal Sufficiency:

Weiss Serota Helfman Cole & Bierman, P.L. Town Attorney

### TOWN OF SURFSIDE BUDGET AMENDMENT ATTACHMENT A

# Fiscal Year2021/2022BA No.2Fund Nos.001 General Fund401 Water and Sewer Fund

1/11/2022

Account Number	Account Description	Justification	Original/ Adjusted Budget	Increase	Decrease	Adjusted Budget
GENERAL FUND						Ŭ
REVENUES						
001-511-366-10-10	Donations - Private Source	Donation received	\$0	\$10,000		\$10,000
TOTAL	GENERAL FUND REVENUES			\$10,000	\$0	
EXPENDITURES						
001-3000-521-52-90	Miscellaneous Operating Supplies	Public Safety laser radar units funded through private donation	\$55,214	\$4,300		\$59,514
001-3000-521-64-10	Machinery & Equipment	Police training equipment funded through private donation	\$0	\$5,700		\$5,700
TOTAL	GENERAL FUND EXPENDITURES			\$10,000	\$0	

WATER AND SEWER	FUI	ND					
REVENUES							
401-536-331-5-40		Federal Grant - Treasury (ARPA)	Use of ARPA - Local Fiscal Recovery Funds	\$ 167,990	\$ 24,451		\$ 192,441
TOTAL		WATER AND SEWER FUND REVENU	ES		\$ 24,451	\$ -	
EXPENSES							
401-9900-536-31-10		Professional Services	20-Year Sanitary Sewer Needs Analysis	\$ 107,391	\$ 24,451		\$ 131,842
TOTAL		WATER AND SEWER FUND EXPENSE	ES		\$ 24,451	\$ -	



## MEMORANDUM

ITEM NO. 3G

**To:** Honorable Mayor, Vice-Mayor and Members of the Town Commission

From: Andrew Hyatt, Town Manager

Date: January 11<sup>th</sup>, 2021

Subject: 89<sup>th</sup> Street Beach End Improvement Expenditures Request

As part of the Fiscal Year 2022 adopted budget, Town administration budgeted a total of \$145,000 towards the renovation of the 89<sup>th</sup> Street Beach End project as a Capital Improvement Project (CIP). The Town of Surfside procured design contracts with Kimley Horn Engineering, Engineering Pool firm.

The proposed design promotes greenery with native tree canopy and is not linear in order to differentiate from other beach ends. Proposed design concept can be found in **Exhibit** A - "Concept Design". Town will perform construction using force account labor and equipment. Material will be procured and installed through existing Town vendors. See below breakdown of projected costs:

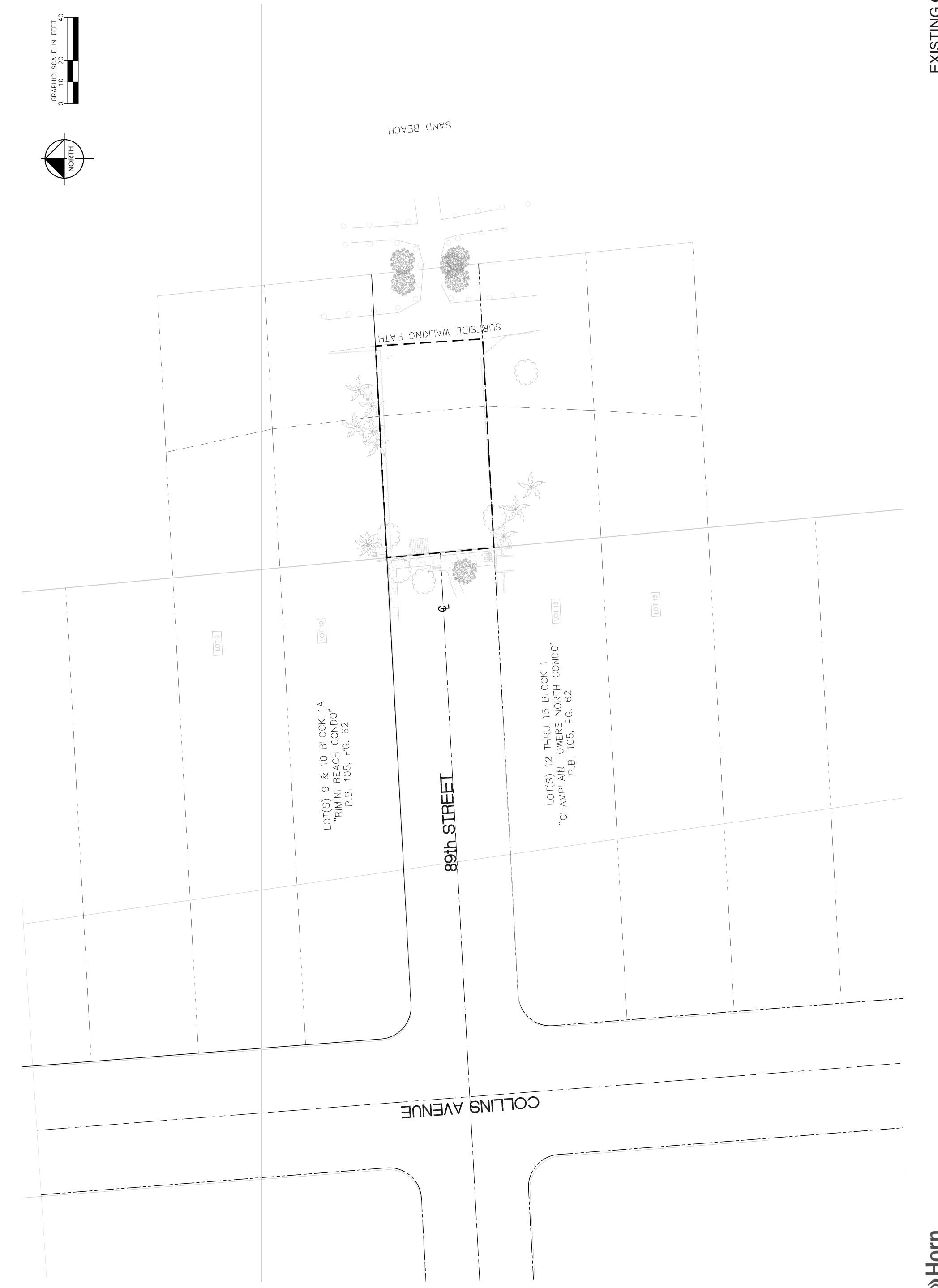
- Landscape and Irrigation \$50,000
- Concrete and Pavers \$30,000
- Fill Material \$6,000
- Benches, showers and other accessories \$25,000
- Labor and Equipment (Town) \$34,000

Town administration is seeking Town Commission approval for expenditure of Fiscal Year 2022 adopted budget funds totaling \$145,000 towards the construction of 89<sup>th</sup> Street Beach Street-End Improvements.

Reviewed by:

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# Kimley» Horn

**PAGE 164** 

# SURFESIDE WALKING PATH

SCOPE OF WORK LINE (TYP.)



# Kimley»>Horn

### RESOLUTION NO. 2022-

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING AND AUTHORIZING THE EXPENDITURE OF BUDGETED FUNDS IN AN AMOUNT NOT TO EXCEED \$145,000 TO IMPLEMENT THE 89<sup>TH</sup> STREET BEACH END CAPITAL IMPROVEMENT PROJECT (CIP); PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside (the "Town") desires to implement the 89<sup>th</sup> Street Beach End Capital Improvement Project (CIP) (the "Project"), which consists of renovations to the street end improvements located at 89<sup>th</sup> Street and Collins Avenue; and

WHEREAS, pursuant to Section 287.055, Florida Statutes, on April 2, 2021, the Town entered into a Continuing Services Agreement with Kimley-Horn and Associates, Inc. ("Consultant") for professional engineering services (the "Agreement") pursuant to Request for Qualifications No. 2020-06; and

WHEREAS, in accordance with the Agreement, the Town procured the Consultant's services to create a new design concept for the Project, which Project design is attached hereto as Exhibit "A" (the "Concept Design"); and

WHEREAS, the Town is seeking approval and authorization to expend budgeted funds in an amount not to exceed \$145,000 to implement the Project in accordance with the Concept Design attached hereto as Exhibit "A," which funds are needed to cover the costs of materials for landscape and irrigation; concrete and pavers; fill material; benches, showers, and other accessories; and Town Public Works Department labor and equipment; and

WHEREAS, the Town Commission finds that this Resolution is in the best interest and welfare of the residents of the Town.

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

Section 1. <u>Recitals.</u> That each of the above-stated recitals are hereby adopted, confirmed, and incorporated herein.

Section 2. <u>Approving and Authorizing Expenditure of Funds.</u> The Town Commission approves and authorizes the expenditure of budgeted funds in an amount not to exceed \$145,000.00 to implement the Project in accordance with the Concept Design attached hereto as Exhibit "A."

Section 3. Implementation. The Town Manager and Town Administration are authorized and directed to take any and all action necessary to accomplish the purposes of this Resolution.

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

**PASSED AND ADOPTED** on this 11<sup>th</sup> day of January, 2022.

Motion By: \_\_\_\_\_\_ Second By: \_\_\_\_\_\_

### FINAL VOTE ON ADOPTION:

Commissioner Charles Kesl	
Commissioner Eliana R. Salzhauer	
Commissioner Nelly Velasquez	
Vice Mayor Tina Paul	
Mayor Charles W. Burkett	

Charles W. Burkett, Mayor

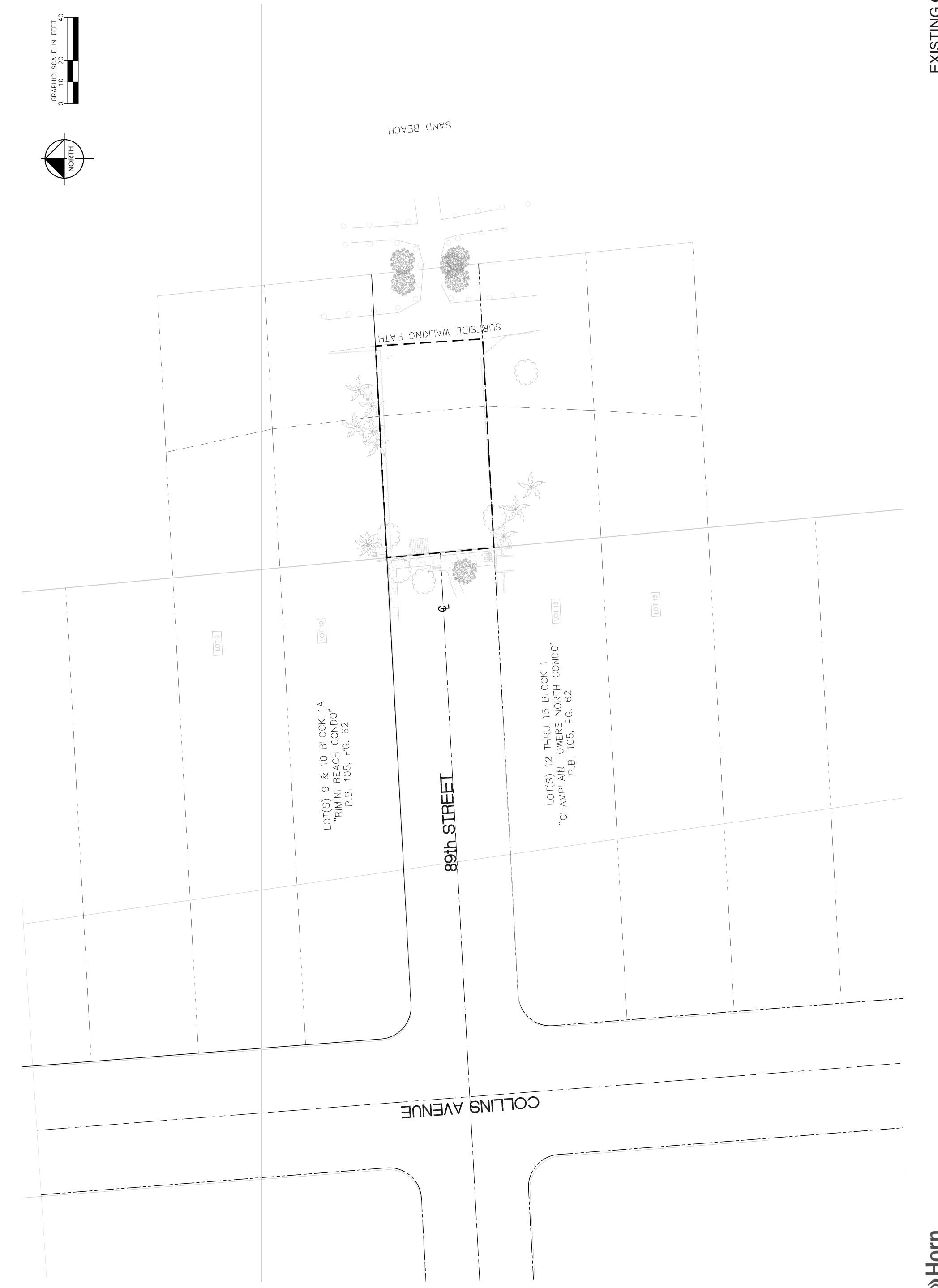
Attest:

Sandra McCready, MMC Town Clerk

Approved as to Form and Legal Sufficiency:

Weiss Serota Helfman Cole & Bierman, P.L. Town Attorney







# Kimley»Horn

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# SURFESIDE WALKING PATH

SCOPE OF WORK LINE (TYP.)



# Kimley»Horn



MEMORANDUM

ITEM NO. 3H

То:	Honorable Mayor, Vice-Mayor and Members of the Town Commission					
From:	Andrew Hyatt, Town Manager					
Date:	January 11, 2022					
Subject:	Resolutions Approving Florida Memorandum of Understand and Miami- Dade County Interlocal Agreement relating to Opioid Litigation Settlement Agreement Funds					

### Background.

Like many municipalities throughout the United States and Florida, the Town of Surfside (the "Town") has suffered harm due to the opioid epidemic. Due to the ongoing opioid epidemic, the State of Florida and various Florida local governments filed an action In Re: National Prescription Opiate Litigation, MDL No. 2804 (N.D. Ohio) (the "Opioid Litigation") seeking recovery due from the damage caused by the opioid epidemic.

### Florida MOU.

Currently, litigants are in the process of settling class action lawsuit claims in relation to the Opioid Litigation. As such, the State of Florida is proposing entering into a Florida Memorandum of Understand (the "MOU") setting forth a framework of a unified plan for the proposed allocation and use of opioid settlement proceeds ("Opioid Funds"). Participation in the MOU by a large majority of Florida's municipalities and counties will materially increase the amount of funds to the State of Florida by improving Florida's relative bargaining position during additional settlement negotiations.

As currently drafted, the Florida MOU proposes distribution and administration of Opioid Funds as follows:

- 1. Fifteen percent (15%) of Opioid Funds directly to local governments;
- 2. A sliding scale variable percentage of Opioid Funds to regional funds; and
- 3. The remaining Opioid Funds to the State of Florida.

### Miami-Dade County Interlocal Agreement.

As indicated above, a portion of the Opioid Funds corresponding to the Town will be allocated to the Miami-Dade County (the "County") Regional Fund. The County Regional Fund will be administered and distributed to corresponding municipalities

either by a corporate partner selected by the Florida Department of Children and Families or by the County if it enters into an interlocal agreement ("ILA") governing the use of Opioid Funds with 50% of municipalities within the County. Accordingly, the County is proposing entering into an ILA governing the use of Opioid Funds with the Town.

# Recommendation.

Town Administration recommends that that the Town Commission adopt the attached Resolutions approving and authorizing the Town Manager to execute: (1) the MOU with the State of Florida and participating local government units relating to the allocation of Opioid Funds, and (2) the ILA with the County relating to the administration of Opioid Funds allocated to the County Regional Fund.

Reviewed by: JG

Prepared by: LA and RP

#### RESOLUTION NO. 2022-

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING THE FLORIDA MEMORANDUM OF UNDERSTANDING WITH THE STATE OF FLORIDA AND OTHER PARTICIPATING LOCAL GOVERNMENT UNITS FOR THE ALLOCATION AND USE OF OPIOID SETTLEMENT FUNDS TO ABATE AND RESOLVE THE OPIOID EPIDEMIC; PROVIDING FOR AUTHORIZATION; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR TRANSMITTAL; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Town of Surfside (the "Town") has suffered harm from the opioid epidemic; and

WHEREAS, the Town recognizes that the entire State of Florida has suffered harm as a result of the opioid epidemic; and

WHEREAS, the State of Florida has filed an action pending in Pasco County, Florida, and a number of Florida municipalities and counties have also filed an action In Re: National Prescription Opiate Litigation, MDL No. 2804 (N.D. Ohio) (the "Opioid Litigation"); and

WHEREAS, the State of Florida and lawyers representing certain various local governments involved in the Opioid Litigation have proposed a unified plan for the allocation and use of prospective settlement dollars from opioid related litigation; and

WHEREAS, the Florida Memorandum of Understanding (the "MOU") sets forth a framework of a unified plan for the proposed allocation and use of opioid settlement proceeds and it is anticipated that formal agreements implementing the MOU will be entered into at a future date; and

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WHEREAS, participation in the MOU by a large majority of Florida municipalities and counties will materially increase the amount of funds to Florida and should improve Florida's relative bargaining position during additional settlement negotiations; and

**WHEREAS,** failure to participate in the MOU will reduce funds available to the State, the Town, and other Florida local governments; and

**WHEREAS,** the Town finds that participation in the MOU is in the best interest of the Town and its citizens in that such plan ensures that almost all of the settlement funds will be allocated to abate and resolve the opioid epidemic and that every municipality and county receives funds for the harms suffered due to the opioid epidemic; and

WHEREAS, the Town Commission finds that this Resolution is in the best interest and welfare of the residents of the Town.

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

Section 1. <u>Recitals.</u> That each of the above-stated recitals are hereby adopted, confirmed, and incorporated herein.

Section 2. <u>Approval.</u> That the Town Commission hereby approves the MOU, in substantially the form attached hereto as Exhibit "A."

Section 3. <u>Authorization.</u> That the Town Manager is hereby authorized to execute the MOU, in substantially the form attached hereto as Exhibit "A," and any required or related agreements, amendments, or documents which are required to implement the purposes of this Resolution and the MOU, subject to the approval of the Town Attorney as to form, content, and legal sufficiency.

Section 4. Implementation. That the Town Manager is hereby authorized to take all actions necessary to implement the purposes of this Resolution and the MOU.

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Section 5. <u>Transmittal.</u> That the Town Commission hereby directs the Town Clerk to transmit a copy of this Resolution to the Florida Attorney General Ashley Moody, the Florida League of Cities, and the Miami-Dade County League of Cities.

**Section 6. Effective Date.** This Resolution shall take effect immediately upon its adoption.

**PASSED AND ADOPTED** on this 11<sup>th</sup> day of January, 2022.

Motion By:	
Second By:	

# FINAL VOTE ON ADOPTION:

Commissioner Charles Kesl	
Commissioner Eliana R. Salzhauer	
Commissioner Nelly Velasquez	
Vice Mayor Tina Paul	
Mayor Charles W. Burkett	

Charles W. Burkett, Mayor

Attest:

Sandra McCready, MMC Town Clerk

Approved as to Form and Legal Sufficiency:

Weiss Serota Helfman Cole & Bierman, P.L. Town Attorney

### <u>PROPOSAL</u> <u>MEMORANDUM OF UNDERSTANDING</u>

Whereas, the people of the State of Florida and its communities have been harmed by misfeasance, nonfeasance and malfeasance committed by certain entities within the Pharmaceutical Supply Chain;

Whereas, the State of Florida, through its Attorney General, and certain Local Governments, through their elected representatives and counsel, are separately engaged in litigation seeking to hold Pharmaceutical Supply Chain Participants accountable for the damage caused by their misfeasance, nonfeasance and malfeasance;

Whereas, the State of Florida and its Local Governments share a common desire to abate and alleviate the impacts of that misfeasance, nonfeasance and malfeasance throughout the State of Florida;

Whereas, it is the intent of the State of Florida and its Local Governments to use the proceeds from Settlements with Pharmaceutical Supply Chain Participants to increase the amount of funding presently spent on opioid and substance abuse education, treatment and other related programs and services, such as those identified in Exhibits A and B, and to ensure that the funds are expended in compliance with evolving evidence-based "best practices";

Whereas, the State of Florida and its Local Governments, subject to the completion of formal documents that will effectuate the Parties' agreements, enter into this Memorandum of Understanding ("MOU") relating to the allocation and use of the proceeds of Settlements described herein; and

Whereas, this MOU is a preliminary non-binding agreement between the Parties, is not legally enforceable, and only provides a basis to draft formal documents which will effectuate the Parties' agreements.

#### A. Definitions

As used in this MOU:

1. "Approved Purpose(s)" shall mean forward-looking strategies, programming and services used to expand the availability of treatment for individuals impacted by substance use disorders, to: (a) develop, promote, and provide evidence-based substance use prevention strategies; (b) provide substance use avoidance and awareness education; (c) decrease the oversupply of licit and illicit opioids; and (d) support recovery from addiction. Approved Purposes shall include, but are not limited to, the opioid abatement strategies listed on Exhibits A and B which are incorporated herein by reference.

2. "Local Governments" shall mean all counties, cities, towns and villages located within the geographic boundaries of the State.

3. "Managing Entities" shall mean the corporations selected by and under contract with the Florida Department of Children and Families or its successor ("DCF") to manage the

daily operational delivery of behavioral health services through a coordinated system of care. The singular "Managing Entity" shall refer to a singular of the Managing Entities.

4. "County" shall mean a political subdivision of the state established pursuant to s. 1, Art. VIII of the State Constitution.

5. "Municipalities" shall mean cities, towns, or villages of a County within the State with a Population greater than 10,000 individuals and shall also include cities, towns or villages within the State with a Population equal to or less than 10,000 individuals which filed a Complaint in this litigation against Pharmaceutical Supply Chain Participants. The singular "Municipality" shall refer to a singular of the Municipalities.

6. "Negotiating Committee" shall mean a three-member group comprised by representatives of the following: (1) the State; and (2) two representatives of Local Governments of which one representative will be from a Municipality and one shall be from a County (collectively, "Members") within the State. The State shall be represented by the Attorney General or her designee.

7. "Negotiation Class Metrics" shall mean those county and city settlement allocations which come from the official website of the Negotiation Class of counties and cities certified on September 11, 2019 by the U.S. District for the Northern District of Ohio in *In re National Prescription Opiate Litigation*, MDL No. 2804 (N.D. Ohio). The website is located at https://allocationmap.iclaimsonline.com.

8. "Opioid Funds" shall mean monetary amounts obtained through a Settlement as defined in this MOU.

9. "Opioid Related" shall have the same meaning and breadth as in the agreed Opioid Abatement Strategies attached hereto as Exhibits A or B.

10. "Parties" shall mean the State and Local Governments. The singular word "Party" shall mean either the State or Local Governments.

11. "PEC" shall mean the Plaintiffs' Executive Committee of the National Prescription Opiate Multidistrict Litigation pending in the United States District Court for the Northern District of Ohio.

12. "Pharmaceutical Supply Chain" shall mean the process and channels through which Controlled Substances are manufactured, marketed, promoted, distributed or dispensed.

13. "Pharmaceutical Supply Chain Participant" shall mean any entity that engages in, or has engaged in the manufacture, marketing, promotion, distribution or dispensing of an opioid analgesic.

14. "Population" shall refer to published U.S. Census Bureau population estimates as of July 1, 2019, released March 2020, and shall remain unchanged during the term of this MOU. These estimates can currently be found at https://www.census.gov

15. "Qualified County" shall mean a charter or non-chartered county within the State that: has a Population of at least 300,000 individuals and (a) has an opioid taskforce of which it is a member or operates in connection with its municipalities or others on a local or regional basis; (b) has an abatement plan that has been either adopted or is being utilized to respond to the opioid epidemic; (c) is currently either providing or is contracting with others to provide substance abuse prevention, recovery, and treatment services to its citizens; and (d) has or enters into an agreement with a majority of Municipalities (Majority is more than 50% of the Municipalities' total population) related to the expenditure of Opioid Funds. The Opioid Funds to be paid to a Qualified County will only include Opioid Funds for Municipalities whose claims are released by the Municipality or Opioid Funds for Municipalities whose claims are otherwise barred.

16. "SAMHSA" shall mean the U.S. Department of Health & Human Services, Substance Abuse and Mental Health Services Administration.

17. "Settlement" shall mean the negotiated resolution of legal or equitable claims against a Pharmaceutical Supply Chain Participant when that resolution has been jointly entered into by the State and Local Governments or a settlement class as described in (B)(1) below.

18. "State" shall mean the State of Florida.

#### B. Terms

1. **Only Abatement -** Other than funds used for the Administrative Costs and Expense Fund as hereinafter described in paragraph 6 and paragraph 9, respectively), all Opioid Funds shall be utilized for Approved Purposes. To accomplish this purpose, the State will either file a new action with Local Governments as Parties or add Local Governments to its existing action, sever settling defendants, and seek entry of a consent order or other order binding both the State, Local Governments, and Pharmaceutical Supply Chain Participant(s) ("Order"). The Order may be part of a class action settlement or similar device. The Order shall provide for continuing jurisdiction of a state court to address non-performance by any party under the Order. Any Local Government that objects to or refuses to be included under the Order or entry of documents necessary to effectuate a Settlement shall not be entitled to any Opioid Funds and its portion of Opioid Funds shall be distributed to, and for the benefit of, the other Local Governments.

2. Avoid Claw Back and Recoupment - Both the State and Local Governments wish to maximize any Settlement and Opioid Funds. In addition to committing to only using funds for the Expense Funds, Administrative Costs and Approved Purposes, both Parties will agree to utilize a percentage of funds for the core strategies highlighted in Exhibit A. Exhibit A contains the programs and strategies prioritized by the U.S. Department of Justice and/or the U.S. Department of Health & Human Services ("Core Strategies"). The State is trying to obtain the United States' agreement to limit or reduce the United States' ability to recover or recoup monies from the State and Local Government in exchange for prioritization of funds to certain projects. If no agreement is reached with the United States, then there will be no requirement that a percentage be utilized for Core Strategies.

3. **Distribution Scheme** - All Opioid Funds will initially go to the State, and then be distributed according to the following distribution scheme. The Opioid Funds will be divided into three funds after deducting costs of the Expense Fund detailed in paragraph 9 below:

- (a) <u>City/County Fund</u>- The city/county fund will receive 15% of all Opioid Funds to directly benefit all Counties and Municipalities. The amounts to be distributed to each County and Municipality shall be determined by the Negotiation Class Metrics or other metrics agreed upon, in writing, by a County and a Municipality. For Local Governments that are not within the definition of County or Municipality, those Local Governments may receive that government's share of the City/County Fund under the Negotiation Class Metrics, if that government executes a release as part of a Settlement. Any Local Government that is not within the definition of County or Municipality and that does not execute a release as part of a Settlement shall have its share of the City/County Fund go to the County in which it is located.
- (b) <u>Regional Fund</u>- The regional fund will be subdivided into two parts.
  - (i) The State will annually calculate the share of each County within the State of the regional fund utilizing the sliding scale in section 4 of the allocation contained in the Negotiation Class Metrics or other metrics that the Parties agree upon.
  - (ii) For Qualified Counties, the Qualified County's share will be paid to the Qualified County and expended on Approved Purposes, including the Core Strategies identified in Exhibit A, if applicable.
  - (iii) For all other Counties, the regional share for each County will be paid to the Managing Entities providing service for that County. The Managing Entities will be required to expend the monies on Approved Purposes, including the Core Strategies. The Managing Entities shall endeavor to the greatest extent possible to expend these monies on counties within the State that are non-Qualified Counties and to ensure that there are services in every County.
- (c) <u>State Fund</u> The remainder of Opioid Funds after deducting the costs of the Expense Fund detailed in paragraph 9, the City/County Fund and the Regional Fund will be expended by the State on Approved Purposes, including the provisions related to Core Strategies, if applicable.
- (d) To the extent that Opioid Funds are not appropriated and expended in a year by the State, the State shall identify the investments where settlement funds will be deposited. Any gains, profits, or interest accrued from the deposit of the Opioid Funds to the extent that any funds are not appropriated and expended within a calendar year, shall be the sole property of the Party that was entitled to the initial deposit.

4. Regional Fund Sliding Scale- The Regional Fund shall be calculated by utilizing the following sliding scale of the Opioid Funds available in any year:

A. Years 1-6: 40%
B. Years 7-9: 35%
C. Years 10-12: 34%
D. Years 13-15: 33%
E. Years 16-18: 30%

5. Opioid Abatement Taskforce or Council - The State will create an Opioid Abatement Taskforce or Council (sometimes hereinafter "Taskforce" or "Council") to advise the Governor, the Legislature, Florida's Department of Children and Families ("DCF"), and Local Governments on the priorities that should be addressed as part of the opioid epidemic and to review how monies have been spent and the results that have been achieved with Opioid Funds.

- (a) <u>Size</u> The Taskforce or Council shall have ten Members equally balanced between the State and the Local Governments.
- (b) <u>Appointments Local Governments</u> Two Municipality representatives will be appointed by or through Florida League of Cities. Two county representatives, one from a Qualified County and one from a county within the State that is not a Qualified County, will be appointed by or through the Florida Association of Counties. The final representative will alternate every two years between being a county representative (appointed by or through Florida Association of Counties) or a Municipality representative (appointed by or through the Florida League of Cities). One Municipality representative must be from a city of less than 50,000 people. One county representative must be from a county less than 200,000 people and the other county representative must be from a county whose population exceeds 200,000 people.
- (c) Appointments State -
  - (i) The Governor shall appoint two Members.
  - (ii) The Speaker of the House shall appoint one Member.
  - (iii) The Senate President shall appoint one Member.
  - (iv) The Attorney General or her designee shall be a Member.
- (d) <u>Chair</u> The Attorney General or designee shall be the chair of the Taskforce or Council.
- (e) <u>Term</u> Members will be appointed to serve a two-year term.

- (f) <u>Support</u> DCF shall support the Taskforce or Council and the Taskforce or Council shall be administratively housed in DCF.
- (g) <u>Meetings</u> The Taskforce or Council shall meet quarterly in person or virtually using communications media technology as defined in section 120.54(5)(b)(2), Florida Statutes.
- (h) <u>Reporting</u> The Taskforce or Council shall provide and publish a report annually no later than November 30th or the first business day after November 30th, if November 30th falls on a weekend or is otherwise not a business day. The report shall contain information on how monies were spent the previous fiscal year by the State, each of the Qualified Counties, each of the Managing Entities, and each of the Local Governments. It shall also contain recommendations to the Governor, the Legislature, and Local Governments for priorities among the Approved Purposes for how monies should be spent the coming fiscal year to respond to the opioid epidemic.
- (i) <u>Accountability</u> Prior to July 1st of each year, the State and each of the Local Governments shall provide information to DCF about how they intend to expend Opioid Funds in the upcoming fiscal year. The State and each of the Local Government shall report its expenditures to DCF no later than August 31st for the previous fiscal year. The Taskforce or Council will set other data sets that need to be reported to DCF to demonstrate the effectiveness of Approved Purposes. All programs and expenditures shall be audited annually in a similar fashion to SAMHSA programs. Local Governments shall respond and provide documents to any reasonable requests from the State for data or information about programs receiving Opioid Funds.
- (j) <u>Conflict of Interest</u> All Members shall adhere to the rules, regulations and laws of Florida including, but not limited to, Florida Statute §112.311, concerning the disclosure of conflicts of interest and recusal from discussions or votes on conflicted matters.

6. Administrative Costs- The State may take no more than a 5% administrative fee from the State Fund ("Administrative Costs") and any Regional Fund that it administers for counties that are not Qualified Counties. Each Qualified County may take no more than a 5% administrative fee from its share of the Regional Funds.

7. **Negotiation of Non-Multistate Settlements** - If the State begins negotiations with a Pharmaceutical Supply Chain Participant that is separate and apart from a multi-state negotiation, the State shall include Local Governments that are a part of the Negotiating Committee in such negotiations. No Settlement shall be recommended or accepted without the affirmative votes of both the State and Local Government representatives of the Negotiating Committee.

8. **Negotiation of Multistate or Local Government Settlements** - To the extent practicable and allowed by other parties to a negotiation, both Parties agree to communicate with

members of the Negotiation Committee regarding the terms of any other Pharmaceutical Supply Chain Participant Settlement.

9. **Expense Fund** - The Parties agree that in any negotiation every effort shall be made to cause Pharmaceutical Supply Chain Participants to pay costs of litigation, including attorneys' fees, in addition to any agreed to Opioid Funds in the Settlement. To the extent that a fund sufficient to pay the entirety of all contingency fee contracts for Local Governments in the State of Florida is not created as part of a Settlement by a Pharmaceutical Supply Chain Participant, the Parties agree that an additional expense fund for attorneys who represent Local Governments (herein "Expense Fund") shall be created out of the City/County fund for the purpose of paying the hard costs of a litigating Local Government and then paying attorneys' fees.

- (a) <u>The Source of Funds for the Expense Fund-</u> Money for the Expense Fund shall be sourced exclusively from the City/County Fund.
- (b) <u>The Amount of the Expense Fund</u>- The State recognizes the value litigating Local Governments bring to the State of Florida in connection with the Settlement because their participation increases the amount Incentive Payments due from each Pharmaceutical Supply Chain Participant. In recognition of that value, the amount of funds that shall be deposited into the Expense fund shall be contingent upon on the percentage of litigating Local Government participation in the Settlement, according to the following table:

Litigating Local Government	Amount that shall be paid
Participation in the	into the Expense Fund
Settlement (by percentage of	from (and as a percentage
the population)	of) the City/County fund
96 to 100%	10%
91 to 95%	7.5%
86 to 90%	5%
85%	2.5%
Less than 85%	0%

If fewer than 85% percent of the litigating Local Governments (by population) participate, then the Expense Fund shall not be funded, and this Section of the MOU shall be null and void.

(c) <u>The Timing of Payments into the Expense Fund</u>- Although the amount of the Expense Fund shall be calculated based on the entirety of payments due to the City/County fund over a ten to eighteen year period, the Expense Fund shall be funded entirely from payments made by Pharmaceutical Supply Chain Participants during the first two years of the Settlement. Accordingly, to offset the amounts being paid from the City/County to the Expense Fund in the first two years, Counties or Municipalities may borrow from the Regional Fund during the

first two years and pay the borrowed amounts back to the Regional Fund during years three, four, and five.

For the avoidance of doubt, the following provides an illustrative example regarding the calculation of payments and amounts that may be borrowed under the terms of this MOU, consistent with the provisions of this Section:

Opioid Funds due to State of Florida and Local Governments (over 10 to 18 years):	\$1,000
Litigating Local Government Participation:	100%
City/County Fund (over 10 to 18 years):	\$150
Expense Fund (paid over 2 years):	\$15
Amount Paid to Expense Fund in 1st year:	\$7.5
Amount Paid to Expense Fund in 2nd year	\$7.5
Amount that may be borrowed from Regional Fund in 1st year:	\$7.5
Amount that may be borrowed from Regional Fund in 2nd year:	\$7.5
Amount that must be paid back to Regional Fund in 3rd year:	\$5
Amount that must be paid back to Regional Fund in 4th year:	\$5
Amount that must be paid back to Regional Fund in 5th year:	\$5

- (d) <u>Creation of and Jurisdiction over the Expense Fund</u>- The Expense Fund shall be established, consistent with the provisions of this Section of the MOU, by order of the Circuit Court of the Sixth Judicial Circuit in and for Pasco County, West Pasco Division New Port Richey, Florida, in the matter of *The State of Florida*, Office of the Attorney General, Department of Legal Affairs v. Purdue Pharma L.P., et al., Case No. 2018-CA-001438 (the "Court"). The Court shall have jurisdiction over the Expense Fund, including authority to allocate and disburse amounts from the Expense Fund and to resolve any disputes concerning the Expense Fund.
- (e) <u>Allocation of Payments to Counsel from the Expense Fund</u>- As part of the order establishing the Expense Fund, counsel for the litigating Local Governments shall seek to have the Court appoint a third-neutral to serve as a special master for purposes of allocating the Expense Fund. Within 30 days of entry of the order appointing a special master for the Expense Fund, any counsel who intend to seek an award from the Expense Fund shall provide the copies of their contingency fee contracts to the special master. The special master shall then build a mathematical model, which shall be based on each litigating Local Government's share under the Negotiation Class Metrics and the rate set forth in their contingency contracts, to calculate a proposed award for each litigating Local Government who timely provided a copy of its contingency contract.

10. **Dispute resolution-** Any one or more of the Local Governments or the State may object to an allocation or expenditure of Opioid Funds solely on the basis that the allocation or expenditure at issue (a) is inconsistent with the Approved Purposes; (b) is inconsistent with the distribution scheme as provided in paragraph 3, or (c) violates the limitations set forth herein

with respect to administrative costs or the Expense Fund. There shall be no other basis for bringing an objection to the approval of an allocation or expenditure of Opioid Funds.

#### RESOLUTION NO. 2022-

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING THE OPIOID SETTLEMENT INTERLOCAL AGREEMENT WITH MIAMI-DADE COUNTY GOVERNING THE USE OF OPIOID SETTLEMENT FUNDS ALLOCATED TO THE MIAMI-DADE COUNTY REGIONAL FUND; PROVIDING FOR AUTHORIZATION; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR TRANSMITTAL; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Town of Surfside (the "Town") has suffered harm from the opioid epidemic; and

WHEREAS, the State of Florida has filed an action pending in Pasco County, Florida, and a number of Florida municipalities and counties have also filed an action In Re: National Prescription Opiate Litigation, MDL No. 2804 (N.D. Ohio) (the "Opioid Litigation"); and

WHEREAS, the State of Florida and lawyers representing various local governments involved in the Opioid Litigation have proposed a Florida Memorandum of Understanding (the "MOU") to provide a unified plan for the allocation and use of prospective settlement dollars from the Opioid Litigation (the "Opioid Funds"); and

WHEREAS, as part of the MOU's proposed framework, each year the Town's pro-rata share of Opioid Funds will be allocated as follows: (1) fifteen percent of Opioid Funds to the Town directly, (2) a variable sliding scale percentage of Opioid Funds to a regional fund, and (3) the remaining Opioid Funds to the State of Florida; and

WHEREAS, Opioid Funds allocated to the Miami-Dade County (the "County") Regional Fund will be administered and distributed to municipalities either by a corporate partner selected by the Florida Department of Children and Families or by the County if it enters into an interlocal agreement governing the use of Opioid Funds with 50% of municipalities within the County; and **WHEREAS,** the County has proposed entering into an interlocal agreement with the Town, attached hereto as Exhibit "A," that would govern the administration and distribution of Opioid Funds allocated to the County Regional Fund (the "Interlocal Agreement"); and

WHEREAS, due to the Town's longstanding and continuous relationship with the County, the Town Commission finds that approving and authorizing the execution of the Interlocal Agreement, in substantially the form attached hereto as Exhibit "A," will allow for greater transparency and communication in the administration of the Regional Opioid Funds; and

WHEREAS, the Town Commission finds that this Resolution is in the best interest and welfare of the residents of the Town.

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

Section 1. <u>Recitals.</u> That each of the above-stated recitals are hereby adopted, confirmed, and incorporated herein.

Section 2. <u>Approval.</u> That the Town Commission hereby approves the Interlocal Agreement, in substantially the form attached hereto as Exhibit "A."

Section 3. Authorization. Subject to the incorporation of any necessary amendments to the Interlocal Agreement identified by the Town Attorney and approved by the County, the Town Manager is hereby authorized to execute the Interlocal Agreement, in substantially the form attached hereto as Exhibit "A." The Town Manager is further authorized to execute any required or related agreements, amendments, or documents which are required to implement the purposes of this Resolution and the Interlocal Agreement, subject to the approval of the Town Attorney as to form, content, and legal sufficiency.

**Section 4. Implementation.** That the Town Manager is hereby authorized to take all actions necessary to implement the purposes of this Resolution and the Interlocal Agreement.

2

Section 5. Transmittal. That the Town Commission hereby directs the Town Clerk to transmit a copy of this Resolution to the County Mayor.

Section 6. Effective Date. This Resolution shall take effect immediately upon its adoption.

**PASSED AND ADOPTED** on this 11<sup>th</sup> day of January, 2022.

Motion By:	
Second By:	

# FINAL VOTE ON ADOPTION:

Commissioner Charles Kesl	
Commissioner Eliana R. Salzhauer	
Commissioner Nelly Velasquez	
Vice Mayor Tina Paul	
Mayor Charles W. Burkett	

Charles W. Burkett, Mayor

Attest:

Sandra McCready, MMC Town Clerk

Approved as to Form and Legal Sufficiency:

Weiss Serota Helfman Cole & Bierman, P.L. Town Attorney

#### OPIOID SETTLEMENT INTERLOCAL AGREEMENT GOVERNING USE OF MIAMI-DADE COUNTY REGIONAL FUNDING

THIS INTERLOCAL AGREEMENT ("Agreement") is made and entered into as of this \_\_\_\_\_\_ day of \_\_\_\_\_\_, 2021, by and between Miami-Dade County, a political subdivision of the State of Florida ("County") and \_\_\_\_\_\_\_, a municipal corporation of the State of Florida located within the geographic boundaries of Miami-Dade County, Florida ("City").

#### RECITALS

WHEREAS, during the 2010s, failures in the manufacture and distribution reporting systems for opioids, such as noncompliance with the Controlled Substances Act as well as the over-prescribing of opioids, resulted in opioid abuse, misuse, overdoses, addictions, and deaths throughout municipalities, counties, and states across the nation and contributed to the public health emergency and crisis commonly referred to as the opioid epidemic; and

**WHEREAS**, the opioid epidemic was also driven by increased consumption and the widespread availability of pharmaceutical opioids; and

WHEREAS, additionally, companies involved in the pharmaceutical supply chain including, but not limited to, distributors, manufacturers, dispensing companies, and marketing agencies contributed to the great harm suffered by the State of Florida and Miami-Dade County as a result of the opioid epidemic; and

**WHEREAS**, the State of Florida and Miami-Dade County as well as many of the municipalities therein were directly and detrimentally impacted by the opioid epidemic; and

**WHEREAS**, among other things, during the referenced timeframe, Florida ranked fourth in the nation for total health care costs attributed to opioid abuse and had the 11th highest drug overdose mortality rate in the nation with the number of drug overdose deaths in the state doubling from 1999 to 2014; and

**WHEREAS**, in addition, according to the 2015 annual report by the Florida Department of Law Enforcement, in the first half of 2015, heroin deaths jumped 100 percent in Miami-Dade County compared to the same period from the previous year, and deaths linked to fentanyl rose by 310 percent; and

**WHEREAS**, in response to such grim statistics and the crippling impact the opioid epidemic was having on Miami-Dade County, on January 24, 2017, the Miami-Dade Board of County Commissioners ("Board of County Commissioners") approved Resolution No. R-198-17, and created the Miami-Dade Opioid Addiction Task Force ("Task Force"); and

WHEREAS, the Task Force was charged with developing a comprehensive opioid addiction action plan to halt the opioid epidemic in Miami-Dade County, and make

recommendations to (1) reduce opioid overdoses, (2) prevent opioid misuse and addiction, (3) increase the number of persons seeking treatment, and (4) support persons in Miami-Dade County who are recovering from addiction; and

**WHEREAS**, at the July 6, 2017 Board of County Commissioners' meeting, the Task Force presented its Final Report, which included 26 recommendations and on April 26, 2019, the Task Force issued its 2019 Implementation Plan, which: (1) includes 25 recommendations—two of its recommendations were merged—from the Final Report; (2) provides the current status of such recommendations, i.e., In Progress, Ongoing and Complete; and (3) recognizes that the end of the opioid epidemic does not end with conclusion of the Task Force and provides that when the Task Force sunset on April 30, 2019, its work would transition to the Miami-Dade County Addiction Services Board; and

**WHEREAS**, the opioid epidemic necessitated the County and City to expend funding to address matters directly related to the public health crisis, including but not limited to educational materials or safety materials; and

WHEREAS, the opioid epidemic has not waned in the County or City; and

WHEREAS, the City continues to suffer the financial strain caused by the opioid epidemic; and

**WHEREAS**, likewise, the County endures the fiscal toll of the opioid epidemic while it continues to offer programing and services countywide to combat and mitigate the harmful effects of same in the community; and

**WHEREAS**, due to the opioid crisis, many governmental entities throughout the country filed lawsuits against opioid manufacturers, distributors, and retail pharmacies to seek redress for the great harm caused by the opioid epidemic; and

**WHEREAS**, said litigating governmental entities include Miami-Dade County and nearly a quarter of the municipalities located therein; and

**WHEREAS**, the lawsuits filed by the litigating governmental entities and the County were consolidated with thousands of other lawsuits filed by state, tribal and local governmental entities in *In re: National Prescription Opiate Litigation*, MDL No. 2804 (N.D. Ohio) ("Opioid MDL"); and

WHEREAS, although negotiations regarding potential settlements of claims raised against some Opioid MDL defendants are ongoing, other defendants have tentatively reached settlement agreements; and

**WHEREAS**, specifically, on behalf of the State of Florida and its local governments, the Florida Attorney General ("Attorney General") has tentatively reached two multi-year settlement agreements among various parties including: (1) McKesson Corporation, Cardinal Health, Inc.,

and AmerisourceBergen Corporation; and (2) Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc. and Janssen Pharmaceutica, Inc. (collectively, the "Settlement Agreements"); and

WHEREAS, pertinent negotiated terms of the Settlement Agreements include: (1) the settlement funds will be distributed to the State of Florida over an 18-year period as part of a global settlement, irrespective of whether the local government filed suit; (2) local governments must enter into the Florida Opioid Allocation and Statewide Response Agreement (the "Allocation Agreement"), attached hereto as Exhibit A, with the Attorney General to receive settlement monies; (3) the Allocation Agreement divides settlement monies into three funds, i.e., City/County Fund, Regional Fund, and State Fund; and

**WHEREAS**, the Allocation Agreement provides for the manner of distribution into each fund and purposes for which the monies may be used; and

**WHEREAS**, the Allocation Agreement requires that the County be deemed a "Qualified County" to be eligible to manage monies from the Regional Fund; and

WHEREAS, specifically, pursuant to the Allocation Agreement, a Qualified County is a county "that has a Population of at least 300,000 individuals and: (a) has an opioid task force or other similar board, commission, council, or entity (including some existing sub-unit of a County's government responsible for substance abuse prevention, treatment, and/or recovery) of which it is a member or operates in connection with its municipalities or others on a local or regional basis; (b) has an abatement plan that has been either adopted or is being utilized to respond to the opioid epidemic; (c) is, as of December 31, 2021, either providing or is contracting with others to provide substance abuse prevention, recovery, and treatment services to its citizens; and (d) has or enters into an interlocal agreement with a majority of Municipalities (Majority is more than 50% of the Municipalities' total population)" related to the expenditure of funds; and

WHEREAS, the parties recognize that local control over the Regional Fund is in the best interest of all persons within the geographic boundaries of Miami-Dade County and ensures that Regional Fund monies are available and used to address opioid-related matters within Miami-Dade County and are, therefore, committed to the County qualifying as a "Qualified County" and thereby receiving Regional Fund monies pursuant to the Allocation Agreement,

**NOW, THEREFORE**, in consideration of the mutual covenants and promises contained herein, the parties agree as follows:

#### Section 1. DEFINITIONS

- A. Unless otherwise defined herein, all defined terms in the Allocation Agreement are incorporated herein and shall have the same meanings therein.
- B. "Miami-Dade County Regional Funding" shall mean the amount of the Regional Fund distributed and paid to Miami-Dade County in its role as a Qualified County.

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# Section 2. CONDITIONS PRECEDENT

This Agreement shall become effective on the Commencement Date set forth in Section 4, as long as the following conditions precedent have been satisfied:

- A. Miami-Dade County being determined by the State of Florida to qualify as a "Qualified County" to receive and disburse Regional Fund monies under the Allocation Agreement;
- B. Execution of this Agreement by the County and the City as required by the Allocation Agreement to enable Miami-Dade County to become a Qualified County and directly receive and disburse Miami-Dade County Regional Funding to the City;
- C. Execution of all documents necessary to effectuate the Allocation Agreement in its final form; and
- D. Filing of this Agreement with the Miami-Dade County Clerk of the Courts as provided in section 163.01(11), Florida Statutes.

# Section 3. EXECUTION

This Agreement may be signed in counterparts by the parties hereto.

# Section 4. TERM

The term of this Agreement and the obligations hereunder, commence upon the satisfaction of all conditions precedent identified in Section 2 above, run concurrently with the Allocation Agreement, and will continue until one (1) year after the expenditure of all Miami-Dade County Regional Funding, unless otherwise terminated in accordance with the provisions of the Allocation Agreement. Obligations under this Agreement which by their nature should survive, including, but not limited to any and all obligations relating to record retention, audit, and indemnification will survive the termination or expiration of this Agreement.

# Section 5. MIAMI-DADE COUNTY REGIONAL FUNDING

- A. Miami-Dade County Regional Funding must be used in accordance with the requirements of the Allocation Agreement.
- B. Miami-Dade County Regional Funding may be used to enhance current programs or develop new programs. However, Miami-Dade County Regional Funding is not intended to supplant current funding sources or general funds.
- C. Administrative Costs The County is responsible for administering Miami-Dade County Regional Funding remitted pursuant to the Allocation Agreement and, County staff shall provide all support services including, but not limited to legal services, as

well as contract management, program monitoring, and reporting required by the Allocation Agreement. Accordingly, the County and City agree that the County is entitled to the maximum allowable administrative fee pursuant to the Allocation Agreement. The administrative fee will be deducted annually from Miami-Dade County Regional Funding, and the remaining funds will be spent as provided in the Allocation Agreement and distributed as provided herein.

- D. The City shall receive no more than its pro rata share of Miami-Dade County Regional Funding, based on the Negotiation Class Metrics provided for in the Allocation Agreement.
- E. Pursuant to the Allocation Agreement, the City and County may pool, commingle, or otherwise transfer, their shares of funds, in whole or part, to another county or municipality by written agreement.
- F. The County shall disburse the City's pro rata share of Miami-Dade County Regional Funding no later than 60 days from its receipt of such funding from the State.
- G. The City is encouraged to disburse a portion of its pro rata share of Miami-Dade County Regional Funding to Jackson Health System for the purposes provided for in the Allocation Agreement.

#### Section 6. LOCAL GOVERNMENT REPORTING REQUIREMENTS

To the extent that the City receives Miami-Dade County Regional Funding directly from the County, the City must spend such funds for Approved Purposes and must timely satisfy all reporting requirements of the Allocation Agreement. Failure to comply with this provision may disqualify the City from further direct receipt of Miami-Dade County Regional Funding. This remedy is not exclusive. The County has all rights at law and in equity arising from the City's non-compliance with or breach of this Agreement. In addition, the City shall:

- i. Prior to May 31st of each year, provide information to the County about how it intends to expend its allocated portion of Miami-Dade County Regional Funding in the upcoming year;
- ii. Report expenditures of its allocated portion of Miami-Dade County Regional Funding to the County no later than July 31st for the prior fiscal year of July 1 June 30 annually; and
- iii. comply with the administrative requirements of the Allocation Agreement, including but not limited to, recordkeeping, reporting, monitoring, evaluation, and auditing.

#### Section 7. NON-APPROPRIATION

This Agreement is not a general obligation of the County. It is understood that neither this Agreement nor any representation by any County official, officer, or employee creates any obligation to: (a) appropriate or make monies available for the purposes of the Agreement beyond the fiscal year in which this Agreement is executed; nor (b) appropriate or make monies available for the purposes of this Agreement other than from Miami-Dade County Regional Funding. The obligation in any given fiscal year to budget and appropriate from available Miami-Dade County Regional Funding annually which are designated for regional use pursuant to the terms of the Allocation Agreement. No liability shall be incurred by the County beyond the funds budgeted and available for the purpose of the Agreement from Miami-Dade County Regional Funding. If funds are not received by the County from the Regional Fund for a new fiscal period, the County is not obligated to pay or spend any sums contemplated by this Agreement beyond the portions for which funds were received and appropriated. The County agrees to promptly notify the City in writing of any subsequent non-appropriation, and upon such notice, this Agreement will terminate on the last day of the then current fiscal year without penalty to the County.

# Section 8. INDEMNIFICATION

Subject to the limitations of section 768.28, Florida Statutes, as it may be amended, the City shall indemnify, defend, and hold harmless the County and its officers, employees, agents, and instrumentalities from any and all liability, losses, or damages, including attorney's fees and costs of defense, which the County or its officers, employees, agents, or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to, or resulting from the performance of this Agreement by the City or its employees, agents, servants, partners, principals or subcontractors. Additionally, the City shall pay all claims and losses in connection therewith and shall investigate and, at the option of the County, defend all claims, suits, or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon, subject to the limitations of section 768.28, Florida Statutes, as may be amended. City expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by City or self-insurance shall in no way limit the responsibility to indemnify, keep, and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided.

# Section 9. AUDITS AND INTERNAL REVIEWS BY THE OFFICE OF MANAGEMENT AND BUDGET, OFFICE OF MIAMI-DADE COUNTY INSPECTOR GENERAL AND THE COMMISSION AUDITOR

The City understands that it may be subject to an audit, random or otherwise, by the Office of the Miami-Dade County Inspector General or an Independent Private Sector Inspector General retained by the Office of the Inspector General, or the County Commission Auditor.

Office of the Inspector General. The attention of the City is hereby directed to the requirements of Section 2-1076 of the County Code in that the Office of the Miami-Dade County Inspector General ("IG") shall have the authority and power to review past, present and proposed County programs, accounts, records, contracts and transactions. The IG may, on a random basis, perform audits on all County contracts throughout the duration of said contract (hereinafter "random audits"). This random audit is separate and distinct from any other audit by the County. Grant recipients are exempt from paying the cost of the audit which is normally ¼ of 1 percent of the total contract amount.

The IG shall have the power to subpoena witnesses, administer oaths and require the production of records. Upon ten (10) days written notice to the City from IG, the City shall make all requested records and documents available to the IG for inspection and copying. The IG shall have the power to report and/or recommend to the Board of County Commissioners whether a particular project, program, contract or transaction is or was necessary and, if deemed necessary, whether the method used for implementing the project or program is or was efficient both financially and operationally. Monitoring of an existing project or program may include reporting whether the project is on time, within budget and in conformity with plans, specifications, and applicable law. The IG shall have the power to analyze the need for, and reasonableness of, proposed change orders.

The IG shall have the power to audit, investigate, monitor, oversee, inspect, and review the operations, activities and performance and procurement process including, but not limited to, project design, establishment of bid specifications, bid submittals, activities of the contractor, its officers, agents and employees, lobbyists, County staff and elected officials in order to ensure compliance with contract specifications and detect corruption and fraud.

The IG is authorized to investigate any alleged violation by a City of its Code of Business Ethics, pursuant to Section 2-8.1 of the County Code.

The provisions in this section shall apply to the City, its subcontractors, and their respective officers, agents, and employees. The City shall incorporate the provisions in this section in all contracts and all other agreements executed by its subcontractors in connection with the performance of this Agreement. Any rights that the County has under this Section shall not be the basis for any liability to accrue to the County from the City, its subcontractors, or third parties for such monitoring or investigation of for the failure to have conducted such monitoring or investigation and the County shall have no obligation to exercise any of its rights for the benefit of the City, its contractors or third parties.

Nothing in this Agreement shall impair any independent right of the County to conduct audit or investigative activities. The provisions of this section are neither intended nor shall they be construed to impose any liability on the County by the City or third parties.

# Section 10. NOTICES

All notices or communication under this Agreement shall be in writing and deemed received if delivered by certified or electronic mail to the persons identified below:

In the case of notice or communication to CITY:

# TO BE ADDED BY THE CITY

In the case of notice or communication to MIAMI-DADE COUNTY:

MIAMI-DADE COUNTY Attn: Daniel T. Wall, Assistant Director Miami-Dade County Office of Management and Budget 111 N.W. 1st Street, 22nd Floor Miami, Florida 33128 Daniel.Wall@miamidade.gov

With a copy to:

MIAMI-DADE COUNTY Attn: County Attorney, Miami-Dade County Attorney's Office 111 N.W. 1st Street, Suite 2810 Miami, Florida 33128 <u>gbk@miamidade.gov</u>

All notices required by this Agreement shall be considered delivered upon receipt. Should any party change its address or contact person, written notice of such new address or contact person shall be promptly sent to the other party.

#### Section 11. SEVERABILITY

If any provision of this Agreement is held invalid or void, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.

# Section 12. AMENDMENTS TO AGREEMENT

This Agreement may be amended, in writing, upon the express written approval of the governing bodies of both parties. Applicable amendments to the Allocation Agreement are deemed incorporated into this Agreement.

# Section 13. GOVERNING LAW

This Agreement shall be governed by the laws of the State of Florida.

#### Section 14. TOTALITY OF AGREEMENT / SEVERABILITY OF PROVISIONS

This Agreement with its recitals on the first page of the Agreement, signatures on the last page and exhibit as referenced below contain all the terms and conditions agreed upon by the parties:

Exhibit A: Florida Opioid Allocation and Statewide Response Agreement

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties have caused this AGREEMENT to be executed in their respective corporate names and their corporate seals to be affixed by duly authorized officers, all on the day and year first set forth above.

Countersigned:	CITY OF , FLORIDA
Mayor-Commissioner	By: City Manager
APPROVED AS TO FORM AND LEGAL SUFFICIENCY:	Attest:
	City Clerk
	MIAMI-DADE COUNTY, FLORIDA
ATTEST:	By: Mayor or Mayor's Designee
CLERK	
	APPROVED AS TO FORM AND LEGAL SUFFICIENCY:
	BY: Assistant County Attorney



# Town of Surfside Town Commission Meeting January 11, 2022 Town Hall Commission Chambers - 9293 Harding Ave, 2<sup>nd</sup> Floor Surfside, FL 33154

# Agenda #:Date:January 4, 2022From:Vice Mayor Tina PaulSubject:Ordinance Securing Construction Sites, Safety and Other Requirements

**Consideration** – At the December 14, 2021 Town Commission meeting, the Commission directed Town Staff to prepare an ordinance to provide uniform requirements and conditions for the securing of construction sites and protections to adjacent neighboring properties during all phases of construction work.

With most of the focus on older buildings since the Champlain Tower South building collapse, the relationship of new development next to existing buildings needs to be reevaluated.

When considering new building projects, the impacts of demolition, excavation, dewatering, and construction on adjacent buildings require extra care to protect the structural integrity of the neighboring properties and the safety of its inhabitants. New buildings that rise above or extend below adjacent ones present additional risks and increase the need for evaluation.

In standardizing requirements and regulations for protections during new building projects, such as containment of hazardous dust and debris, monitoring wells for water table levels, and seismic monitoring and vibration reports of neighboring properties should be required of new building projects. These monitoring activities shall be shared with neighbors directly and posted on the interactive website to keep neighbors informed. Additionally, a builder will be required to perform a structural assessment of neighboring buildings before and after construction and share those results with neighbors to incentivize responsible construction activities that are respectful to their neighbor.

**Recommendation** – Adopt this Ordinance on first reading to require specific safety practices, standards and accountability for protection and monitoring of existing buildings adjacent to new building projects during all phases of demolition and new construction.

#### ORDINANCE NO. 22 -

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY CREATING ARTICLE V - "CONSTRUCTION SITES", CONSISTING OF SECTION 14-104 "SECURING OF CONSTRUCTION SITES, SAFETY, AND OTHER REQUIREMENTS", OF CHAPTER 14 - "BUILDINGS AND BUILDING REGULATIONS", TO **PROVIDE FOR SECURING OF CONSTRUCTION SITES** AND PROTECTIONS TO ADJACENT AND NEIGHBORING **PROPERTIES:** PROVIDING FOR **SEVERABILITY;** PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN **EFFECTIVE DATE.** 

WHEREAS, Article VIII, Section 2 of the Florida Constitution, and Chapter 166, Florida
 Statutes, provide municipalities with the authority to exercise any power for municipal purposes,
 except where prohibited by law, and to adopt ordinances in furtherance of such authority; and

WHEREAS, the Town Commission of the Town of Surfside ("Town Commission") finds it
 periodically necessary to amend its Code of Ordinances ("Code") in order to update regulations and
 procedures to maintain consistency with state law and to implement municipal goals and objectives
 for the general health, safety and welfare of the Town residents and occupants; and

8 **WHEREAS**, the Town Commission desires to adopt an ordinance to provide for uniform 9 requirements for construction sites so as to address impacts and enhance the protection of public 10 health, safety and welfare and preserve and protect the quality of life within the Town for residents 11 and the integrity of buildings in proximity to construction sites; and

WHEREAS, the Town Commission wishes to amend the Town Code to create Article V. – Construction Sites" consisting of Section 14-104 "Securing of Construction Sites, Safety, and Other Requirements", of Chapter 14 - "Buildings and Building Regulations", to address impacts from development and construction sites by providing uniform requirements and conditions for the securing of construction sites and protections to adjacent and neighboring properties; and

WHEREAS, on December 14, 2021 at its regular monthly meeting, the Town Commission directed staff to prepare an ordinance by providing uniform requirements and conditions for the

19 securing of construction sites and protections to adjacent and neighboring properties; and <sup>1</sup>Additions to the text are shown in <u>underline</u>. Deletions are shown in <del>strikethrough</del>.

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20	WHEREAS, this ordinance proposes to amend Chapter 14 – Buildings and Building
21	Regulations", by creating Article V "Construction Sites", of the Code, to add Section 14-104
22	"Securing of Construction Sites, Safety, and Other Requirements"; and
23	WHEREAS, the Town Commission held its first public hearing on January, 2022 and
24	recommended approval of the proposed amendments to the Code having complied with the notice
25	requirements in the Florida Statutes; and
26	WHEREAS, the Town Commission has conducted a second duly noticed public hearing on
27	these regulations as required by law on, 2022 and further finds the proposed
28	changes to the Code are necessary and in the best interest of the community.
29 30 31 32	NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA <sup>1</sup> :
33 34 35	Section 1. <u>Recitals</u> . The above Recitals are true and correct and are incorporated herein by this reference.
36 37 38 39	<u>Section 2.</u> <u>Town Code Amended</u> . Chapter 14 – "Buildings and Building Regulations", of the Surfside Town Code of Ordinances, is hereby amended to create Article V. – "Construction Sites", consisting of a new Section 14-104 – "Securing of Construction Sites, Safety and Other Requirements" which shall read as follows <sup>1</sup> :
40	<b>CHAPTER 14 – BUILDINGS AND BUILDING REGULATIONS</b>
41	* * *
42	ARTICLE V. – CONSTRUCITON SITES
43 44 45	Sec. 14-104. – Securing of Construction Sites, Safety, and Other Requirements
46 47 48	(1) <i>Definitions</i> . The following words or phrases when used in this section shall have the meanings ascribed to them:
49 50 51 52 53 54 55	<ul> <li>a. "Construction Site(s)" or "Site(s)" includes all sites where demolition, new construction, remodeling or additions take place, other than just interior work which is not visible or impacting to the exterior of the premises, other than a site solely consisting of a single-family or duplex residence which is not part of the construction of a larger development, unless as specifically provided otherwise.</li> <li>b. "Owner" and/or "Contractor" includes all owner(s) of the site and any contractor engaging in work at a site or pulling a building permit for the site.</li> </ul>

<sup>&</sup>lt;sup>1</sup> Additions to the text are shown in <u>underline</u>. Deletions to the text are shown in <del>strikethrough</del>.

56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 72	<ul> <li>c. "Secure" or "Security" in reference to items, includes fastening down or removing all hazardous objects on Construction Sites, including, but not limited to, construction shacks, temporary toilettes, roofing tile, building materials, trash, debris, insecure structures, trailers or containers, and temporary utility poles and facilities.</li> <li>d. "Secure" as applied to Site access, includes protecting the Construction Site during the hours described herein in subsection (2)(b) below by way of a locked fence surrounding the perimeter of the Site and/or the provision of a security guard.</li> <li>e. "Town" means the Town of Surfside, Florida.</li> <li>f. "Neighbor" a property that is located adjacent to, including across a street from the Construction Site, or an owner of such property. When such property is owned in the form of a condominium, the term shall include the common areas, individual units, the association and all owners of individual units. Where the term "abutting" is used, it refers to those neighbors that have one or more property lines contiguous to the Construction Site.</li> </ul>
73	(2) Security of Construction Site: Prohibitions; Requirements.
74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93	<ul> <li>a. Construction Site Activities. Owner and contractor of a construction site shall not engage in any activity which poses a danger to persons located off of the construction site, from debris, materials or activities carried on at the construction site, and shall take necessary precautions, including single-family or duplex construction.</li> <li>b. Security of Site; Construction Fencing. Owner and contractor of a construction site, including single-family or duplex construction, shall secure the site from unauthorized access during any time that work is not permitted pursuant to section 14-32 of the Code by the use of a temporary fence of 8-feet or the maximum height allowable construction fence on all property lines in accordance with the Town Code. The fence shall also serve to minimize the blowing of sand and dust and construction sites fronting on Collins and Harding Avenues, the fence shall be structured, high quality fencing with openings for viewing from each property line.</li> <li>c. Access Roads Clear. Owner and contractor of a construction site, including single-family or duplex construction, shall keep all access roads to the construction site clear of debris for safe travel by authorized persons.</li> <li>d. Hurricanes; Tropical Storm. In the event that a hurricane watch or tropical</li> </ul>
94 95 96 97 98 99	storm warning is issued by the United States Weather Bureau or similar agency, the owner and contractor of a construction site, including single- family or duplex construction, shall comply with the requirements of section 8-16 of the Miami-Dade County Code, by taking all steps necessary to secure the construction site, including removal or securing of hazardous or loose objects.

100 101 102 103 104 105 106 107 108 109 110 111 112		<ul> <li>e. Activities in Right-of-Way. Any construction vehicles or equipment involved in construction at a site which block a public roadway or right-of-way shall require a Town right-of-way use permit and approval, with appropriate conditions, as issued by the Town Manager or his designee, 72 hours in advance of any such activities which impact a public right-of-way. Written notice shall be provided to all neighbors within 300 feet of the site (for condominiums, the condominium association or building management office) by hand delivery and posting on the construction site's interactive website at least 48 hours in advance of the anticipated blockage.</li> <li>f. Noise. Owner and contractor of a construction site shall comply with the restrictions of section 54-78 "Prohibited Noises" of the Town Code, which regulates noise related to construction activities. Construction activities that produce noise shall not be permitted during hours that construction is not remained blockage.</li> </ul>
113		permitted pursuant to section 14-32 of the Town Code.
114 115 116	(3)	<i>Construction Site Maintenance; Plan.</i> Owner and contractor of a construction site shall complete job site maintenance, on a daily basis, prior to the conclusion of each day's work. Daily job site maintenance shall include the following:
117		a. Sweeping of public roadways which are directly affected by construction
118		site dust, debris or activities;
119		b. Pick up and disposal of litter at or generated by the construction site;
120		c. Washing down of any street signs or public facilities which are impacted by
121		dust or debris from the construction site activity;
122 123		d. Stacking of materials and equipment which are visible from a public right- of-way in an orderly appearance;
124 125 126 127		e. Stacking of construction materials in a manner which assures that the materials and the material packaging shall not fall or be transported into any canals, lakes, drainage facilities or other water bodies in the vicinity of the site, or neighboring properties;
128 129		f. Watering of exposed loose earth at the site so as to minimize off-site transport of particulate matter; and
130		g. Remove standing water and provide pest control on the site, as needed;
131		
132	(4)	Erosion and Dust Control. In compliance with the Town's National Pollution
133		Discharge Elimination System (NDPES) permit requirements, prior to beginning
134		any demolition, clearing, grubbing or construction activities, as part of the building
135		permit process, the contractor shall submit a plan detailing the location and handling
136		of materials, soils and outlining the actions that will be taken to prohibit run-off of dirt and fluids upgetation on any other item into the Tourals stormuster system
137 138		dirt, sand, fluids, vegetation or any other item into the Town's stormwater system or onto adjacent property. The owner or contractor shall meet all requirements of the
139		Department of Public Works and Miami-Dade County with respect to storm drainage.
140 141	(5)	<i>Construction Job-Site Plan.</i> Owner and contractor shall comply with additional job site maintenance components, which are described in an applicable job-site plan (the
142		"Plan") for the construction site. The owner and contractor of any construction site

143 for a commercial or institutional project of greater than 10,000 square feet of floor 144 area and for any construction site for a residential project of greater than ten dwelling units, shall be required to present a Plan to the Town Manager or his designee for 145 146 approval prior to the issuance of a building permit by the Town Building Official. The Plan shall include the detailed plan of the owner and contractor of the 147 construction site for compliance with each of the requirements of this section. For 148 149 those construction sites for which an active building permit has already been issued, 150 prior to the final adoption of this section on \_\_\_\_\_, 2022, the Plan shall be submitted on or before \_\_\_\_\_, 2022. 151 152 i. The Town Manager or his designee shall review the Plan to determine in his or her discretion whether such Plan is in compliance with the 153 requirements of this section and otherwise provides for the protection 154 155 of the public health, safety and welfare. The Town Manager or his designee shall approve or reject any Plan within 30 days of its 156 submission by notifying the owner or contractor identified in the Plan. 157 158 The Town Manager or his designee shall identify the reasons for 159 rejection and provide an opportunity to cure the deficiencies noted. 160 161 ii. Owner or contractor of the construction site shall, at all times, abide by 162 the provisions of the approved Plan. The Plan shall be in effect from the date of approval until the completion of the construction project and 163 164 issuance of a Town certificate of occupancy. The Town may periodically require revisions to the Plan if problems arise with compliance or if there 165 166 is a change of conditions in the locale. 167 iii. In the event that the submitter of the Plan desires to make any material change with respect to any of the provisions of the Plan, the revisions 168 shall be communicated to the Town Manager in writing, for the Town 169 170 Manager's approval, in advance of the proposed change. Revisions shall 171 be processed in the same manner as the initial Plan. 172 (6) Compliance. Any person receiving notice from the Town's Building Official or 173 Town Manager to comply with this section shall not fail or neglect to promptly comply. Failure to adhere to the requirements of this section may result in suspension 174 175 or revocation of the building permit. 176 (7) Debris Control. All properties with on-going construction activities, including 177 single-family or duplex, shall maintain the Site in a neat and orderly manner. A trash 178 enclosure, dumpster or other container shall be maintained on-site at all times. Loose debris shall be placed within the enclosure. A cover shall be maintained over such 179 180 debris containers during periods when no construction activity is taking place. 181 (8) Additional Requirements. The following shall be required of all Construction Sites fronting on Collins Avenue and multifamily residential construction sites on Harding 182 183 Avenue during all phases of construction, unless waived or not required by the Town

184 185	Manager based on specific site conditions or terms of development, to address impacts from development and construction sites for the protection of neighboring properties:
186	a. <i>Seismic Monitoring</i> . Prior to issuance of the first building permit, including a
187	demolition permit, owner or contractor shall have a third-party company install
188	a seismic monitor(s) to be placed on the constructions site within one (1) foot
189	of any abutting neighbor's property and on the property of any property within
190	300 feet of the construction site that consents to same. The seismic monitor(s)
191	shall be maintained throughout construction. The seismic monitor(s) shall be
192	able to be monitored via the internet by the owner, contractor, neighbor, or any
193	property owner upon which a seismic monitor is placed.
194	b. Contact Information; Complaints. Owner or contractor shall provide contact
195	information to the Town Manager for the designated manager or supervisor on
196	duty for construction operations on the site. Owner or contractor shall maintain
197	an interactive website and provide a telephone contact number for 24-hour
198	access during construction and provide a response within 24 hours of the
199	posting of any complaint by a neighbor to the website. The website URL will
200	be advertised by the owner or contractor to Town residents. Owner or
201	contractor shall provide weekly reports of complaints filed and their resolution
202	to the Town Manager.
203	
204	c. Structural Assessments. At the request and approval of any neighbor, owner or
205	contractor shall pay for an independent structural engineer's pre-construction
206	engineering assessment of the building structure and condition of each abutting
207	neighbor's building before construction commences and a post-construction
208	engineering assessment of the building structure and condition after the
209	completion of construction. The assessments shall be provided to the affected
210	neighbor.
211	
212	d. <i>Water Table Monitoring</i> . Prior to issuance of the first building permit,
213	including a demolition permit, owner or contractor shall have a third-party
214	company install a monitoring well to be placed on the construction site within
215	one (1) foot of any abutting neighbor's property and on any property adjacent
216	to the construction site with consent for the purpose of monitoring the water
217 218	table. Monthly reports of the water table monitoring shall be provided to each
	neighbor.
219	a Restantion of Adjacent Readingue Owner and contractor shall restore all
220	e. <i>Restoration of Adjacent Roadways</i> . Owner and contractor shall restore all
221 222	adjacent roadways damaged by construction to Town of Surfside and FDOT standards prior to issuance of a certificate of occupancy. Owner or contractor
222 223	
223 224	shall maintain adjacent right-of-ways in a clean, passable condition throughout all construction and shall immediately repair divots and potholes that appear
224 225	all construction and shall immediately repair divots and potholes that appear thereon.
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f. *Building Permit Expiration*. In the event the owner or contractor obtains a building permit and the permit expires, the subject property shall comply with Section 14-55 entitled "Vacant lots or buildings" of the Town Code, including but not limited to, the posting of a bond to defray the cost the Town may incur if required to secure and maintain the site, if necessary, and as may be required by the Building Official.

- g. *Demolition Plan; Recycling*. Sixty (60) days prior to submittal of its request for a demolition permit, owner or contractor shall submit a demolition plan to the Town Manager and Town Building Official that meets all Federal, State, and local requirements, including all requirements of this section, provides for a containment barrier to retain dust debris on the site, and provides for recycling of a minimum of eighty percent (80%) of the demolition material. Additionally, a debris removal schedule and the results of any environmental tests shall be provided to the neighbors and the Town Building Official. Warning/Danger signs shall be provided in conspicuous places on the construction fence.
- h. Construction Parking Plan. The owner or contractor shall present evidence of a construction parking plan for the provision of off-street parking outside of Town limits or on owner or contractor's property within the Town, for construction workers during the period of construction of the approved project prior to the issuance of a building permit (the "Construction Parking Plan"). The owner and contractor shall direct all workers not to park their vehicles in residential neighborhoods or lease parking spaces from Town residents or park in Town parking lots and Town parking metered spaces. The Construction Parking Plan shall be reviewed, and if found satisfactory, approved by the Town Manager prior to the issuance of a building permit. The owner or contractor and the owner or contractor's sub-contractors are responsible to enforce the Construction Parking Plan with all employees, contractors and subcontractors. The owner shall be fined five hundred dollars (\$500) for the first parking ticket and one thousand dollars (\$1,000) for each subsequent parking ticket issued to construction workers for parking in residential neighborhoods or Town public parking in violation of this subsection while working on the construction site (limit of one fine per vehicle per day). The Construction Parking Plan shall provide the following:
  - i. Owner and contractor agrees that all contractor and subcontractor agreements applicable to this development shall include a separate clause prohibiting construction workers from parking on residential streets or Town public parking and that owner or contractor shall submit the proposed clause for the approval of the Town Manager or designee together with submittal of the first building permit for the project.
  - ii. Owner or contractor shall provide weekly reports to the Town Manager of any problems or complaints with regard to workers parking their vehicles in residential neighborhoods or Town public parking areas. If the Town Manager deems necessary, the owner or contractor shall

272	provide more frequent reports and develop additional preventive
273	measures to protect the residential neighborhoods.
274	
275	i. Permit Requirements of Other Jurisdictions. The owner and contractor shall
276	comply with all applicable conditions and permit requirements of Miami-Dade
277	County's Department Regulatory and Environmental Resources, the Miami-
278	Dade County Fire/Rescue Department, the Water and Sewer Department,
279	Florida Department of Environmental Protection (FDEP), the Florida
280	Department of Transportation (FDOT) and all other applicable regulatory
281	agencies, prior to and during construction of the project.
282	
283	j. Construction Schedule. Owner or contractor shall provide the Town Manager
284	with a detailed schedule for the construction of the project to be submitted
285	concurrently with the first building permit application (the "Construction
286	Schedule"). Any modification to the Construction Schedule shall be submitted
287	to the Town Manager at least 72 hours before the modification takes effect.
288	
289	k. Construction Staging. Owner or contractor shall stage construction on the
290	construction site to minimize traffic interruption and lane closures, except for
291	temporary instances where it is demonstrated to the satisfaction of the Town
292	Manager that temporary off-site staging is necessary to effectuate the
293	construction. Owner and contractor shall ensure that no loads are suspended
294	over right-of-ways or a neighbor's property.
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200	
296	Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance is
297	held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall
298	in no way affect the validity of the remaining portions of this Ordinance.
299	Section 4. Inclusion in the Code. It is the intention of the Town Commission, and it is
300	hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of
301	Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to
302	accomplish such intentions; and the word "Ordinance" may be changed to "Section" or other
303	appropriate word.
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305	Section 5. Conflicts. Any and all ordinances and resolutions or parts of ordinances or
306	resolutions in conflict herewith are hereby repealed.
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308	Section 6. Effective Date. This ordinance shall become effective upon adoption.
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309	
310	<b>PASSED</b> and <b>ADOPTED</b> on first reading this day of January, 2022.
311	
312	<b>PASSED</b> and <b>ADOPTED</b> on second reading thisday of, 2022.
313	

315       First Reading:         316       Motion by:	314				
317       Second by:         318         319         320       Second Reading:         321       Motion by:         322       Second by:         323         324         325       FINAL VOTE ON ADOPTION         326       Commissioner Charles Kesl         327       Commissioner Charles Kesl         328       Commissioner Nelly Velasquez         329       Vice Mayor Tina Paul         330       Mayor Charles W. Burkett         331       Mayor         332       Charles W. Burkett         333       Mayor         334       ATTEST:         335       Sandra N. McCready, MMC         336       Town Clerk         340       APPROVED AS TO FORM AND LEGALITY FOR THE USE         341       APPROVED AS TO FORM AND LEGALITY FOR THE USE         342       AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:         343       44         344       444         345       444         346       Weiss Serota Helfman Cole & Bierman, P.L.         347       Town Attorney	315	First Reading:			
317       Second by:         318       Motion by:         320       Second Reading:         321       Motion by:         322       Second by:         323       Second by:         324       Second by:         325       FINAL VOTE ON ADOPTION         326       Commissioner Charles Kesl         327       Commissioner Nelly Velasquez         328       Commissioner Nelly Velasquez         329       Vice Mayor Tina Paul         330       Mayor Charles W. Burkett         331       Mayor         332       Charles W. Burkett         333       Mayor         334       ATTEST:         335       Sandra N. McCready, MMC         336       Town Clerk         400       APPROVED AS TO FORM AND LEGALITY FOR THE USE         411       APPROVED AS TO FORM AND LEGALITY FOR THE USE         422       AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:         343       44         444       45         445       444         446       Weiss Serota Helfman Cole & Bierman, P.L.         347       Town Attorney	316	Motion by:			
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322       Second by:         323         324         325         326         327         Commissioner Charles Kesl         327         Commissioner Nelly Velasquez         329         Vice Mayor Tina Paul         330         Mayor Charles W. Burkett         331         332         Charles W. Burkett         333         334         ATTEST:         335         336         337         338         Sandra N. McCready, MMC         339         Town Clerk         340         341         APPROVED AS TO FORM AND LEGALITY FOR THE USE         341         APPROVED AS TO FORM AND LEGALITY FOR THE USE         342         343         344         344         345         346         Weiss Serota Helfman Cole & Bierman, P.L.         347         Town Attorney	320	Second Reading:			
322       Second by:         323         324         325         326         327         Commissioner Charles Kesl         327         Commissioner Nelly Velasquez         329         Vice Mayor Tina Paul         330         Mayor Charles W. Burkett         331         332         Charles W. Burkett         333         334         ATTEST:         335         336         337         338         Sandra N. McCready, MMC         339         Town Clerk         340         341         APPROVED AS TO FORM AND LEGALITY FOR THE USE         341         APPROVED AS TO FORM AND LEGALITY FOR THE USE         342         343         344         344         345         346         Weiss Serota Helfman Cole & Bierman, P.L.         347         Town Attorney	321	Motion by:			
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325       FINAL VOTE ON ADOPTION         326       Commissioner Charles Kesl         327       Commissioner Eliana R. Salzhauer         328       Commissioner Nelly Velasquez         329       Vice Mayor Tina Paul         330       Mayor Charles W. Burkett         331       Charles W. Burkett         332       Charles W. Burkett         333       Mayor         334       ATTEST:         335       Generation         336       Mayor         337       Charles W. Burkett         338       Sandra N. McCready, MMC         339       Town Clerk         400       APPROVED AS TO FORM AND LEGALITY FOR THE USE         411       APPROVED AS TO FORM AND LEGALITY FOR THE USE         422       AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:         343       Mayon         344       Mayon         345       Meiss Serota Helfman Cole & Bierman, P.L.         347       Town Attorney	323				
326       Commissioner Charles Kesl         327       Commissioner Eliana R. Salzhauer         328       Commissioner Nelly Velasquez         329       Vice Mayor Tina Paul         330       Mayor Charles W. Burkett         331       Charles W. Burkett         332       Charles W. Burkett         333       Mayor         334       ATTEST:         335       Charles W. Burkett         336       Mayor         337       Charles W. Burkett         338       Sandra N. McCready, MMC         339       Town Clerk         340       APPROVED AS TO FORM AND LEGALITY FOR THE USE         341       APPROVED AS TO FORM AND LEGALITY FOR THE USE         342       AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:         343       Weiss Serota Helfman Cole & Bierman, P.L.         347       Town Attorney	324				
327       Commissioner Eliana R. Salzhauer         328       Commissioner Nelly Velasquez         329       Vice Mayor Tina Paul         330       Mayor Charles W. Burkett         331	325	FINAL VOTE ON ADOPTION			
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### Town of Surfside Town Commission Meeting January 11, 2022 7:00 pm Town Hall Commission Chambers - 9293 Harding Avenue, 2<sup>nd</sup> Floor Surfside, FL 33154

Date:	Tuesday January 11 <sup>th</sup> , 2022, Commission Meeting
Prepared by:	Commissioner Eliana R. Salzhauer
Subject:	Ordinance re: Building Recertification "Don't WaitAccelerate!"
	Changes Necessary to Prevent Another Building Collapse Catastrophe. (In Honor of
	Champlain Towers South victims)

**Objective:** To secure the health, safety, and welfare of the Surfside community. Take swift action to improve upon the County's current building re-certification schedule and standards. Implement "Don't Wait...Accelerate" inspection requirements & testing as outlined in the attached Ordinance and its Exhibits A, B, & C.

Reduce 40-year inspections to a minimum of 30-years (or sooner if the County later dictates) and add the requirement of geotechnical subterranean testing & structural inspections to ensure that buildings are stable both above and below ground.

Such voluntary measures were initially "requested" by Surfside's Building Department & KCE Engineering experts. Surfside now needs to take the next logical step and REQUIRE that these changes be adopted for all multifamily, commercial, and hotel structures over 3 stories. Surfside's Commission should unanimously approve these changes to ensure the continued health, safety, and welfare of its Surfside residents and visitors.

### **Consideration:**

From that unforgettable 1<sup>st</sup> phone call on June 24<sup>th</sup> at 1:30am from our Town Manager, and through the difficult weeks that have followed, watching our community rise to the challenges of comforting Champlain South survivors, bereaved families, and each other through this unprecedented horror has been truly inspiring. With the eyes of the world watching, our tiny town sprang into action, mobilizing resources and turning "thoughts and prayers" into action.

We set aside our differences and rolled up our sleeves to assist in every way possible, from feeding families and frontline workers, to fundraising for friends who had lost everything. Bad things happened to good people and great neighbors responded.

But even after every victim is laid to rest, Surfside's grieving journey is far from over. Of the hundreds of old buildings in Miami, why did this unspeakable tragedy occur in Surfside? Perhaps because





### Town of Surfside Town Commission Meeting January 11, 2022 7:00 pm Town Hall Commission Chambers - 9293 Harding Avenue, 2<sup>nd</sup> Floor Surfside, FL 33154

Surfside is uniquely positioned to transform this tragedy into triumph. To ensure that every angle is investigated and that real changes are made to building codes and inspection protocols to ensure that this never happens again. To ensure that our loved ones did not perish in vain.

Even life in a paradise can be tragically unpredictable. Action & Inaction can have lifealtering consequences. Let's recognize the Champlain Towers South collapse as the wake-up call to action that it is.

Reducing the 40-year re-certification inspections to 30 years and requiring geotechnical subterranean testing is a good start. The Commission should follow Jim McGuiness & Allyn Kilsheimer's recommendations to improve our inspection and testing timeline and protocols.

We've been repeatedly told that the County is "working on changes," and yet it has been over 6 months since the tragic Chaplain Towers South collapse, and nothing substantial has changed. We cannot wait for the glacial pace of big government to remedy this defective process. Waiting for formal changes from the County continues to endanger our residents on a daily basis. Continuing to operate under a delayed & defective inspection protocol and 40-year timeline is unacceptable.

Our Commission's allegiance is to the residents of Surfside - their health, safety, & welfare must take precedence over politics.

Now that we have been put "on notice" that the current 40-year recertification process is insufficient, it would be inexcusable to not tighten standards and close loopholes. We cannot, in good conscience, wait around for a "perfect" solution from the County knowing how defective the current protocol is.

Thoughts and prayers are not sufficient. We need real change, and we need it TODAY.

We can never undo the emotional toll and lives lost, but we can take steps to ensure that our beloved residents did not perish in vain. We need to take an active role in ensuring that changes are made, justice is served, and that their memories never be forgotten.



Town of Surfside Town Commission Meeting January 11, 2022 7:00 pm Town Hall Commission Chambers - 9293 Harding Avenue, 2<sup>nd</sup> Floor Surfside, FL 33154

The following documents are attached to this memo in support of this Ordinance:

- 1. Ordinance Regarding Building Recertification (AKA "Don't Wait Accelerate")
- 2. Exhibit A: "Improvement to 40-year process: Recommendations of the Consortium of Miami-Dade County Building Officials" (undated graphic)
- 3. Exhibit B: "Miami-Dade County Board of Rules and Appeals (BORA) Revised Forty-Year Building Recertification General Considerations and Guidelines" (dated 11/23/2021)
- 4. Exhibit C: KCE Structural Engineers P.C. Memo #1 dated 7/7/2021 "Recommended Structural Engineering Evaluations for Multifamily or Commercial Multi-story Structures.

### **Recommendation:**

Surfside's Commission should unanimously adopt this Ordinance re: Building Recertification (1<sup>st</sup> Reading): "Don't Wait...Accelerate! Changes Necessary to Prevent Another Building Collapse Catastrophe" in honor of Champlain Towers South victims and survivors to ensure the continued health, safety, and welfare of our shared Surfside community.

#### ORDINANCE NO. 2022 - \_\_\_\_\_

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY CREATING A **NEW SECTION 14-3, "RECERTIFICATION OF EXISTING** BUILDINGS", IN ARTICLE I. - "IN GENERAL", OF 14 **BUILDINGS** AND CHAPTER -**BUILDING REGULATIONS", TO ADOPT AND INCORPORATE** SECTION 8-11. - "EXISTING BUILDINGS" OF THE **MIAMI-DADE COUNTY CODE OF ORDINANCES WITH MODIFICATIONS IN FURTHERANCE OF THE "DON'T** WAIT, ACCELERATE" PLAN TO IMPROVE BUILDING SAFETY; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR **CONFLICTS; AND PROVIDING FOR AN EFFECTIVE** DATE.

WHEREAS, Article VIII, Section 2 of the Florida Constitution, and Chapter 166, Florida
 Statutes, provide municipalities with the authority to exercise any power for municipal purposes,
 except where prohibited by law, and to adopt ordinances in furtherance of such authority; and

WHEREAS, the Town Commission of the Town of Surfside ("Town Commission") finds it
 periodically necessary to amend its Code of Ordinances ("Code") in order to update regulations and
 procedures to maintain consistency with state law and to implement municipal goals and objectives
 for the general health, safety and welfare of the Town residents and occupants; and

8 WHEREAS, following the tragic collapse of the Champlain Towers South Condominium
 9 building, the Town Commission recognizes the importance of providing enhanced monitoring of
 10 certain aging buildings within the Town that may put residents, guests, invitees, and others at
 11 increased risk; and

WHEREAS, Section 8-11. – "Existing Buildings" of the Miami-Dade County Code of Ordinances (the "County Code") requires recertification of buildings (except single-family residences, duplexes and minor structures as defined in the County Code) and components prior to 40 years from their date of Certificate of Occupancy, including the requirement for specific inspection of existing buildings and structures for the purpose of determining the general structural condition of the building or structure and of its electrical systems pursuant to the

<sup>1</sup>Additions to the text are shown in <u>underline</u>. Deletions are shown in <del>strikethrough</del>.

Page  ${\bf 1}$  of  ${\bf 6}$ 

Building Code, and furnishing the Building Official with a written report of such inspection asprescribed therein; and

20

21 WHEREAS, in the aftermath of the Champlain Towers South collapse, a consortium of 22 building officials based in Miami-Dade County convened to discuss improvements to the 23 recertification requirements contained in Section 8-11 of the County Code and have recommended the following requirements, as provided in Exhibit "A": (1) Building official to provide notice of 24 25 recertification requirements to the owner at least two years prior to the due date for recertification; 26 (2) The first building recertification to occur on or before 30 years from the issuance of the 27 Certificate of Occupancy; (3) Recertification reports for structural matters to be performed by a 28 licensed structural engineer; (4) A structural engineer's letter certifying continued occupancy for 29 any extensions of recertification deadlines or during repairs, and renewed certifications of safe 30 occupancy every six months thereafter; (5) Engineer evaluating a building for recertification to 31 submit any reports or comments to the building official with jurisdiction upon issuance to the 32 owner; and (6) Posting of unsafe structure notices in a conspicuous location for buildings owned 33 by multiple owners such as condominiums and co-operatives; and

WHEREAS, the Board of County Commissioners has not yet acted by adopting an ordinance
 amending Section 8-11 of the County Code on the recommendations made by the consortium of
 building officials; and

WHEREAS, on November 23, 2021, the Miami-Dade County Board of Rules and Appeals
issued enhanced guidelines for 40-year building recertification that are attached hereto as Exhibit
"B;" and

WHEREAS, the Town had previously promulgated guidance regarding geotechnical testing
as provided in Memo #1 from KCE Structural Engineers, P.C., on July 7, 2021, attached hereto as
Exhibit "C;" and

WHEREAS, the Town Commission finds that the recommendations of the consortium of
building officials and the Miami-Dade County Board of Rules and Appeals provides an enhanced
and acceptable framework for monitoring the integrity of threshold buildings; and

WHEREAS, the Town Commission wishes to amend the Town Code to adopt and incorporate existing County Code requirements for recertification of buildings as set forth in Section 8-11 of the County Code, as modified by the recommendations of the consortium of building officials and the Miami-Dade County Board of Rules and Appeals and as directed by the Town Commission; and

51 WHEREAS, on December 14, 2021 at its regular monthly meeting, the Town Commission 52 directed staff to evaluate and prepare an ordinance implementing the County Code requirements 53 for building recertification, as modified by the recommendations of the consortium of building 54 officials and the Miami-Dade County Board of Rules and Appeals and to include and add 55 geotechnical studies and inspections; and

56 WHEREAS, this ordinance proposes to amend Chapter 14 – Buildings and Building 57 Regulations", Article I. – "In General", of the Code, to add Section 14-3. – "Recertification of 58 Existing Buildings" to adopt and incorporate Section 8-11 of the County Code as modified by the 59 recommendations of the consortium of building officials (Exhibit "A") and the Miami-Dade County 60 Board of Rules and Appeals (Exhibit "B") and to include and add geotechnical studies and 61 inspections consistent with KCE Structural Engineers, P.C. Memo #1 (Exhibit "C") as directed by 62 the Town Commission; and

63 WHEREAS, the Town Commission held its first public hearing on January \_\_\_, 2022 and 64 recommended approval of the proposed amendments to the Code having complied with the notice 65 requirements in the Florida Statutes; and

WHEREAS, the Town Commission has conducted a second duly noticed public hearing on
these regulations as required by law on \_\_\_\_\_\_, 2022 and further finds the proposed
changes to the Code are necessary and in the best interest of the community.

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> 71 72

# NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA<sup>1</sup>:

73 <u>Section 1.</u>
74 by this reference.
75

<u>Recitals.</u> The above Recitals are true and correct and are incorporated herein

<sup>&</sup>lt;sup>1</sup> Additions to the text are shown in <u>underline</u>. Deletions to the text are shown in <del>strikethrough</del>.

76	<u>Sectio</u>	<b><u>n 2.</u></b> <u><b>Town Code Amended.</b></u> Chapter 14 – "Buildings and Building Regulations",
77	Article I. – "In	n General", of the Surfside Town Code of Ordinances, is hereby amended to create a
78	new Section 1	4-3 - "Recertification of Existing Buildings" which shall read as follows <sup>1</sup> :
79	Sec. 14	4-3. – Recertification of Existing Buildings.
80	~ .	
81		n 8-11 "Existing Buildings" of the Miami-Dade County Code of Ordinances, as
82		e amended from time to time, is hereby adopted and incorporated by reference, with
83	the fol	lowing modifications:
84		
85	(1)	Recommendations of the consortium of building officials in Miami-Dade County
86		(Exhibit "A"):
87		a. The building official shall provide notice of recertification requirements to the
88		owner of buildings at least two years prior to the due date for recertification; and
89		b. The first building recertification shall be required on or before the lesser of 30
90		years from the issuance of the Certificate of Occupancy or whatever time frame
91		is required by the Miami-Dade County Code of Ordinances; and
92		c. Any recertification reports for structural matters shall be performed by a
93		licensed structural engineer; and
94		d. A structural engineer's letter certifying continued occupancy shall be required
95		for any extensions of recertification deadlines or during repairs, and renewed
96		certifications of safe occupancy every six months thereafter; and
97		e. The engineer(s) evaluating a building for recertification is required to submit
98		any reports or comments to the building official with jurisdiction upon issuance
99		to the owner; and
100		f. The building official shall post any notice of unsafe structure notices in a
101		conspicuous location for buildings owned by multiple owners such as
102		condominiums and co-operatives.
103		
104	(2)	Recommendations of the Miami-Dade County Board of Rules and Appeals (Exhibit
105		"B") and Town Engineering Consultant (Exhibit "C"). Reports for building
106		recertification shall, at a minimum, meet the requirements of the November 23, 2021
107		memorandum regarding the "Board of Rules and Appeals 40-year Building
108		Recertification General Considerations and Guidelines" and the structural
109		investigation recommendations contained in Memo #1 by KCE Structural
110		Engineers, P.C., and any subsequent guidelines issued by the Town or Miami-Dade
111		County retained on file in the building department.
112		
113	(3)	Town of Surfside Geotechnical Requirements. Recertification shall include analysis
114		of geotechnical conditions by a registered practicing geotechnical engineer who
115		shall:
116		
117		a. Review original geotechnical report for the original building design and confirm
118		that it is consistent with what was built; and

b. Complete and submit a multichannel analysis of surface waves (MASW) or electrical resistivity testing geophysical study.

*Penalties.* The failure to meet the deadlines for certification and compliance with the above
 requirements shall constitute a civil violation in addition to potential designation as an
 unsafe structure and other remedies as provided in the Miami-Dade County Code of
 Ordinances.

*Implementation.* Any building subject to recertification requirements that is more than 30 years old on the effective date of this Ordinance and which has not previously been recertified, shall be recertified by the owner within two (2) years from the effective date of this Ordinance.

131 <u>Section 3. Severability</u>. If any section, sentence, clause or phrase of this Ordinance is
 132 held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall
 133 in no way affect the validity of the remaining portions of this Ordinance.

134 <u>Section 4. Inclusion in the Code</u>. It is the intention of the Town Commission, and it is 135 hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of 136 Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to 137 accomplish such intentions; and the word "Ordinance" may be changed to "Section" or other 138 appropriate word.

140 <u>Section 5. Conflicts</u>. Any and all ordinances and resolutions or parts of ordinances or
 141 resolutions in conflict herewith are hereby repealed.
 142

143Section 6. Effective Date.This ordinance shall become effective upon adoption.

145 **PASSED** and **ADOPTED** on first reading this \_\_\_\_\_ day of January, 2022.

147 **PASSED** and **ADOPTED** on second reading this \_\_\_\_\_\_ day of \_\_\_\_\_, 2022.

## 149150 First Reading:

150 First Reading:151 Motion by:

151 Motion by: \_\_\_\_\_\_
152 Second by: \_\_\_\_\_\_

153 154

### 155 Second Reading:

- 156 Motion by: \_\_\_\_\_
- 157 Second by:\_\_\_\_\_
- 158
- 159

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FINAL VOTE ON ADOPTION				
Commissioner Charles Kesl				
Commissioner Eliana R. Salzhauer				
Commissioner Nelly Velasquez				
Vice Mayor Tina Paul				
Mayor Charles W. Burkett				
			Charles W. Burkett	
			Mayor	
ATTEST:				
Sandra N. McCready, MMC				
Town Clerk				
<b>APPROVED AS TO FORM AND</b>	LEGALI	ГҮ	FOR THE USE	
AND BENEFIT OF THE TOWN				
Weiss Serota Helfman Cole & Bierm	nan, P.L.			
Town Attorney	<b>, - ··</b>			

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- Early notification mandate (to be issued by jurisdictions two years prior to a recertification becoming due (i.e. year 38) so property owners have more time to prepare.
- Shorten the recertification mandate to year 30 (instead of 40; in this case, courtesy notice noted above would occur in year 28).
- Mandate the exclusive use of structural engineers for the structural component on threshold buildings 4 stories and above); statutes today allow engineers latitude to qualify more broadly to submit in multiple building code trade disciplines. Similar mandate to be included for electrical component.
- when repairs require extended time frames, continued statements for safe occupancy will be required Require as a condition of any time extension an engineer's letter certifying that buildings may be kept in their legal occupancy while reports are being completed or while repairs are being undertaken; in at least 6-month increments.
- Legislate an affirmative "duty to report" to the Building Official any adverse findings on a structure whether within or outside of the recertification process.
- association or other entity, require that unsafe notices be posted in a conspicuous location and require In structures with multiple unit ownership scenarios where recertification requirements fall to an that associations notify all unit owners and residents of the declaration.





### <u>MEMO</u>

TO: All Building Officials in Miami-Dade County

FROM: Secretary of the Board Board of Rules and Appeals (BORA)

DATE: November 23, 2021

SUBJECT: BORA 40-Year Building Recertification General Considerations and Guidelines

At their meeting of November 18<sup>th</sup>, 2021, the Miami-Dade County Board of Rules and Appeals (BORA) approved revisions to its Forty-Year Building Recertification's General Considerations and Guidelines, inclusive of the Structural and Electrical Recertification Inspection Guidelines. This action was based on recommendations received from several BORA Building Sub-Committee meetings held after the collapse of the Champlain Tower South in the Town of Surfside.

A copy of the revised Forty-Year Building Recertification General Considerations and Guidelines is attached for your use.

Should you have any questions, please contact Jaime Gascon, Board and Code Administration Division Director at (786) 315-2508.

Thank you for your attention.

### **GENERAL CONSIDERATIONS & GUIDELINES**

### **SCOPE OF STRUCTURAL INSPECTION**

The fundamental purpose of the required inspection and report is to confirm in reasonable fashion that the building or structure under consideration is safe for continued use under present occupancy. As implied by the title of this document, this is a recommended procedure, and under no circumstances are these minimum recommendations intended to supplant proper professional judgment.

Such inspection shall be for the purpose of determining the general structural condition of the building or structure to the extent reasonably possible of any part, material or assembly of a building or structure which affects the safety of such building or structure and/or which supports any dead or live load, or wind load, and the general condition of its electrical systems pursuant to the applicable Codes.

In general, unless there is obvious overloading, or significant deterioration of important structural elements, there is little need to verify the original design. It is obvious that this has been time tested if still offering satisfactory performance. Rather, it is of importance that the effects of time with respect to degradation of the original construction materials be evaluated. It will rarely be possible to visually examine all concealed construction, nor should such be generally necessary. However, a sufficient number of typical structural members should be examined to permit reasonable conclusions to be drawn.

<u>Visual Examination</u> will, in most cases, be considered adequate when executed systematically. The visual examination must be conducted throughout all habitable and non-habitable areas of the building, as deemed necessary, by the inspecting professional to establish compliance. Surface imperfections such as cracks, distortion, sagging, excessive deflections, significant misalignment, signs of leakage, and peeling of finishes should be viewed critically as indications of possible difficulty.

<u>**Testing Procedures**</u> and quantitative analysis will not generally be required for structural members or systems except for such cases where visual examination has revealed such need, or where apparent loading conditions may be critical.

<u>Manual Procedures</u> such as chipping small areas of concrete and surface finishes for closer examinations are encouraged in preference to sampling and/or testing where visual examination alone is deemed insufficient. Generally, unfinished areas of buildings such as utility spaces, maintenance areas, stairwells and elevator shafts should be utilized for such purposes. In some cases, to be held to a minimum, ceilings or other construction finishes may have to be opened for selective examination of critical structural elements. In that event, such locations should be carefully located to be least disruptive, most easily repaired and held to a minimum. In any event, a sufficient number of structural members must be examined to afford reasonable assurances that such are representative of the total structure.

Evaluating an existing structure for the effects of time, must take into account two basic considerations; movement of structural components with respect to each other, and deterioration of materials.

With respect to the former, volume change considerations, principally from ambient temperature changes, and possibly long-time deflections, are likely to be most significant. Foundation movements will frequently be of

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importance, usually settlement, although upward movement due to expansive soils may occur, although infrequently in this area. Older buildings on spread footings may exhibit continual, even recent settlements if founded on deep unconsolidated fine grained or cohesive coils, or from subterraneous losses or movements from several possible causes.

With very little qualifications, such as rather rare chemically reactive conditions deterioration of building materials can only occur in the presence of moisture, largely related to metals and their natural tendency to return to the oxide state in the corrosive process.

In this marine climate, highly aggressive conditions exist year-round. For most of the year, outside relative humidity may frequently be about 90 or 95%, while within air-conditioned building, relative humidity will normally be about 55 to 60%. Under these conditions moisture vapor pressures ranging from about 1/3 to 1/2 pounds per square inch will exist much of the time. Moisture vapor will migrate to lower pressure areas. Common building materials such as stucco, masonry and even concrete, are permeable even to these slight pressures. Since most of our local construction does not use vapor barriers, condensation will take place within the enclosed walls of the building. As a result, deterioration is most likely adjacent to exterior walls, or wherever else moisture or direct leakage has been permitted to penetrate the building shell.

Structural deterioration will always require repair. The type of repair, however, will depend upon the importance of the member in the structural system, and degree of deterioration. Cosmetic type repairs may suffice in certain non-sensitive members such as tie beams and columns, provided that the remaining sound material is sufficient for the required function. For members carrying assigned gravity or other loads, cosmetic type repairs will only be permitted if it can be demonstrated by rational analysis that the remaining material, if protected from further deterioration can still perform its assigned function at acceptable stress levels. Failing that, adequate repairs or reinforcement will be considered mandatory.

Written reports shall be required attesting to each required inspection. Each such report shall note the location of the structure, description of the type of construction, and general magnitude of the structure, the existence of drawings and location thereof, history of the structure to the extent reasonably known, and a description of the type and manner of the inspection, noting problem areas and recommended repairs, if required to maintain structural integrity.

Evaluation: Each report shall include a statement to the effect that the building or structure is structurally safe, unsafe, safe with qualifications, or has been made safe. It is suggested that each report also include the following information indicating the actual scope of the report and limits of liability. This paragraph may be used:

"As a routine matter, in order to avoid possible misunderstanding, nothing in this report should guarantee for any portion of the structure. To the best of my knowledge and ability, this report represents an accurate appraisal of the present condition of the building based upon careful evaluation of observed conditions, to the extent reasonably possible.

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### Foundations:

If all of the supporting subterranean materials were completely uniform beneath a structure, with no significant variations in grain size, density, moisture content or other mechanical properties; and if dead load pressures were completely uniform, settlements would probably be uniform and of little practical consequence. In the real world, however, neither is likely. Significant deviations from either of these two idealisms are likely to result in unequal vertical movements.

Monolithic masonry, structures are generally incapable of accepting such movements, and large openings. Since, in most cases, differential shears are involved, cracks will typically be diagonal.

Small movements, in themselves, are most likely to be structurally important only if long term leakage through fine cracks may have resulted in deterioration. In the event of large movements, contiguous structural elements such as floor and roof systems must be evaluated for possible fracture or loss of bearing.

Pile foundations are, in general, less likely to exhibit such difficulties. Where such does occur, special investigation will be required.

### <u>Roofs</u>

Sloping roofs, usually having clay or cement tiles, are of concern in the event that the covered membrane may have deflections, if merely resulting from deteriorated rafters or joists will be of greater import. Valley flashing and base flashing at roof penetration will also be matters of concern.

Flat roofs with built up membrane roofs will be similarly critical with respect to deflection considerations. Additionally, since they will generally be approaching expected life limits at the age when building recertification is required careful examination is important. Blisters, wrinkling, alligatoring, and loss of gravel are usual signs of difficulty. Punctures or loss of adhesion of base flashings, coupled with loose counter-flashing will also signify possibility of other debris, may result in ponding, which if permitted, may become critical.

### **Masonry Bearing Walls**

Random cracking, or if discernible, definitive patterns of cracking, will of course, be of interest. Bulging, sagging, or other signs of misalignment may also indicate related problems in other structural elements. Masonry walls where commonly constructed of either concrete masonry units, or scored clay tile, may have been constructed with either reinforced concrete columns and tie beams, or lintels.

Of most probable importance will be the vertical and horizontal cracks where masonry units abut tie columns, or other frame elements such as floor slabs. Of interest here is the observation that although the raw materials of which these masonry materials are made may have much the same mechanical properties as the reinforced concrete framing, their actual behavior in the structure, however, is likely to differ with respect to volume change resulting from moisture content, and variations in ambient thermal conditions.

Moisture vapor penetration, sometimes abetted by salt laden aggregate and corroding rebars, will usually be the most common cause of deterioration. Tie columns are rarely structurally sensitive, and a fair amount of deterioration may be tolerated before structural; impairment becomes important. Cosmetic type repair involving

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cleaning, and parching to effectively seal the member, may often suffice. A similar approach may not be unreasonable for tie beams, provided they are not also serving as lintels. In that event, a rudimentary analysis of load capability using the remaining actual rebar area, may be required.

### Floor and Roof Systems

Cast in place reinforced concrete slabs and/or beams and joists may often show problems due to corroding rebars resulting from cracks or merely inadequate protecting cover of concrete. Patching procedures will usually suffice where such damage has not been extensive. Where corrosion and spalling has been extensive in structurally critical areas, competent analysis with respect to remaining structural capacity, relative to actual supported loads, will be necessary. Type and extent of repair will be dependent upon the results of such investigation.

Pre-cast members may present similar deterioration conditions. End support conditions may also be important. Adequacy of bearing, indications of end shear problems, and restraint conditions are important, and should be evaluated in at least a few typical locations.

Steel bar joists are, or course, sensitive to corrosion. Most critical locations will be web member welds, especially near supports, where shear stresses are high and possible failure may be sudden, and without warning.

Cold formed steel joists, usually of relatively light gage steel, are likely to be critically sensitive to corrosion, and are highly dependent upon at least nominal lateral support to carry designed loads. Bridging and the floor or roof system itself, if in good condition, will serve the purpose.

Wood joists and rafters are most often in difficulty from "dry rot", or the presence of termites. The former (a misnomer) is most often prevalent in the presence of sustained moisture or lack of adequate ventilation. A member may usually be deemed in acceptable condition if a sharp pointed tool will penetrate no more than about one eighth of an inch under moderate hand pressure. Sagging floors will most often indicate problem areas.

Gypsum roof decks will usually perform satisfactorily except in the presence of moisture. Disintegration of the material and the form-board may result from sustained leakage. Anchorage of the supporting bulb tees against uplift may also be of importance.

Floor and roof systems of cast in place concrete with self-centering reinforcing, such as paper backed mesh and rib-lath, may be critical with respect to corrosion of the unprotected reinforcing. Loss of uplift anchorage on roof decks will also be important if significant deterioration has taken place, in the event that dead loads are otherwise inadequate for that purpose. Expansion joints exposed to the weather must also be checked.

### **Steel Framing System**

Corrosion, obviously enough, will be the determining factor in the deterioration of structural steel. Most likely suspect areas will be fasteners, welds, and the interface area where bearings are embedded in masonry. Column bases may often be suspect in areas where flooding has been experienced, especially if salt water has been involved. Concrete fireproofing will, if it exists, be the best clue indicating the condition of the steel.

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### **Concrete Framing Systems**

Concrete deterioration will, in most cases, similarly be related to rebar corrosion possibly abetted by the presence of salt water aggregate or excessively permeable concrete. In this respect, honeycomb areas may contribute adversely to the rate of deterioration. Columns are frequently most suspect. Extensive honeycomb is most prevalent at the base of columns, where fresh concrete was permitted to segregate, dropping into form boxes. This type of problem has been known to be compounded in areas where flooding has occurred, especially involving salt water.

Thin cracks usually indicate only minor corrosion, requiring minor patching only. Extensive spalling may indicate a much more serious condition requiring further investigation.

In spall areas, chipping away a few small loose samples of concrete may be very revealing. Especially, since loose material will have to be removed even for cosmetic type repairs, anyway. Fairly reliable quantitative conclusions may be drawn with respect to the quality of the concrete. Even though our cement and local aggregate are essentially derived from the same sources, cement will have a characteristically dark grayish brown color in contrast to the almost white aggregate. A typically white, almost alabaster like coloration will usually indicate reasonably good overall strength.

### Windows and Doors

Window and door condition is of considerable importance with respect to two considerations. Continued leakage may have resulted in other adjacent damage and deteriorating anchorage may result in loss of the entire unit in the event of severe windstorms even short of hurricane velocity. Perimeter sealants, glazing, seals, and latches should be examined with a view toward deterioration of materials and anchorage of units for inward as well as outward (suction) pressure, most importantly in high buildings.

### **Structural Glazing**

When installed on threshold buildings, structural glazing curtain wall systems, shall be inspected by the owner at 6-month intervals for the first year after completion of the installation. The purpose of the inspection shall be to determine the structural condition and adhesive capacity of the silicone sealant. Subsequent inspections shall be performed at least once every 5 years at regular intervals for structurally glazed curtain wall systems installed on threshold buildings.

### Wood Framing

Older wood framed structures, especially of the industrial type, are of concern in that long term deflections may have opened important joints, even in the absence of deterioration. Corrosion of ferrous fasteners will in most cases be obvious enough. Dry rot must be considered suspect in all sealed areas where ventilation has been inhibited, and at bearings and at fasteners. Here too, penetration with a pointed tool greater than about one eighth inch with moderate hand pressure will indicate the possibility of further difficulty.



### **Building Facade**

Appurtenances on an exterior wall of a threshold building are elements including, but not limited to, any cladding material, precast appliques, exterior fixtures, ladders to rooftops, flagpoles, signs, railings, copings, guardrails, curtain walls, balcony and terrace enclosures, including greenhouses or solariums, window guards, window air conditioners, flower boxes, satellite dishes, antennae, cell phone towers, and any equipment attached to or protruding from the façade that is mechanically and/or adhesive attached.

### Loading

It is of importance to note that even in the absence of any observable deterioration, loading conditions must be viewed with caution. Recognizing that there will generally be no need to verify the original design, since it will have already been "time tested", this premise has validity only if loading patterns and conditions remain <u>un-</u><u>changed</u>. Any material change in type and/or magnitude or loading in older buildings should be viewed as sufficient justification to examine load carrying capability of the effected structural system.

### **Scope of Electrical Inspection**

The purpose of the required inspection and report is to confirm with reasonable fashion that the building or structure and all habitable and non-habitable areas, as deemed necessary by the inspecting professional, to establish compliance are safe for continued use under present occupancy. As mentioned before, this is a recommendation procedure, and under no circumstances are these minimum recommendations intended to supplant proper professional judgment.

### **Electric Service**

A description of the type of service supplying the building or structure must be provided, stating the size of amperage, if three (3) phase or single (1) phase, and if the system is protected by fuses or breakers. Proper grounding of the service should also be in good standing. The meter and electric rooms should have sufficient clearance for equipment and for the serviceman to perform both work and inspections. Gutters and electrical panels should all be in good condition throughout the entire building or structure.

### **Branch Circuits**

Branch circuits in the building must all be identified, and an evaluation of the conductors must be performed. There should also exist proper grounding for equipment used in the building, such as an emergency generator, or elevator motor.

### **Conduit Raceways**

All types of wiring methods present in the building must be detailed and individually inspected. The evaluation of each type of conduit and cable, if applicable, must be done individually. The conduits in the building should be free from erosion and checked for considerable dents in the conduits that may be prone to cause a short. The conductors and cables in these conduits should be chafe free and their currents not over the rated amount.



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### **Emergency Lighting**

Exit sign lights and emergency lighting, along with a functional fire alarm system, if applicable, must all be in good working condition.

### **Infrared Thermography Inspection**

For electrical systems operating at 400 amperes or greater, an infrared thermography inspection with a written report of the following electrical equipment must be provided as applicable or as otherwise indicated below: busways, switchgear, panelboards (except in dwelling unit load centers), disconnects, VFDS, starters, control panels, timers, meter centers, gutters, junction boxes, automatic/manual transfer switches, exhaust fans and transformers. The infrared inspection of electrical equipment shall be performed by a Level-II or higher certified infrared thermographer who is qualified and trained to recognize and document thermal anomalies in electrical systems and possesses over 7 years of experience inspecting electrical systems associated with commercial buildings.

### **Historical Documents and Permitting**

An attempt should be made to investigate the existence of documents with the local jurisdiction to assist with the overall inspection of the building.

Understanding the structural system, building components, and intended design may guide the design professional to investigate certain critical areas of the structure.

**Violations** through the local jurisdiction's code compliance division should be investigated. Cases on file may lead to issues pre-existing with the building, especially any unsafe structure determinations. Depending on the nature of the violation, recertification inspections may be affected.

**Unpermitted activities** may also affect the outcome of a recertification inspection, especially with unpermitted additions to the building. The recertification of a building is conducted on the entire structure including the original construction and any subsequent permitted addition. Unpermitted additions found by the recertification process present an unsafe situation and must be identified in the report, even if found to be properly built. Like a repair process identified by the report, legalizing an unpermitted addition would be a prerequisite to the completion of a successful recertification report. Examples of unpermitted work that may affect recertification include but are not limited to additions, alterations, balcony enclosures, etc.

**Repairs** identified in the recertification report will most likely require permits. Once the initial report is completed it should be immediately submitted to the local jurisdiction for processing. Do not proceed to conduct repairs without permits. Some repairs, like changing a bulb in an exit sign, may not require a permit but most other work will require permits. Proceeding without obtaining repair permits may lead to a violation of the code. Additionally, repairs being conducted under a permit will afford additional time to comply with a complete recertification report.

**Completing the reports** concisely is vital to the overall understanding of the conditions of the building and successful completion of the recertification process. The approved report forms provided must be used, proprietary forms will not be accepted. Where required, photos must be in color and with sufficient resolution to detail

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the conditions being shown. Recertification reports may be audited, and the subject building may be inspected at the discretion of the Building Official. The Building Official reserves the right to rescind or revoke an approved recertification report.

The **Code in Effect** at the time of the original construction is the baseline for the recertification inspections. Subsequent improvements to the original building should be inspected based on the code at the time of permitting. It is not the intent of recertification that buildings must be brought in compliance with current codes.

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### MINIMUM INSPECTION PROCEDURAL GUIDELINES FOR BUILDING

### STRUCTURAL RECERTIFICATION

### 1. <u>Description of Structure</u>:

A.	Name of title						
B.	Street address						
C.	Legal description						
D.	Owner's name						
E.	Owner's mailing address						
F.	Building Official Folio Number						
G.	Building Code Occupancy Classification						
H.	Present use						
I.	General description, type of construction, size, number of stories, and special features.						
J.	Additions to original structure						
K.	Number of Stories Threshold Building per 553.71(12) F.S. Y/N						
L.	Total Building Area of all floors:						
Prese	ent Condition of Structure:						
A.	General alignment (note good, fair, poor, explain if significant)						
	1. Bulging						
	2. Settlement						
	3. Defections						
	4. Expansion						
	5. Contraction						

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2.

- B. Portions showing distress (note, beams, columns, structural walls, floors, roofs, other)
- C. Surface conditions describe general conditions of finishes, noting cracking, spalling, peeling, signs of moisture penetration & stains.
- D. Cracks note location in significant members. Identify crack size as HAIRLINE if barely discernible; FINE if less than 1 mm in width: MEDIUM if between 1 and 2 mm in width; WIDE if over 2 mm.
- E. General extent of deterioration cracking or spalling of concrete or masonry; oxidation of metals; rot or borer attack in wood.
- F. Previous patching or repairs \_\_\_\_\_
- G. Nature of present loading indicate residential, commercial, other estimate magnitude.

### 3. <u>Inspections:</u>

- A. Date of notice of required inspection \_\_\_\_\_
- B. Date(s) of actual inspection
- C. Name and qualification of individual submitting inspection report:
  - 1. Discipline of Practice:
- D. Description of any laboratory or other formal testing, if required, rather than manual or visual procedures.
- E. Structural repair note appropriate line:
  - 1. None required \_\_\_\_\_\_
  - 2. Required (describe and indicate acceptance)
- F. Has property record been researched for violations or unsafe cases (YES/NO):\_\_\_\_\_

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1.	Explanation/Comments:
----	-----------------------

### 4. <u>Supporting data:</u>

- A. \_\_\_\_\_\_ sheets written data
- B. \_\_\_\_\_ photographs
- C. drawings or sketches
- D. \_\_\_\_\_ test reports

#### 5. <u>Foundation:</u>

A. Describe building foundation:

B. Is wood in contact or near soil? (Yes/No): \_\_\_\_\_

C. Signs of differential settlement? (Yes/No)

D. Describe any cracks or separation in the walls, columns, or beams that signal

differential settlement:

E. Is water drained away from foundation? (Yes/No):

F. Is there additional sub-soil investigation required? (Yes/No):

1. Describe: \_\_\_\_\_

### 6. <u>Masonry Bearing Walls - indicate good, fair, poor on appropriate lines:</u>

A.	Concrete masonry units
B.	Clay tile or terra cotta units
C.	Reinforced concrete tie columns
D.	Reinforced concrete tie beams
E.	Lintels
F.	Other type bond beams

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G.	onry finishes - exterior:							
	1.	Stucco						
	2.	Veneer						
	3.	Paint only						
	4.	Other (describe)						
H.	Masonry finishes - interior:							
	1.	Vapor barrier						
	2.	Furring and plaster						
	3.	Paneling						
	4.	Paint only						
	5.	Other (describe)						
I.	Crac	ks:						
	1.	Location - note beams, columns, other:						
	2.	Description:						
J.	Spal	Spalling:						
	1.	Location - note beams, columns, other:						
	2.	Description:						
K.	Reba	ar corrosion - check appropriate line:						
	1.	None visible:						
	2.	Minor - patching will suffice :						
	3.	Significant - but patching will suffice:						
	4.	Significant - structural repairs required (describe):						
L.	Sam	ples chipped out for examination in spall areas						
	1.	No						
	2.	Yes - describe color texture, aggregate, general quality						

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#### 7. Floor and Roof Systems:

#### A. Roof:

- **1.** Describe (flat, slope, type roofing, type roof deck, condition)
- 2. Note water tanks, cooling towers, air conditioning equipment, signs, other heavy equipment and condition of supports:
- 3. Note types of drains and scuppers and condition:
- 4. Describe parapet construction and current conditions:
- 5. Describe mansard construction and current conditions:
- 6. Describe roofing membrane/covering and current conditions:
- Describe any roof framing member with obvious overloading, overstress,
   deterioration, or excessive deflection:
- 8. Note any expansion joints and condition:

#### **B.** Floor system(s):

**1.** Describe (type of system framing, material, spans, condition)

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- 2. Balconies: Indicate location, framing system, material and condition:
- 3. Stairs and escalators: Indicate location, framing system, material, and condition:
- 4. Ramps: Indicate location, framing system, material, and location:
- 5. Guardrails: describe type, material, and condition:
- **C.** Inspection note exposed areas available for inspection, and where it was found necessary to open ceilings, etc. for inspection of typical framing members.

### 8. <u>Steel Framing Systems:</u>

- A. Description \_\_\_\_\_
- **B.** Exposed Steel describe condition of paint & degree of corrosion:
- C. Steel connections: describe type and condition:
- D. Concrete or other fireproofing note any cracking or spalling, and note where any covering was removed for inspection \_\_\_\_\_\_
- E. Identify any steel framing member with obvious overloading, overstress, deterioration, or excessive deflection (provide location):

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**F.** Elevator sheaves beams & connections, and machine floor beams - note condition:

### 9. <u>Concrete Framing Systems:</u>

A. Full description of structural system \_\_\_\_\_

#### **B.** Cracking:

- 1. Not significant \_\_\_\_\_\_
- 2. Location and description of members affected and type cracking:

### C. General condition:

- D. Rebar corrosion check appropriate line:
  - 1. None visible
  - 2. Location and description of members affected and type cracking \_\_\_\_\_
  - 3. Significant but patching will suffice \_\_\_\_\_\_
  - 4. Significant structural repairs required (describe)
- E. Samples chipped out in spall areas:
  - **1.** No.
  - 2. Yes, describe color, texture, aggregate, general quality:
- F. Identify any concrete framing member with obvious overloading, overstress, deterioration, or excessive deflection:

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### 10. <u>Windows, Storefronts, Curtainwalls, and Exterior Doors:</u>

### A. Windows, Storefronts, Curtainwalls:

- 1. Type (Wood, steel, aluminum, jalousie, single hung, double hung, casement, awning, pivoted, fixed, other): \_\_\_\_\_
- 2. Anchorage type & condition of fasteners and latches: \_\_\_\_\_

3. Sealants - type & condition of perimeter sealants & at mullions:

4. Interior seals - type & condition at operable vents: \_\_\_\_\_

- 5. General condition:
  - a. Describe any repairs needed; \_\_\_\_\_

B. Structural Glazing on the exterior envelope of Threshold Buildings (YES/NO): \_\_\_\_\_

- 1. Previous inspection Date: \_\_\_\_\_
- 2. Description of Curtainwall Structural Glazing and adhesive sealant:
- 3. Describe condition of system:

### C. Exterior Doors

- 1. Type (Wood, Steel, Aluminum, Sliding Glass Door, other):
- 2. Anchorage type and condition of fasteners and latches:
- 3. Sealant type and condition of sealant: \_\_\_\_\_
- 4. General Condition: \_\_\_\_\_
- 5. Describe any repairs needed: \_\_\_\_\_

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### 11. <u>Wood Framing:</u>

**A.** Type - fully describe if mill construction, light construction, major spans, trusses:

В.	Indicate condition of the following:
	1. Walls:
	2. Floors:
	3. Roof Member, roof trusses:
C.	Note metal fittings i.e., angles, plates, bolts, split pintles, pintles, other, and note condi-
	tion:
D.	Joints - note if well fitted and still closed:
E.	Drainage - note accumulations of moisture:
F.	Ventilation - note any concealed spaces not ventilated:
G.	Note any concealed spaces opened for inspection:
H.	Identify any wood framing member with obvious overloading, overstress, deterioration, or excessive deflection:
<u>Buil</u>	ding Façade Inspection (Threshold Buildings)
А.	Identify and describe the exterior walls and appurtenances on all sides of the building.
	(Cladding type, corbels, precast appliques, etc.)
B.	Identify attachment type of each appurtenance type (Mechanically attached or adhered);
C.	Indicate the condition of each appurtenance (distress, settlement, splitting, bulging, crack- ing, loosening of metal anchors and supports, water entry, movement of lintel or shelf an- gles, or other defects:

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12.

### **<u>13.</u>** Special or Unusual Features in the Building:

A. Identify and describe any special or unusual features (i.e., cable suspended structures, tensile fabric roof, large sculptures, chimneys, porte cochere, retaining walls, seawalls, etc.):

B. Indicate condition of special feature, its supports, and connections:

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### MINIMUM INSPECTION PROCEDURAL GUIDELINES FOR BUILDING ELECTRICAL RECERTIFICATION

INSPECTION COMMENCED	<b>INSPECTION MADE BY:</b>
Date:	SIGNATURE
INSPECTION COMPLETED	PRINT NAME:
Date	TITLE:
	ADDRESS:

#### **1. DESCRIPTION OF STRUCTURE:**

- A. NAME OF TITLE
- B. STREET ADDRESS \_\_\_\_\_
- C. LEGAL DESCRIPTION \_\_\_\_\_
- D. OWNERS NAME \_\_\_\_\_
- E. OWNER'S MAILING ADDRESS \_\_\_\_\_
- F. FOLIO NUMBER OF BUILDING: \_\_\_\_\_
- G. BUILDING CODE OCCUPANCY CLASSIFICATION:
- H. PRESENT USE: \_\_\_\_\_
- I. GENERAL DESCRIPTION, TYPE OF CONSTRUCTION, SIZE, NUMBER OF STO-RIES, AND SPECIAL FEATURES. (OVERALL DESCRIPTION, STRUCTURAL SYSTEMS, SPECIAL FEATURES)
- J. NUMBER OF STORIES:
- K. IS THIS A THRESHOLD BUILDING AS PER 553.71(12) F.S. (YES/NO):
- L. PROVIDE AN AERIAL OF THE PROPERTY IDENTIFYING THE BUILDING BEING CERTIFIED ON A SEPARATE SHEET. ATTACHED: □
- **M.** ADDITIONAL COMMENT:

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### 2. INSPECTIONS:

- A. DATE OF NOTICE OF REQUIRED INSPECTION: \_\_\_\_\_
- B. DATE(S) OF ACTUAL INSPECTION:
- C. NAME AND QUALIFICATIONS OF LICENSEE SUBMITTING REPORT:
- **E.** PROVIDE PHOTOGRAPHS AS NECESSARY TO REFLECT RELEVANT CONDITIONS AND INDEX APPROPRIATELY.

#### 3. <u>ELECTRIC SERVICE:</u>

A. SIZE: VOLTAGE: (	) AMPERAGE: (	)	FUSES: ( )	BREAKER:( )		
В. PHASE: 3ф (	) 1¢ (	)				
C. CONDITION: GOOD (	) FAIR (	)	NEEDS REPAIR (	)		
D. COMMENTS:						

#### 4. <u>METERING EQUIPMENT :</u>

Α.	CLEARANCES:	GOOD (	)	FAIR (	)	REQUIRES CORRECTION (	)
в.	COMMENTS:						

#### 5. ELECTRIC ROOMS :

Α.	CLEARANCES:	GOOD (	) FAIR (	)	REQUIRES CORRECTION (	)

B. COMMENTS:

### 6. <u>GUTTERS:</u>

A. LOCATION:	GOOD (	) REQUIRES REPAIR (	)
B	GOOD (	): REQUIRES REPAIR (	)
C. COMMENTS:			

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### 7. <u>ELECTRICAL PANELS:</u>

		LOCATION	GOOD (	): NEEDS REPAIR	(	)	
	A. PANEL $\#$ (	):		): NEEDS REPAIR		)	
	B. PANEL $\#$ (	):		). NEEDS KEI AIK		)	
	× ×	,		): NEEDS REPAIR		)	
	C. PANEL $\#$ (	):				<u> </u>	
	D. PANEL # (	).		): NEEDS REPAIR		,	
	<b>D.</b> III( <b>DL</b> " (	)		): NEEDS REPAIR			
	E. PANEL # (	):					
			,	): NEEDS REPAIR		)	
	F. COMMENTS:						
8.	BRANCH CIRCU	J <b>ITS</b> :					
	A. IDENTIFIED:	YES ( ):	MUST BE IDE	NTIFIED ( )			
				ED ( ): MUST BE R		D()	
	C. COMMENTS:						
9.	GROUNDING O	FSERVICE	· GOOD	(): REPAIRS REC		, )	
•		DERVICE	. 0000	( ). KLI AIKS KL			
	COMMENTS:						
10.	GROUNDING O	F EQUIPMENT	GOOD	( ): REPAIRS REC	QUIRED (	)	
	COMMENTS:						
11.	SERVICE COND	UIT/RACEWAY	YS: CONDITI	ON: GOOD ( ): REI	PAIRS RE	EQUIRED (	)
	COMMENTS:						
12.				ION: GOOD (): RE			`
12,						EQUIRED (	)
	COMMENTS:						
13.	WIRE AND CAB	LES: CONDITIO	ON: GOOD	( ): REPAIRS REC	QUIRED (	)	
	COMMENTS:						

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<b>BUSWAYS:</b>	CONDITION:	GOOD (	): REPAIRS REQUIRED ( )					
COMMENTS:								
(ADD SHEETS AS	THERMOGRAPHY INSPECTION RESULTS: (ADD SHEETS AS REQUIRED & PICTURES IF NEEDED) COMMENTS:							
	DUCTORS: CONDITION:	X	): REPAIRS REQUIRED ( )					
TYPES OF W	TRING METHODS: CONI	DITION:						
CONDUIT RACE	EWAYS: RIGID:	GOOD (	): REPAIRS REQUIRED ( )					
CONDUIT PVC:		GOOD (	): REPAIRS REQUIRED ( )					
NM CABLE:		GOOD (	): REPAIRS REQUIRED ( )					
OTHER:		GOOD (	): REPAIRS REQUIRED ( )					
	Y LIGHTING:		): REPAIRS REQUIRED ( )					
COMMENTS:								
<u>BLDG. EGRE</u>	SS ILLUMINATION:	GOOD (	): REPAIRS REQUIRED ( )					
COMMENTS:								
FIRE ALARN	<u> 1 SYSTEM:</u>		): REPAIRS REQUIRED ( )					
SMOKE DET			): REPAIRS REQUIRED ( )					
COMMENTS:								
EXIT LIGHT			): REPAIRS REQUIRED ( )					
COMMENTS:								
EMERGENC	Y GENERATOR:	GOOD (	): REPAIRS REQUIRED ( )					
COMMENTS:								

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24.	WIRING IN OPEN ORREQUIRE ADDITIONALUNDER COVER PARKINGREQUIRE ADDITIONALGARAGE AREAS:GOOD ( ): ILLUMINATION ( )
	COMMENTS:
25.	OPEN OR UNDERCOVERREQUIRE ADDITIONALPARKING GARAGE AREASREQUIRE ADDITIONALAND EGRESS ILLUMINATION:GOOD ( ): ILLUMINATION ( )
	COMMENTS:
26.	<b>SWIMMING POOL WIRING:</b> GOOD ( ): REPAIRS REQUIRED ( )
	COMMENTS:
27.	WIRING TO MECHANICAL EQUIPMENT: GOOD ( ): REPAIRS REQUIRED ( )
	COMMENTS:
28.	<b>GENERAL ADDITIONAL COMMENTS:</b>



### KCE STRUCTURAL ENGINEERS, P.C.

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## Memo #1

Date: July 7, 2021

To: Town of Surfside Building Official

RE:Recommended Structural Engineering EvaluationsKCE Job No. 2021-11-05For Multifamily or Commercial Multi-story Structures

The following recommendations are good engineering practice for assessing the structural conditions of multi-story multifamily and commercial multi-story structures, including buildings east of Collins Avenue.

1. Retain a State of Florida registered practicing geotechnical engineer to provide the following investigation:

- Foundation
  - Review original geotechnical report for the original building design and confirm that it is consistent with what was built.
  - Have a multichannel analysis of surface waves (MASW) or electrical resistivity testing geophysical study completed.

2. Retain a State of Florida registered practicing design structural engineer to provide the following investigation, in no particular order:

- Review structural drawings used for construction.
- Basement Floor (lowest level below-grade)
  - Perform GPR (ground penetrating radar) to determine slab thickness and to locate reinforcing steel, if reinforced (conventional slab on ground or reinforced slab on ground).
  - Take one set of three concrete cores (after GPR to avoid reinforcing steel) for compressive strength testing per ACI standards and one core for petrographic examination per ICRI standards. Repair cored holes in accordance with ICRI industry standards.
  - GPR column for vertical reinforcing steel and lateral ties (measuring spacing) for the full height of that lift. Verify vertical column reinforcing splices.
  - Take one 1½" diameter maximum 3"-depth core in column (after GPR to avoid reinforcing steel) for compressive strength testing per ACI standards and petrographic examination per ICRI standards. Immediately repair cored holes in accordance with ICRI industry standards.

MEMBER

Professional Registrations: AZ, DE, DC, FL, GA, IN, LA, MD, MA, NJ, NY, NC, PA, TN, TX, VT, VA, WV, NCEES



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- First Floor
  - Remove finishes in one interior floor location and one exterior slab location.
  - o GPR for slab thickness in the middle of the bay and at the column.
  - GPR for reinforcing steel in columns (vertical and ties) and slabs, as above.
  - Take one set of three concrete cores (after GPR to avoid reinforcing steel, not where other penetrations occur or within the column dimension from the column face) for compressive strength testing per ACI standards and one core for petrographic examination per ICRI standards. Repair cored holes in accordance with ICRI industry standards.
  - GPR for slab thickness in the middle of the bay and at the column (not where other penetrations occur).
- Typical Floor (Floor 3 and one floor below roof)
  - If post-tension slabs, then confirm waterproofing protection of pull/dead ends at exterior and anchors
  - o Remove finishes in one interior floor location and one exterior slab location.
  - o GPR for slab thickness in the middle of the bay and at the column.
  - o GPR for reinforcing steel in columns (vertical and ties) and slabs, as above.
  - Take one set of three concrete cores (after GPR to avoid reinforcing steel, not where other penetrations occur or within the column dimension from the column face) for compressive strength testing per ACI standards and one core for petrographic examination per ICRI standards. Repair cored holes in accordance with ICRI industry standards.
  - GPR for slab thickness in the middle of the bay and at the column (not where other penetrations occur).
  - Take one 1½" diameter maximum 3"-depth core in column (after GPR to avoid reinforcing steel) for compressive strength testing per ACI standards and petrographic examination per ICRI standards. Immediately repair cored holes in accordance with ICRI industry standards.
- Roof
  - Peel back roofing in three areas to expose structural slab.
  - If post-tension slabs, then confirm waterproofing protection of pull/dead ends at exterior and anchors
  - o GPR slab for reinforcing steel at each exposed area. Repair roofing.
  - Take one set of three concrete cores (after GPR to avoid reinforcing steel, not where other penetrations occur or within the column dimension from the column face) for compressive strength testing per ACI standards and one core for petrographic examination per ICRI standards. Repair cored holes in accordance with ICRI industry standards.
  - GPR for slab thickness in the middle of the bay and at the column.
  - Review rooftop mechanical equipment weights and support systems including antennas, dishes, mechanical units, and cooling towers.
- Elevators
  - o Check elevator sheave beam (machine beam) supports.

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# Town of Surfside Town Commission Meeting January 11, 2022 7:00 pm Town Hall Commission Chambers - 9293 Harding Avenue, 2<sup>nd</sup> Floor Surfside, FL 33154

Agenda #:	
Date:	December 14, 2021
From:	Lillian M. Arango and Town Recio, Town Attorney
Subject:	Resolution Calling Special Election to Consider Charter Amendment to Regulate Lot
	Area, Height for Beachfront Properties, and Increase the Vote Requirement
	Needed to Amend the Section in the Future

**Objective:** At the Town Commission workshop of November 17, 2021, the Commission recognized the importance of balancing development while preserving quality of life for residents by (i) establishing clear measurement parameters for lot area, (ii) setting the maximum height of buildings on beachfront properties east of Collins Avenue consistent with the current version of Section 4 of the Town Charter, and (iii) increasing the minimum required vote of the electorate to 60% to amend or repeal Section 4 of the Charter in connection with development and structures. The Town Commission directed the Town Attorney to prepare a proposed amendment to Section 4 of the Town Charter to address these concerns and to prepare a Resolution calling a special election and referendum to consider the amendment. While the attached Resolution requires a special election to propose the Charter amendment to Section 4, the special election occurs concurrently with the Town's regularly scheduled election (even years, 2022) thereby in compliance with the Charter requirement that Charter amendments to Section 4 pertaining to density, intensity and height occur at a regularly scheduled election of the Town.

**Consideration:** Specifically, the amendment proposes to define lot area as the area within the lot lines, except for beachfront lots which are to include only the area bound by the north, west, and south lot lines and the Bulkhead Line on the east, and to clarify that the east boundary was not to be the Erosion Control Line. The Bulkhead Line lies west of the Erosion Control Line. Thus, the calculation of lot area based on the area west of the Bulkhead Line, rather than the Erosion Control Line, results in a smaller lot area than would otherwise be calculated. Resultant calculations such as density and floor area consequently yield smaller results than would otherwise be achievable if the Erosion Control Line were to be used. The method of determining the lot area calculation in the proposed Charter Amendment is consistent with the current section 4 of the Charter which limits density and intensity (floor area) to that available under the 2004 Comprehensive Plan and 2004 Zoning Code, whichever was more restrictive. The 2004 Zoning Code defined lot area in the manner proposed.

With respect to building height on beachfront lots, the proposed Charter Amendment fixes height at the limit set forth in the 2004 Zoning Code, which is the first-floor elevation set by the Florida Department of Environmental Protection plus 120 feet. Currently, the first-floor elevation is approximately +18.25 feet NGVD. Thus, the maximum height of any affected building is limited to +138.25 feet NGVD.

Finally, the proposed Charter Amendment provides that 60% of the electors of the Town of Surfside must approve any amendment to Section 4 of the Charter.

The propose Charter Amendment is drafted as follows:

Sec. 4. – General powers of town; Powers not deemed excusive.

\* \* \*

The density, intensity, and height of development and structures within the Town of Surfside shall not exceed the maximum allowable units per acre, floor area ratios or the maximum allowable building heights in stories and feet that are set out in the Town of Surfside Comprehensive Plan or the Code of the Town of Surfside, whichever provisions are most restrictive, which were in effect in 2004. Lot area of lots shall only include the area or acreage within the lot lines of a lot, except that for properties east of Collins Avenue lot area shall be limited to the area bounded by the north, south and west lot lines and the Bulkhead Line on the east (not the Erosion Control Line). Height for properties east of Collins Avenue shall be measured from the elevation determined by the Florida Department of Environmental Protection for the first floor as of 2004 of +18.25 NGVD, such that the maximum height of 120 feet to the structured roof shall not exceed +138.25 NGVD. This amendment to the Town of Surfside Charter shall not be repealed, revised, amended, or superseded unless repeal, revision, amendment, or superseding provisions are placed on the ballot at a regularly scheduled election of the Town of Surfside.

The ballot question for the proposed Charter Amendment reads as follows:

Shall the Charter be amended to limit lot area to the area within platted lot lines (except that the east boundary of beachfront lots will be the Bulkhead Line and not the Erosion Control Line); to limit building height for beachfront lots to +138.25 NGVD, which is 120 feet above the current first floor elevation of +18.25 NGVD; and to require 60% electorate approval to amend or repeal Section 4 of the Charter?

**Recommendation:** Consider action on the attached Resolution to set the special election to consider the proposed Charter Amendment.

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, CALLING FOR A TOWN OF SURFSIDE SPECIAL ELECTION TO BE HELD ON MARCH 15. 2022 FOR THE PURPOSE OF SUBMITTING TO THE ELECTORATE A PROPOSED AMENDMENT TO THE **TOWN CHARTER ARTICLE I, SECTION 4 - "GENERAL POWERS** OF TOWN; **POWERS** NOT DEEMED **EXCLUSIVE", AS PRESENTED IN A BALLOT OUESTION** ON AN AMENDMENT TO THE TOWN CHARTER **REGARDING LOT AREA, BUILDING HEIGHT FOR BEACHFRONT PROPERTIES**, AND **INCREASING MINIMUM REQUIRED ELECTORAL VOTE TO 60% TO REPEAL OR AMEND SECTION 4 OF THE CHARTER; PROVIDING FOR NOTICE OF ELECTION: PROVIDING** REQUISITE BALLOT LANGUAGE AND **CHARTER** AMENDMENT TEXT FOR SUBMISSION TO THE **ELECTORATE: PROVIDING FOR THE TOWN CLERK TO** UTILIZE THE SERVICES OF MIAMI-DADE COUNTY SUPERVISOR OF ELECTIONS FOR THE SPECIAL ELECTION; PROVI DING FOR SEVERABILITY; AND **PROVIDING FOR AN EFFECTIVE DATE.** 

WHEREAS, the Town of Surfside ("Town") Commission recognizes the importance of balancing development while preserving quality of life for residents by (i) establishing clear measurement parameters for lot area, (ii) setting the maximum height of buildings on beachfront properties east of Collins Avenue to 120 feet measured from the current elevation determined by the Florida Department of Environmental Protection for the first floor of +18.25 NGVD, and (iii) increasing the minimum required vote of the electorate to 60% to amend or repeal Section 4 of the Charter in connection with development and structures; and

WHEREAS, the Town Commission wishes to seek the approval of the electors by a ballot question referendum concerning an amendment to Article I, Section 4 of the Charter "General Powers of the Town; Powers not Deemed Exclusive" to (i) establish measurement of lot area of lots for development within the Town, including lot area of beachfront properties east of Collins Avenue to be bound on the east by the Bulkhead Line and not the Erosion Control Line, and (ii) and set the maximum height of buildings on beachfront properties east of Collins Avenue to 120 feet measured from the current elevation determined by the Florida Department of Environmental Protection for the first floor of +18.25 NGVD, and (iii) increasing and requiring a minimum 60%

approval of Town electors to repeal, revise, amend or supersede the provisions of Section 4 of the Charter pertaining to density, intensity or height of development and structures within Town; and

**WHEREAS**, Section 97.1 of the Town Charter referencing Section 6.03 of Article 6 of the Home Rule Charter for Miami-Dade County, provides the manner in which charter amendments shall be proposed; and

WHEREAS, in accordance with provisions of the Town Charter and the general laws of the State of Florida, a Special Election is hereby called and directed to be held in the Town of Surfside, Florida, from 7:00 a.m. to 7:00 p.m. on Tuesday, March 15, 2022, concurrent with the Town's regularly scheduled election (even years, 2022), for the purpose of submitting to the electorate the proposed referendum ballot language concerning an amendment to Article I, Section 4 of the Charter "General Powers of the Town; Powers not Deemed Exclusive" to establish measurement of lot area of lots within the Town for development and height of buildings for properties east of Collins Avenue, and to require 60% approval of Town electors to repeal, revise, amend or supersede the provisions of Section 4 of the Charter pertaining to density, intensity or height of development and structures within the Town; and

**WHEREAS**, not less than thirty (30) days' notice of the adoption of this Resolution and of its provisions calling this Special Election shall be given by publication in the Miami Herald, a newspaper of general circulation in Surfside, Miami-Dade County, Florida. Such publication shall be made once in the fifth week before the election and once in the third week before the election in accordance with the provisions of Section 100.342, Florida Statutes, and the Town Code.

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

Section 1. <u>Recitals Adopted.</u> The above recitals are true and correct and incorporated into this Resolution by this reference.

Section 2. Special Election Called; Notice of Election. That a special election is hereby called, to be held on Tuesday, March 15, 2022, concurrent with the Town's regularly scheduled election (even years, 2022), to consider the ballot question provided in this Resolution. Notice of said election shall be published in accordance with Section 100.342, Florida Statutes, in the Miami Herald, a newspaper of general circulation in Surfside, Miami-Dade County, Florida. at least thirty (30) days prior to said election, the first publication to be in the fifth week prior to the election (to-

wit: during the week commencing Sunday, February 6, 2022), and the second publication to be in

the third week prior to the election (to-wit: during the week commencing Sunday, February 20,

2022), and shall be in substantially the following form:

# "THE TOWN OF SURFSIDE, FLORIDA

# NOTICE OF CHARTER AMENDMENT SPECIAL ELECTION

PUBLIC NOTICE IS HEREBY GIVEN THAT PURSUANT TO RESOLUTION NO. ADOPTED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA ("TOWN"), A SPECIAL ELECTION HAS BEEN CALLED AND ORDERED TO BE HELD WITHIN THE TOWN ON TUESDAY, MARCH 15, 2022, BETWEEN THE HOURS OF 7:00 A.M. AND 7:00 P.M., AT WHICH TIME THE FOLLOWING CHARTER AMENDMENT REFERENDUM SHALL BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE TOWN:

# AMENDMENT CONCERNING LOT AREA AND BUILDING HEIGHT MEASUREMENT, INCREASING ELECTORAL APPROVAL REQUIREMENT FOR FUTURE REVISIONS

Shall the Charter be amended to limit lot area to the area within platted lot lines (except that the east boundary of beachfront lots will be the Bulkhead Line and not the Erosion Control Line); to limit building height for beachfront lots to +138.25 NGVD, which is 120 feet above the current first floor elevation of +18.25 NGVD; and to require minimum 60% electorate approval to amend or repeal Section 4 of the Charter?

YES [ ] NO [ ]"

The polling place for the Special Election shall be the Surfside Town Hall located at 9293 Harding Avenue, Surfside, Florida 33154. All Town electors who are timely registered shall be eligible to vote. The enabling Resolution, including the ballot question are available at the Office of the Town Clerk, located at the Surfside Town Hall.

Sandra McCready, MMC, Town Clerk"

Section 3. Form of Ballot; Ballot Question. The form of ballot and ballot question for the charter amendment special election provided for in Section 2 of this Resolution shall be substantially as follows:

# **PAGE 250**

# "AMENDMENT CONCERNING LOT AREA AND BUILDING HEIGHT MEASUREMENT, INCREASING ELECTORAL APPROVAL REQUIREMENT FOR FUTURE REVISIONS

Shall the Charter be amended to limit lot area to the area within platted lot lines (except that the east boundary of beachfront lots will be the Bulkhead Line and not the Erosion Control Line); to limit building height for beachfront lots to +138.25 NGVD, which is 120 feet above the current first floor elevation of +18.25 NGVD; and to require 60% electorate approval to amend or repeal Section 4 of the Charter?

YES [ ] NO [ ]"

The form of the ballot to be used in this Special Election and its preparation shall be in compliance with all statutory requirements relating to the use of mechanical or other approved voting machines or devices.

Section 4. Balloting. That balloting shall be conducted between the hours of 7:00 a.m. until 7:00 p.m. on election day at the regular polling place for Town elections. Vote-by-mail ballots and early voting shall be provided as authorized by law. All qualified Town electors who are timely registered in accordance with law shall be entitled to vote.

<u>Section 5.</u> <u>Charter Amendment Text; Effectiveness.</u> The text of the proposed Charter amendment (the "Charter Amendment") is set forth in Exhibit "A", which is attached hereto and incorporated herein. The Charter Amendment shall become effective if the majority of the qualified electors of the Town voting on the Charter Amendment vote for its adoption, and it shall be considered adopted and effective upon the certification of the Special Election results. Following the adoption of the Charter Amendment, the Town Clerk shall file the adopted Charter Amendment with the Clerk of the Circuit Court of Miami- Dade County, Florida.

<u>Section 6.</u> <u>Available for Public Inspection; Town Clerk to Utilize the Services of</u> <u>Miami-Dade County Supervisor of Elections</u>. Copies of this Resolution providing for the special election referendum are on file in the Office of the Town Clerk located at 9293 Harding Avenue, Surfside, Florida and are available for public inspection during regular business hours. Furthermore, the Town Clerk is authorized to utilize the services of Miami-Dade County

# **PAGE 251**

Supervisor of Elections for any assistance required in the administration of the election. The Town shall pay all expenses for conducting this Special Election and will pay such expenses to Miami-Dade County upon receipt of invoice or statement approved by the Supervisor of Elections of Miami-Dade County, Florida.

<u>Section 7.</u> <u>Authorization of Town Officials.</u> The Town Manager, Town Attorney and Town Clerk are hereby authorized to take all steps necessary to complete the execution and implementation of the terms and purposes of this Resolution, and the charter amendment Special Election if adopted and effective.

Section 8. Effective Date. This Resolution shall be effective immediately upon its adoption.

PASSED AND ADOPTED this 14th day of December, 2021.

Moved By: \_\_\_\_\_\_ Second By: \_\_\_\_\_\_

# FINAL VOTE ON ADOPTION

Commissioner Charles Kesl	
Commissioner Eliana R. Salzhauer	
Commissioner Nelly Velasquez	
Vice Mayor Tina Paul	
Mayor Charles W. Burkett	

Charles W. Burkett, Mayor

ATTEST:

Sandra McCready, MMC, Town Clerk

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

Town Attorney

# EXHIBIT "A"

# TEXT OF PROPOSED CHARTER AMENDMENT OF THE TOWN OF SURFSIDE

# AMENDMENT CONCERNING LOT AREA AND BUILDING HEIGHT MEASUREMENT, INCREASING ELECTORAL APPROVAL REQUIREMENT FOR FUTURE REVISIONS

The Town of Surfside Charter Article I, Section 4 - "General powers of town; Powers not deemed exclusive" is hereby amended to read as indicated below, with additions to existing Charter text being shown in <u>underline</u>; and deletions from existing Charter text being shown in <del>strikethrough</del>.

### Sec. 4. – General powers of town; Powers not deemed excusive.

\* \* \*

The density, intensity, and height of development and structures within the Town of Surfside shall not exceed the maximum allowable units per acre, floor area ratios or the maximum allowable building heights in stories and feet that are set out in the Town of Surfside Comprehensive Plan or the Code of the Town of Surfside, whichever provisions are most restrictive, which were in effect in 2004. Lot area of lots shall only include the area or acreage within the lot lines of a lot, except that for properties east of Collins Avenue lot area shall be limited to the area bounded by the north, south and west lot lines and the Bulkhead Line on the east (not the Erosion Control Line). Height for properties east of Collins Avenue shall be measured from the elevation determined by the Florida Department of Environmental Protection for the first floor as of 2004 of +18.25 NGVD, such that the maximum height of 120 feet to the structured roof shall not exceed +138.25 NGVD. This amendment to the Town of Surfside Charter shall not be repealed, revised, amended, or superseded unless repeal, revision, amendment, or superseding provisions are placed on the ballot at a regularly scheduled election of the Town of Surfside and approved by <u>a minimum 60%</u> vote of the electors of the Town of Surfside.

\* \* \*



# MEMORANDUM

To: Mayor and Town Commission Andrew Hyatt, Town Manager Jason Greene, Assistant Town Manager /CFO

From: Lillian M. Arango, Esq. Weiss Serota Helfman Cole & Bierman, P.L.

**Date:** January 11, 2021

**Subject:** Resolution Authorizing Additional Expenditure of Funds to Special Counsel, Leech Tishman Fuscaldo & Lampl, in Connection with the Appeal of the Federal Aviation Administration's (FAA's) South Central Florida Metroplex Project (Metroplex), for Legal Fees and the Consultants Fees for Phase I Assessment.

Background. Pursuant to the direction of the Town Commission on November 12, 2020, the Town of Surfside ("Town") engaged special counsel, Leech Tishman Fuscaldo & Lampl ("Special Counsel"), to draft and file a Petition for Review challenging the FAA's Final Environmental Assessment and Finding of No Significant Impact issued in connection with the approval and implementation of the South Central Florida Metroplex Project ("Metroplex"), which proposed new flight procedures for South Florida. On December 14, 2020, the Town, together with the Village of Indian Creek, filed a Petition for Review of Agency Order appealing the FAA's Finding of No Significant Impact and Record of Decision in connection with the proposed Metroplex. Following the FAA's announcement of implementation of the Metroplex scheduled for April 2021, the Town's Special Counsel filed an Emergency Motion to stay the implementation. This motion was withdrawn when the FAA clarified that the Metroplex would not be implemented in Miami until August, 2021. In September, 2021, along with models prepared by the Consultant (JDA Aviation), the Special Counsel sent the FAA possible alternative flight path options to mitigate the most significantly impacting new flight paths. Following the FAA's rejection of these options, the Special Counsel prepared and filed its Opening Brief on October 26, 2021. The FAA has requested and received an extension of time to file its response brief in reply to the Town's Opening Brief. The deadline for the FAA to respond is currently February 9, 2022.

In order to file its brief and properly challenge the FAA's Final Environmental Assessment and Finding of No Significant Impact, Special Counsel retained the services of an expert consultant, JDC Aviation Technology Solutions (JDA Consultant), to assess the FAA's findings and perform an assessment of impacts, noise and otherwise, to Surfside and

# **PAGE 254**

neighboring Indian Creek. Pursuant to the Phase 1 services, the JDA Consultant assessed the impacts of the Metroplex on the Town and its residents, and Indian Creek (Phase 1), including an analysis and comparison between the existing flight procedures and the proposed Metroplex flight procedures. Phase 1 of the JDA's consultant's services are estimated at \$36,440 for the Town (one half of the fees paid by Indian Creek), of which the Town has paid the Consultant \$20,000 to date; an additional \$16,440 will be due to the Consultant at the completion of the Phase 1 assessment and presentation of the Final Report and Impact Analysis. Total fees paid to the Special Counsel for legal services to date are approximately \$40,000 for services rendered, with an outstanding balance owed of \$45,000 for fees incurred partially in the prior fiscal year 2021 and fees incurred in the new fiscal year 2022.

<u>Budget Impact</u>. Pursuant to Resolution No. 2021-2776 adopted on April 13, 2021, the Town Commission authorized expenditures of an additional \$35,000 for ongoing legal fees to the Special Counsel and outside expert consultant services fees for the Phase 1 assessment. The attached Resolution requests further authorization to expend ongoing legal fees for services rendered by the Special Counsel in the prior Fiscal Year 2021 and the current fiscal year 2022 balance for a total of \$45,000, plus the balance of payment to the JDA consultant for the Phase 1 assessment in the amount of \$16,440.

<u>Recommendation/Consideration.</u> In order to continue with the Town's appeal and challenge to the FAA's Metroplex project (including next stages of appeal and litigation), Commission approval and authorization is needed in the attached Resolution providing for expenditure of funds to the Special Counsel for ongoing legal fees and outside expert consultant services fees for the Phase 1 assessment up to an additional amount of \$65,000.

Reviewed by: JG Prepared by: LMA

### RESOLUTION NO. 2022-

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AUTHORIZING AND **APPROVING ADDITIONAL EXPENDITURE OF FUNDS TO** SPECIAL COUNSEL, LEECH TISHMAN FUSCALDO & LAMPL, IN CONNECTION WITH THE APPEAL OF THE FEDERAL AVIATION **ADMINISTRATION'S** (FAA'S) SOUTH CENTRAL FLORIDA METROPLEX PROJECT (METROPLEX), FOR LEGAL FEES AND CONSULTANT'S SERVICES FOR PHASE 1 METROPLEX FLIGHT PROCEDURE ASSESSMENT; **PROVIDING** FOR PROVIDING **IMPLEMENTATION**; AND FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to the direction of the Town Commission on November 12, 2020, the Town of Surfside ("Town") engaged special counsel, Leech Tishman Fuscaldo & Lampl ("Special Counsel"), to draft and file a Petition for Review challenging the FAA's Final Environmental Assessment and Finding of No Significant Impact issued in connection with the approval and implementation of the South Central Florida Metroplex Project ("Metroplex"); and

WHEREAS, in addition to legal fees incurred by the Special Counsel, it was necessary for the Special Counsel to engage a consultant or expert, JDA Aviation Technology Solutions ("Consultant"), to assess the impacts of the Metroplex on the Town and its residents (Phase 1), including an analysis and comparison between the existing flight procedures and the proposed Metroplex procedures; and

WHEREAS, the Consultant's fees for Phase 1 of the assessment services to the Town are \$36,440, of which the Town has paid the Special Counsel \$20,000 to date, with a remaining balance of \$16,440 due at the end of the Phase 1 assessment and presentation of the Final Report and Impact Analysis; and

**WHEREAS,** the Town Commission wishes to authorize additional expenditure of funds to the Special Counsel for ongoing legal fees in the amount of \$45,000, and the remaining balance

1

for Phase I of the Metroplex flight procedure assessment performed by the Consultant in the amount of \$16,440, for a total estimated amount of \$65,000; and

WHEREAS, the Town Commission desires to authorize and approve additional expenditure of funds in an amount not to exceed \$65,000 for legal fees to the Special Counsel and the remainder of Consultant's fees for Phase 1 of the assessment; and

WHEREAS, the Town Commission finds that this Resolution is in the best interest, health and welfare of the residents of the Town.

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

Section 1. <u>Recitals.</u> Each of the above-stated recitals are hereby adopted, confirmed, and incorporated herein.

### Section 2. Approving and Authorizing Expenditure of Funds to Special Counsel

**for Legal Fees and Consultant's Services.** The Town Commission hereby approves and authorizes the additional expenditure of funds to the Special Counsel in an amount not to exceed \$65,000 for additional legal fees and the remainder of the Consultant's fees for the Phase 1 assessment.

Section 3. Implementation. The Town Commission hereby authorizes the Town Manager to expend additional funds as provided in this Resolution and implement the purposes of this Resolution.

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

PASSED AND ADOPTED this 11<sup>th</sup> day of January, 2022.

2

Motion By: \_\_\_\_\_\_ Second By: \_\_\_\_\_\_

# FINAL VOTE ON ADOPTION:

Commissioner Charles Kesl	
Commissioner Eliana R. Salzhauer	
Commissioner Nelly Velasquez	
Vice Mayor Tina Paul	
Mayor Charles W. Burkett	
Vice Mayor Tina Paul	

Charles W. Burkett, Mayor

ATTEST:

Sandra McCready, MMC Town Clerk

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

Weiss Serota Helfman Cole & Bierman, P.L. Town Attorney



ITEM NO. <sup>5C</sup>

# MEMORANDUM

To: Honorable Mayor, Vice-Mayor and Members of the Town Commission

From: Andrew Hyatt, Town Manager

**Date:** January 11, 2022

Subject: Downtown Walkability and Design Study Scope of Work Approval

This item is a request for scope of work approval and authorization to expend by the Town Commission for the Downtown Walkability and Design Study (Study). The Study will utilize existing data, studies and plans from Florida Department of Transportation (FDOT), prior Town parking, traffic and downtown studies. Marlin Engineering will utilize four (4) sophisticated video cameras and computer software to collect and analyze pedestrian, bicycle and vehicle characteristics between Thursday and Sunday. This equipment is programable and has been used in several FDOT and other agency studies. Additional data on existing downtown floor area, land uses, occupancy, streetscape conditions, parking supply and sidewalk features will also be collected by Marlin. Limited questionnaire and interviews will also be collected.

The goals of the Study are to provide a more walkable experience for shoppers, become more sidewalk café oriented, lower vehicle speeds and improve overall roadway-pedestrian safety. Three improvement alternatives will be prepared and presented to the Downtown Visionary Advisory Committee (DVAC) and to the Town Commission. Two meetings each will be held with both the DVAC and Town Commission. A draft and final report with estimated improvement costs will be provided.

This item was included in the adopted FY 2022 budget and is funded under the Municipal Transportation Fund from the Town's pro-rata share of the ½ cent discretionary sales surtax. The lump sum cost for the Study is \$50,000 which was included in the adopted budget. Marlin Engineering will prepare the Study. The time frame for the Study is 5 months. Individual Zoom meetings were held with four (4) of the DVAC members to review the draft scope of work with positive feedback and support. A copy of the Draft Scope of Work is attached.

Town administration is seeking Town Commission approval for the expenditure of Fiscal Year 2022 adopted budget funds totaling \$50,000 towards the Downtown Walkability and Design Study.

Reviewed by: JG



# RESOLUTION NO. 2022-

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING AND AUTHORIZING THE EXPENDITURE OF FUNDS IN AN AMOUNT NOT TO EXCEED \$50,000 TO ENGAGE MARLIN ENGINEERING, INC. FOR **DOWNTOWN** Α WALKABILITY AND DESIGN STUDY; PROVIDING FOR **IMPLEMENTATION:** AND PROVIDING FOR AN **EFFECTIVE DATE.** 

WHEREAS, the Town of Surfside (the "Town") desires to approve and authorize the expenditure of funds for a Downtown Walkability and Design Study (the "Study") in order to identify opportunities to provide a more walkable experience for residents and visitors of the Town and improve overall roadway-pedestrian safety; and

WHEREAS, on June 15, 2020, the Town issued Request for Qualifications No. 2020-05 (the "RFQ") requesting proposals from firms that could provide general planning services (the "Services"); and

WHEREAS, on November 19, 2020, the Town Commission adopted Resolution No. 2020-2738 approving the award of an agreement to Marlin Engineering, Inc. (the "Consultant") for the Services pursuant to the RFQ (the "Agreement"); and

**WHEREAS,** the Town Administration is seeking approval and authorization to expend funds in an amount not to exceed \$50,000.00 to engage the Consultant for the Study in accordance with the terms of the Agreement and the Scope of Work attached hereto as Exhibit "A",; and

**WHEREAS,** the Town Commission finds that this Resolution is in the best interest and welfare of the residents of the Town.

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

1

Section 1. <u>Recitals.</u> That each of the above-stated recitals are hereby adopted, confirmed, and incorporated herein.

# <u>Section 2.</u> <u>Approving and Authorizing Expenditure of Funds.</u> The Town Commission approves and authorizes the expenditure of funds in an amount not to exceed \$50,000.00 to engage the Consultant for the Study in accordance with the terms of the Agreement and the Scope of Work attached hereto as Exhibit "A."

Section 3. <u>Implementation.</u> The Town Manager and Town Administration are authorized and directed to take any and all action necessary to accomplish the purposes of this Resolution.

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

**PASSED AND ADOPTED** on this 11<sup>th</sup> day of January, 2022.

Motion By: \_\_\_\_\_\_
Second By: \_\_\_\_\_

# FINAL VOTE ON ADOPTION:

Commissioner Charles Kesl	. <u> </u>
Commissioner Eliana R. Salzhauer	
Commissioner Nelly Velasquez	
Vice Mayor Tina Paul	
Mayor Charles W. Burkett	

Charles W. Burkett, Mayor

Attest:

Sandra McCready, MMC Town Clerk

Approved as to Form and Legal Sufficiency:

Weiss Serota Helfman Cole & Bierman, P.L. Town Attorney

# I. Background

The two blocks of Harding Avenue from 94th Street to 96th Street provide the entrance to the Town of Surfside for those arriving from the west and north. It is also the commercial hub for residents and tourists. The Commercial Area is accessed by autos, pedestrians and bicyclists. The Town is interested in evaluating the feasibility of improving the sidewalks along this section of Harding Avenue to provide a more walkable experience for shoppers, become more sidewalk café oriented, lower vehicle speeds and improve overall roadway-pedestrian safety.

This project will consist of preparing a Sidewalk Walkability Feasibility Study for 2 blocks of Harding Avenue between 94th Street and 96th Street including the municipal lot on the south side of 94<sup>th</sup> Street. Figure 1, on the following page, illustrates the general Study Area. Parking occupancy counts and inventories of the area will be utilized to establish current parking usage and characteristics along Harding Avenue. The findings of the existing studies will also be included in the written report. Efforts will be initiated to solicit input from resident, tourist and business stakeholders. In addition to the stakeholder outreach, two (2) public presentations for input will be held with the Town's Downtown Vision Advisory Committee (DVAC Committee). Two (2) public presentations will be made to the Town Commission to present the draft and final results of the study.

### II. Scope of Work

Task 1 – Kick off Meeting and Project Management

- a) A kick-off meeting will be held with key Town staff to go over the scope and tasks.
- b) There will be ongoing project management and communication with the Town Manager and Town Commission including monthly progress reports.

Task 2 - Data Collection

- a) A Study Area will be established for the Commercial Area generally described as Collins Avenue on the east, 96th Street on the north, 93rd Street on the south and Abbott Avenue on the west.
- b) Prior studies performed for the Town for the Commercial Area and other planning, land use and traffic studies involving the Study Area will be reviewed and assessed.
- c) Florida Department of Transportation (FDOT) preliminary plans for resurfacing Harding Avenue in this area will be the basis for public right of way, lane width, parking space width, sidewalk width pedestrian pavement markings and signal indicators.
- d) Information will be collected and assembled on the Study Area including public right of way, sidewalks, parking spaces, pedestrian crossings, building floor area (vacant and occupied), land use, sidewalk width, building access points, sidewalk landscape areas, public infrastructure and other corridor features.
- e) A 2-hour time-of-day parking occupancy study will be collected on Harding Avenue between 96th and 94th Street in ½ hour increments for two peak-hour periods: one on a weekday including the lunch hours and evening timeframe; and, the second on a weekend including the lunch hours and evening timeframe. The peak hour time frame between Thursday through Sunday will be identified from prior studies and the video camera information of parking and traffic characteristics.

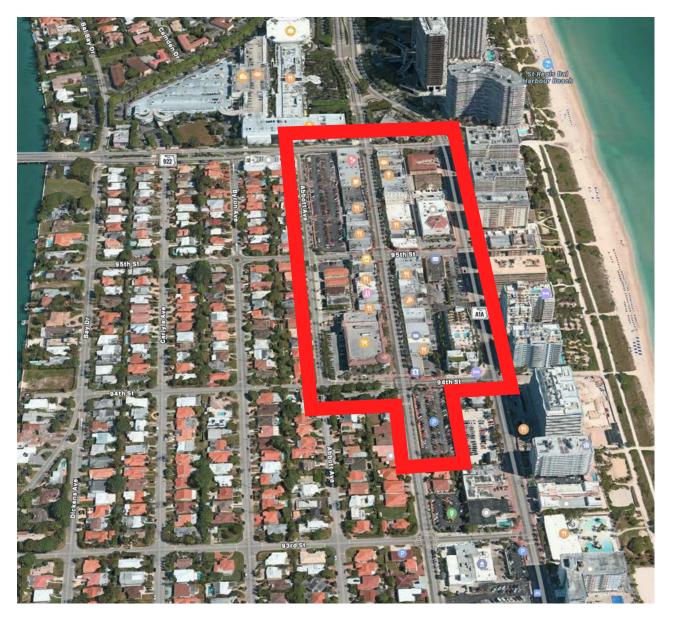


Figure 1 – Study Area

- f) Peak hour pedestrian and parking occupancy counts will be collected within the Study Area in order to ascertain the availability of on-street and off-street parking capacity to accommodate the parking demand. The weekday and weekend periods will include the lunch hour and evening timeframes.
- g) Public parking spaces/facilities within the Study Area will be identified by the number of parking spaces, parking costs and walking distance from the parking spaces to the Commercial Area.
- h) Four (4) Video Cameras will be placed in the Study Area to capture vehicle, pedestrian and bicycle activity.
- Task 3 Existing Conditions Analysis
  - a) The floor area and land use characteristics of the Commercial Area will be summarized in tabular form. Based on the occupied uses, an estimate of peak hour parking demands will be developed. The parking generation for full occupancy will also be developed.
  - b) The findings from the data collection effort in Task 2 will be summarized including the number of parking spaces and occupancy characteristics of the parking spaces. Results of the video cameras will be utilized to identify peak automotive, pedestrian and bicycle characteristics for the peak hour conditions at the selected locations.
  - c) A map of the Study Area will be prepared illustrating businesses and establishments, pavement widths, sidewalk and bike lane widths, public parking spaces on Harding Avenue, and the location of public parking spaces/facilities available to meet the parking demand of the businesses and establishments of the Commercial Area.
  - d) Parking App information will be reviewed and summarized for the Study Area. The Town will facilitate the coordination assistance with Parking App vendor.
  - e) FDOT 3R Safety Study and traffic data will be reviewed and summarized.
  - f) Any previous studies of the Study Area which provided parking, pedestrian and vehicle characteristics will be reviewed and summarized. Existing and available studies to be provided by the Town.
  - g) The existing sidewalk in the Study Area is painted. This condition requires continued maintenance and re-painting. An evaluation will be performed to identify whether a colored and textured composition or other treatment (such as pavers and or stamped concrete) would be beneficial for long term use.
  - h) Existing street and sidewalk lighting in the Commercial Area will be identified along with other existing streetscape hardware (benches, trash cans, signage, etc.).
  - i) As appropriate, a group of tables and graphics illustrating the findings from Task 2 will be performed.

# Task 4 – Stakeholder Outreach

- a) A questionnaire and interview will be prepared to obtain up to 15 business responses along the corridor for input on their customers' parking and sidewalk pedestrian needs.
- b) Questionnaire and interviews of up to 30 visitors in the corridor will be obtained on visitor traffic, parking and sidewalk experiences.
- c) An online survey will be prepared for the Town to post on their website to gather input from the Town residents and visitors.



d) A PowerPoint presentation will be developed for the Town website with the findings of the draft report. Two (2) public meetings will be held with DVAC Committee to share project information, findings and receive feedback on the Study.

# Task 5 – Study Findings and Recommendations

- a) A written report will be prepared documenting the findings of this Study. The report will provide an existing conditions analysis (Task 2 and 3) of land uses and floor area, parking conditions and walkability characteristics within the Commercial Area. Tabular and graphic figures will be included. The results of the stakeholder outreach (Task 4) will be described. Major suggestions and findings (Task 5) will be presented.
- b) Marlin will develop three (3) plan alternatives in Task 5 for improving the walkability of the Commercial Area. The first alternative will be based on minimal improvement options. The second alternative will include a series of improvements, such as sidewalk widening to encourage pedestrian walkability and support incentives for developing additional sidewalk cafes. The third option will consider additional improvements beyond those presented in the second alternative. As appropriate, cost estimates and expectations for implementation will be presented.
- c) The draft report will be the basis for an initial public presentation to the Town Commission. Based on the Town Commission direction the draft report with be finalized. The Town will be responsible for printing copies of the draft and final Reports.
- d) Marlin will attend up to two (2) Public Meetings to present the results of the Study when requested by the Town.

# III. SCHEDULE

The Draft Report for this Study will be submitted within 5 months of receiving a Notice to Proceed.

# IV. BUDGET

The attached staff hour fee proposal contains the budget for the work effort including out of pocket expenses. For the services performed, the Town will pay Marlin the lump sum fee of \$50,000. The hourly billing rates are consistent with the unit rates shown in the Executed Agreement for this contract. This Work Order is a Lump Sum Work Order



# Town of Surfside Town Commission Meeting January 11, 2022 7:00 pm Town Hall Commission Chambers - 9293 Harding Avenue, 2<sup>nd</sup> Floor Surfside, FL 33154

Date:	January 11 <sup>th</sup> , 2022
Prepared by:	Commissioner Eliana R. Salzhauer
Subject:	Resolution: Champlain Towers South Memorial Park & Pedestrian Plaza at 88 <sup>th</sup>
	Steet

**Objective:** Memorializing the victims of the Champlain Towers South collapse at a location as close as possible to the collapse site remains a top priority. Converting 88<sup>th</sup> Street between Collins and the Beach into "Champlain South Memorial Park & Pedestrian Plaza" can provide a passive park for quiet reflection with a respectful memorial to the 98 souls who perished in that tragic collapse.

**Consideration:** The Town of Surfside already owns 88<sup>th</sup> street between Collins and the beach. Repurposing that portion of land can be done at an expedited pace and at a reasonable expense. A passive park from which to view the CTS collapse site with a proper memorial will help bring peace to the families who lost loved ones, to the survivors who lost friends and neighbors, and to the entire Surfside community emotionally scarred & impacted by this colossal tragedy. This site would become the future home of whichever memorial sculpture is later selected by the Commission to memorialize the Champlain Towers South Collapse tragedy. The choice of a suitable memorial design would be addressed in conjunction with the victims' families at a later date. The purpose of this Resolution is to designate 88<sup>th</sup> Street (East of Collins Avenue) as the location of "Champlain Towers South Memorial Park & Pedestrian Plaza."

Creating additional public greenspace named in the victims' memory ensures that they will never be forgotten.

**Recommendation:** Adopt the Resolution as attached establishing "Champlain Towers South Memorial Park & Pedestrian Plaza" at 88<sup>th</sup> Street between Collins & the Beach. Direct the Town Manager & Town Attorneys to begin the conversion process. Explore memorial options for the premises once the site has been secured.

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA; DIRECTING THE MANAGER TO PURSUE THE CLOSURE OF 88<sup>TH</sup> STREET EAST OF COLLINS AVENUE TO VEHICULAR TRAFFIC FOR THE PURPOSE OF PROVIDING A MEMORIAL PARK AND PEDESTRIAN PLAZA HONORING THE VICTIMS OF THE CHAMPLAIN TOWERS SOUTH COLLAPSE; AUTHORIZING THE TOWN MANAGER TO EXECUTE AND TAKE ALL ACTION NECESSARY, INCLUDING **PAGE 267** 



# Town of Surfside Town Commission Meeting January 11, 2022 7:00 pm Town Hall Commission Chambers - 9293 Harding Avenue, 2<sup>nd</sup> Floor Surfside, FL 33154

APPLICATIONS REQUIRED BY MIAMI-DADE COUNTY AND/OR FLORIDA DEPARTMENT OF TRANSPORTATION AND/OR ANY OTHER GOVERNMENTAL AGENCY WITH JURISDICTION; AUTHORIZING THE TOWN MANAGER TO RETAIN DESIGN OR ENGINEERING PROFESSIONALS FOR THE PREPARATION OF PLANS OR STUDIES AS REQUIRED FOR THE CLOSURE OF THE RIGHT-OF-WAY TO VEHICULAR TRAFFIC; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE

# RESOLUTION NO. 2022-

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA; DIRECTING THE MANAGER TO PURSUE THE CLOSURE OF 88<sup>TH</sup> STREET EAST OF COLLINS **AVENUE** ТО VEHICULAR TRAFFIC FOR THE PURPOSE OF PROVIDING A MEMORIAL PARK AND PEDESTRIAN PLAZA HONORING THE VICTIMS OF THE CHAMPLAIN **TOWERS** SOUTH **COLLAPSE:** AUTHORIZING TOWN MANAGER THE TO EXECUTE AND TAKE ALL ACTION NECESSARY, INCLUDING APPLICATIONS REQUIRED BY MIAMI-DADE COUNTY AND/OR FLORIDA DEPARTMENT OF TRANSPORTATION AND/OR ANY OTHER **GOVERNMENTAL AGENCY WITH JURISDICTION:** AUTHORIZING THE TOWN MANAGER TO RETAIN DESIGN OR ENGINEERING PROFESSIONALS FOR THE PREPARATION OF PLANS OR STUDIES AS **REQUIRED FOR THE CLOSURE OF THE RIGHT-OF-**WAY TO VEHICULAR TRAFFIC; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN **EFFECTIVE DATE.** 

**WHEREAS**, the Champlain Towers South (the "CTS") condominium building collapsed on June 24, 2021, resulting in the deaths of 98 people and injuries to many others; and

**WHEREAS**, the CTS was located in the Town of Surfside, a majority of the victims were residents of the Town, and the Town and its residents were deeply affected by the collapse; and

**WHEREAS**, surviving members of the victims' families have sought a suitable memorial to commemorate the tragic loss of life and life-altering impact of the collapse, and have petitioned the Town Commission and the court in the case of In Re: Champlain Towers South Collapse Litigation, Case No. 2021-015089-CA-01 to create a memorial on the collapse site itself, located at 8777 Collins Avenue; and

**WHEREAS**, the court has directed the sale of the property without any condition for a memorial to be located on the property which is to be sold with proceeds going into a compensation fund to address victim claims; and

**WHEREAS**, victims' families have sought alternate locations for a memorial as close as possible to the collapse site; and

**WHEREAS**, the Town maintains 88<sup>th</sup> Street between Collins Avenue and the beach (the "Street-end") as a vehicular and pedestrian right-of-way directly north of the collapse site; and

**WHEREAS**, the Town Commission finds it necessary, moral, and important to honor and remember those lives lost and affected by the tragic collapse by commemorating a suitable memorial, and finds that the best site to do so, outside of the collapse site itself, is the Street-end.

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

**<u>SECTION 1.</u> <u>RECITALS.</u>** All recitals set forth above are incorporated into the body of this Resolution as if same were fully set forth herein.

# <u>SECTION 2</u>. <u>DIRECTION TO THE MANAGER TO PURSUE THE CLOSURE</u> OF 88<sup>TH</sup> STREET EAST OF COLLINS AVENUE TO VEHICULAR TRAFFIC FOR THE PURPOSE OF PROVIDING A MEMORIAL PARK AND PEDESTRIAN PLAZA HONORING THE VICTIMS OF THE CHAMPLAIN TOWERS SOUTH COLLAPSE.

The Manager is hereby directed to take all steps necessary to pursue all governmental approvals necessary to permanently close that portion of 88<sup>th</sup> Street located in between Collins Avenue on the west and the public beach to the east (the "Street-end") to vehicular traffic for a memorial park and pedestrian plaza honoring the victims of the Champlain Towers South collapse. The closure of any portion of 88<sup>th</sup> Street to vehicular traffic is subject to the maintenance of emergency or governmental vehicular access and any access required to reach property north and south of the Street-end.

**SECTION 3. RETENTION OF DESIGN PROFESSIONALS.** In furtherance of advancing the closure of the Street-end to vehicular traffic and constructing the memorial park and pedestrian plaza, the Manager or his designee(s) may retain design or engineering professionals to prepare plans and studies necessary for the application(s).

**SECTION 4. IMPLEMENTATION.** The Town Manager and Town Officials are authorized to take any and all action to implement the closure of the right-of-way to vehicular access and any other purpose of this resolution.

**<u>SECTION 5.</u> <u>EFFECTIVE DATE.</u>** This Resolution shall become effective upon adoption.

**PASSED AND ADOPTED** this \_\_\_\_ day of January, 2022.

Motion by:\_\_\_\_\_

**PAGE 270** 

Second by:\_\_\_\_\_.

# FINAL VOTE ON ADOPTION

Commissioner Charles Kesl	
Commissioner Eliana Salzhauer	
Commissioner Nelly Velazquez	
Vice Mayor Tina Paul	
Mayor Charles W. Burkett	

Charles W. Burkett, Mayor

Sandra N. McCready, MMC, Town Clerk

**ATTEST:** 

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

Weiss Serota Helfman Cole & Bierman, P.L. Town Attorney



# Town of Surfside Town Commission Meeting DATE 7:00 pm Town Hall Commission Chambers - 9293 Harding Avenue, 2<sup>nd</sup> Floor Surfside, FL 33154

Date: 9/15/21

Prepared by: Mayor

Subject: Raising houses in Surfside to make our Town more resilient and sustainable.

**Objective:** To raise our homes above the level of potential flood waters.

**Recommendation: Approve the measure** 

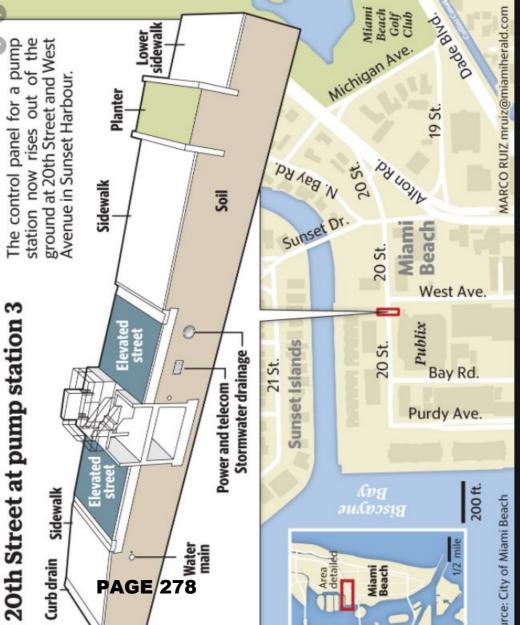




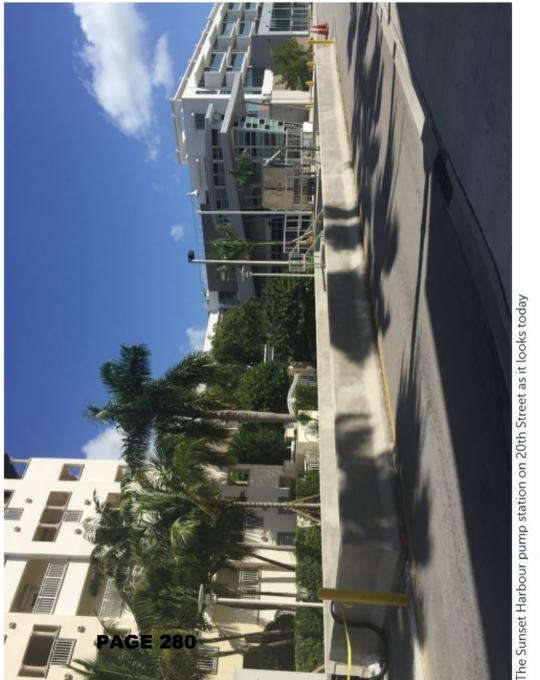










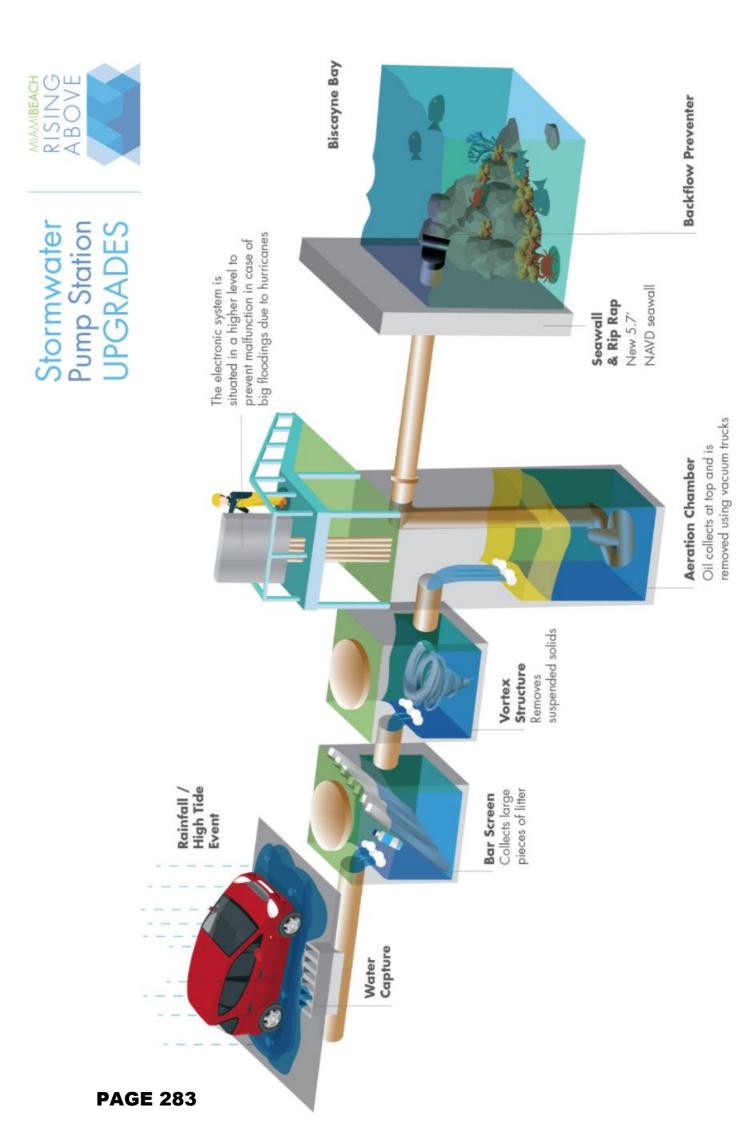


# Miami Beach adds pumps and raises

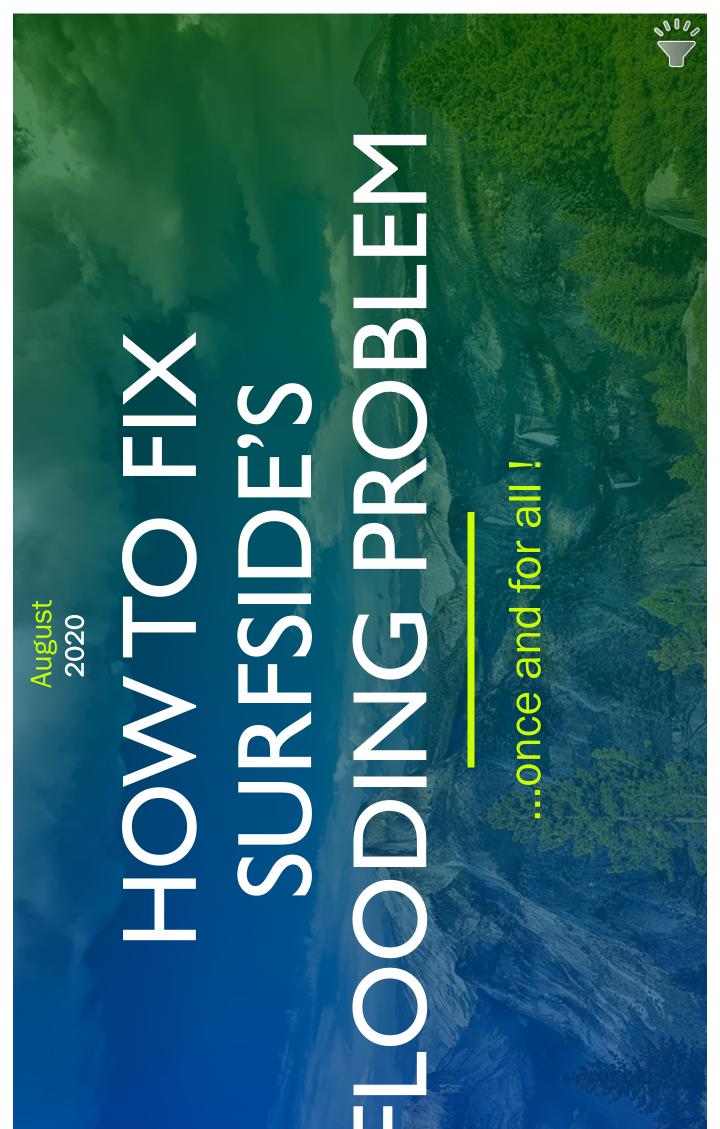


**PAGE 281** 







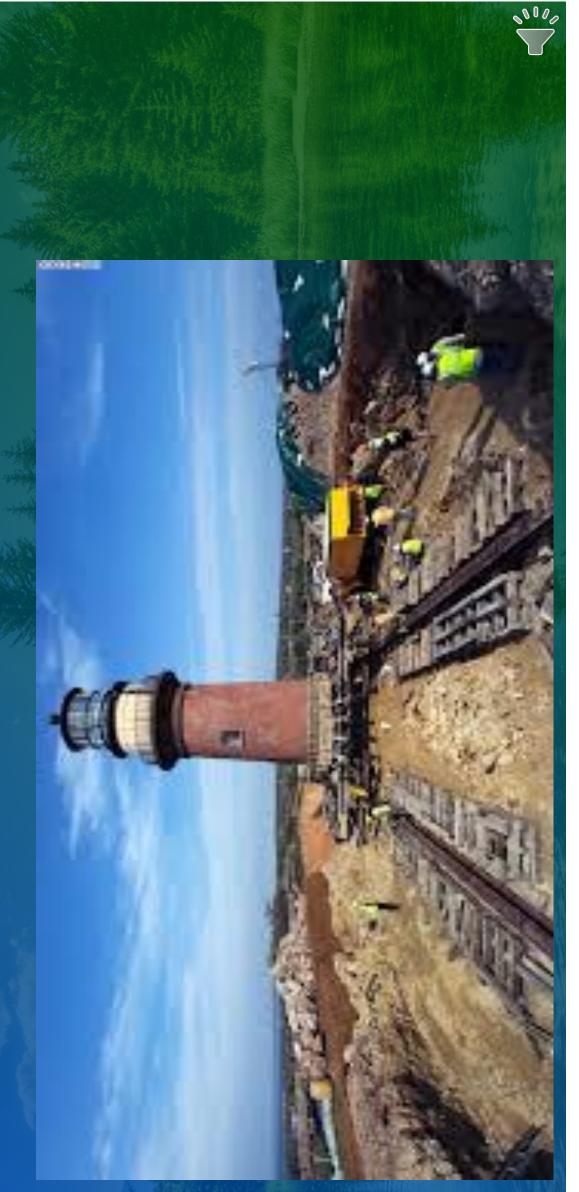


## Giant structures are moved all the time...



Lighthouse being moved away from a cliff

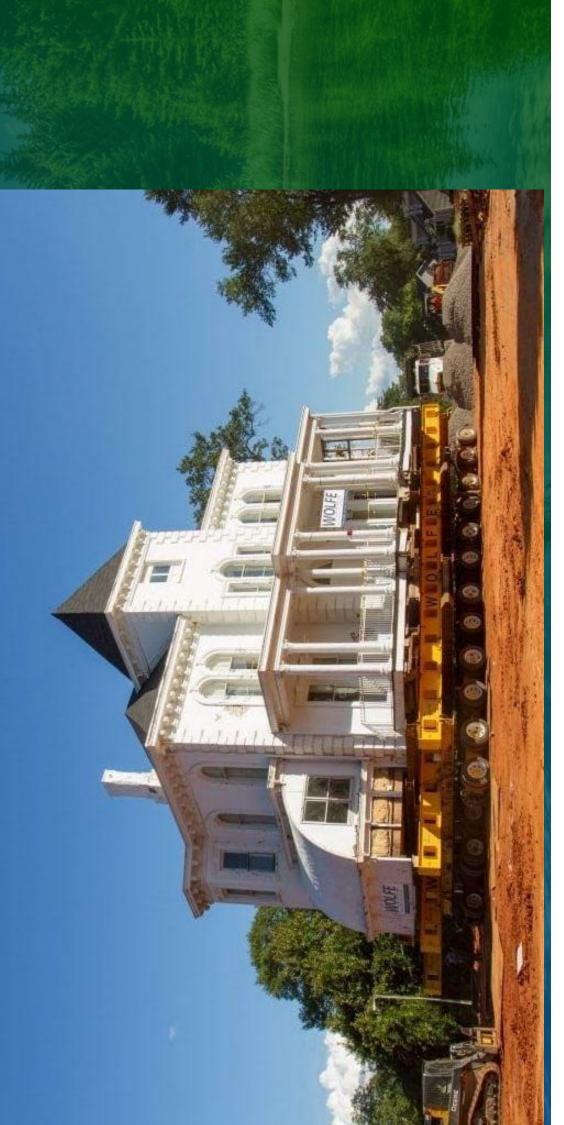






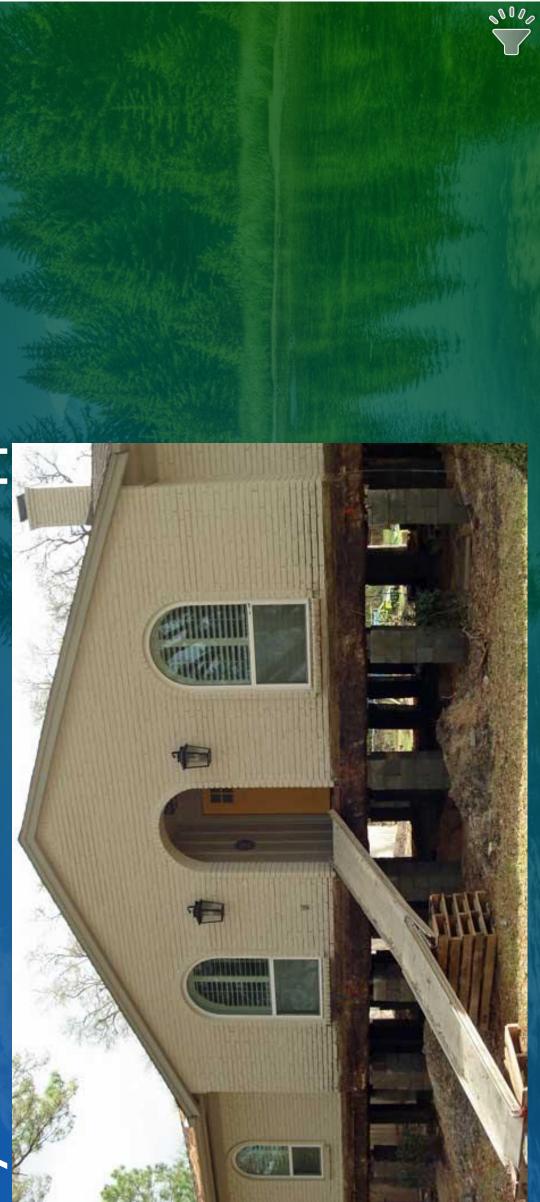












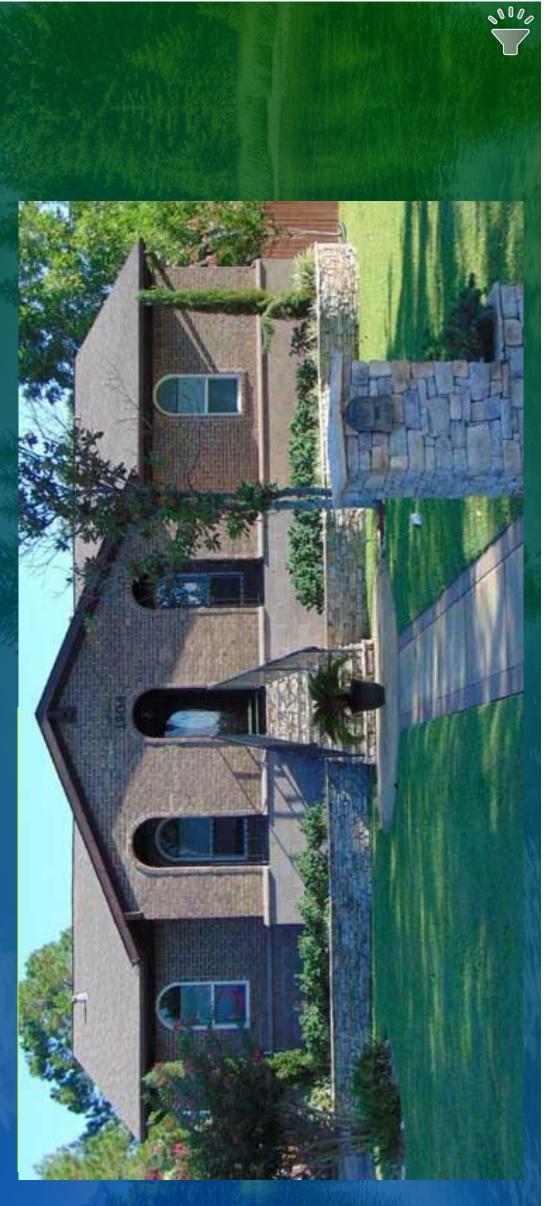
Some homeowners will build storage or entrance features in the new "elevation space" that are "flood risk" uses.



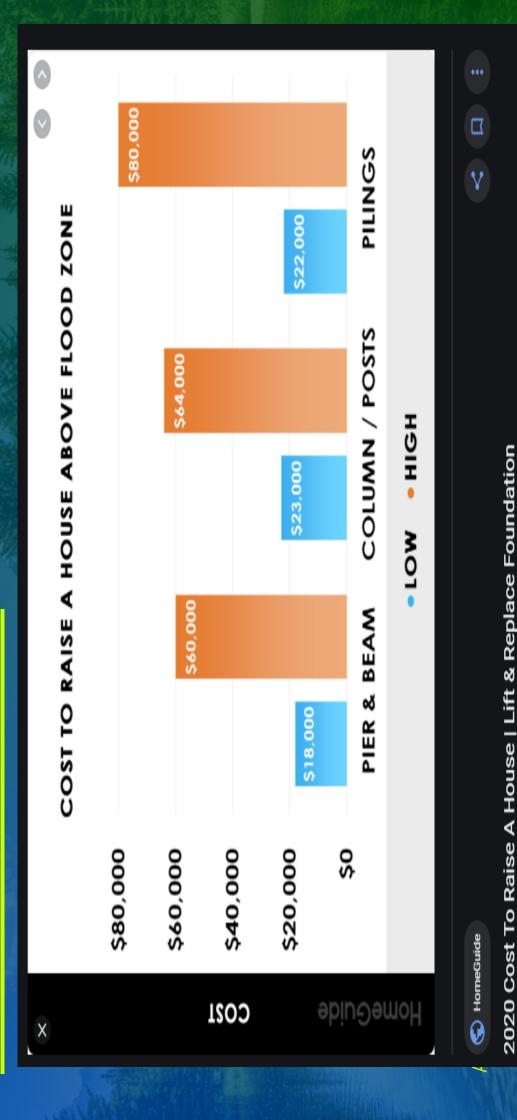
underneath their home, satisfied that their home is now out of Some will just have empty space and a large open area flood danger.



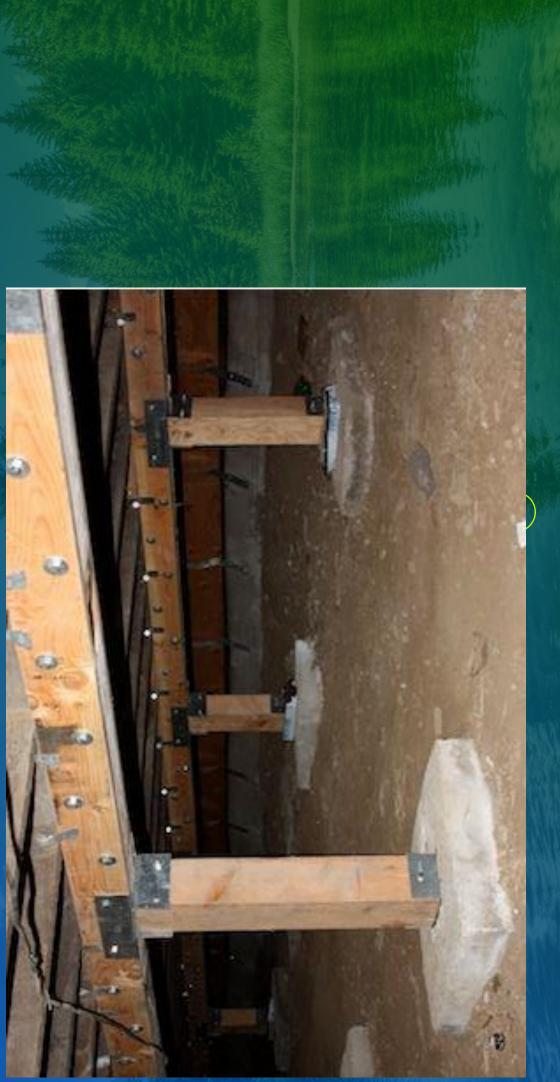
In the end, once all the work is done, the project ooks like it was designed to be elevated.



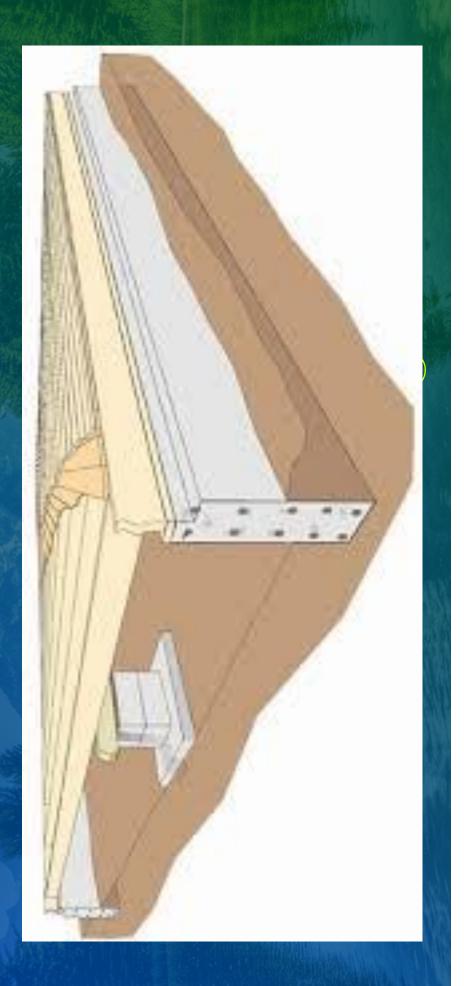
What are the costs and the 3 types of elevation options? For an average home, between \$18,000 and \$80,000 to raise it.



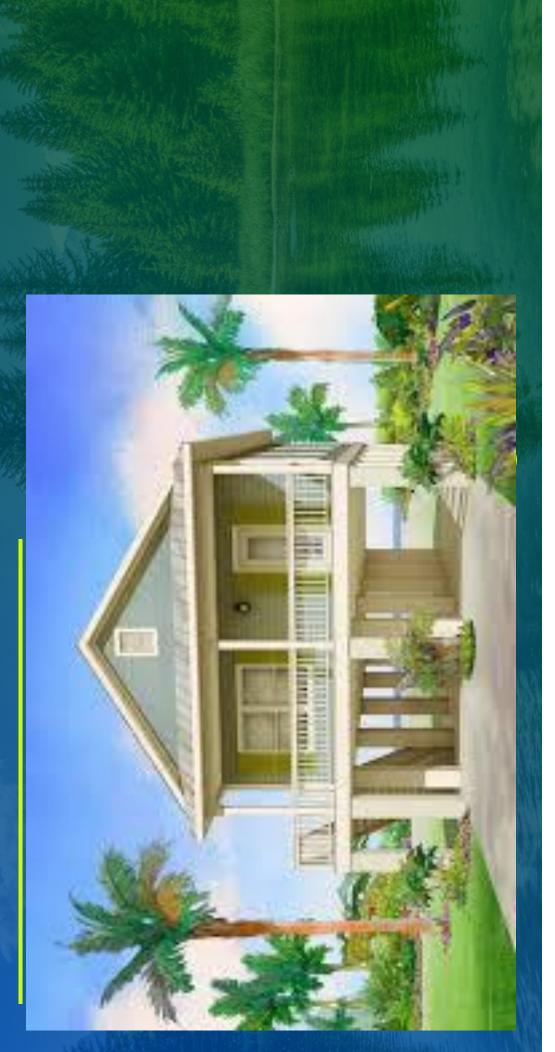




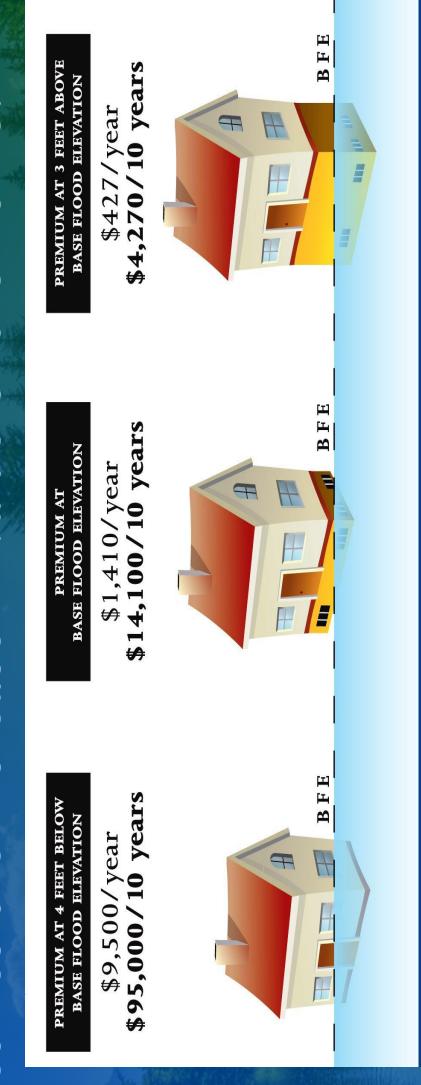
### Pier and beam looks like this.



# Finally, Pilings foundation looks like this.



What are the cost savings for raising a home besides the increase in value of the home?

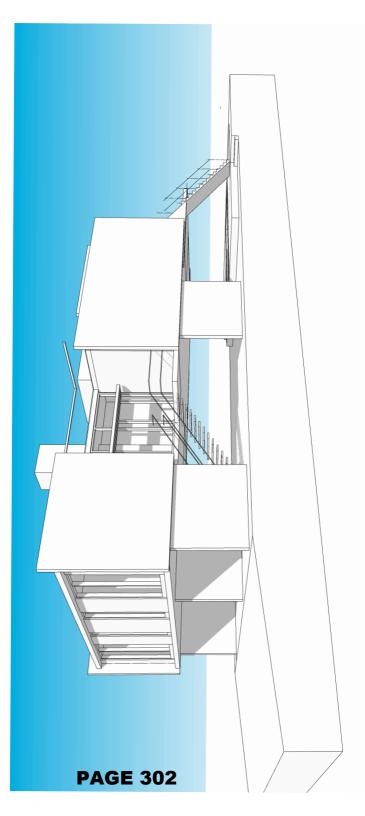


\*\$250,000 building coverage only (does not include contents), AE (high to moderate risk) zone, single-family, one-story structure without a basement at: 4 feet below Base Flood Elevation (BFE); at BFE; and at 3 feet above BFE. (Rating per FEMA flood insurance manual, October 1, 2012). The illustration above is based on a standard National Flood Insurance Program (NFIP) deductible.

### How can the Town of Surfside help?

- The Mayor's plan is that we should offer residents who raise their homes the following incentives:
- The following terms would be available to any homeowner in Surfside for a loan, up to a maximum of \$35,000.
- <u>the home, for 35% of the cost to raise the home. The loan will be due and payable to the Town upon</u> The Town of Surfside will provide a direct, interest free loan, for up to 10 years, secured by a lien on either the sale of the home, or after 10 years have elapsed – whichever occurs first.
- The Town of Surfside will assist homeowners in obtaining additional grants for raising their homes.
- The Town of Surfside will work to find a contractor who will provide a low, fixed cost to raise all the flood prone homes in Surfside, thus provide a large potential "group discount" for homeowners undertaking the work.
- With the \$3 million dollars that had been discussed to improve the drainage speed, but not stop <u>water from going into homes, <u>we could raise over 85 homes in Surfside</u>.</u>





From:	George Kousoulas
To:	Charles Burkett
Subject:	elevated house
Date:	Tuesday, November 10, 2020 12:18:37 PM
Attachments:	surfside 2 side.pdf legacy plan 6.pdf legacy rev 3 composite 2020-11-04 13265200000B.png

Charles, this is the concept house I developed for a standard surfside lot  $(112.5 \times 50)$ . It is elevated high enough that the understory is open and usable. Above it is a one-story house that meets the 40% lot coverage.

Besides the obvious, there are a couple of other ideas behind the concept. One, while it it lifted off the ground on supports, it is designed not to look like a Keys house on stilts that's landed in Surfside. Two, the plan is not a clean rectangle but a deeply and frequently indented one, creating open courtyards along the sides. They are not easily visible from the rendering, but the clearly shown on the plan (an attachment). Doing this gives rooms more exterior wall looking out into landscaped areas, rather than at neighbors' side walls.



### George Kousoulas NCARB BLOCK53 LLC

direct: 202.280.4026

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The New Hork Times | https://www.nytimes.com/2021/09/24/climate/federal-flood-insurance-cost.html

### The Cost of Insuring Expensive Waterfront Homes Is About to Skyrocket

New federal flood insurance rates that better reflect the real risks of climate change are coming. For some, premiums will rise sharply.



By Christopher Flavelle

Sept. 24, 2021

Florida's version of the American dream, which holds that even people of relatively modest means can aspire to live near the water, depends on a few crucial components: sugar white beaches, soft ocean breezes and federal flood insurance that is heavily subsidized.

But starting Oct. 1, communities in Florida and elsewhere around the country will see those subsidies begin to disappear in a nationwide experiment in trying to adapt to climate change: Forcing Americans to pay something closer to the real cost of their flood risk, which is rising as the planet warms.

While the program also covers homes around the country, the pain will be most acutely felt in coastal communities. For the first time, the new rates will also take into account the size of a home, so that large houses by the ocean could see an especially big jump in rates.

Federal officials say the goal is fairness — and also getting homeowners to understand the extent of the risk they face, and perhaps move to safer ground, reducing the human and financial toll of disasters.

"Subsidized insurance has been critical for supporting coastal real estate markets," said Benjamin Keys, a professor at the University of Pennsylvania's Wharton School. Removing that subsidy, he said, is likely to affect where Americans build houses and how much people will pay for them. "It's going to require a major rethink about coastal living."

The government's new approach threatens home values, perhaps nowhere as intensely as Florida, a state particularly exposed to rising seas and worsening hurricanes. In some parts of the state, the cost of flood insurance will eventually increase tenfold, according to data obtained by The New York Times.

For example, Jennifer Zales, a real estate agent who lives in Tampa, pays \$480 a year for flood insurance. Under the new system, her rates will eventually reach \$7,147, according to Jake Holehouse, her insurance agent.

And that is prompting lawmakers from both parties to line up to block the new rates, which will be phased in over several years.

"We are extremely concerned about the administration's decision to proceed," Senator Bob Menendez, a New Jersey Democrat, and eight other senators from both parties, including the majority leader, Chuck Schumer, Democrat of New York, wrote in a letter on Wednesday to Deanne Criswell, the administrator of the Federal Emergency Management Agency.

### 'Our New, Wet Reality'

Created by Congress in 1968, the National Flood Insurance Program is the primary provider of flood coverage, which often isn't available from private insurers. The program is funded by premiums from policyholders but can borrow money from the federal treasury to cover claims.

The average annual premium is \$739. Until now, FEMA, which runs the program, has priced flood insurance based largely on whether a home is inside the so-called 100-year flood plain, land expected to flood during a major storm.



Flooding from Tropical Storm Eta in Gulfport, Fla., in 2020. Martha Asencio Rhine/Tampa Bay Times, via Associated Press



Jake Holehouse, a flood insurance advocate for Pinellas County, says the way FEMA is talking about the pricing changes is misleading. Eve Edelheit for The New York Times

But that distinction ignores threats like intense rainfall or a property's proximity to water. Many homeowners pay rates that understate their true risk.

The result has been a program that subsidizes wealthier coastal residents at the expense of homeowners further inland, who are more often people of color or low-income. As climate change makes flooding worse, using tax dollars to underwrite waterfront mansions has become increasingly hard to defend.

In 2019, FEMA said it would instead price flood insurance based on the particular risks facing each individual property, a change the agency called "Risk Rating 2.0." After a delay by the Trump administration, the new system takes effect next month for people purchasing flood insurance. For existing customers, rates will rise starting next April.

The change has won applause from a grab bag of advocacy groups, including climate resilience experts, environmentalists, the insurance industry and the budget watchdog group Taxpayers for Common Sense.

"With a rapidly escalating threat of natural disasters, Risk Rating 2.0 is a much needed and timely change," said Laura Lightbody of Pew Charitable Trusts, which has pushed governments to better respond to climate threats. Higher insurance costs, she said, were "a reflection of our new, wet reality."

### **Staggering costs**

But the financial consequences of that new reality will be staggering for some communities.

The flood program insures 3.4 million single-family homes around the country. For 2.4 million of those homes, rates will go up by no more than \$120 in the first year, according to data released by FEMA — similar to the typical annual increases under the current system. An additional 627,000 homes will see their costs fall.

But 331,000 single-family homes around the country will face a significant rise in costs. More than 230,000 households will see increases up to \$240 in the first year; an additional 74,000 households will see costs rise by as much as \$360. For about 25,000 single-family homes, additional costs could reach as high as \$1,200.

### **PAGE 306**

https://www.nytimes.com/2021/09/24/climate/federal-flood-insurance-cost.html

### 9/26/21, 12:43 PM

Almost half of those 25,000 households are in Florida, many of them along the string of high-risk barrier islands that run from St. Petersburg south to Fort Myers.

In the tiny hamlet of Anna Maria, on the tip of an island at the mouth of Tampa Bay, one ZIP code leads the country in the number of single-family homes facing an increase of more than \$1,200. Other nearby towns, including Siesta Key and Boca Grande, face similar jumps.



A house under construction in South Gulf Cove, Fla., a town ninety minutes south of Tampa on Gasparilla Sound. Eve Edelheit for The New York Times



Marti Beller Lazear is buying a house on Treasure Island, Fla., a slender strip of land off the coast of St. Petersburg. "You can pay down your house," she said. "You can't pay away the flood insurance." Eve Edelheit for The New York Times

And those increases are just in the first year.

Because federal law prohibits FEMA from raising any homeowner's flood insurance rates by more than 18 percent a year, it could take 20 years before some current homeowners are charged their full rates under the new system.

FEMA declined to make public the full amount of the rate increases that homeowners will pay over time. But insurance brokers are able to see those costs for individual homes, and they are far greater than the initial increases discussed by FEMA.

Mr. Holehouse, who in addition to selling insurance is also a flood insurance advocate for St. Petersburg, said it was misleading for FEMA to disclose the price changes for only the first year of the new rate schedule.

"I want to talk about five to 10 years from now, because most people take a 30-year mortgage," Mr. Holehouse said.

One of his clients is Marti Beller Lazear, who is buying a house on Treasure Island, a slender strip of land off the coast of St. Petersburg. Her annual cost for flood insurance will eventually jump from \$3,903 to \$10,655 under the new rates.

That realization changes her calculation about whether to retire in her new house, Ms. Lazear said. Even if she pays off her mortgage, she'll always face a high annual cost in the form of insurance.

"You can pay down your house," Ms. Lazear said. "You can't pay away the flood insurance."

### Pay more, or move out

Just south of Treasure Island is the small town of St. Pete Beach. Melinda Pletcher is a town commissioner. She worries that as insurance costs go up, home values will fall, even as people who can't afford rising insurance costs will be forced to move.

"The people who are building or buying the houses that have \$1 million in value, they don't care," said Ms. Pletcher, whose own rates are going up from about \$500 a year to almost \$4,500. "People that have been living here for 40 years, they end up not being able to afford to stay."

PAGE 308 https://www.nytimes.com/2021/09/24/climate/federal-flood-insurance-cost.html



Melinda Pletcher, a commissioner of St. Pete Beach, Fla. "People that have been living here for 40 years — they end up not being able to afford to stay," she said. Eve Edelheit for The New York Times



A lot for sale in South Gulf Cove. FEMA has said that the area around St. Petersburg is unusual, and that most people around the country whose rates are going up will see far smaller changes. Eve Edelheit for The New York Times

Ms. Zales, the Tampa resident whose rates are set to eventually exceed \$7,000, said she's lucky that she can afford to pay that much. For new buyers, that kind of increase will push mortgage lenders to reconsider how much money borrowers can afford to repay each month, Ms. Zales said. Future home buyers "may not qualify for as high a loan," she said.

Homeowners with a federally backed mortgage are legally required to carry flood insurance. Those who have paid off their mortgage, or didn't need one in the first place, face a different dilemma under the new system: Whether to pay the new, higher rates or risk living without coverage.

Gloria Dumas-Ropp built a house seven years ago in a neighborhood called South Gulf Cove, about 90 minutes south of Tampa on Gasparilla Sound. She said she pays \$1,120 a year now; that rate will eventually rise to about \$6,000, according to data provided by Mr. Holehouse.

If that happens, Ms. Dumas-Ropp, who doesn't have a mortgage, said she and her husband may decide to drop coverage. She said it's wrong for FEMA to raise costs for people who bought homes near the coast expecting their insurance to remain affordable.

"I don't know why they would do that to people who worked so hard to be here," said Ms. Dumas-Ropp, a retired executive.

### 'Tell People the Truth'

The rate hikes around Tampa Bay are unusual, according to FEMA. Most homeowners will see much smaller increases, and many will experience a decrease — the first time in the history of the program, the agency said.

As for those who may be forced from their homes by rising rates, the agency noted that it has long urged Congress to offer financial help to lower-income residents — a more targeted type of assistance than simply subsidizing policies for most homeowners regardless of income.

"For the first time, our policyholder premiums will be based on their individual risk," said David Maurstad, who runs the flood insurance program at FEMA. "We pledge to continue to evaluate and make adjustments where and when it's warranted."

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https://www.nytimes.com/2021/09/24/climate/federal-flood-insurance-cost.html



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A canal in Siesta Key, Fla. Eve Edelheit for The New York Times
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A sign welcomed visitors to Treasure Island at dawn. Eve Edelheit for The New York Times

Lawmakers have responded to the change with alarm. Last week, 38 members of Congress signed a letter urging House Speaker Nancy Pelosi to block the change.

"We are concerned about the burden of potential double-digit rate hikes on our constituents by FEMA's untested pricing methodology," the letter read, calling that burden "too much for them to bear."

Unlike current climate policy debates, which tend to break along partisan lines, views on flood insurance are less a matter of political ideology than of geography.

All but three of the members who signed the House letter represent coastal states, including five Republican lawmakers from Louisiana and all ten Democratic House members from New Jersey. The letter was signed by 19 Democrats, including some, such as Grace Meng and Ritchie Torres of New York, who in other contexts have stressed the need to address the effects of climate change.

Neither Ms. Meng nor Mr. Torres responded to requests for comment.

Charlie Crist, the former Republican governor of Florida who now represents St. Petersburg as a Democrat in the House of Representatives, also signed last week's letter. He rejected FEMA's argument that higher insurance costs would serve to alert people to the risks they face.

"That's one of the most inhumane, callous statements they could possibly make," Mr. Crist said. "We're going to punish you so you know what's going on?."

In the past, insurance policy has been vulnerable to political pressure. In 2012, Congress rolled back some of the subsidies in the flood insurance program, only to reverse course two years later after voters objected to higher costs.

But the growing threat of climate change may make that kind of intervention less successful, said Roy Wright, who ran the flood insurance program until 2018 and now runs the Insurance Institute for Business & Home Safety.

"We cannot hide the truth of this increasing risk," Mr. Wright said. "We shouldn't hide it. Tell people the truth."



https://www.nytimes.com/2021/09/24/climate/federal-flood-insurance-cost.html



Eve Edelheit for The New York Times

### MIAMI BEACH CREATES A RESILIENCE FUND TO ADDRESS PRIVATE PROPERTY FLOODING AND SEA LEVEL RISE RESILIENCE (UPDATED)

(Miami Beach, FL) Nov 18, 2020 - Today, the Mayor and City Commission passed a resolution creating a new Miami Beach Resilience Fund and allocating up to \$666,666 annually for a Private Property Flooding and Sea Level Rise Adaptation Program. The fund is intended to seed a new matching grant program to incentivize private property investments that prevent flood damage.

"Private property adaptation is a vital component to Miami Beach's overall climate resilience planning," Mayor Dan Gelber said. "The city continues to do their part by working with global experts and investing in public infrastructure — ranging from road elevation, stormwater infrastructure, water treatment systems, and the efforts to dedicate more green space and trees to create more resilient, absorbable swales and surfaces. We are in this climate challenge together."

For individual private properties, resilience investments could include matching grants for up to \$20,000 per property and include green infrastructure additions such as rain gardens and bioswales; replacing impermeable with permeable materials; appliance and equipment elevation; dry or wet floodproofing; garage floor and yard elevation; installation blue or green roofs and more. The grant program criteria and details will be further developed as part of the 2021-2022 budget process.

"Generally, investment in private property is the sole responsibility of property owners, but most of my colleagues and I agree that we must play a leadership role by incentivizing projects that complement our various public efforts to strengthen Miami Beach's resilience infrastructure as a whole," Commissioner Mark Samuelian added. "Reducing the likelihood of flood damage will help to preserve and increase home values."

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### **OFFICE OF MARKETING & COMMUNICATIONS**

305.673.7575

**Melissa Berthier** 

melissaberthier@miamibeachfl.gov

### **RECENT CITY NEWS**



Miami Beach Welcomes New Nautical-Themed Playground with Beach Cleanup and Bird Release



Free Flu Shots for Miami Beach Kids



**Applications Open for Future Leaders Climate Summit** 



### Town of Surfside Town Commission Meeting January 11, 2022 7:00 pm Town Hall Commission Chambers - 9293 Harding Avenue, 2<sup>nd</sup> Floor Surfside, FL 33154

### Date:January 11, 2022Prepared by:Commissioner Eliana SalzhauerSubject:Discussion Item: Amending Zoning Definitions to Remove Development Loopholes

**Objective:** Unfortunately, our current code contains multiple loopholes that enable developers to skirt reasonable development limits. Amending particular zoning definitions will help prevent overdevelopment and preserve quality of life for Surfside's residents.

**Consideration:** Amending the definitions of key terms such as "Gross Acre" (otherwise known as the "Magic Acre"), "Height", "Lot Area", and "Lot Coverage" will close outstanding loopholes that undermine the unique character of Surfside and reduce quality of life for the community.

### 1) <u>"Gross Acre"</u>

By removing the current definition of "Gross Acre" the unit of measurement will defacto become a true acre. The concept of "Gross Acre" would not longer apply in Surfside. The term "Gross Acre" includes half of the streets adjoining the property in calculating lot area. This is important because using that measurement INCREASES the multiplier for calculations like "density" "lot coverage" and "floor area." By eliminating this definition of "Gross Acre," a property's calculations are based SOLELY on the private property as was intended.

### 2) <u>"Height"</u>

The most important factor in determining the height of a building is WHERE the starting point of "height" is measured from. Currently "height" starts where FL DEP (Department of Environmental Protection) says the 1<sup>st</sup> habitable floor can be. Unfortunately, DEP only sets a MINIMUM starting point and NOT a maximum. Consequently, if a developer wants to build their 1<sup>st</sup> floor at a higher elevation than the minimum required, DEP will approve it. That same developer will then go to Surfside's building department and base their 1<sup>st</sup> floor elevation on what DEP has approved.

This loophole is how beachfront buildings have been able to creep taller even though Surfside's "120-foot maximum height" has not changed. For example, even though the DEP minimum is +18.2 NGVD, the Seaway and Arte established their 1<sup>st</sup> floors at +31 & +29, respectively – they then measured 120 feet from those points, resulting in roof heights that were +151 & +149, respectively. Without that loophole the roof height based on FL DEP wavecrest (+18.2 NGVD) SHOULD have limited both buildings to +138.2 NGVD.





Town of Surfside Town Commission Meeting January 11, 2022 7:00 pm Town Hall Commission Chambers - 9293 Harding Avenue, 2<sup>nd</sup> Floor Surfside, FL 33154

To clarify, Surfside's Charter (Section 4) says that height is limited to what could be approved under the 2004 Comprehensive Plan and 2004 Town Code. <u>https://library.municode.com/fl/surfside/codes/code of ordinances?nodeId=PTICH ARTIIN</u> <u>FOGOPO S4GEPOTOPONODEEX</u>

Section 90-176 (e) of Surfside's 2004 Code states that in the RT-1 District (the predecessor to H-120) "maximum height shall be measured from whatever elevation is established by the Florida Department of Environmental Protection for the first floor." Therefore, the proposed change is consistent with both the 2004 Code and the Charter provision.

By fixing the starting point of "height" at the current wavecrest (which is +18.2 NGVD) we are preventing the endless vertical expansion of what was intended to be a fixed 120-foot height. This compromise takes into account sea level rise and current DEP guidelines. This would essentially preserve Surfside's current skyline at pre-2009 levels. The highest future beachfront buildings would be at +138.2 NGVD.

This change would prevent the overdevelopment of Surfside, preventing what has happened in Sunny Isles.

### 3) <u>"Lot Area"</u>

Recent code changes in 2009 expanded the beachfront lot area measurement to include the entire portion of property to the Erosion Control Line, which is further EAST than the Bulkhead Line. The Bulkhead Line had historically been the true boundary of measurement.

This 2009 change results in a larger lot area that is used to calculate density, lot coverage, and floor area. This allows for greater density, lot coverage, and floor area.

By re-establishing the boundary to the "Bulkhead Line" we are returning to the 2004 Code as the Charter intended.

This is consistent with the Town's Comprehensive Plan which designates property west of the Bulkhead Line different than property east of the Bulkhead Line.



### 4) <u>"Lot Coverage"</u>

Excluding items from the definition of "lot coverage" creates loopholes for additional construction. These loopholes are what has enabled the 2<sup>nd</sup> story of homes to slide across the property without restriction. In this manner a 40% house can cover substantially more (64%) of the property.

Clarifying this definition defines the portion of the lot that can be covered by structures, thereby preserving the light, air, and quality of life of the adjoining neighbors and the yard space of the property's residents.

**Recommendation:** Direct the Town Attorney to draft an Ordinance amending the definitions of "Gross Acre," "Height," "Lot Area," and "Lot Coverage" as specified below.

Moving these changes forward ensures that this Commission delivers on its promise to preserve and protect Surfside's unique small-town character. These changes would also be included in any pending zoning code revisions.

### Section 90-2. – Definitions.

**Gross acre:** The acreage within the perimeter of a lot plus one-half the right-of-way of adjacent streets and alleys. For properties east of Collins Avenue, the calculation of gross acreage shall also include the area up to the erosion control line.

### Height:

- (1) *Flat roofs:* The vertical distance from the average datum or elevation of the crown of the road fronting the lot or building site, to the highest point of the roof.
- (2) *Pitched roofs:* The vertical distance from the average datum or elevation of the crown of the road fronting the lot or building site, to the top of the tie beam. A pitched roof shall have a maximum pitch of 4/12.

For the H120 district, the building height of 120 feet is measured from the current established elevation set by the Florida Department of Environmental Protection for the first habitable floor, which is set at +18.2 feet NGVD29. The maximum building height shall not exceed +138.2 NGVD29.

*Lot area:* The total horizontal area within the lot lines of the lot. <del>In determining usable l</del>ot area in the H120 district<del>, it</del> shall be <u>calculated based on the area bounded by</u> <del>from</del> the west<u>, north</u>, <u>and south</u> lot line<u>s and</u> <del>to</del> the <u>bulkhead line on the east</u>. <u>The area between the</u> erosion control



line <u>and the bulkhead line shall not be counted as part of the lot area for calculation of density</u>, <u>lot coverage</u>, or any other zoning calculation <u>used to</u> and the north lot line shall be the north boundary and the south lot line shall be the south boundary.

**Lot coverage:** The percentage of the total area of a lot that, when viewed from above, would be covered by all principal and accessory buildings and structures (except swimming pools, fences, screen enclosures, and pergolas), or portions thereof, up to a maximum forty percent (40%) of the lot; provided however that the following allowable exclusions, as described under "floor area," shall not be included in determining the lot coverage: the building area.

- i. Uncovered steps and exterior balconies;
- ii. <u>Uncovered terraces, patios, breezeways, or porches which are open on two</u> (2) sides; and
- iii. <u>Covered terraces, patios, breezeways, or porches which are open on two (2)</u> <u>sides.</u>

In no instance may the exemptions listed here exceed 6% of the lot area.

\* \* \* \* \* \* \* \* \* \* \*



Date:	Honorable Mayor, Vice-Mayor and Members of the Town Commission
Prepared by:	Commissioner Nelly Velasquez
Subject:	Amending the Town's Purchasing code (Chapter 3)

At the November 12, 2019 Commission meeting, a discussion item was presented by the Town Administration seeking direction on updates and amendments to the Town's Purchasing Code (Chapter 3). Specifically, amendments were proposed to the Purchasing Code to increase the expenditure and spending authority of the Town Manager from the current cap of \$8,500 to \$25,000. In addition, the Town Administration sought direction on creating additional exemptions from competitive bidding as set forth in Section 3-13 of the Purchasing Code to address routine and recurring purchases, such as utilities and repairs, maintenance, services and purchases of equipment and materials in connection with all Town facilities and properties. The Town Administration also proposed revisions to Section 3-7 of the Purchasing Code with respect to competitive bidding procedures to amend the small purchases procedures to require three quotes or bids for purchases in excess of \$15,000 (currently required of all purchases with no dollar amount). The Town Commission directed staff to prepare an ordinance amending the Purchasing Code with the recommended updates and revisions for first reading to be considered at the December 10, 2019 Commission meeting.

At its December 10, 2019 meeting, the Town Commission adopted the Ordinance on first reading as presented.

I am requesting that the Town's purchasing code (Chapter 3) be amended to the original form prior to November 12, 2019 commission meeting with the original \$8,500 Town Managers purchasing power.

### **ORDINANCE NO. 2020-1708**

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AMENDING CHAPTER 3 "PURCHASING" OF THE TOWN CODE RELATING TO PURCHASING LIMITATIONS AND EXEMPTIONS FROM COMPETITIVE BIDDING; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR INCORPORATON OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 3 of the Town Code, "Purchasing", contains purchasing procedures for the Town of Surfside ("Town") applicable to expenditure of public funds in connection with procurement and purchasing of good, services and construction; and

WHEREAS, the cost of purchasing goods and services has increased since the purchasing limitations of \$8,500 were established in the Town Code, and timely and effective purchasing is necessary for the proper functionality, operation and efficiency of the Town; and

WHEREAS, the Town Commission wishes to amend Section 3-6(c) of the Town Code to increase the spending limit or authority to \$25,000 without Town Commission approval for the purchase of goods and services; and

WHEREAS, the Town Commission wishes to amend section 3-7 of the Town Code to modify the small purchasing procedures to require three quotes or bids for purchases in excess of \$15,000; and

WHEREAS, the Town Commission wishes to further amend and expand Section 3-13 of the Town Code to provide for additional exemptions from competitive bidding for the purchase of goods and services; and

WHEREAS, the Town Commission finds that amending Chapter 3 of the Town's Code as set forth herein is in the best interest of the Town, and will provide for the timely and effective purchasing by the Town and promote functionality and operational efficiency.

NOW, THEREFORE, THE COMMISSION OF THE TOWN OF SURFSIDE HEREBY ORDAINS:<sup>1</sup>

<u>Section 1.</u> <u>Recitals Adopted.</u> That the above-stated recitals are hereby adopted and confirmed.

<sup>&</sup>lt;sup>1</sup> Coding: Strikethrough words are deletions to the existing words. <u>Underlined words</u> are additions to the existing words. Changes between first and second reading are indicted with highlighted double strikethrough and <u>double underline</u>.

Section 2. <u>Amending Chapter 3 of the Town Code</u>. That Chapter 3, "Purchasing", of the Town Code is hereby amended and shall read follows:

\* \* \*

### **Chapter 3 – PURCHASING**

### Sec. 3-1. - Purpose.

The purpose of the purchasing procedures of the Town of Surfside (hereinafter, "chapter") is to provide for the fair and equitable treatment of all persons involved in purchasing by the town, to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity.

### Sec. 3-1.1. - Non-discrimination; contract requirements; waiver.

(a) *Definitions.* As used in this section, the following terms shall have the following meaning:

*Boycott* means to blacklist, divest from, or otherwise refuse to deal with a nation or country, or to blacklist or otherwise refuse to deal with a person or entity when the action is based on race, color, national origin, religion, sex, gender identity, sexual orientation, marital or familial status, age, or disability in a discriminatory manner. The term boycott does not include a decision based upon business or economic reasons, or boycotts, embargoes, trade restrictions, or divestments that are specifically authorized or required by federal law or state law.

*Business* means any sole proprietorship, organization, association, corporation, limited liability partnership, limited liability company, or other entity or business association, including wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of those entities or business associations awarded a contract pursuant to this article.

### (b) Contract requirements; waiver.

- (1) The town shall not enter into a contract with a business unless the contract includes a representation that the business is not currently engaged in, and an agreement that the business will not engage in, a boycott, as defined in this section.
- (2) The town commission may, in its sole discretion, elect to waive the requirements of this section upon an affirmative vote when the town commission deems the waiver necessary for the health, safety, or welfare of the town.

### Sec. 3-2. - Applicability.

This chapter applies to contracts for the procurement of supplies, services and construction entered into by the town after the effective date of this chapter. It shall apply to every expenditure of public funds by the town for public purchasing irrespective of the source of the funds. When the procurement involves the expenditure of federal assistance or state assistance of contract funds, the procurement shall be conducted in accordance with any mandatory applicable federal law and regulations or state law or regulations. Nothing in this chapter shall prevent the Town from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law.

### Sec. 3-3. - Public access to procurement information.

Procurement information shall be a public record to the extent provided in F.S. ch. 119, and shall be available to the public as provided in such statute.

### Sec. 3-4. - Establishment of purchasing agent.

The town manager or his/her designee (for all purposes) shall be the chief purchasing agent of the town. Subject to the terms of this chapter, and unless the town attorney chooses otherwise, the purchasing agent shall contract for, procure or so process the procurement, purchase, storage and distribution all supplies, materials, equipment and certain contractual services required by any office, department or agency of the town. The purchasing agent shall establish and enforce specifications, inspect or supervise the inspection of all deliveries and have full and complete charge of, and be responsible for, all supplies, materials, and equipment purchased for or belonging to the town. All expenditures pursuant to this chapter shall conform to the provisions of the Town Charter.

### Sec. 3-5. - Unauthorized purchases.

Except as herein provided in this chapter, it shall be a violation of this chapter for any town officer, employee, or other person to order the purchase of, or make any contract for, materials, supplies or services within the purview of this chapter, in the name of or on behalf of the town other than through the purchasing agent or a designee of the purchasing agent, and the town shall not be bound by any purchase order or contract made contrary to the provisions herein.

### Sec. 3-6. - Purchasing limitations; effect on competitive bidding requirement.

- (a) Purchases less than  $\$_{2,500.0015,000.00}$ . Purchases of, or contracts for, materials, supplies, equipment, improvements or services for which funds are provided in the budget, where the total amount to be expended within a fiscal year is not in excess of  $\$_{15,000.002,500.00}$ -may be made or entered into by the town manager without submittal to the town commission and without competitive bidding. Single purchases or contracts in excess of  $\$_{15,000.002,500.00}$ . 2,500.00-shall not be broken down to amounts less than  $\$_{15,000.002,500.00}$ -to avoid the requirements of this section.
- (b) Purchases of \$<u>15,000.00</u> <u>2,500.00</u> or more but less than \$<u>8,500.00</u> <u>25,000.00</u>. Purchases of, or contracts for, materials, supplies, equipment, improvements, or services for which funds are provided in the budget, where the total amount to be expended within a fiscal year is \$<u>2,500.0015,000.00</u> or more, but which do not exceed \$<u>8,500.0025,000.00</u> may be made, or entered into, by the town manager without submittal to the town commission, but shall require compliance with the competitive bidding requirements set forth in Section 3-7(a) of this chapter. Single purchases or contracts in excess of \$<u>25,000.00</u> <u>8,500.00</u> shall not be broken down to amounts less than \$<u>25,000.00</u> <u>8,500.00</u> to avoid the requirements of this section.
- (c) Purchases in excess of 25,000.008,500.00. The town commission shall approve all purchases of or contracts for materials, supplies, equipment, public improvements, or

services where the total amount to be expended <u>within a fiscal year</u> is more than  $\frac{25,000.008,500.00}{25,000.008,500.00}$ , except expenditures for purchases of equipment or contracts for repairs, maintenance and replacement for public works and utilities where the amount to be expended is less than  $\frac{25,000.00}{25,000.00}$ .

- (d) Purchases in excess of \$25,000.00. For purchases in excess of \$25,000.00 the town commission shall follow the formal provisions belowas set forth in Section 3-7(b).
- (e) [Purchases in excess of budget.] The town manager may not purchase or contract for any item or service which exceeds any budget appropriation until such a time the town commission amends the budget to increase the appropriation to the applicable level.
- (f) Local preference. There shall be a five-percent local preference given to local businesses who are holders of current town local business tax receipts for businesses which are physically located within the town limits of Surfside and a three-percent local preference given to local businesses who located outside the corporate limits of the Town of Surfside but are holders of current town local business tax receipts for businesses which are physically located within a ten-mile radius of the corporate limits of the Town of Surfside (hereinafter referred to as "local bidder"). Said five-percent local preference must be asserted by the party seeking it at the time the competitive quotation, bid or proposal is made and shall be calculated by the selection committee evaluating competitive quotations, bids or proposals which are governed by this section of the Code. The local preference shall not apply if the solicitation specifications of the town so state. Further, said local preference, as described above, shall only be applied in certain situations and shall be specifically governed by the below-described limitations:
  - (1) A local preference for competitive quotations, bids or requests for proposals shall only be applied when the funds to be used to purchase said items or pay for such services are general funds of the city and not funds received from the federal government, the State of Florida or Miami-Dade County. In cases of the use of those funds, no local preference shall apply.
  - (2) Local preference shall not apply when the funds to be used for the purchase of such goods or the payment for such services are funds derived from grants or loans from any other governmental entity, including any taxing power approved for a special use by any other governmental agency such as tax increment financing and other approved government grants or loans.
  - (3) That when local preference has been used in computing award recommendations, either for the purchase of goods or for the purchase of services, the town commission shall not reject the low bid solely based upon the locale of the said business, provided however, that if a local bidder has submitted a bid that comes within three-percent of the actual lowest bid, the bid may be awarded to the local bidder automatically, assuming it is otherwise determined to be the lowest most responsive, responsible bidder.

### Sec. 3-7. - Competitive bidding procedure.

- (a) <u>Purchases of \$15,000.00 or more but less than \$25,000.00</u>Purchases under \$25,000.00.
  - (1) Whenever competitive bidding is required by this chapter, the town manager shall-may direct that bid proposals which provide specifications for the purchase or contract be prepared.
  - (2) The town manager shall solicit bids from at least three persons or entities engaged in the business of furnishing such materials, supplies, equipment and public improvements or rendering such services.
  - (3) The town manager may publish a public invitation to bid items. under \$25,000.00.
  - (4) Bids shall be awarded to the lowest, most responsive, responsible bidder, as determined by the town commission and/or the town manager as the case may be, subject to the right of the town to reject any and all bids, to waive any irregularity in the bids or bidding procedures and subject also to the right of the town to award bids and contracts to bidders other than the low bidder. Until a formal contract is executed, the town reserves the right to reject all bids.
- (b) Purchases \$25,000.00 or more. Bids for purchases of \$25,000.00 or more shall be awarded in the same manner as purchases as set forth in subsection <u>3(a)</u> above, except these additional requirements shall pertain:
  - (1) *Conditions for use.* All contracts with the town in amounts over \$25,000.00 shall be awarded by competitive sealed bidding except as otherwise provided in this chapter, or as otherwise approved by town commission.
  - (2) *Invitation for bids*. An invitation for bids (including, <u>but limited to</u>, RFPs and RFQs) shall be issued and shall include specifications and all contractual terms and conditions applicable to the procurement.
  - (3) *Public notice*. Public notice of the invitation for bids shall be given not less than 14 calendar days prior to the date set forth in the notice for the opening of bids. Such notice may be given by publication in a subscription newspaper of general circulation in the town. The notice shall state the place, date, and time of bid opening. All bids shall be received in the town manager's office on, or before, the date and time set forth in the notice.
  - (4) Bids; bid opening.
    - a. Sealed bids will be initiated on the outside of the envelope by the person receiving the package, the time and date will be stamped on the envelope which should be marked "important, bid enclosed." The bid package will be held in a secure place until the scheduled time for the bid opening.
    - b. Bids shall be opened publicly, in the presence of one or more witnesses, at the time and place designated in the public notice of the invitation for bids. The amount of each bid and such other relevant information as the town manager deems appropriate, together with the name of each bidder, shall be recorded.

- (5) Cancellation of invitations for bids or requests for proposals. An invitation for bids, or request for proposals, or other solicitation may be canceled, or any or all bids or proposals may be rejected in whole, or in part, as may be specified in the solicitation, when it is in the best interests of the town. The reasons therefore shall be made part of the contract file. Each solicitation issued by the town shall state that the solicitation may be canceled and that any bid or proposal may be rejected, in whole or in part, in the best interests of the town. Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurement of similar items.
- (6) Correction or withdrawal of bids; cancellation of awards. In general, bids shall be unconditionally accepted without alteration or correction, except as authorized in this chapter. However, correction or withdrawal of inadvertently erroneous bids before or after bid opening, or cancellation of awards or contracts based on such bid mistakes, may be permitted, where appropriate. Mistakes discovered before bid opening may be modified, or the bid may be withdrawn by written or telegraphic notice received in the office designated in the invitation for bids prior to time set for bid opening. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the town, or fair competition, shall be permitted. In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if:
  - a. The mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
  - b. The bidder submits evidence which clearly and convincingly demonstrates that a mistake was made. All decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the purchasing agent.
  - c. Notwithstanding the foregoing, the town commission shall have the authority to waive any and all irregularities in any and all proposals.

### Sec. 3-8. - Award.

- (a) All contracts shall be awarded by the town manager, as stated above, to the lowest responsible and responsive bidder. In addition to price, there shall be considered the following:
  - (1) The capacity, ability and skill of the provider to perform the contract;
  - (2) Whether the provider can perform the contract within the time specified without delay or interference;
  - (3) The character, integrity, reputation, judgment, experience and efficiency of the provider;
  - (4) Professional licensure required when service of a skilled nature as required by law to perform such service and/or skill;
  - (5) The quality of performance of previous contracts;

- (6) The previous and existing compliance by the provider with laws and ordinances relating to the contract;
- (7) The ability of the provider regarding future maintenance and service for the use of the subject of the contract;
- (8) The town manager may, by administrative order, establish a set of criteria of a numerical nature that may be utilized in awarding contracts hereunder.
- (b) The contract shall be awarded by the town manager or the town commission, as the case may be, with reasonable promptness by appropriate written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids.
- (c) In the event the lowest, most responsive and responsible bid for a project exceeds available funds, and the town commission does not make available additional funds, the town manager is authorized, when time or economic considerations preclude resolicitation of bids, to negotiate an adjustment of the bid price as long as the scope of work is not changed with the lowest, most responsive and responsible bidder, in order to bring the bid within the amount of available funds. Final negotiation shall be in written form as approved by the town manager.
- (d) The town retains the right to reject all bids should negotiations fail. This negotiation may not be used to ascertain the lowest responsive and responsible bid.
- (e) Until a formal contract is executed, the town reserves the right to reject all bids.

### Sec. 3-9. - Responsibility of bidders or offerors.

If a bidder or offeror who otherwise would have been awarded a contract is found nonresponsible, a written determination of non-responsibility, setting forth the basis of the finding shall be prepared by the town manager or the purchasing agent. Grounds for determination of nonresponsibility may include, but are not limited to, the unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to nonresponsibility. A copy of the determination shall be sent promptly to the nonresponsible bidder or offeror. The final determination shall be made part of the contract file and be a public record.

### Sec. 3-10. - One response.

If only one responsive bid or proposal for commodity or contractual service is received, in response to an invitation for bid/proposal, an award may be made to the single bidder/proposer, if the town manager finds the price submitted is fair and reasonable, and that other prospective bidders had reasonable opportunity to respond, or there is not adequate time for resolicitation. Further, the town manager reserves the right, if it is in the best interests of the town, to negotiate with the sole bidder/proposer for the best terms, conditions and price. The town manager shall document the reasons that such action is in the best interest of the town. Otherwise, the bid/proposal may be rejected and:

- (1) New bids or offers may be solicited;
- (2) The sole bid/proposal may be rejected;

(3) If the town manager determines in writing that the need for the supply or service continues, but that the price of the one bid/proposal is unreasonable and there is not time for resolicitation or resolicitation would likely be futile, the procurement may then be conducted under section 3-13(4) or (6), as appropriate.

### Sec. 3-11. - Bidding documentation to remain property of town.

All bids and accompanying documentation received from bidders in response to the invitation to bid shall become the property of the town and will not be returned to the bidders. In the event of contract award, all documentation and work product produced as part of the contract shall become the exclusive property of the town. This subsection is applicable to request for proposal and request for letter of interest documents, which also become property of the town.

### Sec. 3-12. - Waiver of competitive bidding procedures.

The town commission may authorize the waiver of competitive bidding procedures upon the recommendation of the town manager that it is in the town's best interest to do so, to obtain goods and services which cannot be acquired through the normal purchasing process due to insufficient time, the nature of the goods or services, or other factors. Purchases authorized by waiver process shall be acquired after conducting a good faith review of available sources and negotiation as to price, delivery and terms.

### Sec. 3-13. - Exemptions from competitive bidding.

The following shall be exempt from the competitive bidding procedures outlined in this chapter:

- (1) Transactions described in section 3-6 of this chapter.
- (2) Contracts for professional services, except for those contracts of more than \$8,500.00 for professional services governed by F.S. § 287.055 (the Consultants Competitive Negotiations Act).
- (3) Purchases made under state general service administration contracts, federal, county or other governmental contracts, or competitive bids with other governmental agencies, or <u>through cooperative purchasing</u>.
- (4) Purchases arising out of or because of emergencies which shall be defined as a situation, occurrence or matter necessitating immediate or quick action and not permitting adequate time to utilize the competitive bidding process. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. As soon as practicable, a record of each emergency procurement shall be made and shall set forth the contractor's name, the amount and type of the contract, a listing of the item(s) procured under the contract, and the identification number of the contract file.
- (5 Under circumstances where time constraints do not permit the preparation of clearly drawn specifications or situations where, after competitive bidding, no bids meeting bid requirements are received, all compliant bids received are too high, or all bids are rejected for failure to meet bid requirements (i.e., bids are noncompliant).

- (6) Supplies, equipment or services available from a sole source only may be exempted from the bidding requirements of this chapter by the town manager upon the filing of a written request by a department head to the town manager outlining the conditions and circumstances involved, after conducting a good faith review of available sources, a contract may be awarded without competition when the town manager or purchasing agent determines in writing, after conducting a good faith review of available sources, that there is only one source for the required supply, brand, service, or construction item capable of fulfilling the needs of the town. The town manager or purchasing agent shall conduct negotiations, as appropriate, as to price, delivery, and terms. A record of sole source procurements shall be available as a public record and shall identify each purchase order and/or contract.
- (7) Exempt contractual services and products. Other exempt contractual services and products not subject to the competitive procurement requirements of this Code are listed as follows:
  - a. <u>Academic program reviews or lectures or seminars by individualsPostage</u>, <u>common carrier shipments</u>, <u>paralegal services</u>, <u>expert witnesses</u>, <u>court reporters</u>, <u>abstracts of titles for real property</u>, and title insurance for real property;
  - a.b. Memberships dues for professional, trade or other similar organizations, jobrelated travel, seminars, tuition, registration fees, training, and health and employment related screenings and inquiries;
  - b.c. Artistic services which are original and creative in character and skill in a recognized field of artistic endeavor such as music, dance, drama, painting, sculpture and the like. However, contracts for artistic instructors, coaches and assistants are deemed contractual services subject to the requirements of competitive procurement.
  - e.d. Performing artists, event organizers, and entertain<u>ment</u>, recreational and sports providers, ers as approved by the town manager/purchasing agent when deemed in the town's best interests, for the benefit of the citizens of Surfside and the general public at any town <u>sanctioned activityfunction</u>.
  - d.e. Advertising, legal notices, promotional materials, and patented and/or copyrighted materials;
  - e.<u>f. A Ppublic</u> works and utilities purchases or contracts for materials, supplies, equipment, public improvements or services, repairs, maintenance and replacements, related to all Town facilities, properties, fleet and infrastructure, including but not limited to, stormwater, electric, lighting, water, sewer, telephonetelecommunications, roads, buildings, and sidewalks;
  - g.\_\_Items purchased for resale to the public;
  - h. Services provided by institutions of higher learning, non-profit organizations, and other governmental entities;
  - i. Food and catering services;
  - j. Renewal of software and hardware licenses and maintenance agreements; and

f. Parts and supplies required for Town operations and administration, including, but not limited to, bathrooms, breakroom, office and police or public safety-related supplies and equipment.

(8) Competitive proposals shall not be required when a purchase is made for materials, equipment, prefabricated elements and components, appliances, fixtures and supplies, bought under a sales tax saving procedure constituting part of a construction project award, which construction contract has been awarded in accordance with this chapter.

### Sec. 3-14. - Contract administration.

- (a) A contract administration system designed to ensure that a bidder/offeror/contractor is performing in accordance with the solicitation under which a contract was awarded and the terms and conditions of the contract shall be maintained by the town manager.
- (b) All determinations and other written records pertaining to the solicitation, award or performance of a contract shall be maintained for the town in a contract file by the town manager and be retained and disposed of in accordance with the records retention guidelines and schedules approved by the town clerk.

### Sec. 3-15. - Protest procedures.

This article shall govern any protest made by a participant in any competitive process utilized for the selection of a person or entity in regard to any response to a town request for proposal/invitation to bid and/or request for qualification ("request for proposals").

- (1) Protest of any town recommendation for an award in response to a request for proposals shall be filed with the town clerk and mailed by the protesting to all participants in the competitive process within seven days of the town's recommendation for an award or the town's actual award whichever comes first. Such protest shall be in writing, shall state the particular grounds on which it is based, shall include all pertinent documents and evidence and shall be accompanied by a cashier's check in the amount of \$250.00 to reimburse the town for all administrative costs associated with the appeal process. Any grounds not stated shall be deemed waived.
- (2) Protests shall be referred by the town clerk to the town attorney who shall select a hearing examiner who shall hold a hearing and submit written findings and recommendations within ten days of the filing of the protest. The hearing examiner shall consider the written protests, supporting documents in evidence, the town's recommendations and supporting documentation and all evidence presented at the hearing. Such finding and recommendation shall be filed with the town clerk.
- (3) Hearing examiners may be retired judges, certified mediators or other impartial parties as selected by the town attorney.
- (4) The hearing examiner's findings and recommendations shall be presented to the town commission for final action at the next regular or specially scheduled meeting. Notice shall be mailed to all participants in the competitive process at least seven days in advance of any final action by the town commission. The notice shall include the hearing examiner's findings and recommendations.

(5) Failure to follow the protest procedures set forth herein shall automatically nullify any protest or claim brought by an aggrieved bidder, offeror or contractor.

### Sec. 3-16. - Ethics in public contracting.

In addition to all ethical rules and guidelines set forth by the commission on ethics, the Code of the Town of Surfside, the Miami-Dade County Code, as applicable to the Town of Surfside, and the State of Florida, the town manager may impose any one or more of the following sanctions on a town employee for violations of ethical standards set forth by the town, Miami-Dade County or the State of Florida including, but not limited to, oral or written warnings or reprimands, suspension with or without pay for specified periods of time or termination of employment. For nonemployees, for violations of ethical standards, the town commission may terminate any contract with the Town of Surfside.

\* \* \*

<u>Section 3.</u> <u>Codification.</u> That it is the intent of the Town Commission that the provisions of this ordinance shall become and be made a part of the Town's Code of Ordinances, and that the sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish such intentions.

<u>Section 4.</u> 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.

<u>Section 5.</u> <u>Conflicts.</u> All ordinances or parts of ordinances, resolutions or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 6. Effective Date. That this Ordinance shall become effective on second reading.

**PASSED** on first reading on the 1O day of December, 2019.

**PASSED AND ADOPTED** on second reading on the  $\underline{14}$  day of January, 2020.

First Reading: Motion by: Vice Mayor Gulchinsky Second by: Commissioner Karukins

Second Reading: Motion by: <u>Commissioner Karukin</u> Second by: <u>Commissioner Cohen</u>

Daniel Dietch, Mayor

Sandra Novoa, MMC Town Clerk

Approved<sup>1</sup> as to Form and Legal Sufficiency:

lang

Weiss Serota Helfman Cole & Bierman, P.L. Town Attorney

### FINAL VOTE ON ADOPTION

Commissioner Daniel Gielchinsky	Yes
Commissioner Michael Karukin	Yes
Commissioner Tina Paul	Yes
Vice Mayor Barry Cohen	Absent
Mayor Daniel Dietch	Yes



# MEMORANDUM

## ITEM NO. 9E

To: Honorable Mayor, Vice-Mayor and Members of the Town Commission

From: Jason Greene, Interim Town Manager

Date: September 10, 2020

**Subject:** Community Center Pool Deck Lighting

As requested at a prior Commission meeting, the Parks and Recreation Department has looked into an engineering firm to assist in the feasibility and basic design criteria to purchase portable or permanent pool deck lighting. This analysis would include a review of all Florida Building Code (FBC) and Town of Surfside Code of Ordinances covering turtle protection, and the Florida Department of Environmental Protection (DEP) and Florida Fish and Wildlife Commission (FWC) guidelines. Please note that a recommendation by RC Engineering, Inc. was that feasibility study would have a very low possibility of a positive outcome. Please see attached (Item A).

Additional annual operational costs would include additional staff, utilities, and pool chemicals. The estimated cost for temporary LED lights would be approximately \$60,000. The estimated cost for permanent pool deck lighting to include LED lights would be approximately \$255,000. This cost does not include engineering fees, feasibility fees, or permitting cost.

Pool deck lighting has been an agenda item numerous times for review and recommendation by the Parks and Recreation Committee. Based on the cost along with minimum public demand for lights/night swim for the months of November through March, the Committee's recommendation was to not move forward. Also included in the committee's recommendation was the storage, setup and breakdown issues with portable lighting.

The staff is requesting direction from the Town Commission to move forward with the process.

 h <sup>`</sup>uU <sup>`</sup>

Pool Lighting Surfside, Florida 2020-05-06 RC Engineering Inc. David Rice PE

Requirements:

C)
Outdoor Pool Lighting
3 footcandles at pool water surface and pool wet deck and underwater lighting ½ watt per sq. ft.
Underwater Lighting Underwater lighting can be waived if 15 footcandles At pool water surface and pool wet deck.

Surfside Code of Ordinance, Article VI,

Lighting Regulations for Marine Turtle Protection Section 34.84 Lighting Standards for Coastal Construction Activities

### Conclusion:

The Florida Building Code (FBC) and the Surfside Code of Ordinance covering turtle protection sets very strict requirements for installing outside pool lighting at a beach. A feasibility study would have to be performed to determine if the outside pool lighting is possible. The cost for a feasibility study would be based on hourly rates. The total cost for a feasibility study could easily exceed \$5,000.00.



Date: October 29, 2021

Prepared by: Charles Kesl

Subject: "Art in Public Spaces" Committee

**Objective:** Plan, implement and oversee a thoughtful "Art in Public Spaces" initiative that benefits the entire community, including the tourism and downtown business interests.

**Consideration:** Art in public spaces in Surfside can provide meaning and vision today and into the future.

Community sensitivities need to be addressed, along with consideration of the big picture, what curating public art has meant to other towns and cities, and Surfside's place in the larger community, metro Miami and the world.

The Tourist Board, DVAC and the Commission have handled this issue in the past. Now, DVAC and Tourist Board have both expressed the importance of Art in Public Spaces. Procedurally, there has been disagreement between the two on how to handle and approve the process. To my knowledge, therefore, nothing has advanced or moved forward. Our community is facing many challenges and deserves a better process.

Art can provide reflection and healing. Art can connect the past to today and to the future. Art can inspire and give hope.

Recommendation: Establish an "Art in Public Spaces" Committee.

The committee should attract many interested residents, with and without professional art training or experience.

The Committee can be made up of one individual nominated by each member of the Commission, with two at large alternates. Alternatively, the Committee could be made up of at-large members, five committee members and two alternates confirmed at-large. This way, with alternates available,

the Committee will continue its work regularly, able to more easily meet quorum and participation requirements given demanding schedules of individuals.

(DVAC has also had trouble meeting quorum and alternates should be considered as an addendum to provide consistency and keep momentum and interest among those volunteering their time.)

I suggest there be no specific requirements for volunteer membership on the Committee. That said, I will aim to choose a nominee with curating experience and experience in the academic world, which tends to freer of the pressures of the "art as commodity" market economy dominating the art world right now. I remain open-minded.

The timing is excellent to launch the Committee, with the holidays and Art Basel flourishing volunteer interest, and the remainder of the winter season to begin the important work of the Public Art Committee.



Date: September 19, 2020 Prepared by: Mayor Subject: Demolition by neglect

**Objective:** Introduce a new ordinance to prevent property owners from allowing their properties to deteriorate.

**Consideration:** Commission to discuss

**Recommendation: Adoption** 



COMMITTEE MEMORANDUM

TO: Land Use and Sustainability Committee

FROM: Jimmy L. Morales, City Manager

DATE: May 6, 2020

TITLE: DISCUSSION: ESTABLISHMENT OF PENALTIES FOR PROPERTY OWNERS ENGAGING IN DEMOLITION BY NEGLECT

### ACTION REQUESTED:

Conclude the item and recommend that the City Commission adopt the attached ordinance.

### ADMINISTRATION RECOMMENDATION:

Discuss the item and recommend that the City Commission adopt the attached ordinance.

### HISTORY:

On July 17, 2019, at the request of Commissioner Ricky Arriola, the City Commission referred the discussion item to the Land Use and Development Committee (Item C4 O). The item was discussed at the September 18, 2019 LUDC meeting, and continued to the October 30, 2019 meeting with the following direction:

1. The administration and City Attorney's office will research and provide recommendations regarding a process for imposing proportional fines, development and use reductions, and building registrations.

2. The administration will bring a discussion item to the October 8, 2019 meeting of the Historic Preservation Board for recommendations on posting unsafe structures on the city's website.

On October 30, 2019, the item was discussed and continued to the December 2, 2019 LUDC, with the following direction:

1. The administration and the City Attorney will further evaluate the recommendations noted in the LUDC memo regarding proportional fines and building registry, as well as creating a process for as-built drawings of contributing structures.

2. Recommend that the City Commission refer the proposed amendment to chapter 118, article X, pertaining to a presumption clause, to the Planning Board.

3. The addresses of properties that have both an active unsafe structures violation and have been referred to the Miami-Dade County Unsafe Structures Board by the Building Official will be posted on the City website. This list shall be posted within the Building Department webpage, and the Planning Department webpage shall contain a direct link.

The December 2, 2019 LUDC meeting was cancelled, and the item was moved to the January 21, 2020 agenda of the newly created Land Use and Sustainability Committee. On January 21, 2020 the item was continued to the February 18, 2020 LUSC meeting. On February 18, 2020 the item was continued to March 17, 2020. The March 17, 2020 was cancelled and the item was moved to the May 6, 2020 LUSC agenda.

### ANALYSIS:

### PLANNING AND LEGAL ANALYSIS

On October 8, 2019, the Historic Preservation Board discussed the matter and recommended that the City begin the process of posting the addresses of properties that have an active unsafe structures violation and have been referred to the Miami-Dade County Unsafe Structures Board by the Building Official on the City website. The Board also recommended that this information be available on either the Building Department or Planning Department page.

As indicated on October 30, 2019, planning staff and the City Attorney's office have researched and discussed other options to address demolition by neglect in historic districts. The following is an update and summary of these efforts:

1. Fines. The way properties are currently fined is general and not specific to the size of the building. The administration and the City Attorney's office have researched the concept of proportional fines and it appears that it is not pre-empted under State law. The administration and the City Attorney are exploring potential amendments that would result in more proportional fines for larger buildings.

2. Building Registry The Building Department is researching and evaluating a method to establish a building registry process.

### UPDATE

The ordinance pertaining to the presumption clause, as previously recommended by the Land Use and Development Committee, is pending before the City Commission and scheduled to be adopted on May 13, 2020. Additionally, a list of unsafe buildings has been posted on the City website, with a direct link from the planning department webpage.

About as-built drawings, as indicated previously, there are a couple of different options; each, however, has a budget impact and would need to be part of a budget enhancement for FY 2021. These include hiring an architectural firm or local University to do built drawings based upon available archival plans and a field assessment. Another potential option would be laser scanning and point cloud files that are then rendered. In those instances where a contributing building is proposed to be replaced or substantially modified, the Architect of record already puts together a detailed set of as-built drawings. Given the current limited need for such drawings on an emergency basis, as well as the potential cost of computer software required, the administration recommends that such a process not move forward at this time.

The administration has reviewed a model building registry ordinance from the City of Riviera Beach, as well as an updated list of abandoned commercial properties, which is color coded based on priority. Also included in the list of properties is the number of stories and the square footage to assist with determining appropriate, proportional fees. The attached draft ordinance, which amends chapter 58 of the City Code, and creates a building registry process specific to Miami Beach. The following is a summary of the key points of the proposed ordinance:

• Terms specific to the proposed Abandoned and Vacant Properties Registry have been defined.

· Division 4 has been created within chapter 58, establishing an Abandoned and Vacant Properties Registry.

Applicability: All properties within a locally designated historic district are subject to the Abandoned and Vacant Properties Registry.
 A property must register within 15 days of becoming abandoned or vacant.

• Detailed registration requirements have been developed. This includes a nonrefundable annual registration fee in the amount of two hundred dollars (\$200) per property, as well as a nonrefundable annual fee of thirty cents (\$0.30) per square foot shall be paid for any building or structure that exceed three (3) stories. This tiered approach to assessing fees will have a greater impact on larger structures, which are typically more vulnerable to demolition by neglect.

• A responsibility for compliance section is established, requiring that is the responsibility of the owner to maintain the property in accordance with the provisions in this article.

The administration believes that the proposal herein will create a fair and transparent process for tracking at risk properties within the City's local historic district. Additionally, it will allow for the City to proactively monitor the conditions of the structures, and better enforce the demolition by neglect section of the City Code.

The one section of the legislation that still needs to be worked out is the administering City department for the registry. The administration is discussing this internally, and it is anticipated that this piece of the legislation will be ready for first reading.

### Applicable Area

Citywide

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14? Ves Does this item utilize G.O. Bond Funds?

No

Departments Planning

### ATTACHMENTS:

Description

Draft ORD - Building Registry

Type Memo



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																							Double what most paid										Median paid per resident
Contribution per resident	\$0.00	\$1.42	\$1.79	\$1.94	\$2.03	\$4.02	\$4.04	\$4.40	\$4.72	<b>\$4.87</b>	<b>\$5.66</b>	\$6.40	\$6.72	\$6.87	<b>\$8.66</b>	\$9.18	\$9.3 <b>0</b>	\$9.80	<b>\$11.63</b>	\$11.74	\$12.82	\$16.64	\$18.26	\$18.60	\$20.01	\$21.10	\$21.55	\$22.67	<b>\$35.33</b>	\$36.46	\$42.88	\$43.68	\$9.24
Population Census, April 1, 2010	15,219	87,779	10,493	13,809	5,628	2,375	224,669	107,167	40,286	58,786	21,744	2,325	1,000,000	60,512	7,137	838	23,410	5,965	20,832	41,523	11,245	3,004	5,477	18,223	29,361	12,344	13,499	399,457	11,657	35,762	46,780	45,704	
Total funds Received	\$0.00	\$125,000.00	\$18,818.68	\$26,828.80	<b>\$11,419.99</b>	\$9,547.86	\$907,686.78	\$471,065.15	\$190,087.98	\$286,369.02	\$123,149.58	\$14,871.70	\$6,724,723.18	\$415,744.20	\$61,828.86	\$7,696.78	\$217,784.82	\$58,428.30	<b>\$242,190.33</b>	\$487,569.28	\$144,153.57	\$50,000.00	\$100,000.00	\$338,939.32	\$587,614.03	\$260,407.35	\$290,941.65	\$9,056,675.01	\$411,841.74	\$1,303,804.19	\$2,005,758.90	\$1,996,527.75	
Funds Received 2020-21	\$0.00		\$4,281.2 <b>2</b>	\$6,608.88	<b>\$2,350.66</b>	\$3,334.56	\$286,224.14	\$120,007.81	\$61,408.60	\$84,401.72	<b>\$41,967.99</b>	\$0.00	\$2,012,194.27	\$142,606.87	\$23,427.87	\$2,359.33	\$74,340.12	\$19,207.73	<b>\$76,985.89</b>	\$159,955.75	\$46,795.82	\$0.00	\$50,000.00	\$107,382.43	\$184,325.64	\$75,481.71	\$85,480.99	\$2,782,918.92	\$110,758.22	\$424,928.71	\$604,896.30	\$630,919.31	
Funds Received 2019-20	\$0.00	\$125,000.00	\$14,537.47	\$20,219.92	\$9,069.34	\$6,213.30	\$621,462.64	\$351,057.34	\$128,679.39	\$201,967.30	<b>\$81,181.59</b>	\$14,871.70	\$4,712,528.91	\$273,137.33	\$38,400.99	\$5,337.45	\$143,444.70	\$39,220.57	\$165,204.44	\$327,613.52	\$97,357.75	\$50,000.00	\$50,000.00	\$231,556.89	\$403,288.39	\$184,925.64	\$205,460.66	\$6,273,756.09	\$301,083.52	\$878,875.48	\$1,400,862.59	\$1,365,608.44	
Municpality	Opa Locka	Miami Beach	Miami Shores	Miami Springs	<b>Bay Harbour Islands</b>	Virginia Gardens	Hialeah	Miami Gardens	Cutler Bay	North Miami	Hialeah Gardens	El Portal	UnIncorporated Dade*	Homestead	North Bay Village	Medley	Palmetto Bay	West Miami	Sunny Isles Beach	North Miami Beach	Florida City	Bal Harbour	Surfside	Pinecrest	Miami Lakes	Key Biscayne	Sweetwater	Miami	South Miami	Aventura	Coral Gables	Doral	

3 population exceeding one million people, the unincorporated area, if declared a city, would form the largest city in Florida and one of the largest in the nation.

All Posts

# Mayor gives \$\$ to his choice of charities ...with taxpayers money <sup>8 January 18, 2020</sup>



Over the years Mayor Dietch has been in office, he's become, and has turned Surfside's taxpayer funded bank account into a one-stop charity.

With more than 50 individual gifts, he's given away more than... \$164,000.00.

His funding habits and generosity with Surfside residents money extend far and wide.

While he's given lots of scholarships, <u>his</u> generosity <u>with Surfside taxpayer dollars</u> doesn't stop there:

he's subsidized public school programs,

he's funded injured pelicans,

be's sent money to victims in Oklahoma,

he's funded blindness, **343** 

he's funded the Chamber of Commerce,

he's funded adopted classrooms,

he's funded civic awards,

he's funded disaster relief in Haiti,

he's funded injured soldiers,

he's funded teacher appreciation,

he's funded a "children movement",

he's funded a nurse support initiative,

he's funded tornado relief,

he's funded hurricane relief,

he's funded the League of Women,

he's funded the FIU Board of Trustees,

he's funded Miami-Dade Urban,

he's funded "Do the right thing",

he's funded the "36th Anniversary fundraising"/ University of Miami ,

he's funded "in memory of" gifts, AND,

be's given <u>\$100,000</u> to fund homeless relief

い) Even before there was a homeless tax created in 1993, Surfside *had* restaurant taxes that went toward municipal Aservices.

2) The number of homeless people living on the streets in Miami-Dade has fallen from approximately 8,000 two decades ago to just over 1,000, according to the Trust's annual count figures. Some additional facts on the homeless matter from the Miami Herald:

Download full Surfside report of <u>Mr. Dietch's generosity (With our taxpayer money</u>) <u>here</u>:

Political advertisement paid for & approved by Charles W. Burkett, no party affiliation, for Surfside Mayor

Share this post:

**Recent Posts** 

# Bourfside's Mayor is VERY generous with Surfside residents' money.

UPDATE 1/24/20:

All the while, taking the credit for the good deed personally!



Follow

>

mental illness from the criminal justice system into supportive housing. #supportivehousing @DuranForFlorida and @danieldietch will go #homlessness #mentalhealth **&** #surfside to diverting homeless persons with severe The \$150,000 donated by @oscarjb2 #miamidade



Above is Surfside's Mayor getting credit <u>personally</u> for donating Surfside taxpayer's money, but that's not all.

Mayor Dietch is standing with State of Florida representatives, donating State funds from the States obviously huge budget.

Florida has 21 million residents, the Town of Surfside has 5800 residents.

The State of Florida donated \$100,000.

The Surfside Mayor and Commission saw fit to write a check equal to half that amount – a \$50,000 gift from the taxpayers Surfside.

Recent Post: (1) Science, Reveals Some Hope Oct 29, 2020



# U - U \ k° V) yU <sup>·</sup>



To: Honorable Mayor, Vice-Mayor and Members of the Town Commission,

From: Guillermo Olmedillo, Town Manager

**Date:** April 21, 2020

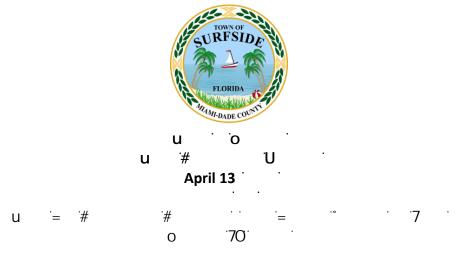
**Subject:** Lowering of Property taxes and Water Bills

At the March 24, 2020 Special Commission Meeting, Town Administration was directed to provide information on lowering property taxes and water bills.

April 14 through April 21, the Town's Finance Director has meet with the Commissioners to discuss the state of the Town's finances including the financial position of the Town's General Fund and Water & Sewer Fund. With the budget season starting, the Commission will have the opportunity to provide policy direction which forms the basis of the Town's Budget. On June 1, 2020, the Town will receive the Miami-Dade Property Appraiser Assessment Roll Estimate which will help guide the Town's Administration toward the goal of lowering the financial impact to Town residents.

Reviewed by: GO

Prepared by: JDG



Date:10-5-2020Prepared by:Commissioner Eliana SalzhauerSubject:Amending Town Code Sec. 2-233 & 2-237

# **Objective:** The Current Town Code contains loopholes in **Sec. 2-233. - Conflict of interest** and **Sec. 2-237. - Disclosure of business relationships**

The goal of amending this section is to ensure that all Town Business is conducted with full transparency and integrity. Two (2) recommended changes are outlined below.

**Consideration:** Relationships that influence decisions can be based on more than a financial stake. Leadership roles and relationships in the nonprofit world can similarly influence outcomes. It is important for Elected Officials and Board Members to disclose ALL relationships to persons and issues coming before them, including those based on unpaid service at a nonprofit.

# Please review Surfside Town Code Sections 2-233 & 2-237 at the following links for background\*\*\*

Sec. 2-233. - Conflict of interest. https://library.municode.com/fl/surfside/codes/code\_of\_ordinances?nodeId=PTIICO\_CH2A D\_ARTVIICOET\_S2-233COIN

Sec. 2-237. - Disclosure of business relationships. https://library.municode.com/fl/surfside/codes/code\_of\_ordinances?nodeId=PTIICO\_CH2A D\_ARTVIICOET\_S2-237DIBURE

### **Recommendations:**

**1)** To amend Section 2-233 (6) as follows, to include the disclosure of employees and officers their direct or indirect interest in any NONPROFIT business relationship.

(6) Employees and officers shall disclose to the town clerk, upon a form created by the town clerk, any direct or indirect interest in any for profit (or non-profit) business relationship and any interest in real property which the employees and officers hold with any other employee or officer;

**PAGE 349** 



**2)** To amend Section 2-237 (a) (1) to include (g) an additional definition of the term "Business Relationship" that recognizes the unique and material influence of serving together in a leadership role at a nonprofit.

(g) The member of the town commission, town board or committee serves in a nonprofit or volunteer capacity on another Board or Committee with the interested person.

# \*\*\*The relevant sections of the Town Code are excerpted below to facilitate discussion:

### Sec. 2-233. - Conflict of interest.

### SHARE LINK TO SECTIONPRINT SECTIONDOWNLOAD (DOCX) OF SECTIONSEMAIL SECTIONCOMPARE VERSIONS

To avoid misunderstandings and conflict of interests, which could arise, the following policy will be adhered to by employees and officers of the town. This policy is in accordance with F.S. § 112.311 et seq., code of ethics for public officers and employees.

(1)

Employees and officers shall not accept any gifts, favors, or services that may reasonably tend to improperly influence them in the discharge of their official duties;

(2)

Employees and officers shall not use or attempt to use their position to secure special privileges or exemptions for themselves or others;

(3)

Employees and officers shall not accept employment or engage in any business or professional activity, which they may reasonably expect, would require or induce them to disclose confidential information acquired by them by reason of their official position; (4)

Employees and officers shall not disclose confidential information gained by reason of their official position, nor shall they otherwise use such information for their personal gain or benefit;

(5)

Employees and officers shall not have personal investment in any enterprise, which will create a conflict between their private interest and the public interest;

(6)



Employees and officers shall disclose to the town clerk, upon a form created by the town clerk, any direct or indirect interest in any for profit business relationship and any interest in real property which the employees and officers hold with any other employee or officer; (7)

In addition to the foregoing, town commissioners shall disclose to the town clerk, upon a form created by the town clerk, any direct or indirect interest in non-homesteaded real property located within the town within 30 days upon purchasing said property. (Upon the passage of this article, the town commissioners shall have 30 days from the effective date, to file disclosure.) Thereafter, the town commissioners will be required to file the real property disclosure in accordance with this sub-paragraph (7) on a yearly basis along with his/her Form 1. However, if for any reason the town clerk does not receive same, s/he shall, in writing and via certified mail, request such official who has failed to file the required disclosure to do so. Thereafter, failure to make this filing, within ten days from receipt of the clerk's notice, shall result in the same penalties as failure to file a Form 1 disclosure as required by the county and state.

(Ord. No. 1474, § 2, 4-10-07)

### Sec. 2-237. - Disclosure of business relationships.

SHARE LINK TO SECTIONPRINT SECTIONDOWNLOAD (DOCX) OF SECTIONSEMAIL SECTIONCOMPARE VERSIONS

(a)

*Definitions.* For purposes of this section, the following words, terms and phrases shall have the meanings as indicated below:

(1)

*Business relationship.* A member of the town commission or a town board has a business relationship with an applicant, Interested Person or entity if any of the following exist: a.

The member of the town commission or town board or committee has any ownership interest, directly or indirectly, in excess of one percent in the entity.

b.

The member of the town commission, town board or committee is a partner, co-shareholder or joint venturer with the interested person in any business venture.

c.



The entity or interested person is a client of the member of the town commission, town board or committee, or a client of another professional working for the same employer as the member of the town commission, town board or committee.

d.

The member of the town commission, town board or committee is a client of the entity or the interested person.

e.

The entity or interested person is a customer of the member of the town commission, town board or committee (or his or her employer) and transacts more than five percent of the business in a given calendar year of the member of the town commission, town board or committee (or his or her employer) or more than \$25,000.00 of business in a given calendar year; or

f.

The member of the town commission, town board or committee is a customer of the entity or the interested person and transacts more than five percent of the business in a given calendar year of the entity or interested person or more than \$25,000.00 of business in a given calendar year.

(2)

Applicant. Any individual or entity requesting action of the town and all persons representing such individual or entity (including, but not limited to, all attorneys, architects, engineers and lobbyists), and any individual who, directly or indirectly, owns or controls more than five percent of any such entity requesting action of the town. (3)

Interested person. Any person who speaks for or against any resolution or ordinance before the town commission or for or against any matter before any town board or committee who has a direct financial interest in the action (including, but not limited to, vendors, bidders and proposers), except that owner-occupied residential property owners shall not be deemed to have a direct financial interest in zoning and/or land use decisions that may affect their property or the value thereof.

(b)

Disclosure of business relationships.

(1)

*Time of disclosure.* Except as prohibited by law, each member of the town commission or any town board or committee shall disclose the existence of any business relationship of



which he or she is aware that he or she has, or has had within the prior 24-month period, with any applicant or interested person, at the time that the applicant or interested person appears before the town commission, town board or committee.

(2)

Disclosure subsequent to action taken. Except as prohibited by law, if a member of the town commission or any town board or committee learns, within 30 days after action is taken in connection with any applicant or interested person appearing before the town commission or town board or committee, that he or she had a business relationship with any applicant or interested person who appeared before the town commission or town board or committee, be or she shall disclose such business relationship in writing to the town clerk that was not disclosed at the initial meeting.

### (3)

*Establishment of business relationship after appearance.* Except as prohibited by law, if a member of the town commission or any town board or committee establishes a business relationship with any applicant or interested person within 12 months after the applicant or interested person appeared before the town commission or town board or committee, the member of the town commission or town board or committee shall disclose such business relationship in writing to the town clerk.

(4)

Abstention. In any situation where a member of the town commission or town board or committee discloses a business relationship under this section, the member may abstain from voting or acting on an item because of the appearance of a possible conflict of interest.

(5)

*Failure to disclose.* If any member of the town commission or town board or committee believes that another member has willfully failed to make a disclosure required under this section, he or she may submit evidence supporting the alleged failure to disclose to the town manager, who shall place the item on the next available regular town commission agenda. If three or more members of the town commission determine that an accused town commissioner willfully failed to make the require disclosure, the accused town commission determine that an accused member of a town board or committee has willfully failed to make a required disclosure, the accused or committee member shall be removed from the board or committee. The town commission has primary jurisdiction to



enforce this section and no such authority is conferred on the Miami-Dade Commission on Ethics and Public Trust to investigate alleged failures to disclose business relationships under this section.

(<u>Ord. No. 19-1695</u>, ;s 2, 3-12-19)



## MEMORANDUM

ITEM NO. 9K

To: Honorable Mayor, Vice-Mayor and Members of the Town Commission

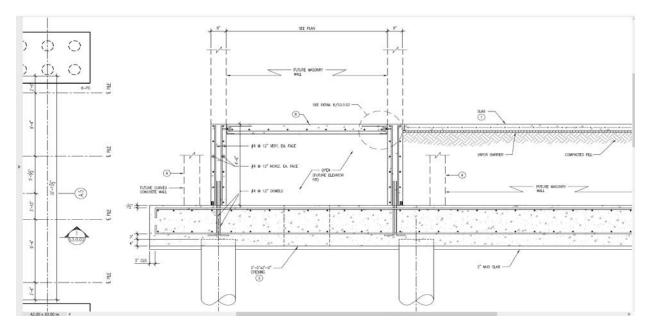
From: Andrew Hyatt, Town Manager

Date: December 2, 2021

Subject: Community Center Second Floor Possibility

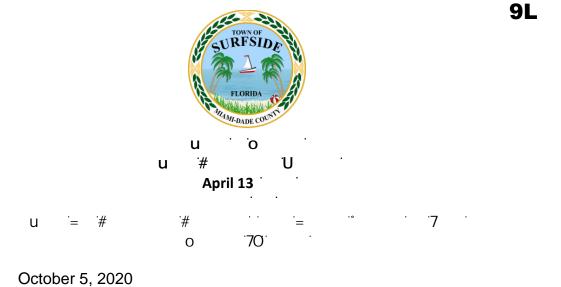
The Town of Surfside Community Center was designed and constructed under the provisions of the 2007 Florida Building Code 3<sup>rd</sup> Edition (2007) on auger cast pile foundations. These piles are developed to a depth of 35 feet and support a concrete reinforced structure with a ground floor slab, currently in use supporting an active community center, ranging from 10 inches to 11.5 inches in depth at elevation 0'-0". Large Y-shaped heavily reinforced concrete main columns support a roof slab at 18'-0" above the ground floor.

The roof slab is substantial, both in steel reinforcement and size, with a thickness ranging from 6 inches to a maximum thickness of 12 inches. In numerous locations the roof slab is referred to on the structural sections/details as the second floor. Structural plan S3.0.02 also shows a Future Stair Plan and Future Elevator Plan. This portion of the slab was pinned in place to be removed at some future time to accommodate an elevator shaft. These design drawing references and design features indicate that, at least from a structural design standpoint, a future occupied second floor was anticipated to be built at some future date. The present code in-force is the 2020 Florida Building Code 7<sup>th</sup> Edition (2017). The aforementioned detail taken from sheet S3.0.02 showing the future elevator pit on the approved plans is attached below.



Reviewed by: JPM

Prepared by: JPM



Date:October 5, 2020Prepared by:Commissioner Nelly VelasquezSubject:Amend Tourist Board Ordinance

**Objective:** To ensure the proper spending of all Tourist funds by the tourist board.

**Consideration:** tourist board ordinance

Recommendation: Amend current Tourist Board Ordinance



#### u # April 13 • Ū u •

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From:	<u>Mayor</u>
To:	Lillian M. Arango
Cc:	Sandra McCready
Bcc:	novacklaw; Mel Schlesser
Subject:	Charter Amendment correction
Date:	Monday, July 13, 2020 4:26:00 PM
Attachments:	Charter Amendment voted in wrong election.pdf image001.png

Dear Lily,

I have attached the legal opinion from attorney Jean Olin, dated 2014 which outlines why the current language in our Charter, with respect to the last paragraph of Section 4, is invalid, null and void, and must immediately be changed to reflect the original language.

As we now know, former elected officials knew full well that the 2012 deceptive ballot question which they put forward was defective, null and void once they became aware of Ms. Olin's opinion – and in reality, they were probably aware of it sooner, otherwise they likely wouldn't have asked for Ms. Olin's opinion.

Now that our Commission is aware that the 2012 Charter Amendment change referendum was improperly scheduled and improperly submitted for a vote, and that the 2012 referendum and the changes it purported to make, are essentially void and invalid and of no force or effect whatsoever, a few things must happen.

Even though the invalidity of the 2012 referendum was concealed from the public for several years, and was applied to numerous projects which followed Ms. Olin's opinion, it is nevertheless completely null and void.

While developers who proceeded in good faith under the revised Charter rules shouldn't be held responsible, elected officials who knew the truth, yet concealed it, should.

The currently published language of the charter must be restored to the original language as approved by 92% of the people in March 2004, in order to properly disclose, to all who may wish to develop projects in the future, that those restrictions exist. Not doing so would invite lawsuits that the Town would likely lose.

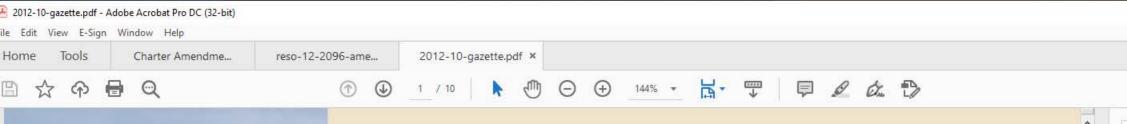
Any pending project which relied upon the 2012 referendum language must be reviewed for compliance or violation of the charter's provisions. No new approvals or permits can be issued for any project which has relied upon the aforementioned 2012 referendum language and which is not compliant with the original language of the Charter.

Now that this Commission is aware of the foregoing facts, we are <u>duty bound</u> to enforce the Charter provisions as they were written before the 2012 ballot question was improperly put forward and <u>not</u> as they are currently written.

Given the foregoing, please let me know if it is necessary to put forward a resolution, or ordinance to restore the text of the Charter section in question, or can it be done administratively by the Manager?

Lastly, Sandra please share this with my colleagues.

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# TOWN OF SURFSIDE

**PAGE 360** 

# Message from the Town Manager

November 6, 2012 is a very important day. Not only do we elect a President, we also vote on numerous amendments to the State Constitution, amendments to the Miami-Dade County Charter and amendments to our Surfside Charter. It is possible to vote absentee, vote early or come to the poll the old fashioned way. The ballot is long so preparation is critically important. My goal in this message is to explain the three Surfside Charter amendments on the ballot in a value neutral manner as required by the law. I cannot advocate in this publicly-funded Gazette ... only inform. Please also look at **Page 5** of this Gazette to see the actual language. Feel free to e-mail me if you have detailed questions.

The first Charter Amendment has to do with the creation of a Citizen's Bill of Rights as a preamble to the Charter. Just like the U.S. Constitution and the Miami Dade Charter have Bills of Rights to clearly define your rights, so does this Amendment establish protections which are not now in place.

The second Charter Amendment requires that a comprehensive Charter review begin within twelve months after adoption of the Amendment and every 10 years thereafter. This will ensure that updating the Charter happens soon and in the future. Any changes in the future will have to be voted on by our registered voters.

The third change is complicated. However, it is meant to clear up some confusion and differing interpretations from a previous 2004 Charter Amendment that regulates density, intensity and height of buildings. None of the 2004 voter approved controls are being diminished. In fact, by clearly defining the provisions of the 2004 Amendment, the intent of the voters will be clear to staff and property owners.

In these difficult days where trust and faith in government is greatly diminished, I cannot and will not presume to advise you how to vote. Please read the article on Page 5 and draw your own conclusion. Just remember that the right to vote is a very special privilege and make every effort to exercise that right. As always, thanks for the opportunity to manage this extraordinary community.

- Roger M. Carlton

# Surfside Charter Amendments On Nov. 6 Ballot

In July of this year, the Town Commission approved a resolution to add three Town of Surfside Charter amendments to the Nov. 6, 2012 general election ballot. To fully understand the amendments, residents are encouraged to review the following information.

## **Description of the Amendments:**

1. Adding a Preamble and Citizen's Bill of Rights to the

**Town Charter.** This amendment would add a Preamble and Citizen's Bill of Rights to the Town Charter. Similar to the U.S. Constitution, the Bill of Rights outlines residents rights, such as access to public records, to be heard, to notice, to a public hearing, to representation and no unreasonable postponements. The full wording of the Preamble and Bill of Rights is available at the Office of the Town Clerk.

**2. Mandatory Charter Review.** This amendment states that within the first 12 months after the adoption of this provision, the Town Commission will begin a Charter Review. Then, commencing in December 2022, the Commission will appoint a Charter review board every 10 years. The Charter review board will consist of five persons, one appointed by each Commissioner and ratified by a majority of the Commission. The board will begin its review within 45 days of being appointed.

3. Clarification of the intensity, density and height restrictions in development. This amendment provides revised language to better define these limits to reflect that: a) density means number of units per acre.
b) intensity means the floor area ratio as described in the Comprehensive Plan: total square footage of building divided by the total square footage of the lot where the building is located. c) height is defined in both number of floors and feet so that there is no misinterpretation.

## Form of Ballot:

The form of ballot of the charter amendments will appear as follows:

## 1. PREAMBLE AND CITIZENS' BILL OF RIGHTS

Shall the Town Charter be amended to add a Preamble and "Citizen's Bill of Rights" that creates certain individual rights and guarantees those rights to citizens of Surfside? Yes []

No []

## 2. MANDATORY CHARTER REVIEW

It is being proposed that within the first (12) twelve months after adoption of this provision, the Town shall commence charter review. Thereafter every tenth (10th) year commencing in December 2022, a charter review board shall be appointed by the Town Commission for purposes of charter review. Shall the above-described amendment be adopted?

Yes

No []

[]

## 3. GENERAL POWERS; RESRICTION ON DEVELOPMENT

On March 16, 2004, the electorate adopted a limitation on height, density and intensity of development allowable as of that date. It is being proposed that the restriction be maintained, but the language be clarified and reinforced to reflect that density means number of units per acre, that maximum floor area ratios be properly referenced as floor area ratio and heights be defined in both stories and feet. Shall the above described amendment be adopted?

Yes No

[]

D. To amend Section 4. General powers of town; powers not deemed exclusive of Article I. Incorporation; Form of Government; Powers as follows:

"The density, intensity, and height of development and structures within the Town of Surfside shall not exceed the maximum allowable units per acre floor areas, maximum allowable floor area ratios or the maximum allowable building heights in stories and feet that are set out in the Town of Surfside Comprehensive Plan or the Code of the Town of Surfside, whichever provisions are most restrictive, which are were in effect in 2004 on the date that this amendment is approved by a vote of the electors of the Town of Surfside. Upon becoming effective, t This amendment to the Town of Surfside Charter shall not be repealed, revised, amended, or superseded unless repeal, revision, amendment, or superseding provisions are placed on the ballot at a regularly scheduled election of the Town of Surfside and approved by a vote of the electors of the Town of Surfside.

GENERAL POWERS; RESTRICTION ON DEVELOPMENT 4.

On March 16, 2004 the electorate adopted a limitation on height, density and intensity of development allowable as of that date. It is being proposed that the restriction be maintained but the language be clarified and reinforced to reflect that density means number of units per acre, that maximum floor area ratios be properly referenced as floor area ratio, and heights be defined in both stories and feet.

Shall the above-described amendment be adopted?

Yes No



## RESOLUTION NO. 2012 - $\frac{2090}{2000}$

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN CHARTER TO PROVIDE REQUISITE BALLOT LANGUAGE FOR **SUBMISSION** ТО **ELECTORS;** PROVIDING FOR COPIES OF THE **CHARTER** AMENDMENT TO BE AVAILABLE FOR PUBLIC **INSPECTION: PROVIDING FOR THE TOWN CLERK TO** UTILIZE THE SERVICES OF MIAMI-DADE COUNTY **ELECTIONS;** SUPERVISOR OF PROVIDING FOR INCLUSION IN THE CHARTER: ACCEPTING THOSE **CHARTER PROVISIONS APPROVED BY A MAJORITY** OF THE VOTERS ON NOVEMBER 6, 2012 ACCORDING TO OFFICIAL RESULTS; AMENDING THE TOWN CHARTER TO ADD A PREAMBLE AND CITIZEN'S BILL **OF RIGHTS; ARTICLE IX. SECTION 128 MANDATORY** CHARTER REVIEW; AND ARTICLE I. SECTION 4 GENERAL POWERS OF TOWN; PROVIDING FOR PROVIDING **REPEALER:** FOR **SEVERABILITY:** DIRECTING THE TOWN CLERK TO AMEND AND CODIFY AMENDMENTS TO THE TOWN CHARTER IN ACCORDANCE WITH THE ELECTION RESULTS AND THIS RESOLUTION; PROVIDING FOR INCLUSION INTO THE TOWN CHARTER AND CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 97.1 of the Town Charter of the Town of Surfside ("Town") referencing Section 6.03 of Article 6 of the Home Rule Charter for Miami-Dade County provides the manner in which charter amendments shall be proposed; and

WHEREAS, the Town Commission wishes to submit these proposed charter amendments for approval or rejection by the electors; and

**WHEREAS**, pursuant to law, the electors of the Town shall have the power to approve or reject at the polls any matter submitted by the Town Commission to a vote of the electors.

## NOW, THEREFORE, THE TOWN COMMISSION OF THE TOWN OF SURFSIDE HEREBY RESOLVES:

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

#### Section 2. Proposed Amendments:<sup>1</sup>

The Charter of the Town of Surfside subject to a vote of the electorate is hereby amended as follows:

A. To add a Preamble and Citizen's Bill of Rights which shall read as follows:

#### PREAMBLE

We, the people of the Town of Surfside (hereinafter, "Town"), under the Constitution and laws of the State of Florida, in order to secure the benefits of local self-government and to provide for an honest and accountable Commissioners-Manager government, do hereby adopt this Charter and confer upon the Town the following powers, subject to the following restrictions, and prescribed by the following procedures and governmental structure. By this action, we secure the benefits of home rule and affirm the values of representative democracy, professional management, political leadership, citizen participation and regional cooperation.

#### CITIZEN'S BILL OF RIGHTS

A. This government has been created to protect the governed, not the governing. In order to provide the public with full and accurate information, to promote efficient administration, to make government more accountable, and to insure to all persons fair and equitable treatment, the following rights are guaranteed:

1. <u>Convenient Access. Every person has the right to transact Town business with a minimum of personal inconvenience. It shall be the duty of the Town Manager and the Commission to provide, within the Town's budget limitations, reasonably convenient times and places for required inspections of Town records, access to notice of public meetings, and for transacting business with the Town.</u>

2. <u>Truth in Government. No Town official or employee shall knowingly furnish false</u> information on any public matter, nor knowingly omit significant facts when giving requested information to members of the public.

3. <u>Public Records. All audits, reports, minutes, documents and other public records of the Town and its boards, agencies, committees, departments, and authorities shall be open for inspection at reasonable times and places convenient to the public.</u>

4. <u>Minutes and Ordinance Register</u>. The Town Clerk shall maintain and make available for public inspection an ordinance register separate from minutes showing the votes of each member of the Commission on all ordinances and resolutions listed by descriptive

<sup>1</sup> The words that are stricken through are intended to be deleted from this section of the Town Charter once it is approved. The words that are underscored constitute the proposed amendments to the section once it is approved.

title. Written minutes of all meetings and the ordinance register shall be available for public inspection not later than thirty (30) days after the conclusion of the meetings.

5. <u>Right to be Heard. So far as the orderly conduct of public business permits, any</u> interested person has the right to appear before the Town Commission or any Town agency, board, or committee for the presentation, adjustment or determination of an issue, request or controversy within the jurisdiction of the Town. Matters shall be scheduled for the convenience of the public. The Town Commission shall adopt agenda procedure and schedule hearings in a manner that will enhance the opportunity for public participation. Nothing herein shall prohibit any Town entity or agency from imposing reasonable time limits and procedures for the presentation of a matter.

6. Right to Notice. Persons entitled to notice of a Town hearing shall be timely informed as to the time, place and nature of the hearing and the legal authority pursuant to which the hearing is to be held. Failure by an individual to receive such notice shall not constitute mandatory grounds for canceling the hearing or rendering invalid any determination made at such hearing. Copies of proposed ordinances or resolutions shall be made available at a reasonable time prior to the hearing, unless the matter involves an emergency ordinance or resolution.

7. <u>No Unreasonable Postponements</u>. No matter, once having been placed on a formal agenda by the Town, shall be postponed to another day except for good cause shown in the opinion of the Town Commission, Board or agency conducting such meeting, and then only on condition that the affected person shall, upon written request, receive mailed notice of the new date of any postponed meeting. Failure by an individual to receive such notice shall not constitute mandatory grounds for canceling the hearing or rendering invalid any determination made at such hearing.

8. <u>Right to Public Hearing. Upon a timely written request from any interested party, and after presentation of the facts to and approved by the Commission, a public hearing shall be held by any Town agency, board, department or authority upon any significant policy decision to be issued by it which is not subject to subsequent administrative or legislative review and hearing. This provision shall not apply to the Office of the Town Attorney or to any body whose duties and responsibilities are solely advisory.</u>

At any zoning or other hearing in which review is exclusively by certiorari, a party or his or her counsel shall be entitled to present his or her case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such crossexamination as may be required for a full and true disclosure of the facts. The decision of any such agency, board, department or authority must be based upon the facts in the record. Procedural rules establishing reasonable time and other limitations may be promulgated and amended from time to time.

9. Notice of Action and Reasons. To the extent the Town is required to do same by law, notice shall be given of the denial of any decision of any Town proceeding at the

conclusion of the hearing. The notice shall be accompanied by a statement of the grounds for denial.

10. <u>Manager's and Attorney's Reports. The Town Manager and Town Attorney shall</u> periodically make public status reports on all material matters pending or concluded within their respective areas of concern.

11. Budgeting. In addition to any budget required by state statute, the Town Manager at the direction of the Town Commission shall prepare a budget showing the projected revenues and expenses of each department for each budget year. Prior to the Town Commission's first public meeting on the proposed budget required by state law, the Town Manager shall make public a budget summary setting forth the projected revenues and expenses of the various departments and reflecting the personnel and their title in each department, the estimated millage cost of each department and the amount of any contingency and carryover funds for each department.

12. Quarterly Budget Comparisons. The Town Manager shall make public not less than quarterly a report showing the actual revenues and expenses during the quarter just ended against one quarter of the proposed annual revenues and expenses set forth in the budget. Such report shall also reflect the same cumulative information for whatever portion of the fiscal year that has elapsed.

13. <u>Representation of Public. The Town Commission shall endeavor, when deemed</u> appropriate, to designate one or more individuals to represent the Town at all proceedings before county, state and federal regulatory bodies, significantly affecting the Town and its residents.

B. The foregoing enumeration of citizens' rights vests large and pervasive powers in the citizenry of the Town. Such power necessarily carries with it responsibility of equal magnitude for the successful operation of government in the Town. The orderly, efficient and fair operation of government requires the intelligent participation of individual citizens exercising their rights with dignity and restraint so as to avoid any sweeping acceleration in the cost of government because of the exercise of individual prerogatives, and for individual citizens to grant respect for the dignity of public office.

C. Remedies for Violations. In any suit by a citizen alleging a violation of this Article filed in the Miami-Dade County Circuit Court pursuant to its general equity jurisdiction, the plaintiff, if successful, shall be entitled to recover reasonable reasonable costs and attorneys' fees as fixed by the court.

D. Construction. All provisions of this Bill of Rights shall be construed to be supplementary to and not in conflict with the general laws of Florida. If any part of this Bill of Rights shall be declared invalid, it shall not affect the validity of the remaining provisions."

[See Ballot Question 1 in Paragraph 3 below.]

#### B. To add Section 128 of ARTICLE IX. - MISCELLANEOUS PROVISIONS.

**Section 128. Mandatory Charter Review.** Within the first twelve (12) months after the adoption of this provision, the Town Commission shall commence Charter Review. Thereafter every 10th year commencing December 2022, the Commission shall appoint a Charter review board ("Charter Board") consisting of five persons. Each Commissioner shall be entitled to appoint one Charter Review Board member but that appointee shall be ratified by a majority of the Commission. The review Board shall commence its proceedings within forty-five (45) days after appointment by Commission and upon completion of their work and written recommendations to the Commission, the Town Commission shall consider said recommendations at the next regularly scheduled Commission meeting. This provision does not inhibit the Town Commission or the electorate at any time from initiating a charter amendment in accordance with Article VIII ("Initiative and Referendum") hereinabove.

[See Ballot Question # 2 in Paragraph 3 below]

C. To amend Section 4. General powers of town; powers not deemed exclusive of Article I. Incorporation; Form of Government; Powers as follows:

"The density, intensity, and height of development and structures within the Town of Surfside shall not exceed the maximum allowable <u>units per acre floor areas</u>, <u>maximum allowable</u> floor area ratios or the maximum allowable building heights <u>in</u> <u>stories and feet</u> that are set out in the Town of Surfside Comprehensive Plan or the Code of the Town of Surfside, whichever provisions are most restrictive, which-are <u>were</u> in effect in 2004 on the date that this amendment is approved by a vote of the electors of the Town of Surfside. Upon becoming effective, t This amendment to the Town of Surfside Charter shall not be repealed, revised, amended, or superseded unless repeal, revision, amendment, or superseding provisions are placed on the ballot at a regularly scheduled election of the Town of Surfside.

[See Ballot Question # 3 in Paragraph 3 below]

#### Section 3. Form of Ballot:

A. The form of ballot of the charter amendments provided for in Section 2 shall be

substantially, as follows:

#### 1. PREAMBLE AND CITIZENS' BILL OF RIGHTS

Shall the Town Charter be amended to add a Preamble and "Citizen's Bill of Rights" that creates certain individual rights and

guarantees those rights to citizens of Surfside be added to the Town Charter?

Yes [] No []

#### 2. MANDATORY CHARTER REVIEW

It is being proposed that within the first (12) twelve months after adoption of this provision, the Town shall commence charter review and thereafter every tenth  $(10^{\text{th}})$  year commencing in December 2022, a charter review board shall be appointed by the Town Commission for purposes of charter review.

Shall the above-described amendment be adopted?

#### 3. GENERAL POWERS; RESTRICTION ON DEVELOPMENT

On March 16, 2004 the electorate adopted a limitation on height, density and intensity of development allowable as of that date. It is being proposed that the restriction be maintained but the language be clarified and reinforced to reflect that density means number of units per acre, that maximum floor area ratios be properly referenced as floor area ratio, and heights be defined in both stories and feet.

Shall the above-described amendment be adopted?

B. That the form of ballot set forth above may be revised by a Resolution of the

Town Commission.

<u>Section 4.</u> <u>Available for Public Inspection.</u> Charter Amendment to be Available for Public Inspection, and for the Town Clerk to Utilize the Services of Miami-Dade County Supervisor of Elections: The place, information and the full text of the proposed charter amendments are available at the Office of the Town Clerk located at 9293 Harding Avenue, Surfside, Florida. Copies of this Resolution providing for this charter amendment subject to this

**PAGE 368** 

Yes [] No []

Yes [] No []

referendum approval is on file in the Office of the Town Clerk and available for public inspection during regular business hours. The Town Clerk is authorized to utilize the services of Miami-Dade County Supervisor of Elections for any assistance required in the administration of the election.

<u>Section 5.</u> <u>Providing for Inclusion in the Town Charter</u>: It is the intention of the Mayor and Town Commission and its is hereby resolved that the provisions of this Resolution shall become and made a part of the Charter of the Town of Surfside, Florida, as to each charter amendment measure approved by a majority of voters on such measure in such election; that the sections of this Resolution may be renumbered or relettered to accomplish such intentions; and the word "Resolution shall be changed to "section" or other appropriate word.

<u>Section 6.</u> <u>Notice of Election</u>. That notice of said election shall be published in accordance with Section 100.342, Fla. Stat., in a newspaper of general circulation within the Town at least 30 days prior to said election, the first publication to be in the fifth week prior to the election, and the second publication to be in the third week prior to the election, and shall be in substantially the following form:

#### NOTICE OF ELECTION

PUBLIC NOTICE IS HEREBY GIVEN THAT PURSUANT TO RESOLUTION NO. <u>12-2096</u> ADOPTED BY THE TOWN OF SURFSIDE, FLORIDA, AN ELECTION HAS BEEN CALLED AND ORDERED TO BE HELD WITHIN THE TOWN ON **TUESDAY, THE 6TH DAY OF NOVEMBER, 2012** BETWEEN THE HOURS OF 7:00 A.M. AND 7:00 P.M., AT WHICH TIME THE FOLLOWING CHARTER AMENDMENT PROPOSALS SHALL BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE TOWN.

The full text of the proposed Town Charter Amendments is available at the office of the Town Clerk located at 9293 Harding Avenue, Surfside, Florida.

D. Sandra Nousa Town Clerk

<u>Section 7.</u> <u>Authorization of Town Officials.</u> The Town Manager and Town Attorney and Town Clerk are hereby authorized to take all steps necessary to complete the execution of the terms of this Resolution.

Section 8. Effective Date. This Resolution shall take effect immediately upon adoption.

#### PASSED AND ADOPTED this 17th day of July, 2012.

<u>485</u>

Motion by Commissioner  $\underline{Kligman}$  Second by Commissioner  $\underline{OlchyK}$ .

#### FINAL VOTE ON ADOPTION

Commissioner Michelle Kligman Commissioner Marta Olchyk Vice Mayor Michael Karukin Mayor Daniel Dietch

Daniel Dietch, Mayør

Attest Sandra No Føwn Clerk

Approved as to form and legal sufficiency For the Town of Surfside only:

Lynn M. Dannheisser

Town Attorney

### ORDINANCE NO. 15 - 1640

AN **ORDINANCE** OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE. FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF **ORDINANCES BY AMENDING CHAPTER 90** ZONING: SPECIFICALLY AMENDING SECTION 90-43 MAXIMUM BUILDING **HEIGHTS: PROVIDING FOR INCLUSION IN** THE CODE; PROVIDING FOR **SEVERABILITY:** REPEALING ALL **ORDINANCES OR PARTS OF ORDINANCES** IN CONFLICT **HEREWITH**; AND **PROVIDING FOR AN EFFECTIVE DATE.** 

WHEREAS, Sec. 4 of the Town Charter states:

Sec. 4. - General powers of town; powers not deemed exclusive.

The density, intensity, and height of development and structures within the Town of Surfside shall not exceed the maximum allowable units per acre, floor area ratios or the maximum allowable building heights in stories and feet that are set out in the Town of Surfside Comprehensive Plan or the Code of the Town of Surfside, whichever provisions are most restrictive, which were in effect in 2004. This amendment to the Town of Surfside Charter shall not be repealed, revised, amended, or superseded unless repeal, revision, amendment, or superseding provisions are placed on the ballot at a regularly scheduled election of the Town of Surfside and approved by a vote of the electors of the Town of Surfside.

WHEREAS, Sec. 4 of the Town Charter was amended by the electors by approval of the November 6, 2012 ballot question which modified height to be restricted to the number of feet and the number of stories described in the more restrictive of the 2004 Zoning Code or 2004 Comprehensive Plan; and

WHEREAS, amending Sec. 90-43 Maximum building heights provides consistency between the Code and the Charter amendment; and

WHEREAS, the Town Commission held its first duly noticed public hearing on these regulations on September 8, 2015; and

WHEREAS, the Planning and Zoning Board, sitting as the Local Planning Agency, has reviewed the revisions to the code for consistency with the Town's Comprehensive Plan at a duly noticed public hearing on November 19, 2015 and recommended approval; and

1

WHEREAS, the Town Commission has conducted a second duly noticed public hearing on these regulations as required by law on December 8, 2015 and further finds the proposed amendment to the Code in the best interest of the community.

# 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. 90-43. - Maximum building heights.

Designation	Maximum Height (Feet)	Maximum Stories
H30A	30 FT	2
H30B	30 FT	2
H30C	30 FT	2
H40	40 FT	$\frac{1 \text{ and } 2 \text{ family} = 2 \text{ stories,}}{\text{multifamily and hotel} = 3}$ $\frac{\text{stories}}{2}$
H120	120 FT	<u>12</u>
SD-B40	40 FT	3
MU	Surrounding Designation	
CF	70 FT	

<u>Section 3.</u> <u>Severability</u>. 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.

<u>Section 4. Conflict.</u> 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.

<u>Section 5.</u> <u>Inclusion in the Code of Ordinances</u>. 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 relettered to accomplish such intentions; and the word "Ordinance" may be changed to "Section" or other appropriate word.

### **PAGE 372**

Section 6. Effective Date. This Ordinance shall be effective upon adoption on second reading.

PASSED and ADOPTED on first reading this 8th day of September, 2015.

PASSED and ADOPTED on second reading this 8 day of December, 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:

No

Linda Miller, Town Attorney

On Final Reading Moved by: Commissioner Karukin, On Final Reading Seconded by: Commissioner Cohen .

#### **VOTE ON ADOPTION:**

Commissioner Barry R. Cohen Commissioner Michael Karukin Commissioner Marta Olchyk Vice Mayor Eli Tourgeman Mayor Daniel Dietch

yes 🖌 no yes 🖌 no yes 🗸 no yes Absilos no yes

**PAGE 373** 

3

From:Linda MillerTo:Daniel DietchSubject:RE: Charter: Height, Density and IntensityDate:Tuesday, July 12, 2016 2:43:31 PMAttachments:Olin - Opinion Sec 4.pdf

Mayor:

Also, attached is Jean's opinion. Linda

From: Daniel Dietch Sent: Tuesday, July 12, 2016 12:50 PM To: Linda Miller Subject: Charter: Height, Density and Intensity Importance: High

Madame Attorney,

When you have a moment, please send along our Charter Amendment related to requiring a referendum for any increases in height, density and intensity. Thanks.

Daniel

#### MEMO

To: Linda Miller, Surfside Town Attorney
From: Jean Olin, Esq.
Re: Town Charter Section 4: "Regularly-Scheduled Election of Town of Surfside".
Date: October 28, 2014

Pursuant to your request, I have researched the issue concerning interpretation of the phrase "regularly scheduled election of the Town of Surfside" contained in the last paragraph of Section  $4^1$  of the Surfside Town Charter (hereafter "Charter Section 4"), reading as follows:

...The density, intensity, and height of development and structures within the Town of Surfside shall not exceed the maximum allowable units per acre, floor area ratios or the maximum allowable building heights in stories and feet that are set out in the Town of Surfside Comprehensive Plan or the Code of the Town of Surfside, whichever provisions are most restrictive, which were in effect in 2004. This amendment to the Town of Surfside Charter shall not be repealed, revised, amended, or superseded unless repeal, revision, amendment, or superseding provisions are placed on the ballot *at a regularly scheduled election of the Town of Surfside* and approved by a vote of the electors of the Town of Surfside.

The enumeration of particular powers by this Charter shall not be deemed to be exclusive, and in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the town shall have and may exercise all powers which, under the constitution of this state, it would be competent for this Charter specifically to enumerate.

The density, intensity, and height of development and structures within the Town of Surfside shall not exceed the maximum allowable units per acre, floor area ratios or the maximum allowable building heights in stories and feet that are set out in the Town of Surfside Comprehensive Plan or the Code of the Town of Surfside, whichever provisions are most restrictive, which were in effect in 2004. This amendment to the Town of Surfside Charter shall not be repealed, revised, amended, or superseded unless repeal, revision, amendment, or superseding provisions are placed on the ballot at a regularly scheduled election of the Town of Surfside and approved by a vote of the electors of the Town of Surfside.

<sup>&</sup>lt;sup>1</sup> Charter Section 4 reads in its entirety as follows:

Sec. 4. "General powers of town; powers not deemed exclusive".

The town shall have all the powers granted to municipal corporations and to towns by the constitution and general laws of the state, together with all the implied powers necessary to carry into execution all the powers granted. The town may acquire property within or without its corporate limits for any town purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise or lease, and may sell, lease, mortgage, hold, manage and control such property as its interests may require. Except as prohibited by the constitution of this state or restricted in this Charter, the town shall and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever.

(Emphasis added.) Specifically, the subject issue concerns whether the above-referenced language requires a Town election to amend the above portion of Section 4 occur only at time of a Surfside "General Election" held in March of even-numbered years, or whether such amendment may be placed on a Town ballot at election dates other than a Town General Election. For the reasons set forth more fully below, based upon applicable principals of statutory construction, the Charter subject language mandates that such election issue be placed on the ballot during a Surfside General Election.

#### I. FACTUAL BACKGROUND.

In 2003 the Surfside Town Commission adopted its Resolution No. 1662, placing a ballot measure on the Town's March 16, 2004 General Election ballot, proposing an amendment to Section 4 of the Town Charter for the purpose of imposing restrictions on the allowable density, intensity and height of structures beyond that permitted as of said Election date, and requiring that any future change to this Charter language be presented to the Town's electorate at a "regularly scheduled election of the Town of Surfside"; this measure was approved by the Town's electorate, with election results accepted by the Town Commission via its Resolution No. 1670. Since 2004, Charter section 4 has been amended only once, via ballot measure placed on the Town's November 6, 2012 Special Election ballot<sup>2</sup>--this amendment was for the sole purpose of "defining and clarifying<sup>3</sup>" the subject categories of land use (i.e., "density", "intensity" and "height"), with no proposed changes to remaining Charter Section 4 language. A thorough review of the Town's records pertaining to the legislative history and language of Charter Section 4 fails to reveal any discussion amongst the Town Officials elaborating upon the Town's intended meaning of the phrase "regularly scheduled election of the Town of Surfside".

#### II. MEMORANDUM OF LAW.

#### A. Applicable Legal Principles.

As a general rule, where the language of a particular law is clear and amenable to a reasonable and logical interpretation, that interpretation will control, as courts and other governmental bodies are without power to diverge from the intent of the Legislature<sup>4</sup> as expressed in the law's plain language. *See Starr Tyme, Inc. v. Cohen,* 659 So.2d 1064

<sup>&</sup>lt;sup>2</sup> Surfside Resolution No. 2012-2096 called the subject 2012 Election.

<sup>&</sup>lt;sup>3</sup> See, Town Attorney's "Report" dated March 9, 2010, at page 3, paragraph 7, setting forth the Town's Charter Review Board's proposed amendments to Charter section 4; see, also Town's Charter Review Board Resolution dated February 16, 2010, containing its recommended Charter changes, specifically renumbering Charter Section 4 as "section 7-5", proposing no change to the term "regularly scheduled election..."

<sup>&</sup>lt;sup>4</sup> As a fundamental principle of statutory construction, "legislative intent is the polestar that guides a Court's inquiry." *State v. Rife*, 789 So.2d 288, 292 (Fla.2001) (quoting *McLaughlin v. State*, 721 So.2d 1170, 1172 (Fla.1998)).

(Fla.1995)<sup>5</sup>. However, a law's plain and ordinary meaning will not control if it leads to an unreasonable result<sup>6</sup> or a result clearly contrary to legislative intent. *See Gallagher v. Manatee County*, 927 So. 2d 914, 919 (Fla. 2d DCA 2006); and *City of Miami v. Romfh*, 63 So. 440 (Fla. 1913); in such cases, the courts will resort to canons of statutory construction for purposes of interpreting the unclear law.

In resorting to statutory construction, courts will give effect to all statutory provisions and construe related statutory provisions in harmony with another. *Forsythe v. Longboat Key Beach Erosion Control Dist.*, 604 So.2d 452, 455 (Fla.1992). It is thus well settled that when two laws are in conflict, the more recently enacted law controls the older one<sup>7</sup> (*See McKendry v. State*, 641 So.2d 45 (Fla.1994); *Florida Association of Counties, Inc. v. Department of Administration, Division of Retirement,* 580 So. 2d 641 (Fla. 1st DCA 1991), *approved,* 595 So. 2d 42 (Fla. 1992)), and that a specific provision of a law will be regarded as an exception to the general, broader provision so that both may be given effect<sup>8</sup>.

#### B. Legal Analysis.

We begin the analysis with Charter Section 4's language: "regularly scheduled election of the Town of Surfside"<sup>9</sup>. On its face, the Charter requires that the election be a "Town of

<sup>&</sup>lt;sup>5</sup> See, also, State v. Hubbard, 751 So.2d 552, 561–62 (Fla.1999). When a statute is clear, we do not look behind the statute's plain language for legislative intent or resort to rules of statutory construction to ascertain intent. See State v. Burris, 875 So.2d 408, 410 (Fla.2004) (citing Lee County Elec. Coop., Inc. v. Jacobs, 820 So.2d 297, 303 (Fla.2002)). The plain and ordinary meaning of the words of a statute must control.

<sup>&</sup>lt;sup>6</sup> It cannot be said that it would be totally unreasonable for the Town to have intended that elections to amend the subject portion of Charter Section 4 be held only at time of the Town's Regular Election--see, Miami-Dade County Charter Section 9.07(B) and (C), providing that County elections to amend its Charter "…shall be held in conjunction with the next scheduled general election…"

<sup>&</sup>lt;sup>7</sup> State v. Bodden, 877 So.2d 680, 685: ("[T]he legislature is presumed to know the meaning of words and the rules of grammar[.]")

<sup>&</sup>lt;sup>8</sup> All parts of a legislative act should be read together to achieve a consistent whole. Haworth v. Chapman, 152 So. 663 (Fla. 1933); Marshall v. Hollywood, Inc., 224 So.2d 743 (4 D.C.A. Fla., 1969), *writ discharged*, 236 So.2d 114 (Fla. 1970), *cert. den'd.*, 400 U.S. 964 (1970). If possible, a statute must be so construed as to reconcile any apparent inconsistencies and give meaning and effect to the language employed as a whole. Wiggins v. State, 101 So.2d 833 (1 D.C.A. Fla., 1958); Arvida Corporation v. City of Sarasota, 213 So.2d 756 (2 D.C.A. Fla., 1968). *See generally* 82 C.J.S. *Statutes* s. 346.

<sup>&</sup>lt;sup>9</sup> It cannot be credibly maintained that the Charter language "regularly scheduled election" was intended as a requirement that the *per se scheduling of elections* (to amend Section 4) be conducted in the "regular" manner, because such interpretation would of necessity infer that in the absence of such language, elections to amend the Town's Charter could otherwise be scheduled in an "irregular" manner, which of course has no foundation in either law or practice. *See Carawan v. State*, 515 So. 2d 161 (Fla. 1987); *R.F.R. v. State*, 558 So. 2d 1084 (Fla. 1st DCA 1990) (court construing statute must avoid any construction that would result in unreasonable or absurd consequences); *Scudder v. Greenbrier C. Condominium Association, Inc.*, 663 So. 2d 1362 (Fla. 4th DCA 1995) (although court must ascribe plain

Surfside" election<sup>10</sup>, resulting in the sole issue concerning the definition of the words "regularly scheduled election". In order to determine its meaning, "[o]ne looks to the dictionary for the plain and ordinary meaning of words." *Specialty Restaurants Corp. v. City of Miami*, 501 So.2d 101 (Fla. 3d DCA 1987); and *Mandelstam v. City Comm'n of South Miami*, 539 So.2d 1139 (Fla. 3d DCA 1988). The available dictionary definitions define "regularly scheduled election" to mean "...a regularly scheduled local, state, or national election in which voters elect officeholders". See, *Random House Dictionary, Dictionary.com* and *Cornell University Law School, Legal Information Institute's WEX Legal Dictionary*. Significantly, the Florida Attorney General has also interpreted the term "regular election" to mean the General Election at which candidates are elected. Fla. Atty. Gen. Op. 2010-36.

Moreover, reading Charter Section 4 together with the following related Town Charter provisions governing elections evidences that the term "regularly scheduled election" is a term of art that has developed a particular meaning designed to draw a distinction between the Town's "Regular" (a/k/a "General") elections and the Town's "Special" elections:

- Charter Section 97. "Time of Holding Elections": "The *regular election* for the choice of members of the commission shall be held on the third Tuesday in March of each even numbered calendar year. ...Special elections to replace or amend the Town's Charter shall be held in accordance with the requirements of the Charter of Metropolitan Dade County, Florida, adopted pursuant to the authority of section 11, Article VIII, Constitution of the State of Florida..."
- Charter Section 105. "Charter amendments", subsection (4): " All elections held on the third Tuesday of March in even numbered calendar years, or any postponements thereof, for the election of commissioners shall be known as *general municipal elections*. All other elections shall be known as *special municipal elections*."

and obvious meaning to words used in statute, it should not interpret statute so as to produce unreasonable or absurd result).

<sup>&</sup>lt;sup>10</sup> Under the last antecedent doctrine of statutory interpretation, qualifying words, phrases, and clauses are to be applied to the words or phrase immediately preceding, and are not to be construed as extending to others more remote, unless a contrary intention appears. *City of St. Petersburg v. Nasworthy*, 751 So. 2d 772 (Fla. 1st DCA 2000); *Rich Electronics, Inc. v. Southern Bell Telephone & Telegraph Company*, 523 So. 2d 670 (Fla. 3d DCA 1988), *appeal after remand*, 548 So. 2d 1153 (Fla. 3d DCA 1989), *review denied*, 560 So. 2d 234 (Fla. 1990).

<sup>&</sup>lt;sup>11</sup> See, also, Town Charter Section 103 "Ballots": "All ballots used in any *general or special election* of commissioners held under authority of this Charter ....."; Town Charter Sec. 118 "Submission to electors of initiative petition": "... If no *regular election* is to be held within such period, the commission shall provide for a *special election*. ..."; and Town Charter Sec. 16 "Procedure in Filling [Vacancies]": "...Vacancies on the commission, if for an unexpired term of more than six (6) months, shall be filled by a *special election called* within ninety (90) days, or in a *regular election* ...."

Reading Section 4 in pari materia with the remainder of the Charter thus leads to a logical and harmonious construction in which the words "regularly scheduled election of the Town of Surfside" is defined as the date on which the Town's General Election occurs.

In addition to the above, Town Charter sections 97 and 97.1 set forth the Town's general procedure for elections to amend the Town Charter: "Amendments to this Charter shall be proposed, presented or initiated and implemented in accordance with the requirements of section 5.03 of Article 5<sup>12</sup> of The Home Rule Charter for Metropolitan Dade County"--it should further be noted that the County Charter does not contain Section 4's requirement that such Charter elections be held during a "regularly scheduled election of the Town". However, when Charter sections 97 and 97.1 (the Town' general procedure for Charter amendments) are read in pari materia with the more specific provisions of Charter section 4 (the Town's specific procedure for amendment of Charter section 4's land use cap), the specific provisions control as a matter of law in those instances when such Section 4 amendments are proposed. A specific statute covering a particular subject area always controls over a statute covering the same and other subjects in more general terms. Adams v. Culver, 111 So.2d 665, 667 (Fla.1959); State v. Billie, 497 So.2d 889, 894 (Fla. 2d DCA 1986), review denied, 506 So.2d 1040 (Fla.1987). The more specific statute is considered to be an exception to the general terms of the more comprehensive statute. Floyd v. Bentley, 496 So.2d 862, 864 (Fla. 2d DCA 1986), review denied, 504 So.2d 767 (Fla.1987). Under this rule, the subject portion of Charter section 4 that specifically addresses caps on allowable land uses, prevails over remaining sections of the Town Charter such as sections 97 and 97.1, which generally provide for a method of amending the Charter. To arrive at any other conclusion would render the specific mandatory language of Charter section 4 without meaning<sup>13</sup>.

Further, when two statutes are in conflict, the later promulgated statute should prevail as the last expression of legislative intent. *Sharer v. Hotel Corp. of Am.*, 144 So.2d 813 (Fla.1962); *State v. Ross*, 447 So.2d 1380, 1382 (Fla. 4th DCA 1984), *review denied*, 456 So.2d 1182 (Fla.1984). Charter sections 97 and 97.1 were originally enacted in 1964 (and amended in 1974), 40 years before the subject Charter section 4 language was adopted by the Town's voters<sup>14</sup>. Therefore, as a matter of law, Charter section 4 prevails over Charter sections 97 and

<sup>&</sup>lt;sup>12</sup> Due to County Charter revisions, the correct citation is Article 6, section 6.03 of the Miami-Dade County Charter.

<sup>&</sup>lt;sup>13</sup> "A basic rule of statutory construction provides that the Legislature does not intend to enact useless provisions, and courts should avoid readings that would render part of a statute meaningless." *Id.* (quoting *State v. Goode,* 830 So.2d 817, 824 (Fla.2002)). "[R]elated statutory provisions must be read together to achieve a consistent whole, and ... '[w]here possible, courts must give full effect to all statutory provisions and construe related statutory provisions in harmony with one another.' " *Woodham v. Blue Cross & Blue Shield, Inc.,* 829 So.2d 891, 898 (Fla.2002) (quoting *Forsythe v. Longboat Key Beach Erosion Control Dist.,* 604 So.2d 452, 455 (Fla.1992)).

<sup>&</sup>lt;sup>14</sup> See, "FACTUAL BACKGROUND" at I, hereinabove.

97.1 as the last expression of legislative intent on the subject of permissible elections for ballot questions proposing amendments to the last paragraph of Charter section 4, which interpretation results in the following:

- Surfside elections to amend the last paragraph of Charter Section 4 may be held only during the Town's General Election; and
- Surfside elections to amend Charter provisions other than the last paragraph of Charter Section 4 may be held at either a Special or General Election of the Town.

Finally, it is significant to recognize that the relevant Town records have been reviewed, yet they fail to suggest that the Town Commission intended to permit amendments to the Section 4 language at other than a General Election<sup>15</sup>. It would appear, therefore, reading all of the abovecited Charter provisions in a manner to give effect to each and to fulfill the Legislature's intent, that Section 4's term "regularly scheduled election" should be interpreted to mean the Town's General Election.

#### III. CONCLUSION.

Based upon the above analysis, it is my opinion that the language in the final paragraph of Town Charter Section 4, requiring elections to amend such language occur at a "regularly scheduled election of the Town of Surfside", constitutes a restraint (albeit lawful) upon the Town with regard to the scheduling of such election, limiting such matter's placement to a Surfside General Election ballot (i.e., the third Tuesday in March of any even-numbered year). The Town Commission may wish to consider a future amendment to Charter section 4 whereby future Section 4 amendments are not limited to placement on a Town ballot during the Surfside General Election.<sup>16</sup>-<sup>17</sup>.

<sup>&</sup>lt;sup>15</sup> The fact that the subject 2003 amendment to Charter Section 4 was placed on the Town's 2004 General Election ballot supports the conclusion herein that the Town's legislative intent was to ensure such amendments' presentation to Town voters during a ("regularly-scheduled") Town General Election. "Where a doubt exists as to the meaning of words, resort may be had to the surrounding facts and circumstances to determine the meaning intended". St. Lucie County Bank & Trust Co. v. Aylin, 94 Fla. 528, 114 So. 438 (1927) Although the Town Commission's subsequent action in placing a Section 4 amendment on the Town's November 2012 ballot may possibly be interpreted as an indication of legislative intent, the Town's records are devoid of any discussion of the issue.

<sup>&</sup>lt;sup>16</sup> Nowhere else in the Town Charter is there a provision restricting placement of a particular Charter amendment to a specific ballot.

<sup>&</sup>lt;sup>17</sup> Final postscript relative to future Town elections: in general, a private party may pay the Town's election expenses related to proposed Charter amendments. See, Florida State Division of Elections Opinion 13-06.

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**PAGE 384** 

- Sec. 14-32. Construction schedule and notice.
  - (1) The performance of construction activity which requires a building permit within the town shall only be allowed from 8:00 a.m. until 6:00 p.m. Monday through Friday, and is not allowed on Saturday. Sunday, and on federal holidays. Construction activity under this section does not include infrastructure and utilities, roadways, other public right-of-way construction activities, repair and maintenance activities inside dwelling units, and painting with manual tools.
  - (2) *Construction activities outside regular hours:* Construction activity which requires a building permit outside of the hours as stated in this section requires town manager or town manager designee approval. Emergency repairs which require a building permit are allowed as necessary, and must be approved after the fact by the town manager or designee.
  - (3) Notice: For construction activities on projects over 10,000 square feet or valued at over \$1,000,000. or for permitted construction activity outside of the hours pursuant to subsection (2) of this section, written courtesy notices shall be sent by first class mail, by the building permit applicant, ten days prior to construction to all property owners within a radius of 300 feet of the construction site stating the date of commencement and planned conclusion of the construction activity.
  - (4) Activities under this section must comply with noise regulations as stated in <u>Chapter</u>
     <u>54</u>, Division 2 Noise, sections <u>54-76</u> to <u>54-79</u> of the Town Code.
  - (5) Violations of any provisions of this section shall be enforced as provided by <u>section 1-8</u> of the Town Code.

(Ord. No. 1651, § 2, 9-13-16)



## u o u # U April 13

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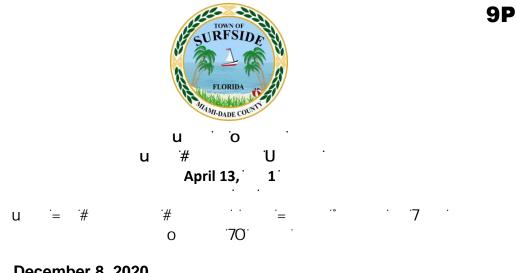
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## u o u # U April 13

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Date:December 8, 2020Prepared by:MayorSubject:Cancel Culture in Surfside

**Objective:** Reaffirm Surfside's commitment to open and transparent government

**Consideration:** That Surfside's elected official promote and encourage more speech and transparency, and stand against those who would silence opposing views.

**Recommendation:** Surfside Commission resolves to condemn Cancel Culture and those who promote it.

FEBRUARY 22, 2009

THE MIAMI HERALD | SUNDAY.

MiamiHerald:com/Neighbors |

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https://miamiherald.newspapers.com/image/658056820

The Miami Herald (Miami, Florida) · Sun, Feb 22, 2009 · Page 636 Printed on Oct 22, 2020

## SURFSIDE **Officials fed up with 'Mayor's View'**

Surfside's mayor Charles Burkett and town commissioners squabble over the mayor's criticisms in the town's newsletter.

#### BY ANGEL L. DOVAL

Surfside Mayor Charles Burkett will no longer get to publish his monthly column in the town newsletter after several commissioners criticized the column as overly political.

At a Feb. 10 meeting, the attempt to create guidelines for the Surfside Town Gazette - and eliminate Burkett's "Mayor's View" column - sparked fireworks. After a heated argument

pitting Burkett against Commissioner Steven Levine, the ably not be a great idea for commission voted 4-1 to eliminate the column from the newsletter among other changes to the town publica-

tion. Burkett was the dissenting vote. Levine said the mayor was

"politicizing the Gazette" and called him "an assassinator" for his strong opinions and sharp chastisements of commissioners in print. At one point, Levine pounded his left fist on the dais.

In February's newsletter, Burkett wrote that he asked the commission to think carefully about calls to eliminate his or any elected official's ability to reach out to resi-

dent's through the Gazette. "I know I'm not the most popular person with my friends on the Commission right now . . . but I also know that silencing any voice on this commission would probany elected official to under-

take," he wrote. Levine and Commissioner Elizabeth Calderon also



objected to the price of the newsletter. It costs \$3,013 per with an average of 12 pages per issue.

In an interview, Burkett told The Miami Herald that "this is not about policy, not about money. It's about the commission," he said. Burkett and commission-

the town's proposed community center.

'They're not happy about what I'm writing. I'm informing the electorate about what is going on at these meet-



They're not happy about what I'm writing. I'm informing the electorate about what is going on at these meetings."

- CHARLES BURKETT, mayor of Surfside

#### ings," Burkett said.

The debate began when commissioners Levine and Calderon opened discussion month to publish 3,800 copies on Gazette policies and guidelines. "These views just don't belong in the newsletter," Levine said at the meeting. "You are making the commissioners and the town It's free.' look bad in the eyes of the residents and our visitors."

Burkett responded by sayers have clashed publicly over ing that he has the right to write what he wants and that the commissioners have always been allowed to have their say in the newsletter.

Calderon suggested trimming the Gazette. "We can

save some money if we reduce the size of the newsletter by two pages," she said. Levine responded: "The

mayor is using up two pages so we can eliminate those.

He also told the mayor that his column could continue online. "And you know what?

Burkett isn't happy about being relegated to the town website.

"And all the talk about using the website is garbage,' he said. "The newsletter is already on the Web. And when they describe what I write as 'political,' well everything we do is political."

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#### Site: <u>www.dying2live.com</u>.

#### Greetings from Canada:

You seem to have hit a nerve, by your courage to open the eyes of concerned Christians worldwide, and have brought the truth about what really is going on, in the Holy Land.

We will study your site thoroughly, and please don't let WND or Debka File discourage you, they are just Jewish propaganda media, who thrive on their own egos and arrogance, and promote hate news at the expense of God fearing freedom loving human beings.

There are 13 million Jews in the world, who threaten 6 billion humans' lives, with a nuclear holocaust, in order to expand their territory and dominate the middle east +.

Israelis are not Jews and Jews do not represent Israel lawfully. Jews are occupying God's Land without God's permission. The Holy Bible shows us that Jews and Israel are two different Kingdoms, separated by King Rehoboam in 930 BC, and the the word JEW, which means Judah and Judaism, shows up in 2Kings16:5-6 [740 BC], FOR THE FIRST TIME. If God wanted the Jews to rule over Israel, our Holy Scriptures would say so, but Bible says the opposite and many American Politicians and Religious leaders have been hoodwinked.

I hope you continue your campaign for JUSTICE, and if I can help, let me know.

A. Deacon
Beautiful. God Bless You.
Peter A. Sahwell
~

#### Site: www.bmjjournals.com

Peter A. Sahwell post on the General Medical Journal website:

Peter A. Sahwell, consultant private business 33154

Send response to journal: <u>Re: It's Hard to Argue</u> <u>with Facts</u>

Whatever one thinks of Israel or Palestine, and forget about the rest of the Arab World, which is a human rights disaster and also has nothing to do with the propositions Dr. Summerfield puts forth, there can be no doubt that the Israeli military has deliberately savaged Palestinian society. Two years ago when the Israelis reoccupied most of the West Bank, there were innumerable reports of IDF personnel breaking into the offices of all manner of human services and cultural agencies and destroying written records, computer hard drives, and anything else that a people uses to record its own existence. Just two weeks ago, an IDF officer emptied his revolver into the lifeless body of a school girl, some 23 shots in all. And that's not an isolated incident. Women give birth in agony at checkpoints while IDF soldiers sit around doing nothing. Now there may be perfectly good hearted and progressive Israeli doctors and other citizens of that country who treat Palestinians humanely, but the structural injustice and inhumanity of the Israeli government and military toward the Palestian people, which started with European jews driving 700,000 Palestinians from their homes and literally razing some 420 of their villages in 1947-48, continues to this day. The documentation is endless and nauseating. There will be no peace until justice is done.

Competing interests: None declared

. .. .....

Published: Tuesday, April 23, 2002 – Miami Herald Section: Editorial Page: 6B ISRAEL CREATED THROUGH TERRORISM

#### Memo: IN RESPONSE

As a Palestinian American and a Christian, I was doubly offended by Joyce Starr's April 11 column, Stop pogrom against Israel.

My grandfather was buried alive in Jerusalem's King David Hotel in 1946 when the Irgun Tzevai Leumi blew up the building in one of many acts of Zionist terrorism.

Few people realize the terror that accompanied the theft of Palestinian land that was the basis of the creation of the state of Israel. The massacre of Palestinian villagers in Deir Yassin and the hanged bodies of two British soldiers booby-trapped with hand grenades are two other notable atrocities. Palestinians were terrorized out of their homes, and half of all the Palestinian villages were quickly bulldozed out of existence, some 480 in all.

As a Christian, I recoil at the desecration of the Church of the Nativity by Israeli soldiers and am saddened by the Christian fundamentalists who yearn for Jews to crowd into Israel in fulfillment of their skewed reading of Scripture.

It should be the task of Christians worldwide to speak out against the insane violence being perpetrated by Israeli Prime Minister Ariel Sharon.

This is a man who was condemned even by his own government as responsible for the slaughter of Palestinian women and children in the Sabra and Shatila refugee camps, and who is currently under indictment in Belgium for crimes against humanity.

PETER SAHWELL Surfside

\_\_\_\_\_

Responses to Sahwell's letter:

Posted on Thu, Apr. 25, 2002

#### Not culpable

Peter Sahweil's April 23 letter states that Ariel Sharon ``was condemned even by his own government as responsible for the slaughter of Palestinian women and children in the Sabra and Shatila refugee camps."

This isn't the case. Both the Israeli investigation and a New York court found that Lebanese Christian forces, not Sharon, perpetrated the massacre.

The Kahan Commission did reprimand him for not stopping the massacre once word leaked out. However, no evidence ever was produced that Sharon knew in advance that Christian militants were going to kill Muslim civilians as well as Muslim terrorists known to be in the camps.

As Menachem Begin said at the time: ``Christians kill Muslims, and everyone blames the Jews."

#### DAVID HOSTYK

Hollywood

#### Posted on Fri, Apr. 26, 2002 British role in Mideast tragedies

IN RESPONSE

In his April 23 letter, *Israel created through terrorism*, Peter Sahwell wrote of the bombing of the King David Hotel as an example of ``Zionist terrorism."

It is interesting to note that in the 1940s the King David Hotel was the British military headquarters, not a civilian target.

It is fascinating to note that the "Jewish terrorists" were called to the King David before the explosion so that everyone could evacuate the building.

Unfortunately, the British responded by barring the doors and re- fusing to let people leave because they were indignant that a Jew should dictate to his majesty's government.

Sahwell's anger might be better directed toward the British, not only for the death of his grandfather but for their treatment of the Arabs, particularly in Jenin. Following the assassination of a British district commissioner by a Palestinian in Jenin in the summer of 1938, British authorities decided that a large portion of the town should be blown up as punishment.

On Aug. 25, 1938, a British convoy brought 4,200 kilos of explosives to Jenin for that purpose. According to a recently declassified British report, in that operation and on other occasions, Arabs were forced to drive "mine-sweeping taxis" ahead of British vehicles where Palestinian terrorists were believed to have planted mines, in order to reduce British casualties.

Last, the letter's headline is misleading -- unless one considers the United Nations's vote that created the state of Israel an act of terrorism.

#### RABBI KALMAN PACKOUZ

Miami Beach

\_\_\_\_\_

# *Most recently, Sahwell criticized a column in the Miami Herald about Yasser Arafat.*

#### Arafat didn't err

The Herald's Nov. 12 editorial *Death of Yasser Arafat* was one-sided. Three Israeli prime ministers, including the current one, engaged in terrorist acts. Also, the editorial repeats the belief that Arafat rejected a great opportunity at Camp David. In fact, the offer was a West Bank crisscrossed with roads under Israeli control, Israeli-controlled water resources and scattered Israeli Defense Force outposts.

The editorial calls the West Bank and Gaza Strip "disputed territories." Historically, the only countries using the term have been Israel and the United States. Ariel Sharon in 2003 finally uttered the truth when he told the Knesset, ``You may not like the word, but what's happening [in the West Bank and Gaza Strip] is occupation."

### Some of Sahwell's more "local" writings

HERE'S HOPING MAYOR'S

RESPITE IS SHORT-LIVED

#### Editor,

Surfside Mayor Paul Novack deserves better. After years of honest and outstanding service in a county and state where politicians generally are slimeballs, he regrettably is not seeking reelection.

One can only hope this respite from elected office will be short-lived and that he comes back to a leadership position in county government or the School Board, or maybe even back to lead Surfside.

One cause of Mayor Novack exiting the stage at this time no doubt stems from the abuse heaped upon him by the Friends of Surfside Cats.

In a country that spends \$30 billion annually on pet care, yet allows one-quarter of its children to live in poverty, where many people have such a warped view of animals that they throw birthday parties for them, dress them up in cute outfits, and send them to spas, Friends of Surfside Cats typifies this sense of confused priorities.

Jay Senter, one of the group's main supporters, who doesn't even live in Surfside, wrote a Dec. 7. letter to Neighbors is which he waxed emotionally and nauseatingly about PeeWee, Bippy, Boppy, Ding-a-Ling (I'm not making this up) and all the other cute, frolicking feral cats.

That such a truly minor issue as feral cat colonies is used as a club to help drive one of Florida's only progressive public servants from continuing in office is irresponsible.

#### PETER SAHWELL

#### Surfside

SURFSIDE

RESIDENTS LOVE TOWN'S

CURRENT SENSE OF SELF

Editor,

Last week's obligatory negative letter about Surfside came care of real estate broker Marion Ott (*Cheapest is not always the best, Surfside*, Aug. 8).

You have to hand it to them, the forces of disgruntlement learned after the 2002 election at least to take the trouble of feigning interest in the town.

Apart from their generally whining tone, these carping letters show little sense of Surfside as a community of human beings; they do, however, betray their authors' wide-ranging obsession with property values.

What is lacking in the orchestrated wave of vituperation against former Mayor Paul Novack and current Mayor Tim Will is any positive value placed on building a healthy community.

Whereas Novack and Will have been part of and created numerous initiatives that relate to children and place a high priority on people, their opponents evince no passion about or have no new ideas concerning our youth or our elderly, or anyone for that matter except themselves and their sacred property.

Ms. Ott positively gushes about Miami Shores with its neat lawns and trees. Forget that most Shores residents probably couldn't afford their houses now, or that their children won't be able to afford to live there.

She also mentions Bal Harbour and Golden Beach, two little fantasylands that bring nothing to the table with regard to building or sustaining a middle-class community, even one as increasingly small and beleaguered as Surfside's.

My lawn is 90 percent weeds, and I have two plastic pink flamingos in front of my house. I hope we don't turn into the Stepford-like image of a real town that Ms. Ott and her ilk long for so desperately.

#### PETER A. SAHWELL

#### Surfside

\_\_\_\_\_

Sahwell uses an email address <u>andalus@mindspring.com.</u> "Andalus" is the term used for Southern Spain by the Arabs who conquered and ruled that region for nearly 800 years. Sahwell claims he is Palestinian. Why then does he use this "handle" in communications? Does he feel a kinship to Arabs who conquer land? Could it be related to the fact that Spain has become a hide-out for many Al-Qaeda terrorists?

# There are simply too many unanswered questions about Peter Sahwell.

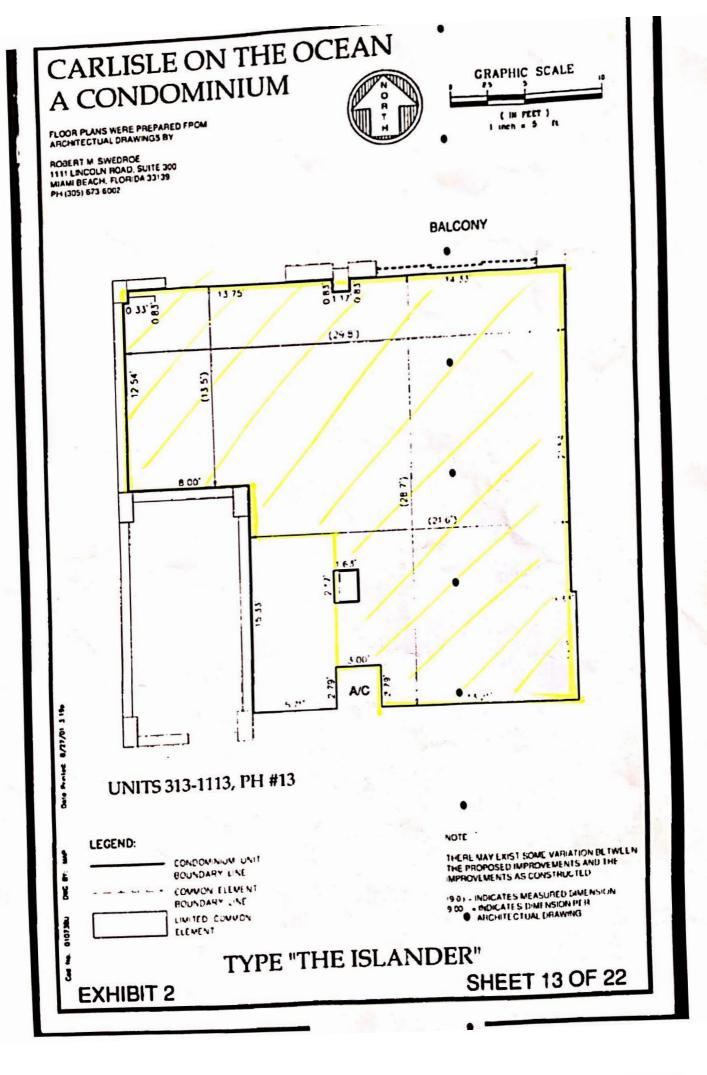
# **Could Peter Sahwell be dangerous?**



# u o u # U April 13

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**PAGE 396** 

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JOB CO	
TOWN OF SURFS	
APPROVED Permit No	
Address 9195 Collin	NS Are # 1013
Planning & Zening Bpage	Date
Building Official	Date U. L./LO
Chief Electrical Inspector	Date
Chief Plumbing Inspector	Date
Chief Mechanical Inspector	Date
Structural Engineer	Date
Public Works Director	Date



### PLAN REVIEW COMMENTS WORKSHEET

Job Address: 9195 Collins Ave. - Unit #305 Permit No: 20-121 Processor: U. Fernandez Date: Dec. 10, 2020

#### Note:

The following comments are based on a review conducted to the extent that the information on the plans allow. More comments may arise after these comments have been addressed.

#### Comments:

- 1. All corrections to be done on originals no ink corrections accepted. Cloud and date all corrections and make reference.
- 2. Provide list of response to comments. (Answer Sheet) showing location of each correction (sheet number).
- 3. Please show on plans current Florida Building Code 2017 (6th Edition).
- 4. Determine on plans level of alteration as per FBC Existing Building.
- 5. Please provide a clear and proper Scope of Work and indicate all work being performed.
- 6. Please provide proper Floor Plan to scale, show all interior wall divisions and label each room.
- 7. Please specify on plans if Plumbing fixtures are to be replaced in their same location.
- 8. Please show compliance with FBC 1207 (Sound Transmission).
- 9. This review has been conducted to the extent that the information on the plans allow. Further comments may follow.



#### TOWN OF SURFSIDE 9293 HARDING AVENUE SURFSIDE, FLORIDA 33154

#### PLAN REVIEW COMMENTS WORKSHEET

DATE: 11.16-20 NAME OF THE JOB: 9195 Collins Ave TYPE OF CONSTRUCTION: PLOC ADDRESS: DERM PLANS LACE CLARITY, PROVIDE 2 SETS OF PLAN AS PER THE FLORIDA BUILDING CODE, 2017, BLDG SECTION 107.1, 107.2.1, LOCATION OF BATHEODY SHOL) PLBG Det ANG DERM PLANS LACK CLARITY , PROVIDE PLANS NOT WRITTEN IN INK, SEE FBL 2017, BLDG, 107, 1 107, 2-1 305-216-9276 DCRM 129.20



9293 Harding Avenue Surfside, FL 33154

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**PAGE 402** 

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#### MORTGAGE LENDER'S ADDRESS:

Application is hereby made to obtain a permit to do the work and installations as indicated. I certify that no work or installation has been effected prior to the issuance of said permit and that all work be performed to meet the standards of all laws regulating construction in DADE COUNTY and the TOWN OF SURFSIDE whether specified in this application and accompanying plans or not. I understand that a separate permit must be secured for ELECTRICAL, PLUMBING, WELLS, POOLS, FURNACES, BOILERS, HEATERS, TANKS, AIR CONDITIONERS, etc. The information provided herein by the Applicant is not evaluated for issuance of a Certificate of Use. The City reserves the right to deny or condition any proposed use of the property pursuant to provisions of the City's Code of Ordinances.

Initial this Page:

**OWNER'S AFFIDAVIT:** I certify that all information provided is accurate, and that all work will be performed in compliance with all applicable laws regulating construction and zoning. No work has been commenced prior to the issuance of the permit applied with this application, and all work will be done as indicated in the Application and all accompanying document and plans.

**NOTICE:** In addition to the requirements of this permit, there may be additional restrictions applicable to this property that may be found in the public records of the county, and there may be additional permits required from other governmental entities such as water management districts, state or federal agencies.

WARNING TO OWNER: YOUR FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED AND POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU INTEND TO OBTAIN FINANCING, CONSULT YOUR LENDER OR AN ATTORNEY BEFORE COMMENCING WORK OR RECORDING A NOTICE OF COMMENCMENT.

CONTRACTOR:	OWNER:
(Print Name): FLAVIENNE SANTANINA	(Print Name): MARINA LOSTICI
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STATE OF	
FLORIDA	STATE OF FLORIDA
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Sworn to (or affirmed) and subscribed before me	me
this 2012 day of May , 20 20	this _ Z2 day of _ MM _, 20 20
by FLAVIENNE SENTANNA .	by Marina Kopic
NOTARY:	NOTARY:
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Personally known	Personally known - My Comm. Expires Apr 18, 2023
OR Produced Identification	OR Produce Helentification
Type of Identification Produced	Type of Identification Produced Mary and Drivensticen

The Permit is not valid until signed by an authorized representative of the TOWN OF SURFSIDE BUILDING DEPT. and all fees are paid.

ACCEPTED BY

AUTHORIZED BY

2



# **OFFICE OF THE PROPERTY APPRAISER**

# Summary Report

Generated On : 5/20/2020

Property Informati	on							
Folio:		1	14-2235-043-0940					
Property Address:		-	9195 COLLINS AVE UNIT: 1013 Surfside, FL 33154-3155					
Owner		A	A AND	M TEAM L	LC			
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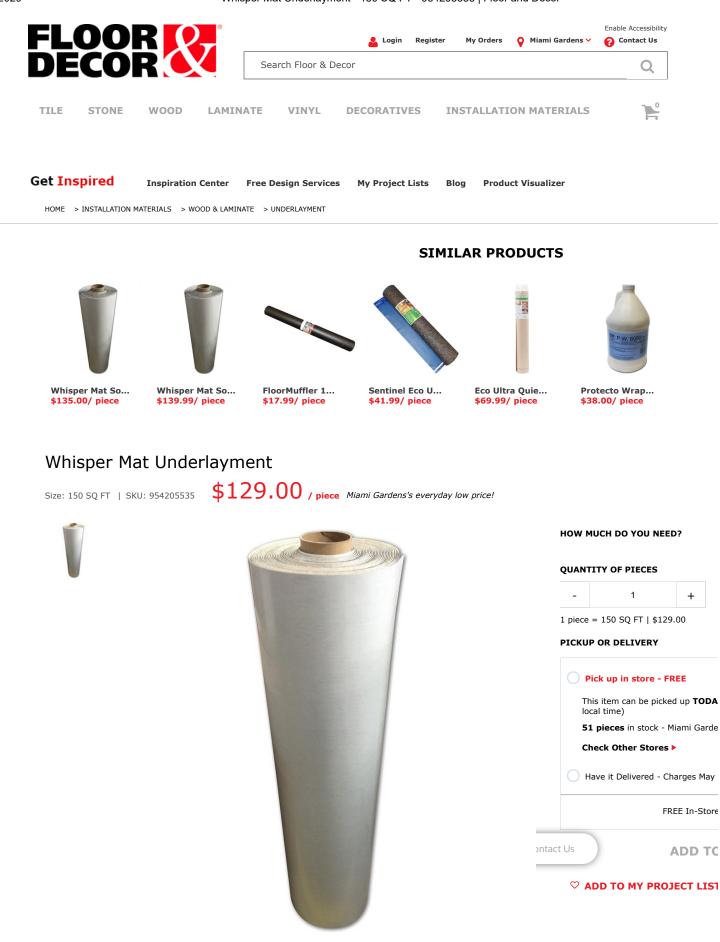


Taxable Value Information									
	2019	2018	2017						
County									
Exemption Value	\$0	\$0	\$0						
Taxable Value	\$123,943	\$112,676	\$102,433						
School Board									
Exemption Value	\$0	\$0	\$0						
Taxable Value	\$236,600	\$225,353	\$225,353						
City		-							
Exemption Value	\$0	\$0	\$0						
Taxable Value	\$123,943	\$112,676	\$102,433						
Regional									
Exemption Value	\$0	\$0	\$0						
Taxable Value	\$123,943	\$112,676	\$102,433						

Sales Information									
Previous Sale	Price	OR Book- Page	Qualification Description						
11/06/2019	\$100	31697-2956	Corrective, tax or QCD; min consideration						
10/02/2019	\$274,900	31672-2065	Qual by exam of deed						
03/01/2004	\$257,000	22168-1008	Sales which are qualified						
03/01/2003	\$189,700	21120-2846	Sales which are qualified						

The Office of the Property Appraiser is continually editing and updating the tax roll. This website may not reflect the most current information on record. The Property Appraiser and Miami-Dade County assumes no liability, see full disclaimer and User Agreement at http://www.miamidade.gov/info/disclaimer.asp

Version:



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ECO	RÒ	Sea	arch Floor & I	Decor			Q
STONE	WOOD	LAMINATE	VINYL	DECORATIVES	INSTALLAT	ION MATERIALS	0
PRO		ETAILS					
Whisp	er Mat® HW i	s a peel and stick no	n-permeable	RANE FOR ENGINEERED H sheet membrane, which r engineered wood plank, w	educes impact and		OORING

laminate floors. Used where sound-control is required, specified or desired.

Whisper Mat HW combines sound absorption properties with moisture resistant properties making this an excellent system to enhance flooring installation performance.

FEATURES & BENEFITS

- Sound reduction ratings:
- 6" concrete floor: IIC 51 STC 52
- Sound transmission reduction: Delta IIC 22
- Protects flooring from subfloor moisture/vapor emissions
- Easy, installer friendly installation
- Commercial and residential applications
- Approved over radiant heated subfloors
- Uniquely thin system (1/8")
- Contact Protecto Wrap for additional testing information

#### **BLOGS & VIDEOS**

#### **INSTALL & PRODUCT DOCUMENTS**



24

EZ Foam Underlayment Size: 100sqft. 4ft. x 25ft. \$26.99 / piece

Eco Ultra Quiet Premium Acoustical Underlayment Size: 450sqft. 6ft. x 75ft. \$297.00 / piece



Floor Muffler LVT UltraSeal Floor Underlayment Size: 100sqft. \$0.22 / sqft



Roberts Silicone Vapor Shield Underlayment for Wood Floors Size: 200sqft. 33.5in. x 72ft.





12mm Cork Underla Sheets Size: 150sqft. \$269.99 / piece

#### **TOP RECOMMENDATIONS**

#### PAGE 406 https://www.flooranddecor.com/underlayment-installation-materials/whisper-mat-underlayment-954205535.html?gclid=CjwKCAjw LL2BRAkEiwAv2Y3... 2/4

#### YOU MAY ALSO LIKE



Date: 12/31/2020 Prepared by: Mayor Subject: High Water Bill

**Objective:** To reduce water bills by removing the burden of paying the millions of loans incurred by the former administration from water users only.

**Consideration:** ? No idea what this means.

Recommendation: Pass the plan to rebate the costs of the loan payments to water bill payers.

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1533	34.	www.townofs	urfsidefl.gov	,	ACC	OUNT NUMBER		05-05050-00
JE SURFSID	A STATE					BILLING DATE		12/18/20
1 20 10	Town of				LAS	T BILL AMOUNT	-	\$621.93
8	A Surfsie				YOUR	LAST PAYMENT	-	-\$621.93
Particularia d	1	Je				ADJUSTMENTS		\$0.00
JILIANI-DADE COU					BALA			\$0.00
Charles W Burkett		Fo	9293 Hard Surfside Flo	ing Avenue	CUR	RENT CHARGES		\$483.90
1332 Biscaya Drive Surfside FL 33154		Mon	- Fri 9:00 AM		TOTAL A	MOUNT DUE		\$483.90
Sunaide r 2 conten				5-861-4863		DATE DUE		01/26/2021
FAILUDE	TO RECEIVE THE BILL I	DOES NOT		DVICE	and the party of the second	DAIL DUL		UTEOLUE I
RATE CLASS: SERVICE Water Sprinkler	ESS: 1332 Biscaya Dr RESIDENTIAL SERVICE PERIOD 09/25/20 - 11/25/20 09/25/20 - 11/25/20	DAYS 61 61	METER NU 169803 169998	82	IULT UNITS	CURRENT 420 1733	PREVIOUS 407 1706	USAGE 13 27
	DETA	IL OF CHARG	iES			IMPOR	TANT INFORM	IATION
Service WA BASE METER O WA COUNTY TAX	CHARGE	Cons	umption	Charge \$83.83 \$8.19	Total	Important Notice Surfside Utility D		vn of
WA USAGE LEVEL TOTAL WATE SP BASE METER C		13 \$52.65 \$55.13			The Town of Surfside will be implementing the final Utility rate increase for customers effective for meter readings occurring after			
SP COUNTY TAX SP USAGE LEVEL 1 TOTAL SPRIN SW COUNTY TAX	and the second		27	\$9.87 \$109.35 \$7.40	\$174.35	October 1, 2020, and 17-2468 adop The rate increase	oted on Nove will assist in	mber 14, 2017. h recovering the
SW BASE FIXED CH	ARGE		1	\$11.00		cost of providing equity in utility ra		
SW SERVICE CHAR TOTAL SEWE	GE BASED ON WATER CON	SUMPTION	13	\$112.32	\$130.72	conservation thro	oughout Tow	n, and improve

PLEASE DETACH AND RETURN BOTTOM PORTION IF PAYING BY MAIL. PLEASE DO NOT STAPLE OR FOLD. PLEASE WRITE YOUR ACCOUNT NUMBER ON YOUR CHECK.

\$34.16



TOTAL STORMWATER

STORMWATER UTILITY

9293 Harding Avenue Surfside Florida 33154

ADDRESS SERVICE REQUESTED

#### լինիների հերթերին անհանգություններին հրաններին

949 1 AV 0.389

CHARLES W BURKETT 1332 BISCAYA DR SURFSIDE FL 33154-3318



12/18/20	ACCOUNT NUMBER 05-05050-00	01/26/2021
CYCLE #	SERVICE ADDRESS	TOTAL DUE
001	1332 Biscaya Dr	\$483.90

the Town's water and sewer infrastructure.

For more information

please contact 305-861-4863.

\$34.16

# Amount Enclosed \$ \_

Please remit and make checks in US funds payable to: TOWN OF SURFSIDE 9293 HARDING AVENUE SURFSIDE FL 33154-3009 դարվերիդոնքին (նորկիրը) (իրկորային)



Date: 3/1/2021 Prepared by: Mayor Subject: Increased commercial airliner flights over Surfside

Objective: Invite our County representative to advise on what steps are and can be taken to address the increase in noise related to increase in commercial flights over Surfside.

Recommendation: Take the recommended steps to reduce the increase in flights over Surfside.



Date: 3/17/2021 Prepared by: Mayor Subject: Purchase or Lease of Electric Vehicle for Downtown Use

Objective: To take pressure off of the Abbott lot, provide for a higher utilization of the Abbott lot and provide easy, quick access for visitors wishing to shop at our downtown businesses.

Recommendation: Approve the purchase or lease of electric vehicle, like the one below, to run from 10am to 10pm from our South Harding lot to our downtown district on a constant loop. Charge dramatically less for the parking, or provide initial free parking to encourage visitors to use the lot. Of course, residents park free in the large lots.



Saved from sainty-ht.en.made-in-china.com

# [Hot Item] Close-up Pictures of Electric Shuttle Bus (SHT-T14)

Basic Info Product Description Customer Question & Answer Ask something for more details (0) Model NO. SHT-T14 Fuel 100% Pure Electric Power Origin China HS Code 8703101900 Performance....

8 Saved b	by Adrea Gibbs				₹2
Electric Power	Electric Cars	Power Motors	Microcar	Bus Ride	>
More information					



Date: 3/17/2021 Prepared by: Mayor Subject: One-way automatic gate at 96<sup>th</sup> Street and Bay Drive

**Objective:** To stop traffic from entering Bay Drive at 96<sup>th</sup> Street and provide a 'freeze gate' button for children crossing Bay Drive at 96<sup>th</sup> Street.

Recommendation: Approve the gate.



Date: 3/23/2021 Prepared by: Mayor Subject: Draconian fines for residents

Objective: Fines should be enacted to encourage compliance, not punish or financially destroy our residents. The fines currently in force are onerous, overly punitive and abusive.

For example, the fine for failure to license a dog after 30 days is \$3000, walking a dog without a leash, \$3000, failing to use a collar, \$3000, particles from a construction site blowing onto Town property, \$15,000, work without a permit, \$15,000, repairing a seawall, \$15,000 and on and on.

Recommendation: Design a system that encourages compliance without attacking residents with onerous fines.

# RESOLUTION NO. 14 - 2234

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE FLORIDA, AMENDING THE SCHEDULE OF CIVIL PENALTIES AND ADMINISTRATIVE FEES TO BE ASSESSED FOR VIOLATION OF THE CODE OF THE TOWN OF SURFSIDE, AS PROVIDED IN CHAPTER 1 "GENERAL PROVISIONS", SPECIFICALLY SECTION 1-8 "PENALTY FOR VIOLATIONS", AND CHAPTER 15 "CODE ENFORCEMENT" SPECIFICALLY SECTION **"VIOLATIONS:** SCHEDULE OF 15-18 CIVIL **PENALTIES";** REPEALING ALL **OTHERS**; PROVIDING FOR **AUTHORIZATION** AND **APPROVAL; PROVIDING AN EFFECTIVE DATE.** 

WHEREAS, the Town Commission approved a list of enforcement priorities for the Code Compliance Division on November 17, 2013; and

WHEREAS, the Town Administration reviewed the civil penalties and compliance periods for the priority items, as well as other code violations; and

WHEREAS, Resolution No. 1569 adopted on March 9, 1999, which addressed civil penalty schedules has been found to be inconsistent, outdated and no longer in keeping with the Town Code; and

WHEREAS, pursuant to Section 15-18 of the Code of Ordinances, violations of said Ordinance shall be subject to the imposition of penalties, pursuant to which the Town Commission may adopt from time to time by Resolution, a schedule showing the sections of the Code, ordinances, laws, rules or regulations, which may be enforced and, the dollar amount of civil penalty for the violation of such provisions; and

WHEREAS, except as otherwise provided in Chapter 15 above, Chapter 1 Section 1-8 provides a penalty for violations of all other Sections of the Code of Ordinances; and

WHEREAS, it is in the best interest of the Town to preserve the public health, safety and welfare of the residents and the Town Commission is charged with preserving and maintaining the aesthetic standards and preventing public safety hazards of the Town.

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

Page 1 of 3

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

Section 2. Authorization and Approval. The Town Commission authorizes and approves the Civil Penalties and Administrative Fees Schedule for Code Compliance and Enforcement Related Services.

- 1) Incorporated herein as Attachment "A" is a schedule of civil penalties and administrative fees adopted pursuant to Chapter 1 Section 1-8 and Chapter 15 Section 15-18 of the Code of Ordinances. Any sections of the Code not listed in the attached schedule, or for which a dollar amount of civil penalty for violation thereof is not listed, shall be subject to the imposition of penalties as provided under Section 1-8 and any other applicable penalty sections of the Code of the Town of Surfside. Each day of violation shall constitute a separate, punishable offense for which the daily penalty shall accrue.
- 2) For violations of any section of the Town Code for which a specific penalty is not prescribed herein, a penalty shall be imposed which shall not be less than \$25.00 or more than \$250.00 per day for a first violation and shall not be less than \$50.00 or more than \$500.00 per day for a repeat violation. For the purposes of continuing violations, each day shall constitute a separate violation.

Section 3. Effective Date. The Commission of the Town of Surfside hereby ordains that this Resolution shall become effective immediately upon adoption.

PASSED and ADOPTED on this day of July (0, 2014. Motion by Commissioner Tourgeman, second by Commissioner Olchyk.

#### FINAL VOTE ON ADOPTION

Commissioner Barry R. Cohen Commissioner Michael Karukin Commissioner Marta Olchvk Vice Mayor Eli Tourgeman Mayor Daniel Dietch

Daniel Dietch, Mayor

Attest:

Sandra Novoa, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Linda Miller, Town Attorney

d

#### SCHEDULE OF DAILY CIVIL FINES FOR CERTAIN VIOLATION TYPES

# (All violation types not listed herein shall be subject to a \$25.00 per day fine for a first time offense and a \$50.00 per day fine for a 2nd or repeat offense)

Chapter	Section Name	Description of Violation	Daily Fine First Offense	Daily Fine Second/Repeat Offense
Chapter 6	Alcoholic Beverages	Failure to comply or conform to any requirement of the Town Code relating to alcoholic beverages.	\$250.00	\$500.00
Section 6-8	Offenses, Miscellaneous Provisions	Failure to comply or conform to any requirement of the Town Code relating to music and/or entertainment.	\$100.00	\$200.00
Chapter 10-2	Animals	Killing birds and squirrels.	\$250.00	\$500.00
Section 10-28(c)	Animals	Allowing a dog to run at large	\$50.00	\$100.00
Section 10-28(c)	Animals	Allowing a dog to be improperly leashed	\$50.00	\$100.00
Section 10-30	Animals	Failure to license any dog	\$50.00	\$100.00
Section 10-32	Animals	Failure to remove fecal excrement	\$100.00	\$200.00
Section 10-33	Animals	Taking a dog, whether on a leash or without a leash, other than a seeing eye dog, into any store where food for human consumption is sold or held for sale.	\$50.00	\$100.00
Section 10-33	Animals	Taking a dog, whether on a leash or without a leash, other than a seeing eye dog, at any time to any public beach in town.	\$100.00	\$200.00
Section 10-34	Animals	Failure to have one's dog properly collared.	\$50.00	\$100.00
Section 10-36	Animals	Keeping or harboring any dog that engages in frequent or habitual barking, yelping or howling; that is mean or vicious; that becomes a nuisance.	\$50.00	\$100.00
Section 10-36	Animals	Any cruelty to a dog, as defined.	\$250.00	\$500.00
Section 14-2	Buildings and Construction	Performing mechanical or hand abrasive operations involving removal of paint, rust or other materials from any source resulting in particles that can float, drop, or be blown to adjoining property or into public ways or streets.	\$250.00	\$500.00
Section 14-2	Buildings and Construction	Failing to confine all loose particles and abrasives from processes involving use of air pressure applications with suitable means to prevent their transferring to the ground,	\$250.00	\$500.00
Section 14-28,90-37	Buildings and Construction	Performing or having performed work without first obtaining required permit.	\$250.00	\$500.00
Section 14-87	Bulkheads	Construct any groin, bulkhead, seawall, jetty, breakwater or other protective work or to place any permanent or temporary structure of any nature whatsoever east of the ocean bulkhead line.	\$250.00	\$500.00
Section 14-87	Bulkheads	Repair, extend, alter or replace any existing structure lying east of the ocean bulkhead line.	\$250.00	\$500.00
Section 14-88	Bulkheads	Erect any structure within 20 feet west of the ocean bulkhead line.	\$250.00	\$500.00
Section 14-88	Bulkheads	Repair, extend, alter or replace any existing structure lying within 20 feet west of the ocean buikhead line.	\$250.00	\$500.00
Section 14-102	Bulkheads	Erect any structure within 20 feet landward of the Indian Creek bulkhead line.	\$250.00	\$500.00
Section 14-102	Bulkheads	Repair, extend, alter or replace any existing structure lying seaward of the Indian Creek waterway or existing bulkhead or within 20 feet landward of such bulkhead line	\$250.00	\$500.00

# SCHEDULE OF DAILY CIVIL FINES FOR CERTAIN VIOLATION TYPES

# (All violation types not listed herein shall be subject to a \$25.00 per day fine for a first time offense and a \$50.00 per day fine for a 2nd or repeat offense)

Chapter	Section Name	Description of Violation	Daily Fine First Offense	Daily Fine Second/Repeat Offense
Section 18-85 (a)	Businesses (Civil Fines and Penalties)	First Violation (Sidewalk Café Ordinance)	\$100.00	Second violation within the preceding 12 months: \$250.00. Third violation within the preceding 12 months: \$500.00. Fourth violation within the preceding 12 months: \$750.00. *Fifth violation within the preceding 12 months: \$1000.00. *Sixth violation within the preceding 12 months: \$1000.00.
Section 18-88 (g)	Businesses (Permitted areas; conditional permit; town manager's right to remove sidewalk cafes)	Failure to respond to Town Manager's emergency notifications, and removal of sidewalk café furnishings by Town.	\$1,000.00	
Section 34-30	Buildings and Construction	Unlawful connection of any sanitary sewer drains to the town's drainage system.	\$250.00	\$500.00
Section 34-30	Buildings and Construction	Unlawful connection of any storm drains to the town's sanitary sewer system.	\$250.00	\$500.00
Section 46-1	Health	Violation of the Florida Department of Health and Rehabilitation Services, or responsible department or agency.	\$250.00	\$500.00
Section 54-62	Offenses, Miscellaneous Provisions	Drinking any beer, wine or any other alcoholic beverage on any street, sidewalk, pedestrian mall, alley, highway, playground or park in the town.	\$100.00	\$200.00
Sections 54-78 to 54-79	Offenses, Miscellaneous Provisions	Creation of any prohibited noises at any prohibited times or locations.	\$100.00	\$200.00
Section 78-51	Sewers and Sewage Disposal	Construction or maintenance of any septic tank or sanitary privy.	\$100.00	\$200.00
Section 78-54	Sewers and Sewage Disposal	Discharge into the town's sanitary sewer any prohibited material or substance.	\$250.00	\$500.00
Section 90-41.1(c)(2)	Zoning - Resort Tax and Enforcement	Resort Tax violations are subject to the following fines. The special master may not waiver or reduce fines set by this section.	\$500.00	Second violation within the preceding 12 months: \$1,500.00. Third violation within the preceding 12 months: \$5,000.00. Fourth or greater violation within the preceding 12 months: \$7,500.00.
Section 90-184	Bulkheads	Erect, repair, extend, alter or replace: Dock and pier projecting into Biscayne Bay waterway beyond the waterway line more than 20 feet. Dock and pier projecting in Indian Creek waterway beyond the waterway line more than 10 feet. Dock and pier projecting into Point Lake waterway beyond the waterway line more than 15 feet.	\$250.00	\$500.00

#### SCHEDULE OF DAILY CIVIL FINES FOR CERTAIN VIOLATION TYPES

# (All violation types not listed herein shall be subject to a \$25.00 per day fine for a first time offense and a \$50.00 per day fine for a 2nd or repeat offense)

Chapter	Section Name	Description of Violation	Daily Fine First Offense	Daily Fine Second/Repeat Offense
Section 90-187	Bulkheads	Construction, repair, alteration, extension or replacement of any bulkhead, sea wall, shore protection or any structure on Biscayne Bay, Indian Creek and Point Lake without required permit.	\$250.00	\$500.00
Note: All violation types not list	ed herein shall be subject to a \$25.00 pe	r day fine for a first time offense and a \$50.00	per day fine for a 2n	nd or repeat offense.
1 .	sidewalk café permit for one weekend (S sidewalk café pemit for the remaining por			
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	ADMINISTRATIVE FEES,	ABATEMENT COSTS, AND OTHER CIVIL FINES		
issue	Description	Fee	Fine	Note
Code Compliance Abatement	Fees based on acual costs incured and staff time	Contractor Costs and/or staff hourly costs		
Code Compliance Abatement Related Administrative Fees	Fees based on acual costs incured and staff time	Fees based on actual staff hourly costs for administrative process		
Lawn Cutting & Clearing Cost	Per Lawn Cutting Service	Fees based on actual Contractor costs and/or staff hourly costs		
Code Compliance Lawn Cutting Administrative Fee	Per Lawn Cutting Service	\$125.00	\$25.00	per occurrence
Trash & Debris Over-the-Limit Pick-Up Fees & Fines	Per cubic yard fee:	\$15.50	\$25.00	per occurrence
Construction Debris Pick-Up Fee & Fines	Per cubic yard fee:	\$30.00	\$25.00	per occurrence



Date: 4/2/21 Prepared by: Mayor Subject: Surfside's brand name, Miami's uptown beach town.

**Objective:** Reword our brand, which sends an inaccurate message, to reflect our residents' vision of Surfside as a small-town oasis.

**Recommendation:** Revise the brand to better reflect our resident's vision. The current brandname implies we are the uptown portion of a downtown, Miami Beach, which we are not. Nor do we want to be a worldwide tourist hotspot, nor to we want to be an overcrowded, overrun, over busy municipality. We want to be what we've always been – a slice of paradise, catering to our families, offering them an unparalleled way of life – with a visitor component that can accommodate the friends of our families, and a very limited number of tourists who want to come and enjoy the slice of paradise that our unique location and combination of amenities offers.

I believe that the brand should be revised to say, Miami's beachside oasis, or something along those lines, reflecting a peaceful, serene, high quality, small-town.



# MEMORANDUM

To: Commissioner Eliana Salzhauer

- Cc: Mayor Charles Burkett Vice Mayor Tina Paul Commissioner Nelly Velazquez Commissioner Charles Kesl
- From: Tim Milian, Parks & Recreation Director thru Andrew Hyatt, Town Manager
- **Date:** June 22, 2021

## Subject: Epinephrine Auto-Injectors (EpiPen) Policy Discussion

The request for consideration to the Town of Surfside stocking EpiPens was first brought to the Parks and Recreation Committee members on November 26, 2018. Commission liaison, Commissioner Tina Paul, was asked to bring the item forward for Commission direction. On June 11th, 2019 the stocking of EpiPens at the Surfside Community Center and 96<sup>th</sup> Street Park was vetoed by the Commission.

On May 14th, 2021, Commissioner Salzhauer requested that the stocking of EpiPens at the Surfside Community Center and 96<sup>th</sup> Street Park be placed on the June Commission meeting agenda. Due to the passed submission deadline, it was agreed to be placed on the July agenda.

The majority of information in the memorandum from June 11th, 2019 Commission Meeting is still accurate with a few highlighted changes.

Since then, the Parks and Recreation Department has researched the operational feasibility of Surfside stocking and administering EpiPens for severe allergic reactions. Through professional outreach and contact with the Florida Recreation and Parks Association and other municipalities, we have been unable to identify any municipality within the State of Florida that currently has an EpiPen program in place.

The Florida League of Cities (League) was also contacted again in May 2021 to ascertain if it was aware of any municipalities that had/have implemented an EpiPen program; the League was not aware of any existing programs. Additionally, the League informed the Town there could be significant liability upon the Town should non-medical personnel administer the pen acting in the capacity of a Town employee.

Jonathan Jaramillo from Florida League of Cities recommended that the Town not adopt an Epipen program for the following reasons:

- 1. Will expose the town to higher liability;
- 2. No other municipality has EpiPen programs and hence no coverage with FMIT or program as a result of point #1; and



3. EpiPen are not generic and are prescribed by a physician based on his/her patient's characteristics.

The following information has been ascertained by the Parks and Recreation Department:

- Miami-Dade County Public Schools do not have an EpiPen program in place (May 2021).
- Haulover Rescue Station 21 is 1.6 miles away from the Community Center. This station is normally the first to respond when Surfside calls Emergency Medical Services. Typical response time is approximately 5 - 8 minutes.
- The State of Florida has adopted Sections 381.88 and 381.885, Florida Statutes, governing emergency administration of EpiPens. In order to stock and administer EpiPens, an "authorized health care practitioner" is required to prescribe the EpiPen in the name of the "authorized entity". The Office of the General Counsel, Florida Department of Health, has advised and confirmed that the Town of Surfside and the Community Center appear to meet the statutory definition of an "authorized entity" who may acquire and stock EpiPens pursuant to a prescription. When asked as to how the Town would obtain a prescription for the EpiPens from an "authorized health care practitioner", the Department of Health would not provide legal advice on how to obtain a prescription on behalf of the Town of Surfside, and indicated that the individual certified pursuant to Section 381.88, Florida Statutes, would obtain a prescription from their health care provider. The authorized entity would designate employees or agents who have undergone training and have obtained a certification to administer life-saving treatment as responsible for the storage, maintenance, administration and general oversight of the EpiPens acquired by the authorized entity.
- Lifeguard certifications do not cover the administration of the EpiPens; however, lifeguards are trained to assist an individual self-administering an EpiPen.
- Current job descriptions do not require the American Red Cross EpiPen training; therefore, training, job duties and reclassification will be necessary, resulting in a one-time total cost of \$18,000.
  - EpiPen Program Supervision: Superintendent and Aquatics Supervisor
    - Responsible for organized program implementation, ensuring integrity and delivery standards are met, organizing regular staff trainings, purchasing and stocking the products, monitoring the condition of the prescriptions and overall day-to-day program supervision.
  - EpiPen Administration Staff: 13 current Full Time Parks and Recreation staff members, subject to expand coverage to include Part Time staff.
    - Responsible for participating in all required EpiPen trainings and for administration of injection according to regulated training should a patron or visitor experience anaphylaxis.

The American Red Cross offers a 45-minute training course that would certify staff to administer the EpiPens.

• Anyone of any age can receive the American Red Cross EpiPen administration certification, not limiting the certification to lifeguards exclusively.

Eligible Staff would then have to be approved and certified by the State:

 In order to be approved and certified by the State, each applicant must be 18 years or older (not all of the lifeguards and staff are over 18 years of age), must successfully complete an educational training program or hold a current state emergency medical technician certification.

Thorough trainings and certification would be vital for the personnel.

Examples such as the inherent risks in applying an EpiPen if not needed would be identified. This wrongful administration would present the risk including, but not limited to: increased heart rate, local reactions, injection site pallor, coldness and hypesthesia or injury at the injection site resulting in bruising, bleeding, discoloration, erythema or skeletalinjury.

The breakdown of the cost below is only the upfront cost of training, obtaining certifications and purchasing the EpiPens.

- American Red Cross Course: \$12 for certification, expires every 2 years and takes 45 minutes to complete.
- Department of Health Certification: \$25 and expires March 1<sup>st</sup> of odd years (ex. 2021).

Number of Staff	Location	Equipment (1 = 2 pack)	Costs
13 FT Employees	Community	1 adult, 1 junior at CC	Staff \$1,480*(**)
27 PT Employees	Center	1 adult, 1 junior at park	Equipment \$1,440

\*Excluding turnover and is subject to change based on department staffing. \*\*Excluding the additional cost of having facilities staffed during all hours of operation.

From May 2020 to May 2021, the town has had a turnover of 3 full time and 12 part time employees.

Estimated cost of EpiPens (the two pens listed below have a duration or life of 12 months):

Product	Strengths	Price (quote received)
EpiPen; EpiPen Jr.	.15 mg; 3 mg	\$786.78 (.3mg)
		\$963.39 (.15mg)
Auvi-Q	.1 mg; .15 mg; .3mg	\$5,125 (.1mg)
		\$5,125 (.15mg)
		\$5,125 (.3mg)
Generic Brand	.15 mg; 3 mg	\$449.99 (.3mg)
		\$449.99 (.15mg)

If the EpiPen program were to be implemented, First, the Town would need to obtain additional direction and confirmation from the State Department of Health on how to obtain a prescription for the EpiPens in the name of the Town under Section 381.88, Florida Statutes (the most current State Department of Health opinion provides that the prescription would need to be issued to the certified individual). Secondly, staff would have to be properly trained and certified for the program. Thirdly, the Town would need to identify and engage an "authorized health care practitioner" (unknown cost) to prescribe the EpiPens. Fourth, the Town would need to schedule and have certified individuals on hand during all days of operation, authorized to administer the EpiPens. An estimated start date cannot be adequately provided, due to the unknown resources that are necessitated by the program and the ability to secure them. If the program was developed and implemented, it would be a continuous program with no end date. Factors such as an agreement with an "authorized health care practitioner" or unknown policies could affect the term of the program.

The Administration is seeking direction from the Town Commission on whether to conduct further evaluation of the EpiPen program and create a plan for the implementation of the program.

Reviewed by: TM/AH/LA



Date: 6/23/21 Prepared by: Mayor Subject: Private security service

**Objective:** Hire private security services for the business and residential district

**Recommendation:** It is clear that the challenges over the last year have increased the need for additional policing. Surfside has a small police force that is being tasked with an overwhelming number of requests for service. Beach Policing, double parking, increased homeless and other necessary imperatives are infringing on our Police Departments regular duties and their ability to effectively do their work.

**Solution:** Hiring additional police officers has become extremely challenging recently. Given same, as a stop-gap measure, many municipalities, including our neighbor Miami Beach, has undertaken to hire private security services to supplement their police force. Surfside needs to do the same. Additionally, their may be federal funds available given newly released information from the US government.



Date: July 13, 2021Prepared by: Commissioner Charles KeslSubject: Remote Participation by Commissioners

**Objective:** In these "new normal" times of physical location challenges and to support access of Town resident-elected officials, we need flexibility for remote access for Commissioners

**Consideration:** COVID redefined notion of workplace. We as a society have become understanding and accommodating of the need for flexible remote participation. Florida Law requires Quorum is on site only, in the physical meeting Chambers. In the case of the Town of Surfside, a quorum on the physical dais is required for an official decison-making meeting to take place.

Beyond that, Surfside can allow other members of the Commission to participate remotely. The Town has experiences with Zoom but it can be simple by phone call or whatever option is workable.

Surfside allowed this but the prior Commission changed it to not allow remote members to participate. This curtails democracy and equal representation in our local municipality. Why the prior Commission did this is irrelevant, except that it does hinder the Commission at this time and would have earlier if Zoom meetings were not allowed by the state of Florida under the COVID "crisis" that has now become the new normal. The state has overridden local control a number of times so this should be expected in a local government able to adapt to crises of all sorts, from a building collapse to a hurricane of one degree or another.

**Recommendation:** Put the option back into Law. A proposed solution would be a return to the pre-revised original rule, which allowed by phone. Zoom is preferred and we are used to it.



Date:October 12th, 2021Prepared by:Commissioner Eliana R. SalzhauerSubject:Budget Meeting Fiasco

**Objective:** The September 30<sup>th</sup> Budget/Millage Rate Meeting was a complete fiasco. A discussion & investigation into what timeline, expectations, and repercussions were communicated by staff to Commissioners is essential to remedying the results and ensuring that it never happens again.

**Consideration:** Commissioners are prohibited from discussing Commission business outside of a public meeting. Thus, any discussion regarding the September 30<sup>th</sup> meeting must occur in this public setting.

**Recommendation:** Set expectations for more pro-active factual presentation of options at Commission meetings.



# MEMORANDUM

ITEM NO.

9BB

**To:** Honorable Mayor, Vice-Mayor and Members of the Town Commission

From: Andrew Hyatt, Town Manager

**Date:** January 11, 2021

**Subject:** Tree Giveaway Program – FY 2022

The Town of Surfside is dedicated to the continual enhancement and beautification of the community. For Fiscal Year 2019, the Town Commission approved through the adopted budget a total of \$50,000 for the distribution of one tree per household that signed up in order to promote greenspace development. As a result, a total of 93 residents signed up with a total \$30,250 of actual expenditures incurred.

At the December 2021 Town Commission Meeting, the Town Commission requested information on the previous program implementation and to provide the option again during Fiscal Year 2022. As a result, Town Administration reviewed previous implementation and current FY 2022 adopted budgeted for potential funding source. If the program is approved for implementation, a budget amendment of \$40,000 would need to be approved with the following sequence programing:

- 1. Request approval for a budget amendment of \$40,000 to fund program.
- 2. Communication program for residents to be aware of Tree Giveaway Program and sign up.
- 3. Implement Resident Sign up form on Town website and at Town Hall (in person).
- 4. Run survey for 14 days. Tree options will be the same as previous.
- 5. Use survey information to gather total final quantities and cost for implementation. Provide staff recommendation to Town Commission for discussion and implementation direction.
- 6. Procure trees and commence implementation

**Exhibit A** – "Tree Giveaway Program Statistics and FY 2022 Implementation overview" outlines the statistics of the previously ran program and details implementation measures for Fiscal Year 2022. The Town administration is seeking Commission guidance on implementation as show above.

Reviewed by:JG

Prepared by: HG

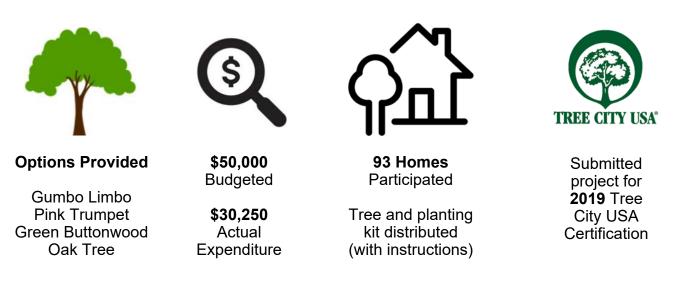


# Town of Surfside Public Works Department

**Tree Giveaway Program** 

Per a December 2021 Town Commission query, to provide a plan for implementation, in order to provide a tree giveaway program for residents; see statistics and proposed plan below:

# Statistics from previous FY 2019 Tree Giveaway Program



# For FY 2022, Town administration proposes the following plan sequencing:

- 1. Request approval for a budget amendment of \$40,000 to fund program.
- 2. Communication program for residents to be aware of Tree Giveaway Program and sign up.
- 3. Implement Resident Sign up form on Town website and at Town Hall (in person).
- 4. Run survey for 14 days. Tree options will be the same as previous.
- 5. Use survey information to gather total final quantities and cost for implementation. Provide staff recommendation to Town Commission for discussion and implementation direction.
- 6. Procure trees and commence implementation.

# **Considerations:**

- FY 2019 cost per tree distributed (including delivery and kit) was \$326. Estimated cost fy 2022 is \$350.
- \$40,000 budget request is for a total of 114 participants. Estimated amount of participants.
- Seeking Commission direction for implementation of program effective FY 2022.